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CONTESTED-ELECTION CASE

OF

JOHN J. DAVIS

V.

BIRD S. MCGUIRE

FROM THE

FIRST CONGRESSIONAL DISTRICT  
OF OKLAHOMA



WASHINGTON

1913





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# CONTESTED-ELECTION CASE

OF

## JOHN J. DAVIS v. BIRD S. McGUIRE

FROM THE

FIRST CONGRESSIONAL DISTRICT OF OKLAHOMA.

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### NOTICE OF CONTEST.

CHANDLER, LINCOLN COUNTY, OKLA.,  
December 9, 1912.

HON. BIRD S. McGUIRE:

You are hereby notified that I shall contest your right to occupy a seat in the House of Representatives of the United States as the Representative of the first congressional district of the State of Oklahoma in the Sixty-third Congress.

The statement of the whole number of votes given for said office of Representative in Congress at the election held on the 5th day of November, in the year 1912, made by the State election board of Oklahoma, purported to show that you received for the said office of Representative in Congress from said district 19,035 votes, and that I received 18,486 votes; and the said State election board did thereupon proceed to determine and declare, without authority of law or jurisdiction to canvass, hear, and determine the same that you had been by the greater number of votes elected to said office.

That prior to such determination and declaration I filed with said board a protest and notice in words and figures as follows, to wit:

“ Before the honorable State election board of the State of Oklahoma. In the matter of the application of John J. Davis for certificate of election as Member of Congress from the first congressional district of the State of Oklahoma, and his protest and objection to the issuance of same to honorable Bird S. McGuire. Protest.

“ Comes now John J. Davis, a resident of Chandler, Lincoln County, first congressional district, State of Oklahoma, and alleges and offers to show to this board that he is the duly elected Congressman from the first congressional district; and protests and objects to the issuance of the certificate of election to the honorable Bird S. McGuire. Your protestant alleges and offers to prove:

“ First. That the so-called returns from said district now on file with this election board do not speak the truth.

“ Second. Said election was conducted in a great many precincts in utter disregard of the election laws of the State.

“ Third. Illegal negro votes in large numbers were cast in the following counties, to wit: Garfield, Kingfisher, Osage, Payne, Lincoln, Logan, and Noble.

“ Fourth. That the precinct election officers of those counties were intimidated by Federal authorities, and placed in fear so that it was impossible for them to enforce the State election laws at said election.

“ Fifth. That illegal votes on account of illegal residence and citizenship were cast in Pawnee County.

“ Sixth. In many precincts in the counties of Kingfisher, Logan, Garfield, Payne, Osage, and Lincoln, where there was a large negro population, the vote was cast without imposing the test provided by what is commonly known as

the 'grandfather clause' of our election laws, or any test of any kind whatsoever.

"Seventh. In many precincts large numbers voted without registration.

"Eighth. Inspectors and judges of election were in many precincts intimidated and coerced into relaxing all efforts to enforce our State election laws through Federal intervention by means of a threatening letter over the official signature of the United States attorney for the western district of Oklahoma.

"Ninth. By means of threat, duress, and bribery the partisan adherents of the Republican candidate in many precincts contrived to prevent an honest election and fair count.

"All of which to the prejudice of this protestant, John J. Davis.

"Your protestant further alleges that a canvass of the vote cast in said election with the fraudulent returns eliminated will show the election of this protestant by more than one thousand plurality.

"Your protestant further alleges that the said honorable Bird S. McGuire is not a resident of said congressional district, or the State of Oklahoma, and was not a resident at the time of said election, and is not qualified by reason thereof to hold said position.

"For all of which the undersigned protestant against the official canvass of so-called returns as at present made up, and asks leave to offer proof at such time and place and under such notice and conditions as may be named by this honorable board, and that he is abundantly able to establish all of the matters and things herein set out.

" JOHN J. DAVIS,

*" Democratic Candidate for Congress First Congressional District.*

" By his attorneys:

" ROY HOFFMAN,

" COURTLAND M. FEUQUAY."

That said election board after hearing argument on the said protest took jurisdiction of the matter, but declared by resolution that it had no power to go behind the returns and hear evidence, but that its duties were ministerial only, and that it was and became its duty to issue an election certificate to the person who appeared from the face of the returns to have the plurality of the votes in said election.

A true copy of said resolution follows herewith:

*" Resolution adopted by the State election board.*

"Col. Roy Hoffman appeared before the State election board in behalf of John J. Davis, Democratic nominee for Congressman from the first district, and entered protest against the issuing of a certificate of election to Bird S. McGuire, Republican nominee for Congressman from the first congressional district.

"Acting under advice of the attorney general as to the duties of the State election board, and our interpretation of the law is that this board has only authority to issue certificates as the official returns show from the various counties in the State, and this board has no authority to go into an investigation of the same. Its duties are ministerial and we must issue the certificate as the returns show.

" BEN W. RILEY,

*" Secretary State Election Board.*

" Nov. 21st, 1912."

That, accordingly, said board proceeded to, and did, issue on the — day of November, 1912, a pretended certificate of election to the said Bird S. McGuire.

I do not deny that the said board accurately computed from the certified copies of the returns of the various county boards in said district the number of votes appearing upon such certified copies made by said county boards to have been cast for you and for me, respectively, at said election. I do deny that such certified copies of such statements contain the correct arithmetical result of the returns made in each county by the judges of election and canvassed by the county election board.

Furthermore I allege that you were not elected to the said office of Representative in the Sixty-third Congress of the United States for the first congressional district of Oklahoma, and that I was elected for the following reasons, to wit:

First. The said State election board had no authority of law to hear and determine or declare who had been the successful contestant for said office in

said election, or to certify the result or issue a certificate of election therein, and was wholly without jurisdiction to hear and determine the said matter.

Sec. 21 of the enabling act of the State of Oklahoma (Snyder's Stat. Ok., p. 59) provides:

"\* \* \* \* The State legislature when organized shall elect two Senators of the United States in the manner now prescribed by the laws of the United States, and the GOVERNOR AND SECRETARY OF SAID STATE shall certify the election of the said Senators and Representatives in the manner required by law \* \* \* ." (The caps are mine.)

By ordinance irrevocable the enabling act was accepted by the constitutional convention (Snyder's Stat., p. 145) and adopted by a vote of the people of the State.

That there has been no subsequent legislative declaration of Congress or of the State of Oklahoma modifying or changing the method of determining the final result of election of Representatives in the United States Congress from the State of Oklahoma, and that the said State election board was acting and did act wholly without authority in hearing and determining the said election and in issuing said pretended certificate of election, and had no jurisdiction to hear and determine the said matter.

That you hold no certificate or other warrant of election from the governor or secretary of state of the State of Oklahoma, or either of them, and that consequently you have no credentials or proper certificate of authority from the duly constituted officers of the State of Oklahoma authorizing you to hold a seat in the Congress of the United States.

Second. I charge that in computing the returns from Logan County the judges of election and counters of said returns permitted one of the candidates who had been and was at such election a candidate for a county office on the Republican ticket, to wit, county assessor in said county to assist in computing, compiling, and tabulating said returns and assist in said canvass and make the count of the votes, and that he was an interested party in said count and a political partisan of yours, and that his presence was wholly unauthorized by law and that he discharged the functions of the regularly appointed and sworn officers of the law in making such returns and that said returns are false and fraudulent in this, to wit, that they contain a great number of illegal and fraudulent votes which are credited to Bird S. McGuire and against this contestant.

Third. I charge that you are not, and have not been, during the year 1912, nor for several years prior thereto, an inhabitant of the State of Oklahoma within the meaning of paragraph 2, section 2, of the Constitution of the United States, and for such reason you are not qualified to sit as a Representative from the State of Oklahoma in the Congress of the United States; and you are, by said section of the Constitution, expressly barred from holding the office of Representative of the State of Oklahoma, or exercising its prerogatives, or receiving its emoluments.

Fourth. That on the 2d day of August, 1919, the people of the State of Oklahoma adopted an amendment to the constitution of said State, commonly known as "the grandfather clause," which became effective on said day, and which was, and is, in words and figures following, to wit:

"No person shall be registered as an elector of this State or be allowed to vote in any election held therein, unless he be able to read and write any section of the constitution of the State of Oklahoma; but no person who was on January 1, 1866, or at any time prior thereto, entitled to vote under any form of government, or who at that time resided in some foreign nation, and no lineal descendant of such person shall be denied the right to register and vote because of his inability to read and write sections of such constitution."

Precinct election inspectors were charged with the enforcement of the provisions of said section. I charge that there was such intimidation practiced in many parts of the district where there was a heavy negro population as to prevent a free and fair election, and on this account your seat in Congress should be declared vacant.

I charge, and will contend, that on or about the — day of October, 1912, a conspiracy was entered into by and between you and Hon. Homer N. Boardman, United States attorney for the western district of the State of Oklahoma, and Hon. James A. Harris, Republican National Committeeman of the State of Oklahoma, and — Geiser, chairman of the Republican State Central Committee of said State, and Hon. Fred A. Wagoner, deputy county attorney, of Lincoln County, Okla., and many others whose names are unknown to me, but

all of whom were friends and partisans of yours and supporters of yours at said election. That the object and purpose of said conspiracy was to violate, prostitute, and render nugatory the provisions of said amendment at said election by intimidating the precinct-election officers in the precincts in said district and State in which negroes resided, so that such election officials would not enforce said amendment, but on the contrary would ignore the same by allowing and permitting ignorant and illiterate negroes who were not electors, and who could not qualify as electors under said amendment, to vote for you and other candidates on the Republican ticket at said election.

That in furtherance of said conspiracy the sad Homer N. Boardman, although the same did not appertain to the duties of his office, on or about the 31st day of October, 1912, voluntarily issued, over his official signature and under color of official capacity, to one Fred A. Wagoner, deputy county attorney, of Lincoln County, Okla., and a Republican and partisan of yours, and one of your coconspirators, an alleged opinion, hereinafter referred to as the "Boardman letter," a copy of which said letter follows:

DEPARTMENT OF JUSTICE,  
OFFICE OF THE UNITED STATES ATTORNEY,  
WESTERN DISTRICT OF OKLAHOMA,  
*Guthrie, October 31, 1912.*

MR. FRED A. WAGONER,  
*Deputy County Attorney, Chandler, Okla.*

DEAR SIR: I have your letter asking whether, at the coming general election, the precinct-election officers can enforce the law commonly termed the "grandfather law," and escape punishment therefor in the Federal courts on a showing of good faith in enforcing said law. I presume your question has arisen on account of the apparent conflict between the decision of the Supreme Court of the State of Oklahoma and the United States district courts for the eastern and western districts of Oklahoma on the constitutionality of the law, the State supreme court having held the law constitutional, while the two United States courts in the State have held it unconstitutional and void.

It must be borne in mind that this all involves purely State matters as well as Federal matters and in considering the same, these two phases of the law must be kept in mind. As to the purely State questions involved in the law, I do not express any opinion, the same not being within the jurisdiction of this office, and this opinion is directed solely to the Federal question involved, that is, the application of the grandfather law to negroes who, on account of race, color, and previous condition of servitude, are not permitted to vote without submitting to certain tests of reading and writing. Nor shall I argue the question of the constitutionality of the law, for the reason that, after very extensive argument by some of the best legal talent of the State, it has already been in positive terms declared unconstitutional by the two United States district courts in this State, which decisions are now the law of this State as far as the Federal questions therein involved are concerned, having never been reversed or modified.

Knowing this, that the Federal courts having jurisdiction over the entire State have declared the law to be unconstitutional and of no force and effect, the question arises whether the precinct election officers can enforce it against negroes on account of their race and color, and then when prosecuted in the Federal court for doing so defend the prosecution on a plea of good faith in enforcing the law. The question of good faith must be determined with reference to the decision of the courts on the subject and having jurisdiction thereof, so there can be no good faith in acting in direct conflict with the known decisions of the courts, although in the absence of any such decisions such defense might be made. In the case against Beall and Quimm, who were convicted in the Federal court at Enid in 1911, for violating section 19 of the Federal criminal code in enforcing the grandfather law at the general election in November, 1910, the defense of good faith was attempted, although without success, as the verdict of the jury disclosed. However, in that case at the time the acts were committed which caused a prosecution—that is, November, 1910—no Federal court had passed upon the law.

Furthermore, all precinct election officers are quasi judicial officers in a quasi judicial capacity, and being officers of inferior and restricted jurisdiction, are all bound by the decisions of the Federal courts declaring the law unconstitutional when applying the same to negroes desiring to vote for Members of Con-

gress and electors for President, and the defense of good faith will not protect them from prosecution for enforcing the law in direct conflict with the Federal decision.

Respectfully,

HOMER N. BOARDMAN,  
*United States Attorney.*

That said alleged opinion was by said conspirators caused to be circulated and sent broadcast and placed in the hands of all precinct election officials in said Lincoln County in which negroes resided, and a great number were mailed to said election officials, and accompanying same and in the same envelope containing the Boardman letter was a printed slip as follows, the first four lines of which as it appears below were printed in very large, black-faced type:

TALK IT OVER WITH YOUR WIFE.

MR. ELECTION OFFICIAL,

AND REMEMBER THAT

YOU WILL GO TO THE PENITENTIARY

If you violate the Federal election laws, and not Gov. Cruce nor his brother, Attorney A. C. Cruce. You will remember that the latter defended Beall and Quinn, who last year were convicted in the United States court at Enid and sentenced to the penitentiary for violating the Federal election law, and the State paid the attorneys in these cases about \$14,000 for defending these two men. This averages about \$7,000 per case. It is not likely that the people of this State, already overburdened with taxes, will be willing to continue to pay out \$7,000 every time an election official violates the Federal statutes. The people are not sufficiently anxious to enrich the governor's brother, Attorney A. C. Cruce. Besides, what's the use? Where conviction is sure there is nothing gained by paying out big sums of money for attorney fees. That is to say, there is nothing gained by anyone but the attorney.

And that said election officials in said Lincoln County were by the said letter and accompanying printed slip intimidated, coerced, and deterred from fulfilling their duties as such election officials, and as a consequence of the fear and duress inspired by same large numbers of negroes were permitted to and did cast their votes in said election in the various precincts of said Lincoln County, hereinafter enumerated, without being qualified under the laws of the State of Oklahoma to vote therein, and who could not read or write, and were not required by said election officials to submit to the test provided in said amendment, through fear that the Federal officials of the State of Oklahoma would cause their prosecution and imprisonment and place them to great expense and cause them great trouble and annoyance.

That such fears were not groundless, for that at the last general election preceding a letter of similar intent and purport was over the official signature of John Embry, the then United States attorney for the said western district of the State of Oklahoma, circulated broadcast, as in the case of his successor, Boardman, to the precinct election officials just prior to the election; that in a number of the precincts of the State the officials, disregarding said letter and its threats, proceeded to and did qualify voters under election laws of the State of Oklahoma before permitting them to vote; and that afterwards the said United States attorney caused many of said election officials to be indicted and did prosecute and convict two of said election officials in the Federal courts of this State and caused them to be subjected to heavy fines and sentenced to terms of imprisonment in the penitentiary, all of which was and is fresh in the minds of the people of the State and was known to the election officials at the time of said 1912 election, and was refreshed in their memories and made vivid and given additional force and inspired additional fear upon receipt of the said Boardman letter.

That said letter of United States Attorney Embry, hereinafter referred to as the Embry letter, is as follows:

NOVEMBER 2, 1910.

A. P. JORDAN, *Guthrie, Okla.*

SIR: We are in receipt of your letter of the 26th ult., asking the opinion of this office relative to many phases of the recently adopted suffrage amendment to the Oklahoma constitution, commonly referred to as the "grandfather

clause," and we have the honor to advise you that the State supreme court has held the amendment constitutional.

The election to be held November 8th is both a Federal and a State election—Federal since Members of Congress are to be elected, and State since State and county officers are to be elected. The election officers owe duties both to the Federal and to the State Government, and the Federal Government by prohibiting Federal interference with these elections, and by leaving the enforcement of the laws on election day to the peace officers of the county, city, and township, assumes that the election officers will observe their oaths and conduct the election according to law. Should election officers fail so to do, the conspiring to deprive any citizen of the United States of the right to vote for candidate for Congress on account of his race, color, or previous condition of servitude, or should any such election officer for any such reason deprive any such citizen of such right under color of any State law, such would be a violation of the Federal law and would subject any such offending election officer or officers to prosecution in the Federal courts and punishment for any such offenses.

You state that you are an ex-slave; that you were not entitled to vote under any form of Government on or prior to January 1, 1866; that you can read and write reasonably well and can read and write any section of the Oklahoma constitution, and upon such statement you inquire as to the character and extent of proof which the election officers may demand of your qualifications as an elector. The amendment gives officers at the election power to enforce its provisions where registration is dispensed with, but it does not appear to give them such power when registration is required, but in any event their power in such respects is not greater than their power in enforcing other provisions of the constitution prescribing the qualifications of electors.

The members of the election board do not constitute a legislative body, and if they did they could not enforce rules obviously directed against any particular race or color which would require any greater amount or different character of proof of qualifications to vote than are required of other races, without violating the Federal law and subjecting themselves to punishment. We are so convinced of the correctness of this proposition that we assume that the election officers will apply to the colored voters, when challenged, the same rules requiring proof of qualifications as are applicable to white voters. The Oklahoma election law provides substantially that when a person offering to vote is challenged, he shall not be allowed to vote unless he swears to an affidavit showing that he is qualified and entitled to vote, and that upon making such affidavit he must be allowed to vote. Of course, he would be subject to prosecution if he should make a false affidavit.

It is the view of this office, and it is the view this office will follow should the matter come up for official determination, that when a person offering to vote is challenged the same rules as to proof of qualifications must be applied whether the challenge be under the "grandfather clause" or under the previous laws or both, and as we understand the State law the only thing the election officers can demand of a challenged voter is an affidavit showing that he possesses the qualifications required of the voters by the State constitution and laws as defined and construed by the State supreme court, and any attempt to apply any different rule to negroes offering to vote would be a discrimination which is prohibited by the Federal Constitution and law.

Therefore it is our opinion that if you are challenged for any cause you will be entitled to vote upon making an affidavit showing that you possess qualifications as an elector required by the constitution and laws of Oklahoma.

We express no opinion as to the right of those who may be disfranchised because they can not read and write.

Respectfully,

JOHN EMBRY,  
*United States Attorney.*

That said alleged opinion of United States Attorney Boardman was, by said conspirators, caused to be and the same was published in some of the newspapers in said district and State, and copies of the said opinion were mailed to the election officers in the various voting precincts in said district in which resided any number of negroes, and it was further heralded over said district and published broadcast therein that any election officer who denied any negro the right to vote at said election, who might make affidavit that he could read and write any section of said constitution, would be arrested and prosecuted under the Federal law.



That in Lincoln County, the county wherein the said coconspirator, Fred A. Wagoner, was deputy county attorney, he, the said Fred A. Wagoner, frequently advised election inspectors and judges that if they denied a negro the right to vote, they would be prosecuted by the Federal Government, and would doubtless be convicted and given terms in the penitentiary "similar to those of Guinn and Beall," the election officers heretofore referred to who had been at the last general election prosecuted and convicted in the Federal Court by the United States Attorney, Embry. Said John Embry had been theretofore and for many years prior to his appointment as United States district attorney for the western district of Oklahoma, a resident of said Lincoln County. That the population of said county is largely rural population; that the means of transmission of news is not rapid; and that the said John Embry had only a short time previous thereto resigned as said United States attorney and his successor, the said Boardman, been appointed, and that in the minds of many of said election judges and inspectors the said John Embry was still a United States attorney or in some Federal official capacity had to do with the Federal Government in the State of Oklahoma and the administration of its laws, and that many of said inspectors and officials believed that if they should disobey or disregard his advice they would be arrested and thrown into prison, and that the said John Embry made a trip through said Lincoln County just prior to said election advising and consulting with said election officials and informing them that if they tried to enforce the said "grandfather clause" amendment to the constitution of Oklahoma they would receive the treatment at the hands of the Government heretofore set out. That many others of said election officials at such time believed that the said John Embry held an important position in the Federal Government in the State and that he would not give out a legal opinion not required by law, nor an opinion that did not state the law, and having confidence in the said John Embry, and because of the position they supposed he then held and which they knew he had held for a long time prior thereto and being themselves ignorant of the law, and desiring at all times to obey the law, and also because of the said threats and acts of coercion and intimidation, the officials in said precincts were prevailed upon to and they did permit a large number of negroes, to wit, as your contestant is informed and believes and further states, to-wit: negroes over the number of 300 to vote at said election in the precincts hereinafter set out in said Lincoln County without enforcing the provisions of said amendment by requiring said negroes, or any of them, to read and write a section of said constitution. That none of said negroes were on January 1, 1866, or prior thereto, entitled to vote under any form of government nor were they at such time or times residing in any foreign nation, and neither were they lineal descendants of such persons, for which reasons I claim that none of such negroes were qualified to vote at such election and that the votes cast by them, and each of them, were illegal votes. That said negroes and each of them voted for you and their votes were so counted, and were included with other votes cast for you in said precincts and returned by the election officers thereof.

That some of said negroes so permitted to vote in said precincts might have qualified by reading and writing any section of said constitution, but the greater number of them were ignorant and illiterate and could not have so qualified. That it will be impossible to correctly ascertain and determine how many, if any, of said negroes could have so qualified, and because of this fact and of said conspiracy, and on account of said threats and acts of coercion and intimidation I insist that all of the votes cast by said negroes in said precincts at said election should be excluded and not counted and should be taken from the votes as given you in said precincts and as shown by the official returns thereof.

That herewith follows a list of such townships in Lincoln County in which said negro votes were cast, and which I hold were disqualified to vote, and which precinct I allege should be excluded from the count in said Lincoln County:

Township.	Davis.	McGuire.	McGuire's majority.
Tohee.....	46	58	12
South Stroud.....	36	46	10
Fallis.....	17	23	6
South Creek.....	53	82	29
North Creek.....	40	75	35
S. Seminole.....	25	69	44
E. N. Choctaw.....	19	29	10
N. Wichita.....	59	99	40
Wellston Twp.....	55	63	8
W. McKinley.....	31	54	23
E. McKinley.....	32	56	24
Chandler Twp.....	63	86	23
Union Twp.....	55	86	31
So. Fox.....	57	87	30
S. Keokuk.....	34	88	54
Cimarron No. 2.....	47	69	22
South Iowa.....	27	50	23
South Osage.....	34	48	14

And that with the precincts mentioned excluded the returns of said townships should show that I received in said county a total vote of 1,525 and yourself of 1,209, and that in truth and in fact the correct number of legal votes cast by the electors in said Lincoln County at said election exclude said precincts where illegal and fraudulent votes were permitted to be cast for you and for me for said office, and were as follows:

Township.	Davis.	McGuire.	Township.	Davis.	McGuire.
N. Ponca.....	11	17	Tryon.....	25	17
S. Ponca.....	31	29	N. Carney.....	4	3
N. Pawnee.....	22	18	Carney.....	22	18
S. Pawnee.....	49	37	Davenport.....	45	17
N. Osage.....	55	36	Kendrick.....	22	19
N. Iowa.....	55	44	Chandler, ward No. 1.....	86	58
Cimarron No. 1.....	56	15	Chandler, ward No. 2.....	60	45
Cimarron No. 3.....	22	6	Chandler, ward No. 3.....	33	27
N. Keokuk.....	68	53	Chandler, ward No. 4.....	34	31
N. Fox.....	57	54	Wellston City.....	63	65
E. Otoe.....	38	38	Sparks.....	28	35
W. Otoe.....	42	29	W. Sparks.....	12	15
S. Wichita.....	76	33	Mecker.....	39	36
W. N. Choctaw.....	31	26	Prague.....	85	71
S. Choctaw.....	70	64	Midlothian.....	13	8
N. Seminole.....	49	50	N. Stroud.....	76	75
Bryan.....	48	32			
Kickapoo.....	63	51			
Agra.....	35	37			
				1,525	1,209

Fifth. I contend that such fraud, duress, threats, and intimidations in the manner set out more particularly herein following tainted the entire ballot at such election in Logan County and that such returns should be excluded in the computation.

That there was at such election, at which you and I were candidates for a seat in the House of Representatives, as the Representative for said first congressional district, also before the voters of the State for their suffrage as a special question submitted to them, initiated by petition circulated by the people of Guthrie the proposition of removing the capitol of the State from Oklahoma City, its present location, to Guthrie, its former location. Oklahoma City is without our district and Guthrie is within same, and Guthrie and Logan County in which it is situated have a large and illiterate negro population. The population of said city of Guthrie was by the last Federal census 11,654, about 33½ per cent of the total of the county. That the total of said city and county was by said census 31,740. That in said capitol location contest it became and was the dominant motive of the people of Guthrie and vicinity, constituting the mass of the people of Logan County, to secure the utmost number of votes for the city of Guthrie as the capitol location of the State. That there was in said city of Guthrie at such a time a civic organization known as the Chamber of Commerce which had for its purpose the improvement of the material welfare

of the city. That there was published in said city at said time and for a long period prior thereto a negro newspaper of the most virulent type. And that said Chamber of Commerce, the municipal authorities of said city and county, and its people as a whole, and said negro newspaper, and the other public prints of the city, resorted to every effort and exhausted every persuasion to get every negro to the polls and pile up the last possible vote in order that it might weigh to Guthrie's advantage in the capitol location. That said city voted bonds which were sold for a large sum of money, to wit, the sum of \$100,000, for the ostensible purpose of park improvement but for the real purpose of creating an exchequer out of which could be defrayed the expenses of the capitol location fight; and a large portion of these moneys, together with large sums raised from public donation and private subscription, were used by said city of Guthrie to promote its interests in said capitol location contest and to get every vote obtainable, regardless of its legal right, in Guthrie and Logan County into the ballot boxes. That there was fomented, spread, and disseminated throughout the city of Guthrie and Logan County at said election by the authorities aforesaid the general consuming ambition on the part of the Guthrie boosters to secure said capitol location at any cost. And that as a condition precedent it was necessary to have a complete laxity of the enforcement of the so-called "grandfather clause" of our election law. Judges and inspectors of election in said Logan County were importuned, bullied, threatened, cajoled, and persuaded to relax their vigilance and to not apply the educational test to negroes and to permit the large and entirely ignorant and disqualified floating and fixed negro population of said city and county to vote at said election, regardless of their right to do so. That to this end and in this behalf the Federal officials resident in Guthrie, including the Federal resident judge, who presided at the trial and pronounced judgment against the aforesaid election officials, Guinn and Beall, who were convicted for enforcing the "grandfather clause" in this district at the last preceding congressional election, and his office force, employees, and attaches used every effort and bent every energy. The Boardman letter heretofore referred to and others emanating from the same source and of a similar import and nature were circulated freely, and the information was generally spread by the said United States attorney and his assistants and the Federal authorities and the other agencies foresaid, that if any election official dared enforce the "grandfather clause" in said county and qualify any negro before voting, such election official would be indicted and tried in the Federal courts and "get what Guinn and Beall got."

That there were in said city of Guthrie and Logan County at said election large numbers of ignorant, illiterate negroes, wholly disqualified under our election laws to vote at said election. That one of the five wards of the city of Guthrie contained, and has for years, a majority of negroes. That Guthrie is generally known and regarded, and enjoys the reputation, fairly earned, and has since the early days of settlement, of being the negro stronghold of the State and the center of their various organizations, fraternal and otherwise. That such negroes did and have always regarded the enactment of the "Grandfather Law" as an unjust interference with their rights. That they were quick to resent the enactment of this law by the Democratic Party of the State and seized eagerly upon this, their first good opportunity, aided and encouraged and supported largely by the white population and by all the agencies and authorities aforesaid, to violate the provisions of such law. That they flocked to the polls in large numbers in Guthrie and Logan Counties. The bars were let down and no restrictions worthy the name were in any precincts of Guthrie or Logan County imposed upon them. No challenge was made and no test applied in good faith and none were excluded from the polls, but all who came or could be rounded up by the agencies aforesaid were voted. The illegal and unlawful votes of the entire negro population of said city and county went into the boxes and were counted for you. That, while it was impossible to give or arrive at the exact number, I am credibly informed, and believe, 1,500 negroes in Guthrie and Logan County voted for you who were disqualified to vote at said election. That a large number of negroes were permitted to vote who were not registered, who had no fixed habitat, and your affiant is informed, and believes, they were floaters and not even inhabitants or residents of the various precincts in which their votes were cast.

The entire returns from said city and county were thus vitiated and tainted by such unlawful and corrupt procedure and should be excluded from the count.

Sixth. I further charge and expect to be able to prove in said contest that in each of the following voting precincts in said district, to wit: Banner No. 1,

Cimarron No. 1, Columbia, Excelsior, Hennessey Township, Kingfisher ward 1, Kingfisher ward 2, Kingfisher ward 3, Kingfisher ward 4, Kingfisher ward 5, River, Reserve, Sherman, all in Kingfisher County, Oklahoma; and in precincts Big Heart No. 1, Big Heart No. 6, Black Dog No. 3, Hominy No. 7, Fairfax No. 2, Fairfax No. 6, Big Hill No. 3, Big Hill No. 4, Foraker No. 2, all in Osage County, Oklahoma; and in precincts Pawnee, Liberty, Burnham, Pawnee No. 1, Cleveland No. 1, Cleveland No. 2, Cleveland No. 4, all in Pawnee County, Oklahoma; and in precincts North Bluff, North Fairview, South Fairview, North Jarvis, Rock Island, Banner, Pond Creek ward No. 2, Wakita, all in Grant County, Oklahoma; and in North Lowe, Blackwell No. 3, Rock Falls, Renfrow, Weston, all in Kay County, Oklahoma; and in Enid, ward 1, precinct 1; Enid, ward 2, precinct 1; Enid, ward 3, precinct 1; Enid, ward 4, precinct 1; Enid, ward 4, precinct 2; Enid, ward 5, precinct 1; Enid, ward 5, precinct 2; Garland, Hackberry, Logan, Marshall, McKinley, North Enid, Osborne, Patterson, Sheridan, Summer, Washington, Waukomis, all in Garfield County, Oklahoma; and in precincts Clarkson, Clayton, Clear Creek, Eagle No. 2, Henry, Mound, Pawnee, Rose, Glencoe Town, all in Payne County, Oklahoma; and in precincts Walnut, Lowe, White Rock, Billings City, Glenrose, Perry ward No. 2, Perry ward No. 4, all in Noble County, Oklahoma, the official counters and members of the precinct election board at said election wholly ignored the provisions of the election law of said State and failed to conduct said election in said precincts as required by law in this, to wit: That the official counters did not count the ballots cast at said precincts at said election within view of the officers of said election. That the said counters failed to fill out the certificates on the back of the poll book and book of ballots and failed to sign and swear to the same, and failed to place the ballots, tally sheets, and poll books in envelopes as required by law. That said election officers at all times permitted a large number of persons not officials to be within the voting booths and within the inclosure around the ballot boxes for purposes other than voting, and continually permitted and allowed large numbers of voters and other persons to be within the inclosure and within the voting booths in violation of the law. That electioneering was permitted to be carried on within 50 feet of the polls and the ballot boxes. That electors, after having marked their ballots and before depositing the same in the ballot box, were allowed to show their ballots to other voters; that the counters and election officials did not take the oath required by law; that a large number of persons were allowed to be present and talk with the official counters while they were counting the ballots; that the two tally sheets were not signed by the four counters; that the certificates on the back of the book of ballots was not filled out by the four counters, and that four duplicates of such certificates were not made out by the said counters; that the said certificates were not totaled, showing each candidate's votes, and the same written with pen and ink in words and figures; and that the said certificates were not signed by each of the four counters and sworn to before the inspector of elections, and that no certificate was kept by the inspector of elections, and that two of such certificates were not properly certified to, signed, and sworn to, and that one of said certificates was not posted in a public place outside of the polls for public inspection; that the ballots were not tied and the knot sealed, and the bundle of voted ballots, and the stub ballot books, with all the unused ballots attached to their stubs with the original certificate of the result in the back thereof, and the two tally sheets in each of said precincts were not placed in envelopes, labeled "voted ballots," "tally sheets," and "stub book of ballots," respectively; that the two duplicate copies of such certificates were not placed in an envelope labeled "returns."

Each and all of said precincts because of said irregularities should be excluded and the vote alleged to have been returned therein not counted.

That the alleged returns made by precinct election officers in the precincts herein above named and which pretend to give the true and correct number of legal votes cast for you and for me at said election for said office in said precincts, and which said returns were canvassed as returned by said county election boards and by them certified as canvassed to the State election board of said State, were and are false and fraudulent, untrue, and incorrect in the matters and things herein above set out, and that the official counters and election officials in said precincts did not actually and correctly count, tally, tabulate, return, and certify the votes cast therein for you and for me at said election, and that the same should be excluded from the count.

That in many of said precincts there was a heavy negro population, and in such precincts the election inspectors and judges failed to enforce the so-called "grandfather clause" of the constitution in qualifying the said negro voters

through fear of Federal prosecution. That said fears arose in the manner more fully described in the fourth and fifth counts of this notice as to the methods employed in Lincoln and Logan Counties for intimidating and placing under duress the said election officials. That said election officials in said precincts were familiar with the Embry letter in the previous campaign, and that to each of them was sent the Boardman letter, or a letter of similar import over his signature, and they were advised by the said Federal officials and partisans of the Republican Party that if they sought to enforce the said "grandfather clause" they would be indicted, tried, and convicted as Guinn and Beall had been, and punished with fines and imprisonment in the penitentiary. And for such reason said election officials failed to enforce and did not enforce the qualification for electors, and large numbers of ignorant negroes were permitted to vote who were not qualified to vote under the election laws of the State, and by such means the ballot boxes in the said precincts were tainted; and that it is impossible to ascertain the exact number of fraudulent ballots which were permitted to enter the said boxes and which were counted for you, and that it would be impossible to purge the said boxes of the fraudulent ballots; and that therefore the entire returns from said precincts should be rejected and should not be counted either for you or for me.

I charge that in the second ward of Cleveland, Pawnee County, Okla., 13 Republicans were permitted to vote without being registered and without having made the proper affidavit as required by law and without being qualified electors and voters in said precincts; and that several Republican votes were also cast in the fourth ward of said town by persons who were not registered as voters and who did not qualify by affidavit or otherwise and who were not legal voters. And that the counters of the votes in said two precincts in Cleveland were persons who were not qualified, who were not legally selected, and that the total vote in said precincts was not counted in the manner required by law and that they were not correctly counted; and that during the registration in July, 1912, the registration books in the first, second, and fourth wards of said city of Cleveland, Pawnee County, Okla., were in charge of one W. F. Staples; and that he supervised said registration without being duly constituted or having any authority so to do; and that said Staples was not an inspector nor was he sworn as a clerk of registration.

Therefore, and for the above additional reasons, I assert that said precincts, to wit: Cleveland No. 1, Cleveland No. 2, and Cleveland No. 3, should be thrown out and excluded from said count, and the ballots return as having been cast therein should be rejected and not counted for either of us.

Seventh. That you used your franking privilege in sending out campaign letters just prior to the time for holding said election, and that you sent out something like 2,000 letters to voters who were or had been school-land lessees in the first congressional district of Oklahoma in words and figures as follows (with change of name and address) to wit:

GUTHRIE, OKLA., *October 31, 1912.*

Mr. W. H. FRANKS,  
*Route No. 2, Braman, Okla.*

DEAR MR. FRANKS: Since I have been in the campaign, hundreds of school-land lessees have spoken to me and many hundreds have written to me to know if there is any relief from the exorbitant rents now being paid; also, protesting against the high prices and the terms under which the school land is selling.

The school-land department of this State is not carrying out the purposes and intent of the statehood bill. I have found the rents grossly excessive, and, where the land has been sold, almost invariably the prices paid and interest charged have ruined the lessee.

I shall take this matter up immediately and see if there is any possible means by which you who have improved this land and helped build the State can be relieved of the burdens which the American Congress never intended should be imposed upon you.

Very sincerely, yours,

BIRD MCGUIRE.

That each of said letters were inclosed in an envelope containing your name as a Member of Congress and marked "House of Representatives, U. S. Official business—free," and by yourself or one of your campaign managers deposited in the United States post office at Guthrie, Okla., on or about the 31st day of October, 1912, for transmission through the mails to the various voters in the said first congressional district to whom they were addressed.

That said matter contained no postage, was not in answer to any communication, was not official business, was a violation of the franking privilege and of the United States postal laws, and was mailed and transmitted solely as campaign matter.

Eighth. I further allege that in your expenditures for securing the nomination of your party and in the election you have greatly exceeded the statutory limitations imposed both by the State and by the Federal law, and have further authorized and permitted your managers, political partisans, and friends to expend large sums in excess of the amounts authorized by law, and by reason of such you have violated the laws of the State and Nation and are disqualified to hold a seat in Congress.

Ninth. I further charge that in the counties of Kay, Osage, and Lincoln, in said congressional district, there are Indian reservations which are under the control of the United States, and that the inhabitants thereof are and were not legal voters at said election, and that a number of persons residing in said Indian reservations did vote at said election, and that their votes went into the ballot boxes of the respective precincts in which said Indian reservations are included and vitiated and tainted the entire ballot therein, and that the said precincts by reason thereof and the impossibility of ascertaining the exact number of illegal ballots so cast should be excluded and not counted for either of us.

JOHN J. DAVIS,

*Contestant.*

By ROY HOFFMAN,

COURTLAND M. FENQUAY,

*Attorneys.*

DISTRICT OF COLUMBIA, ss:

I hereby certify that on this 16th day of December, in the year 1912, before me, the subscriber, a notary public of the District of Columbia, in and for the county aforesaid, personally appeared Frank B. Crosthwaite and made oath in due form of law that he delivered to Bird S. McGuire at No. 308, House of Representatives Office Building, in Washington, D. C., a notice in writing, of which the foregoing is an exact copy, on the 16th day of December, 1912, at or about 11 o'clock a. m.

Witness my hand and notarial seal this 16th day of December, 1912.

[SEAL.]

REGINALD RUTHERFORD,  
*Notary Public, District of Columbia.*

## ANSWER TO NOTICE OF CONTEST.

Comes now the contestee, Bird S. McGuire, Representative-elect to the Sixty-third Congress for the first congressional district of the State of Oklahoma, and for answer to the notice of contest served on him on the 16th day of December, 1912, by John J. Davis, a defeated candidate for election to said office, says:

### FIRST.

That he objects to the consideration of said contest for the reason that the notice served upon him does not contain sufficient specification of grounds of contest to give Congress jurisdiction to entertain a contest against him.

### SECOND.

The contestee, Bird S. McGuire, objects to the consideration of said contest for the reason that the notice served on him by the contestant, John J. Davis, does not contain any grounds of contest recognized by the laws of the United States, rules of Congress, or the laws of the State of Oklahoma.

### THIRD.

That the objection attempted to be stated in said notice to the effect that the State election board of Oklahoma issued the certificate of election to the contestee over the protest of contestant, does not state any grounds of contest, and is not a proper matter for the consideration of Congress, the supreme court of Oklahoma having previously held that the State election board in the canvass and determination of votes cast at an election are ministerial officers only, and can not inquire into any question except what appears upon the face of the returns presented to them. (*Montgomery v. State election board*. 111 Pac., 447.)

### FOURTH.

The contestee, further answering, moves to quash said notice and dismiss said so-called contest proceedings for the reason that the same does not comply with any of the requirements of law or the rules and precedents of Congress.

### FIFTH.

The contestee, further answering, denies that the State election board committed any error in issuing to him the certificate of election for the office of Representative in Congress from the first congressional district of Oklahoma to the Sixty-third Congress of the United States.

### SIXTH.

The contestee, further answering said notice of contest, avers that he was the regular nominee of the Republican Party for Congress from the first congressional district of Oklahoma, as determined at a regular State primary election held for the purpose of nominating candidates of all political parties on the 6th day of August, 1912, and was on the regular official ballot and was voted for at the regular election held on November 5, 1912, and received a majority of all the votes cast in said district at said election for said office, and the State election board of the State of Oklahoma, who are by the law of said State charged with the duty of canvassing the election returns from all the counties of the State and of issuing election certificates to all State, district, congressional, and legislative candidates who may be elected, declared the contestee duly elected as Representative in Congress for the first congressional district of the State of Oklahoma to the Sixty-third Congress, and issued to him a certificate of election, which entitles him to said office.

## SEVENTH.

The contestee denies that there was any fraud, irregularity, or illegality in the election in said State or in any of the voting precincts thereof affecting the results of said election or which would, if inquired into, result in giving to said contestant a greater number of legal votes than the contestee received at said election.

## EIGHTH.

The contestee, Bird S. McGuire, further answering said pretended contest, avers that had all the votes cast in all the voting precincts of said congressional district as received and canvassed by the several precinct election officers been canvassed and returned by the county election boards his majority would have been largely in excess of the number of votes received by him as shown by the records of the State election board. That in the county of Kingfisher in the first congressional district the county election board without authority illegally and fraudulently excluded and threw out the entire vote and returns from several election precincts, in each of which contestee received a greater number of votes than the contestant; that the election in each of said precincts was held in accordance with the requirements of law, was regular, legal, and valid, and the returns were duly and regularly made up and certified by the precinct election boards and officers and were duly and regularly returned to the county election board of said county, but said county election board for partisan purposes illegally, fraudulently, and designedly, in order to reduce the Republican majority in said county and to elect certain candidates on the county ticket in said county, refused to canvass the votes from said precinct and made up the returns and declared the results without including the returns from said precincts, the names or numbers of said precincts being to the contestant at this time unknown, but all of which will appear from the records in the office of the secretary of the county election board of said county.

## NINTH.

Contestee further avers that in the county of Pawnee, where the contestee has been a resident for many years and where he is well known, there are several hundred persons of Indian blood of the Pawnee Tribe who are citizens of the United States and qualified to vote under the laws of the State of Oklahoma; that from a long acquaintance with and residence among said Indians they are the personal friends and supporters of the contestee and desired to vote for him at said election. That the Democratic partisan county and precinct election boards, in order to deprive contestee of the benefit of the votes of said Indians, wrongfully, fraudulently, and unlawfully applied the so-called grandfather test to said Indians who applied to vote, and many of them being unable to read or write a section of the Constitution were unlawfully deprived of their votes; that said Indians who would have voted for contestee to the number of 150 were intimidated, embarrassed, and humiliated and were unlawfully deprived of voting, whereby contestee was deprived of 150 votes he was entitled to and would have received in Pawnee County—more than were cast for him in said county.

## TENTH.

The contestee further answering avers that in the county of Osage, in said district, there are several hundred Indians of the Osage Tribe of Indians who are citizens of the State of Oklahoma and of the United States, who possess all the qualifications under the laws of said State to entitle them to vote and who are and were at the time of said election legally qualified electors, desired and intended to vote and would have voted for contestee had they been allowed to vote, but contestee alleges that said Indians to the number of 100 or more were for partisan purposes and to deprive this contestee of their votes unlawfully, fraudulently, and without right deprived of their votes and not allowed to cast their ballots at said election by the said precinct election boards in said Osage County.

## ELEVENTH.

That in the counties of Logan and Lincoln in said first congressional district there is a large negro population, many of whom are qualified electors under the laws of said State and who can both read and write any section of the



constitution or all of it, while there are many other persons of the negro race in said counties who possess all the qualifications to enable them to vote except that they can not read and write a section of the constitution; that by the election laws of said State the so-called grandfather clause is in force and only negroes who can read and write a section of the constitution are allowed to vote at any election; that the precinct election boards are all partisan, composed of two Democrats and one Republican, the Republican member not being allowed to interfere with the manner in which the Democratic members conduct the election. That at said regular election on the 5th day of November, 1912, in the counties of Lincoln and Logan a large number of said negro electors who were not qualified under the State law to vote, the number of whom are to the contestee unknown, were allowed by said partisan election boards to vote and who voted the Democratic ticket and cast their votes for the contestant; that if said disqualified voters who voted for the contestant be ascertained and their votes excluded the majority of contestee will be several hundred votes in excess of the number shown by the records of the State canvassing board.

## TWELFTH.

That several hundred legally qualified Republican voters who desired to vote for this contestee, and who offered to vote at said election, and who would have voted for contestee, who belonged to the colored or negro race, but who possessed all the qualifications under the Constitution and laws of the United States, and who were entitled to vote under the laws of said State, in the township and precincts of Iowa, Cimarron, Bear Creek, Springvale, Springer, Seward, and Crescent, in Logan County, Okla., were by the partisan precinct election boards for the reason that they were negroes and would have voted the Republican candidates, and would have voted for this contestee, not allowed to vote, and were at the time they offered to vote, humiliated, intimidated, and compelled to submit to unauthorized, illegal, unusual, and partisan tests, and were denied the right of suffrage and unlawfully, fraudulently, designedly, and corruptly by said precinct boards denied the right to vote, whereby this contestee was deprived of several hundred votes to which he was entitled and would have received, had it not been for such unlawful and fraudulent action of said precinct election boards.

## THIRTEENTH.

That in each of the election precincts in the several counties of said first congressional district in the State of Oklahoma there were illegal votes cast for the contestant; that in each of said precincts there were persons permitted to vote who never possessed the qualifications of electors under the laws of said State, and who voted for the contestant. The exact number or names of such persons can not now be given by contestee. That in each of said several voting precincts there were persons, the numbers and names of whom are unknown to this contestee, who were qualified electors and entitled to vote at said election, and who offered to vote and would have voted for contestee, who were wrongfully and unlawfully prevented from voting. That contestee received a greater number of votes of the qualified electors who voted at said election than the contestant, and was duly and legally elected, all of which he is prepared to show.

## FOURTEENTH.

The contestant, John J. Davis, has filed no statement and made no report of expenditures as a candidate for Congress, and his campaign committee or manager has filed no statement or filed or made any report of expenditures as candidate or campaign expenses, as required by act of Congress, in such cases made and provided.

## FIFTEENTH.

The contestee further answering, says that he objects to the consideration of the so-called protest, alleged to have been filed with the State election board, for the reason that the same does not constitute a proper or sufficient ground of contest. And he further denies all the allegations of fraud or irregularities therein contained. He specifically denies the averments set out in paragraphs

numbered 1, 2, 3, 4, 5, 6, 7, 8, and 9 of said so-called protest. He also specifically denies the averment that he is not a resident of the first congressional district of Oklahoma. He also denies that another canvass of the vote will show a majority of votes for the said contestant.

## SIXTEENTH.

The contestee further specifically denies the averment that the State election board had no authority to determine the result of said election and to certify said result and to issue a certificate of election to the successful candidate, and contestee alleges that said board is specifically charged with said duties by the laws of said State.

The contestee further denies that the provisions of the enabling act have any application to the election of Members of Congress in the State of Oklahoma, and was only intended by Congress to apply to the first next election prior to the admission of the State and to the officers elected at the time the constitution was voted upon. That the election laws of the State enacted since the adoption of the constitution regulate and control the election of Members of Congress the same as all other State and district offices.

## SEVENTEENTH.

The contestee specifically denies the averments set forth in paragraph 2 of the notice of contest, relating to the manner of conducting the compilation of returns in Logan County, and contestee alleges that the county election board of Logan County was composed of John Hopkins and Frank Hindman, both Democrats, and Fred Wenner, Republican. Said vote was canvassed under the specific control, management, and conduct of John Hopkins, one of said Democratic members, and of Frank Hindman, the other Democratic member, who were both present at said canvass and participated therein and made said canvass. That the Republican member, Fred Wenner, was absent, and that said Hopkins had one Pat Woodworth do the clerical work and record the same under his direction and inspection, and that the said Democratic members, before signing said records, compared and verified every figure made or result recorded. That no candidate for any office participated in the computation of said election returns. That said count was open and public in the room in the county courthouse provided and kept for an office of the county election board. That several candidates were present keeping tabulated statements of their own votes as same were received or announced by the county election board, but they were making the same for their own use and not for the county election board, as averred by the contestant, and the contestee denounces said averment as false, unwarranted, and a reflection upon honest and reputable men and officers of his own political party, who supported him in said election, and who were and are unfriendly to the contestee.

He furthermore denies that said returns are in any manner or to any extent false, fraudulent, or incorrect, or that they credit any votes to this contestee which were not lawfully cast for and returned for him.

## EIGHTEENTH.

Contestee says that the averment that he is not and has not been a resident and inhabitant of the State of Oklahoma during the year 1912, and for several years prior thereto, is untrue and unwarranted and known to be false by the contestant, and he avers that he is and has been a bona fide resident, inhabitant, elector, and taxpayer of the State of Oklahoma and of the first district at all times since the admission of the State of Oklahoma, and of the Territory of Oklahoma for many years prior thereto, and he alleges that said charge is not made in good faith, but for mere partisan and selfish purposes.

## NINETEENTH.

Contestee admits that the grandfather-clause amendment to the constitution, to prevent electors of the colored race from voting, was adopted as alleged by the contestant. But contestee alleges that said amendment is in conflict with the Constitution of the United States, and its enforcement deprives electors of the colored race of their constitutional right to vote for Members of Congress, and that said amendment is void for the reason that it discriminates against

the negro electors on account of their race and color and deprives them of rights under the Constitution of the United States. That he denies specifically and generally all the averments that the persons named in said paragraph 4 of his notice of contest, or any other persons, entered into any conspiracy, design, or purpose to embarrass, intimidate, or prevent any elective officer from performing his duty or any elector from casting his vote at said election, and he denies all and severally all the other averments set out in said paragraph of contest.

## TWENTIETH.

The contestee for further answer denies all and severally the averments set out in paragraph 5 of said notice of contest, and alleges that said recitals are false, unwarranted, and a reflection upon a respectable and honorable body of voters; that every precinct election board in Logan County was controlled, dominated, and dictated to by Democrats; that they were partisan friends and supporters of the contestant and did not commit any fraud and would not have permitted any to have been committed, and especially in favor of this contestee, and contestee here denounces said recitals and averments as false and made only to prejudice this cause.

## TWENTY-FIRST.

The contestee denies generally and specifically all and severally the averments made in paragraph 6 of said notice of contest, and says that the elections in each of said precincts were conducted according to the usual Democratic methods; that all white electors were permitted to vote, and only negroes and Indians who would have voted for the contestee were denied the right to vote; that every elector who would have cast a vote for the contestant was allowed to vote and his vote was counted; that all of said election boards were appointed for partisan purposes, were controlled and dominated by the Democratic partisan politicians, and were instructed in their duties by the Democratic Party organizers, and were specifically charged and instructed not to let Republican negroes or Republican Indians vote, and in so far as was possible they carried out said instructions; that by the partisan, selfish, and political action of said precinct election boards named by the contestant this contestee was deprived of more than 1,000 legal votes which would have been cast for him by qualified electors.

## TWENTY-SECOND.

Said contestee in answer to the allegations contained in paragraph 7 of said notice of contest says that he denies that he ever used the franking privilege for any purpose, in any manner, or in any instance when the same was not authorized by law.

## TWENTY-THIRD.

Further answering, the contestee alleges that the averments set out in paragraph 8 of the notice of contest are untrue and without justification; that contestee complied with every requirement of law, both State and Federal, relating to campaign or election expenditures, and filed his reports and statements as required by law, and that if any person expended any money in his interest or in his behalf other than his reports show, the same was unknown to him, were unauthorized, and he is in no manner responsible therefor, and he denies that any such expenditures or promises were so made.

## TWENTY-FOURTH.

Contestee denies the averments contained in paragraph 9 of the notice of contest, and alleges the fact to be that there are no reservations in the State of Oklahoma which for all voting purposes are not under the operation of the laws of said State, and the inhabitants thereof, who otherwise possess the qualifications of electors entitled to vote.

And now having specifically answered each and all the averments contained in said notice of contest, the contestee alleges that he is the regularly elected and qualified Member of Congress for the first congressional district of Oklahoma to the Sixty-third Congress; that he received for said office, as shown by the returns as canvassed and recorded by the State election board, 19,035 votes in said district; that the contestant, as shown by the same returns, received

18,486 votes in said district; that the elections in the several precincts of said district were conducted, controlled, and managed by Democratic partisan election boards who were friendly to and supporters of the contestant, and unfriendly to the contestee; that said elections were orderly, peaceable, and lawfully conducted by said boards except in depriving individual negro or Indian electors of their right to vote, as hereinbefore alleged; that there was no fraud, intimidation, or irregularities at any of said precincts which in any manner tended to invalidate the precinct returns as made by said boards; that said boards, while partisan and carrying out their party instructions, were composed of honest, respectable men who would not resort to or permit frauds to be committed on the ballot box or returns as voted and recorded.

Contestee further alleges that this contest is not in good faith, that the contestant knows that he had every advantage in said election and was fairly defeated. That said district has a normal Republican majority of more than 2,000 votes, and if all qualified electors had been allowed to vote, this contestee would have received a majority of more than 1,500. That said contest is, as contestee believes, being waged by the friends of said contestant for purely partisan and mercenary purposes, and should be dismissed. That by the laws of said State as interpreted by the supreme court of said State and by the instructions issued by the State's attorney general, the power to determine who are qualified to vote is vested in cities where registration is required in the registering officer, and in country precincts in the precinct inspector, and these officers may accept such proof as will satisfy their judgment as to the qualifications of electors, and by said decisions they are not required to put the reading and writing test to a colored elector if they are otherwise satisfied of his qualifications, and the decision of such officer is conclusive and can not be questioned.

Contestee demands that contestant be required to make proof of the allegations he has made in accordance with the requirements of law and the rules of Congress, and he is ready to meet the same, both on questions of law and of fact.

Wherefore contestee prays that said pretended contest be dismissed.

Respectfully submitted.

BIRD S. McGUIRE,  
*Contestee.*

BURFORD & BURFORD,  
*Guthrie, Okla., Attorneys for Contestee.*

STATE OF OKLAHOMA, *County of Logan, ss:*

Grant Redman, of lawful age, being duly sworn, upon his oath says that on the 9th day of January, 1913, he served the within answer upon the contestant John J. Davis, by delivering to him personally a copy thereof.

GRANT REDMAN.

Subscribed and sworn to before me this 10th day of January, 1913.

[SEAL.]

MARIE E. TERRELL,  
*Notary Public.*

Commission expires November 27, 1916.

TESTIMONY FOR CONTESTANT.

STATE OF OKLAHOMA, *Lincoln County, ss:*

I, Lucy Adams, notary public within and for the county of Lincoln and State of Oklahoma, do hereby certify that the attached and foregoing is a true, complete, and perfect copy of all testimony taken by John J. Davis, contestant, against Bird S. McGuire, contestee, and in accordance with the agreement of counsel for contestant and contestee same has been collected by me to be forwarded to the Clerk of the House of Representatives of the United States, Washington, D. C.

That the same contains a complete copy of all stipulations and agreements between contestant and contestee, the notice of said contests, and all testimony taken in chief on behalf of the said contestant, John J. Davis.

That the testimony of said witnesses in Lincoln County, Logan County, and Kingfisher County was taken by me in shorthand and by me reduced to writing in accordance with agreement of counsel for the contestant and contestee, and is a true, complete, and full copy of all evidence so adduced on direct and cross-examination.

That the testimony of witnesses in Payne, Pawnee, and Oklahoma County, Oklahoma, and Jackson County, Missouri, has been collected by me in accordance with agreement of counsel for contestant and contestee.

That the testimony of witnesses from Osage County is testimony taken at the hearing in the House of Representatives, State of Oklahoma, in the contest of Riley *v.* Prentiss, and submitted under stipulation between contestant and contestee.

Dated at Chandler, Oklahoma, this 29th day of May, 1913.

[SEAL.]

LUCY ADAMS,  
*Notary Public, Lincoln County, Okla.*

My commission expires Jan. 2, 1915.

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Before the House of Representatives, Washington, D. C. John J. Davis, contestant, *v.* Bird S. McGuire, contestee.

STIPULATION.

It is stipulated and agreed that Lucy Adams, notary public of Chandler, Lincoln County, Oklahoma, shall collect, certify, and carefully seal and forward without unnecessary delay all of the testimony offered in chief on behalf of the contestant, when the taking of testimony on behalf of contestant's case in chief is concluded, to the Clerk of the House of Representatives of the United States, Washington, District of Columbia, and that she shall make the indorsement upon the envelope required by law.

This agreement is made for the convenience of all parties concerned and for the purpose of keeping contestant's case in compact and connected form; and this same agreement shall obtain as to contestee's testimony—that is, contestant agrees that any notary public selected by contestee may, upon inspection of the record by contestant and ascertaining that it is correct, certify, seal, and forward contestee's testimony in one package.

It is further, on this 29th day of May, 1913, agreed that the within testimony is the true and correct record of the testimony taken on behalf of contestant, and that the lapse of time between the conclusion of the taking of same and its forwarding is due to inability of contestee's counsel to examine such record on account of press of other important business, and that there has been no unnecessary delay in forwarding the within record.

RAY HOFFMAN,  
*Attorney for Contestant.*  
FRED A. WAGONER,  
*Attorney for Contestee.*

Before the House of Representatives, Congress of the United States. John J. Davis, contestant, v. Bird S. McGuire, contestee.

## STIPULATION.

It is hereby stipulated and agreed by and between the contestant, John J. Davis, and the contestee, Bird S. McGuire, that the time for taking testimony in the above-entitled contest is hereby waived, and the contestant shall have until April 18, 1913, to complete taking his testimony, and the contestee shall have sixty days thereafter in which to take his testimony, and the contestant shall have fifteen days after the contestee closes taking his testimony in which to take testimony in reply.

Executed this 7th day of April, 1913.

JOHN J. DAVIS,  
By ROY HOFFMAN,  
*Attorney for Contestant.*  
BIRD S. MCGUIRE,  
By JOHN H. BURFORD,  
*Attorney for Contestee.*

Before the House of Representatives, Washington, D. C. John J. Davis, contestant, v. Bird S. McGuire, contestee.

It is stipulated and agreed by the parties of the above-entitled contest that the limitation under the rule as to time in the matter of taking testimony in the above contest be extended for a period of sixty days as to both parties.

Dated January 30, 1913.

JOHN J. DAVIS,  
*Contestant.*  
By ROY HOFFMAN,  
*His Attorney.*  
BIRD MCGUIRE,  
*Contestee.*

JANUARY 30, 1913.

In the matter of the contest of John J. Davis against Bird S. McGuire for the seat of Representative in the United States Congress for the first congressional district of Oklahoma.

The testimony of witnesses taken under the stipulation and agreement between the contestant and contestee extending the time for taking the same, dated January 30, 1913, the stipulation being in words and figures as follows:

Before the House of Representatives, Washington, D. C., John J. Davis, contestant, Bird S. McGuire, contestee.

It is stipulated and agreed by the parties of the above-entitled contest that the limitation under the rule as to time in the matter of taking testimony in the above contest be extended for a period of 60 days as to both parties.

Dated January 30, 1913.

JOHN J. DAVIS, *Contestant.*  
By ROY HOFFMAN, *his Attorney.*  
BIRD MCGUIRE, *Contestee.*

JANUARY 30, 1913.

Notice for the taking of depositions being as follows:

In re Congressional Contest of John J. Davis against Bird McGuire—Notice to take depositions.

To BURFORD & BURFORD and FRED A. WAGONER,  
*Attorneys for Bird McGuire.*

You are hereby notified that on the 26th day of February, 1913, at the Union National Bank Building, in the city of Chandler, in the State of Oklahoma, we shall proceed, before Lucy Adams, a notary public in and for Lincoln County, State of Oklahoma, to take, on behalf of John J. Davis, contestor, the depositions of the witnesses below named who reside at the places below

written opposite their names, respectively, and will continue to take such depositions from day to day until the same shall be completed:

Fred A. Wagoner, Chandler; George Prough, Wellston; Hugh Dean, Carney; W. H. Fallis, Fallis; W. B. Davis, Prague; Julius Bontey, Prague; Jas. Edmanson, Prague; Charles Barrack, Prague; Ed. Hillman, Prague; Earnest Chapen, Prague; J. D. Davis, Prague; R. B. Wells, Sparks; Pat Farrell, Wellston; J. V. Thomas, Wellston; John Goggin, Wellston; A. W. O'Keefe, Wellston; J. J. Hadley, Wellston; Bruce Webster, Warwick; J. W. Cherry, Warwick; John Gilmore, Chandler; Lloyd Noble, Chandler; Grant Shaffer, Chandler; J. M. Gardner, Chandler; Earl Bray, Davenport; B. F. Bray, Chandler; J. A. Justice, Davenport; S. M. Cox, Tryon; S. U. Silverthorn, Tryon; U. D. Thompson, Merrick; Elmer Carpenter, Carney; C. D. Stout, Wellston; W. H. Rackley, Wellston; Lloyd Grandstaff, Warwick; M. H. Mullendore, Wellston; B. P. Bloodworth, Meeker; W. A. Shattuck, Carney; T. L. Hall, Meeker; Stacy W. Taft, Meeker; Amos Dobbs, Tryon; Walter Shinn, Agra; Peter Marrick, Meeker; Samuel P. Spittler, Payson; H. M. Johnson, Chandler; J. O. Frazier, Payson; D. J. Norton, Chandler; W. E. Phelps, Agra; F. M. West, Agra; O. H. Frazier, Sparks; Henry Riley, Sparks; Jeff Sawyer, Chandler; J. I. Gumaer, Kendrick; S. B. Caves, Avery; Phillip Sontag, Stroud; Dug Kerr, McLoud; I. N. Bradfield, Fallis; Geo. Fuller, Tryon; J. R. McConnell, Chandler; W. A. Pittman, Wellston; W. F. Falkinstean, Chandler; Dave Seiferd, Stroud; Fred Norcomb, Stroud; Frank Robertson, Davenport; John K. Christey, Chandler; Therman Hall, Chandler; Robert Cherry, Warwick; N. M. Moore, Prague; Sam White, Prague; B. B. Bleadsoe, Prague; Charles Sojka, Prague; H. G. Stettmund, Chandler; Jake Collar, Chandler; G. A. Smith, Chandler; Courtland M. Fenquay, Chandler; Elmer Maston, Chandler; Tom Hinchey, Chandler; G. W. Scott, Stroud; J. C. Burton, Stroud.

ROY HOFFMAN (and 2 others).

*Attorneys for John J. Davis.*

Service of the above notice is hereby acknowledged to have been made on the undersigned, Fred A. Wagoner, attorney for Bird S. McGuire, on the 22d day of February, 1913.

WAGONER & HARRIS,

*Attorneys for Contestee, Bird S. McGuire.*

At the time and place stated in said notice the parties appeared—Hon. John J. Davis being present in person and by his attorneys, Roy Hoffman and Courtland M. Fenquay, and Hon. Bird S. McGuire being present by his attorney, Fred A. Wagoner, whereupon the following proceedings were had:

It is agreed between the attorneys for the said contestant, John J. Davis, and the contestee, Bird S. McGuire, that the testimony shall be taken in shorthand by Lucy Adams, the notary public, and afterwards transcribed by her, and that the witnesses need not sign the same, but that a copy shall be furnished the contestee as expeditiously as possible.

I. N. BRADFIELD, a witness called and sworn for the contestant, testified as follows:

Direct examination by Mr. HOFFMAN:

Q. What is your name?—A. I. N. Bradfield.

Q. Where do you live?—A. Fallis, Okla., Lincoln County.

Q. How long have you lived there?—A. I have lived in the county over 21 years; in Fallis about 8 or 9—ever since the town started.

Q. What, if any, official position do you occupy? Are you a justice of the peace yet?—A. Yes; I am justice of the peace.

Q. What business have you been engaged in there?—A. I have been in the mercantile business up to about a year ago.

Q. Has your acquaintance been sufficiently extensive to acquaint you with the inhabitants of that precinct?—A. Yes, sir; I think I am pretty well acquainted with them.

Q. You think you know them all?—A. Yes, sir.

Q. Are there any negroes in that precinct?—A. Yes, sir.

Q. About how many in that precinct?—A. Well, at the last election I think there was about, the population of the negroes might be about 40, perhaps, and the voters, perhaps, 10 or 11 at the last election.

Q. Approximately, then, the negro population, the adult negro population of that precinct at the last election was 25 per cent. is that correct?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial, witness not having testified as to the total voting population of the precinct.

Mr. HOFFMAN. Question withdrawn.

Q. Do you know the total voting population of the precinct at the last election?—A. I can not call it to memory now.

Q. Well, do you know how many votes were cast at the last general election?—A. I don't remember that. I haven't a memorandum of it with me. I think somewhere in 40 though, if I remember right; right around 40.

Q. Upon what date was that election held?—A. It was in November.

Q. It was the 6th, wasn't it?—A. I think it was November the 6th, 1912.

Q. Were you present at the polling place in Fallis?—A. Yes, sir.

Q. Were you acting in any official capacity?—A. Yes, sir.

Q. If so, what?—A. I was acting as the clerk of the election board.

Q. Did you prior to the election date receive any correspondence from the Republican headquarters in Lincoln County relative to the election?—A. Yes, sir; I received some literature through the mail from some headquarters here, I don't know whether Republican or not, I believe it was; it came through the mail to me, anyhow.

Q. I will ask you to state whether or not you received through the mail prior to the date of the election the letter which I hand you or one similar to that?—A. I got something that looks something like this.

Q. Read it over carefully and state whether or not you received a letter of that nature and import.—A. Yes, sir; I think I received that identical paper; that is, a copy of this.

Q. I will ask you to state whether or not you received a slip similar to this in that letter?—A. I am not positive whether I received that in the letter or not, but I had it in my house—got from some headquarters, I don't know where I got it from, but I got the slip.

Q. Was there any signature to that slip?—A. I don't know.

Mr. WAGONER. Objected to, as the slip would show itself, being the best evidence.

Q. Do you remember whether there was any mark upon the envelope containing the slip?

Mr. WAGONER. Objected to as not the best evidence.

A. I don't remember.

Q. Do you know where the envelope is in which these instruments were received?—A. No, sir; I never kept them.

Q. Did you receive a slip similar to that?—A. Yes, sir.

Mr. HOFFMAN. We ask them to be marked for identification, the letter Exhibit 1 and the slip Exhibit 2.

Q. Where are the copies which you received?—A. I don't know; I never kept them.

Mr. HOFFMAN. We offer Exhibits 1 and 2 in evidence, ask that they be attached to the deposition of this witness and be made a part hereof.

Mr. WAGONER. Objected to, for the reason incompetent, irrelevant, and immaterial, tending to prove no allegation of the petition.

Q. When did you receive these instruments?—A. I received them a few days before the primary, and I think I got some after the primary, before the general election, I don't know just what day it was, maybe a week, about the time the current literature of the election was going through the mails.

Q. Who was the inspector at the general election?—A. Mr. W. H. Fallis.

Q. Did you have any conversation with him relative to the contents of this letter and slip?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial.

A. Yes, sir; I had a conversation with him two or three times.

Mr. WAGONER. Objected to; said conversation not had in the presence of Bird S. McGuire, contestee.

Q. Do you know whether he received a similar letter and slip?

Mr. WAGONER. Objected as incompetent, irrelevant, and immaterial.

A. He says he did, and we discussed it in his office.

Mr. WAGONER. Object to above for reason it is hearsay.

Q. Were any similar instruments exhibited at the time of this conversation with him?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial.

A. He had one on his desk; he read it over to me; and we discussed the contents of it in his office prior to the election.



Q. What, if anything, did he say about what he was going to do in view of the contents of this letter and this warning slip?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial hearsay testimony.

A. At the time the conversation we had, me and Mr. Fallis and some other people, I don't just remember who, Mr. Fallis expressed himself as old as he was that he didn't feel like taking the chance of enforcing the grandfather clause and being drug around the courts as these parties out West, I forget their names, had been.

Q. Guinn and Beall, you mean?—A. Yes.

Q. Did he attend the election at that preeinct and act in the capacity of inspector?—A. Yes, sir.

Q. Did you observe his work and actions in that capacity?—A. I did.

Q. State whether or not he challenged anyone at that election or required anyone who voted in your precinct that day, to submit to the so-called test under the grandfather clause, of reading or writing a section of the constitution?—A. Not while I was in the election room.

Q. Did you attend?—A. I attended.

Q. Were you there during the voting?—A. Yes; I was there except when I went to dinner; I think two parties voted and he registered their names as clerk.

Q. That was the only time you were absent?—A. That was the only time I was absent.

Q. Do you know whether or not any persons voted there that day who were not qualified under the grandfather law?—A. I know there were parties voted there that didn't write their names habitually.

Q. How many such persons voted?—A. Well, I know of some three or four that voted that day that my experience in dealing with them proves they either don't write their names, sign by mark, or can not write intelligible.

Mr. WAGONER. Object to above answer for not being responsive to the question.

Q. Why do you say your experience tells you they were unable to write?—A. Being justice of the peace down there seven years I have files in my office there where they have attempted to sign complaints and bonds, etc., and also some of them sign by mark.

Q. Have you any of these instruments with you?—A. I have.

Mr. HOFFMAN. Here witness is handed instrument which we ask to have marked Exhibit 3 for purposes of identification.

Q. Do you know whose signature appears on that Exhibit 3?—A. I know some of them and the others I know by what I have learned of their attempting to write; I wouldn't know it if I was not acquainted with their frequent attempt to write their name.

Q. What name was attempted to be written there if you know?—A. S. A. Clark; he don't live in that precinct. The lower one there is W. M. Smith, and the middle one is meant for Gaines Medlock.

Q. Is that the one marked with a cross there?—A. Yes.

Q. Did he vote there on November 6 at the general election?—A. Yes, sir; he voted November 6 at the general election?

Q. You say that is meant for Gaines Medlock?—A. Yes; that is meant for Gaines Medlock.

Q. Do you know whether or not he can write?—A. That is a sample of his writing for the last four or five or six years he has signed before me.

Q. Has he ever tried to write anything besides his signature?—A. I never knew him to attempt to write anything except his signature.

Q. You think that is a fair sample of his signature, do you?—A. Yes; I have another here just like it.

Mr. HOFFMAN. We offer Exhibit 3 in evidence and ask that it be attached.

Mr. WAGONER. To which we object for the reason it is incompetent, irrelevant, immaterial, tending to prove no issue in this contest, not having been shown that the said Gaines Medlock is not a qualified voter, even under the grandfather clause.

Mr. HOFFMAN. Here witness hands counsel instrument which counsel asks to have marked "Exhibit 4" for purpose of identification.

Q. Do you know who placed those marks on there at the lead-pencil cross mark?—A. I know whose name it is supposed to be written there.

Q. Whose?

Mr. WAGONER. Object to that as not being responsive to the question.

Q. Who placed those marks there?—A. Gaines Medlock.

Q. The same person who attempted to have written his name to Exhibit 3?—

A. Yes, sir; and Smith and Clark there, both on bonds executed before me that day.

Q. Was that made there the 10th of January, 1912?—A. The 10th of January, 1912; yes, sir.

Q. Was Gaines Medlock submitted to any test to read and write a clause of the Constitution?—A. No, sir.

Q. Do you know whether he can read?—A. I don't know whether he can or not.

Mr. HOFFMAN. We offer Exhibit 4 in evidence and ask that it be attached to this deposition.

Mr. WAGONER. We object as incompetent, irrelevant, and immaterial.

Q. Is Charles Smith a voter there?—A. Yes, sir.

Q. He voted on the 6th of last November?—A. Yes, sir.

Q. Is he black or white?—A. Black.

Q. Do you know how he signs his name—whether by mark?—A. Yes, sir; he signs by mark.

Q. Have you any instrument in your possession showing his signature by mark? [Hands Mr. Hoffman paper.]

Q. Is this the instrument?—A. This is one of them.

Mr. HOFFMAN. We ask that the instrument referred to be marked "Exhibit 5" for purpose of identification.

Q. When did he sign Exhibit 5 by mark?—A. On November 5, 1908.

Q. Have you a later signature by mark of this person?—A. I haven't any with me.

Q. Do you know whether or not he has signed by mark since?—A. I have his signatures to notes and mortgages and so on; he signs by mark all the time. I have known him 12 years there; I have done a great deal of his writing for him; I know he signs by mark all the time.

Q. Do you know he can not write?—A. He can not write; he don't make any attempt to write.

Q. Can he read?—A. I think he may try to read the Bible or newspaper.

Q. Was he submitted to any test to try to read or write any of the Constitution?—A. No, sir.

Q. Did he vote that day?—A. Yes; he voted that day.

Mr. HOFFMAN. We offer Exhibit 5 and ask it be made a part of the evidence of this witness.

Mr. WAGONER. We object as incompetent, irrelevant, and immaterial.

Q. Do you know of any other persons who voted there that day that could not write?—A. I know one more there that makes an attempt to write, but not intelligibly unless you are acquainted and know whose signature it is.

Q. What's his name?—A. A. W. W. Whitaker.

Q. Have you any of his signatures on an official paper?—A. I have, yes.

Q. Is this the instrument?—A. Yes, sir; that's the instrument.

Q. I call your attention to the mark on this paper by the pencil and ask you to state what that is?—A. That is an attempted signature of A. W. W. Whitaker.

Q. Have you ever seen him try to write his name other places?—A. Yes, sir; several times.

Q. Does he ever attempt to write anything except his name?—A. I have never known him to.

Q. How long have you known him?—A. I have known him 9 or 10 years.

Q. Did he vote there that day?—A. Yes, sir.

Q. Was any test applied to him?—A. No, sir.

Q. Can he write?—A. I don't call it writing.

Q. This is all he can do, is an attempt at his signature?—A. Yes, sir; that is about an average of his attempted signature.

Mr. HOFFMAN. We ask that this instrument be marked "Exhibit 6," and attached to this witness' deposition.

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial, not being first shown this party was not entitled to vote at the election November, 1912, even though he could not read and write.

Q. Now, besides these three, were there others of the negro race who voted who were not qualified, to your knowledge?—A. Yes, sir.

Q. Were any tests applied—that is, the test under the so-called grandfather law requiring the person who presented himself to vote to submit to read and

write a clause of the Constitution?—A. There were no tests applied to anybody that day.

Q. I will ask you to state whether or not, in your judgment, the result of the vote in the Fallis precinct at the general election November 6, 1912—

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial, and calling for a conclusion, a matter which is not within the mind of the witness.

Q. For Congressman could have been determined with these persons who were disqualified to vote or the persons who could not vote under the so-called grandfather law eliminated?—A. I will have to answer, my judgment is if the grandfather clause had been strictly enforced there would have been some 7 or 8 negroes excluded from voting.

Q. Do you mean by that that if the State law prohibiting persons from voting who could not read and write any section of the Constitution were enforced and the voters in that precinct had been qualified under that law, some 7 or 8 negroes who voted would have been disqualified and excluded?—A. That's my answer. I think there would have been 7 or 8 negroes' votes excluded in the precinct of Fallis.

Q. Then excluding those persons could the result in that precinct have been determined?—A. I think its very doubtful whether you could have determined the result of the election or not.

Q. That is to say, if I understand you, you mean it could not be determined whether Davis or McGuire carried that precinct excluding those votes?—A. I don't think you could tell; it would have been about an even race.

Q. You mean you could not tell whether Davis or McGuire would have carried the precinct excluding those negro votes?—A. Sure thing; the way negroes generally vote down there, I think it would be carried by Davis.

Mr. WAGONER. Objected to as not being responsive and calling for a conclusion.

Q. The result would be impossible to determine?—A. Yes, sir.

Q. Did you act in an official capacity at the general election at which a Member of Congress was elected in this district two years prior to this general election?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial.

A. I can not answer that question without studying a while. Yes; I think I sat on the election board as clerk that time.

Q. Did you receive, prior to that election, a letter purporting to be sent out over the signature of John Embry, United States attorney?—A. Yes, sir; I got hold of a letter John Embry sent out.

Q. Have you that letter at this time?—A. No, sir; I haven't.

Q. Do you know what became of it?—A. No, sir; I do not know where it is.

Q. Would you be able to identify the language of the letter?—A. Yes; I think I would if I had a copy to refresh myself from.

Mr. HOFFMAN. I hand you the copy in our petition of contest and ask you to examine the same and state whether or not that is a copy of the letter which you received, in your best judgment.

A. Yes, sir; that seems to be a copy of the wording of the letter.

Mr. HOFFMAN. We ask that the letter referred to be here attached marked "Exhibit 7" and made a part of this witness's testimony, the same being the one set out in the petition of the contestant.

Q. Were there any tests of the so-called grandfather clause applied to the voters who voted in that election for Congressman?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial, tending to prove no issue in this contest.

A. I think there was one.

Q. Do you know whether he was excluded or permitted to vote?—A. Permitted to vote.

Q. Then there was no voter excluded at that time?—A. No; the question came up and we just allowed them to pass in and vote, and nothing more was said about it that day.

Q. Do you know whether any of the election officers were intimidated or prevented from exercising their duties as officers at that election by reason of the Embry letter?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial, calling for a conclusion of the witness. He can only state the facts as to whether there was intimidation, duress, or fraud.

Q. Do you know?—A. I know the election inspector seemed to be a little loath to enforce the law, but I couldn't state at this time whether it was on account of the Embry letter or not.

Mr. WAGONER. Objected to as not responsive to the question, and testifying what the election officials seemed to be.

Q. Do you know whether that same fear existed at the election of 1912—the general election in 1912?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial, and calling for a conclusion of the witness.

Q. You mean the fearing of intimidation?—A. Yes; by reason of the letter from Boardman and the warning slip you have identified.

Mr. WAGONER. Objected to for the same reason.

A. Yes; there was intimidation on account of the Boardman letter and the slip, I believe, to Judge Wagoner's inquiry here; it caused the intimidation of the election inspector.

Q. State whether or not, in your judgment, the receipt of that slip and letter from United States Attorney Boardman was the reason the so-called grandfather clause was not enforced in that precinct.

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial, and calling for a conclusion of the witness.

A. In my judgment, that was the basis of the intimidation and the reason the grandfather clause was not enforced in Fallis precinct.

Q. State whether or not it was a matter of general knowledge with the election officers and other persons in that precinct prior to the election that parties named Guinn and Beall had been prosecuted, tried, and convicted in Kingfisher County for enforcing the so-called grandfather law at the general election 1910 and sentenced to the penitentiary.

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial, calling for a conclusion of the witness.

A. Yes, sir; that was the general knowledge amongst the election board and the people who discussed it, and that was part of the discussion of the situation, whether or not it was safe to attempt to enforce the grandfather clause on account of Guinn and Beall being indicted and sentenced.

Q. State whether or not it was a matter of common knowledge at and prior to that election among the election officials there that other election officials at the general election of 1910 in Logan County and other places in the State were then under indictment and waiting trial for the enforcement of the so-called grandfather law at the general election, 1910.

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial, and calling for a conclusion of this witness as to the effect on other people's minds.

A. Yes, sir; it was one of the grounds of intimidation. Knowing those people in Logan County—I forget their names—we frequently discussed that; it was part of the grounds of caution whether we enforce the grandfather clause or not.

Q. How far is Fallis from Logan County?—A. One mile.

Cross-examination by Mr. WAGONER:

Q. Mr. Bradfield, you say the Boardman letter of October 31, 1912, addressed to me, caused election officials of your precinct to become intimidated and they refused to enforce the grandfather clause upon that letter?—A. I didn't just say it that way.

Q. That was one of the main grounds, was it?—A. That was the basis of discussion wherein the election inspector made this statement, he didn't feel like going up against it and being drug around in the courts and prosecuted as Guinn and Beall.

Q. Was there anything in the Boardman letter that threatened anybody with arrest and prosecution upon their enforcement of the grandfather clause?—

A. I can not remember just all there was in the Boardman letter, but I say I regarded Mr. Fallis as election inspector; it was his duty to enforce it, and I talked with him and he expressed himself as I have just stated. He didn't feel like, as old as he was—a man as old as he was—going up against a proposition that would lay himself open to criminal prosecution. That was the reason he assigned, the Boardman threats and also referring to the Guinn and Beall indictments.

Q. Now, Mr. Bradfield, I want to get from you what it was that caused you to be intimidated.—A. I never said I was intimidated.

Q. You were a member of the election board of 1912, were you not?—A. Yes.

Q. And as such member you understood under the law you had the same right as the inspector, as the judge, to pass upon the qualification of an elector who presented himself at the polls to vote, did you not?—A. I understood, perhaps, I

had a legal right to do it, but my understanding was it was the election inspector, and we discussed that; it was left to Mr. Fallis.

Q. Now, Mr. Bradfield, where did you get your instructions from or that idea that it was left to the inspector to determine who was entitled to vote at an election?—A. I just drew the conclusion by talking with the election inspector.

Q. Did you ever talk with H. G. Stettmund, of Chandler, who was a member of the election board in 1910 and also in 1912?—A. I don't think I ever did talk with Mr. Stettmund.

Q. Did you ever receive any instructions from him or anybody else, in writing or otherwise, as to your duties as an officer of the election board in 1910 or 1912?—A. I received a letter, I think, from Gov. Cruce, once stating the election board, I believe, or the election inspector—I don't know how it read—would be justifiable and the State would defend them in so doing—enforcing the grandfather clause.

Q. You remember reading the decision of the Supreme Court of the State of Oklahoma upon this election law where they passed upon its constitutionality?—A. I think I did; yes.

Q. You also remember the Supreme Court laid down the rule the election officers should only use the reasonable test in determining the rights of these people to vote?—A. Yes.

Q. Did you ever read Attorney General West's letter within a short time prior to the election of 1912 as to the duty of the inspector in enforcing this law and that they must be reasonable?—A. I think I read that letter; yes.

Q. Now, let me ask you, in the Boardman letter you remember where Mr. Boardman referred to the question I asked him to pass upon?—A. No; I don't think I can call that to memory.

Q. In the Boardman letter he says, "I have your letter asking whether at the coming general election the precinct election officers can enforce the law commonly termed the grandfather law and escape punishment therefor in the Federal courts on a showing of good faith in enforcing said law." Now, that was the question I asked him wasn't it?—A. I think so.

Q. And that question, and that question only, Mr. Boardman answered, wasn't it?—A. Yes; that was what I wanted to explain a while ago if you would just let me get that in.

Q. Do you remember any clause in the Boardman letter which held out or made any threats against anybody for the enforcement of the grandfather clause?—A. I think so far as it affects the United States Congressmen, as I remember—I can not remember what's all in there—anybody who interfered with the election of United States Congressmen—

Q. Doesn't this letter use these words, "knowing this, that the Federal courts having jurisdiction over the entire State have declared the law to be unconstitutional." You knew both of the courts had held this law unconstitutional before the Boardman letter came out; you had read it in the papers?—A. If I call to memory right, so far as the election of United States Congressmen is concerned; not applying to State officers.

Q. They had held that?—A. Yes, I understand that.

Q. The letter goes on to say, "The question arises whether the precinct election officers can enforce it against negroes on account of their race and color and then when prosecuted in a Federal court for doing so, defend the prosecution on a plea of good faith in enforcing the law." You remember that being in the letter?—A. No; I don't remember.

Q. He didn't say anything about reading and writing, but he says if you seek to enforce it on account of race and color. Did that influence your mind anyway to cause you to let these men vote?—A. I just stated; I never said I was intimidated yet.

Q. Then, as I understand from your testimony, you desire to be understood in saying you were not yourself intimidated by any of this stuff?—A. I am about ready to say that; yes, sir.

Q. And your testimony in regard to the other intimidations, is what you have heard others say in their discussion in your precinct?—A. That's all I know—just Mr. Fallis.

Q. And that's what Mr. Fallis told you?—A. Yes; and he seemed to bear it out at the election.

Q. Mr. Bradfield, you say you read a communication from Governor Cruce?—A. Yes, sir.

Q. Did you hear Governor Cruce's speech in Chandler?—A. No; I might have seen an outline of it in the paper; I don't know.

Q. In Governor Cruce's written statement that you saw, didn't he say in that "election officials must enforce the grandfather clause with reasonableness and with fairness"?—A. That's just what I wanted to testify to somewhere or other.

Q. That's what he said, wasn't it?—A. Yes; that was Attorney General West's construction of it, and also Governor Cruce's.

Q. And wasn't the letter of Governor Cruce and the attorney general's opinion, which was cast over the State broadcast, instructions to the officials that they couldn't put a man in there and give him an unreasonable test and hold him there to simply harass him and keep him from voting?—A. That's what I understand; that was the instructions sent out generally that we must use reason.

Q. Mr. Bradfield, wasn't it common knowledge over Lincoln County that in 1910 the election officials at that time, not being familiar with the law, submitted a great many of the negroes to an unreasonable test, requiring them to write as much as an hour?—A. I have heard there was.

Q. And the letter of Cruce and the attorney general and the letter of Boardman was to call the officials attention to the fact they must not do those kind of things, wasn't it—that was the import of it?—A. I didn't hardly take it that way. I got the slip with the letter.

Q. I am not talking about the slip; I am talking about the governor's letter, the Boardman letter, and the letter from the attorney general.—A. I have them both together in my mind so close I can not tell which was the one. My answer is, I don't remember all in that Boardman letter, but I take that Boardman letter from what other——

Q. I am only asking you what effect the Boardman letter had upon you.—A. Well, the Boardman letter raised the question in my mind whether it was safe or not to tackle the grandfather law; I have not said yet whether I was afraid or not.

Q. It raised the question whether to tackle the grandfather clause?—A. It raised the question.

Q. There isn't anything in the Boardman letter which says you couldn't submit them to a test?—A. No; a reasonable test.

Q. Is there anything in the Boardman letter which says you should let negroes vote who couldn't read and write?—A. I don't remember whether there is or not.

Q. Mr. Bradfield, did you receive any communication, printed or written, as an election official, in 1912, that said that election officials would be prosecuted if they refused any person to vote regardless of whether they could read or write?—A. I don't remember I heard anything just worded that way, but it carried with it a kind of intimidation; the Boardman letter and the slip and the Embry letter was all against enforcement of it.

Q. As a matter of fact don't you know all anybody asked in the election of 1912 was a fair and reasonable construction and application of the grandfather law—that was all they asked?—A. I think so; yes; but that raises the question, who is going to put on the reasonable construction? I want to tell that before I get off this stand.

Q. As a matter of fact you know in 1910 a good many election officials believed they had a right to test these parties satisfactorily to their own mind, don't you?—A. In 1910, in the Fallis election board, Mr. Tietzel was inspector. He challenged one negro there because on the ground his grandfather had not been a voter in any form of government—I can not get the balance of that—in any form of government since 1866, I believe; he challenged the nigger on that ground, and he says my grandfather was a white man and was allowed to vote and he voted.

Q. That don't answer my question, that if the election officers didn't understand in 1910, and so construe the law, if they didn't have a right to put any test on the voters satisfactory to his own mind?—A. We knew the nigger couldn't read and write and put the other test to him—or the inspector—he was afraid to test him to reading and writing.

Q. I ask you if the election officials generally understand that they had a right to test these people and to test them until they were satisfied; in other words, they had a right to say what kind of a hand they should write; that they should write a school teacher's hand and should not misspell a word, and dot every "i"

and "t"—wasn't that the understanding in 1910?—A. My conclusion is a good many thought that.

Q. Isn't that the condition of affairs that brought about this agitation prior to the 1912 election as to the enforcement of the grandfather clause?—A. You want my conclusion about that?

Q. If you heard anything about that.—A. My conclusion is that was the basis of these letters. They took advantage of that to write these letters.

Q. Because there was what they termed an unreasonable test placed on voters in 1910?—A. Yes, sir; an unreasonable test.

Q. And that was one reason the attorney general's letter and Cruce's letter came out?—A. Yes.

Q. To get the officers correctly advised?—A. To set them right.

Q. Now, you say there were seven or eight negroes voted in the precinct of Fallis the last election not qualified electors?—A. No; I didn't just say that.

Q. Do you know whether they were qualified?—A. I said I doubted whether they were qualified; the general trend of business I had with them.

Q. You say Gaines Medlock, in your best judgment, can not read or write?—A. No; I said he couldn't write.

Q. You don't know whether he can read or not?—A. No.

Q. You don't know anything about Gaines Medlock's grandfather, do you?—A. No; I don't.

Q. You don't know whether he was a white man or not?—A. No; I couldn't say.

Q. Do you know whether Gaines Medlock was a slave?—A. I don't know.

Q. How old a man is Gaines, about?—A. About 55, I judge.

Q. Charles Smith, do you know whether he was a legal voter in the election of 1912 or not?—A. No; under the grandfather clause, I don't think he was.

Q. Do you know whether his grandfather was entitled to vote under any form of government prior to the 1st of January, 1866?—A. No, sir; I do not.

Q. You base, then, your judgment upon him not being a legal voter upon his not being able to read or write, or don't write?—A. Don't write; yes.

Q. And upon no other?—A. Yes; no other.

Q. A. W. Whitaker, what Whitaker is that?—A. Baldy Whitaker.

Q. You say Baldy can not write?—A. No; I say it is not intelligible unless a man knows he has made an attempt.

Q. Baldy is very near a white man?—A. Half white.

Q. Do you know whether or not his grandfather could not vote prior to January 1, 1866?—A. No; I do not.

Q. Isn't it a fact that Baldy—that Baldy Whitaker's grandfather was a white man and voted prior to the 1st of January, 1866?—A. I can not tell you; I don't know.

Q. Have you not heard him discuss that on the streets and tell who his grandfather was and where he lived?—A. No; I never did. No.

Q. You have given Mr. Hoffman the names of three over there who voted who could not read and write. I would like the names of the remaining number of seven or eight not entitled to vote under the grandfather law at the last election that did vote at Fallis.—A. I didn't say they were not entitled; I said my judgment is they would not have been.

Q. Now give me the names of those you think ineligible voters there due to the fact they are not entitled to vote under the grandfather clause at the last election?—A. I give you the name of John Carter for one.

Q. Is he still over there?—A. He is still over there.

Q. All right; who else? Why wasn't John Carter entitled to vote?—A. Because I give it as my opinion he can not read a section of the Constitution.

Q. How do you know?—A. I don't know; I am giving it as my opinion.

Q. The next man?—A. Frank Broaddus; I don't think he can read or write a section of the Constitution.

Q. Frank still there?—A. Yes.

Q. How old a man is he?—A. Oh, he is a man of 30 or 35.

Q. How old is Carter?—A. About the same age.

Q. Now, then, give me the next one.—A. I think his name is Jones; I got that from Mr. Fallis; he is Mr. Fallis's tenant; he said he could—

Q. I am asking you what you know.—A. Well, I don't know about him.

Q. The next one.—A. Jerry Irving; I doubt whether he can write a section of the Constitution.

Q. Can he read and write?—A. I think he can read a little.

Q. Can he write—A. Like some of the rest of them; if you don't know what he is writing I doubt whether you could read it or not.

Q. You have quite a number of white men over there at Fallis, you can hardly read their writing, haven't you?—A. Yes; we have got some few.

Q. Outside of the kind of writing, whether good or bad, can Jerry Irving read and write?—A. Well, this refers my mind back to an explanation I want to make. He perhaps can read, does read—I think he takes the paper—but in signing papers or notes or mortgages before me the question whether he can write a section of the Constitution or not so that you could read it—

Q. How long ago was it that he signed the last paper before you?—A. I don't know; 1911, I think; 1910 or 1911.

Q. Who else over there voted?—A. Chester Irving.

Q. Can he read and write?—A. Well he makes a stagger at writing; it is questionable whether he can write a section of the Constitution legibly; it is very doubtful in my mind.

Q. Did you refuse any negroes over there to vote in the election of 1912?—A. No, sir.

Q. The fact is, didn't any of them make application to vote only those who could read and write?—A. I don't think there was only one voter in town but who made the application.

Q. Could he read and write?—A. No sir.

Q. Do you know whether Chester Irving's grandfather could vote prior to 1866?—A. No, sir; I do not.

Q. Mr. Fallis knows all those people over there?—A. Yes, sir.

Q. Did Jerry Irving vote in 1910?—A. I think he did.

Q. Did Chester Irving vote in 1910?—A. I don't think he was there.

Q. If Jerry Irving voted in 1910 he submitted to the test, didn't he, because you didn't allow any of them to vote but those you submitted to the test?—

A. We only submitted two; that is, W. H. McCarver, they made a test out of him to begin with, and the other one was Doc Eddington, the fellow who claimed his grandfather was a white man.

Q. Why did you want to test McCarver?—A. I didn't want to test him, it was the election inspector.

Q. Isn't it the law you don't have to require a man to read and write, if you know?—A. I think so; yes; I never tested anybody.

Q. It is not just a question of putting a man through that test for the purpose of humiliating him, but the question of satisfying your mind whether he can read and write?—A. There is two tests, one is whether his grandfather was a voter.

Q. Do you know whether Frank Broaddus's grandfather could vote or not?—A. No; I don't know.

Q. How old is Jerry Irving?—A. About 50.

Q. And Chester Irving?—A. About 25, I guess.

Q. Any others over there?—A. I don't just call to my mind.

Q. That is seven you think voted illegally?—A. Whatever the number is.

Q. Carter, Broaddus, the two Irvings?—A. I can only tell you two, I think, can read and write a section of the constitution, and that is Simon Smith and Jim Wilson.

Q. You gave Charles Smith.—A. This is another Smith, I think they can read and write a section of the constitution, I don't know any other negro in Fallis precinct who can.

Q. You say you were a member of this board in 1912?—A. Yes.

Q. You were clerk?—A. Yes.

Q. Your politics?—A. Democrat.

Q. Inspector?—A. Democrat.

Q. The judge?—A. Republican.

Q. The majority were Democrats?—A. Yes, sir.

Q. You had the power to conduct that election as you saw fit, did you not?—A. We never tested the power.

Q. You had a majority of the board?—A. Yes.

FRED A. WAGONER, a witness called and sworn for the contestant, testified as follows:

Examination by Mr. HOFFMAN:

Q. What is your name?—A. Fred A. Wagoner.

Q. You are a practicing attorney at Chandler?—A. Yes.



Q. And the attorney for the contestee in this case?—A. Yes, sir.

Q. I hand you here Exhibit 1, which purports to be a letter from the United States attorney, Homer Boardman, to you, under date October 31, 1912, and ask you to state whether you received the original of this instrument.—A. I suppose so; I could not swear positively as to that unless I had the original to compare with it.

Q. Have you the original at this time?—A. I think not; my recollection is I destroyed it when I cleaned out my desk.

Q. Soon after election?—A. No; I didn't destroy it for a purpose, just simply with a lot of other stuff I had at the courthouse; when I moved I destroyed it.

Q. What capacity did you act in connection with the Republican campaign committee of this county the last general election?—A. None whatever.

Q. Didn't you have anything to do with the campaign?—A. Nothing in the least.

Q. Did you have that or any printed copies made of that letter from Mr. Boardman?—A. I did not.

Q. Did you give it to anybody for that purpose?—A. I did not.

Q. Do you know how the letter happened to be printed?—A. No; I can not recall that; the fact is, I never knew it was printed in that kind of form; my recollection is I read the letter in one of the newspapers afterwards, and that's the only printed form I saw it in.

Q. Did you give it to any newspaper for publication?—A. No.

Q. Did the letter leave your possession?—A. Yes; and I was trying to think who I gave it to. One of the boys wanted to read it; it was not anyone connected with the Republican campaign committee.

Q. Is that the only time it was out of your hands?—A. Yes, sir; as I remember now.

Q. Did you remain standing by while the party you gave it to read it?—A. No; I think not. I think I gave it to them, and I was busy and they were busy, and I told them to take it and read it and return it to me, and they returned it to me the next day.

Q. It was out of your hands a day or two?—A. Yes, sir.

Q. Can you now recall what person you gave it to?—A. No; not at this time, but if I do I will be willing to have it inserted in the testimony there.

Q. Who had charge of the Republican campaign in this county for the year 1912?—A. My judgment is nobody.

Q. Who had ostensible charge of it?—A. L. B. Nichols.

Q. Did he manage the congressional campaign of Bird S. McGuire in this county also?—A. Well, I think not; I think probably Harry Gilstrap was congressional committeeman. There was not much managing done to McGuire's campaign in this county.

Q. Do you know who caused to be printed or sent out that printed copy of the Boardman letter?—A. No; I don't know. I never knew it was sent out until I read your petition here in this contest that it was mailed.

Q. Was his communication to you in the nature of a personal or a public communication?—A. Who?

Q. Mr. Boardman's. Did you treat it as a personal communication or a public communication?—A. Well, in answer to that I will say this: By reason of my being in the county attorney's office, Republicans and Democrats—that is, several of them—would ask me for different opinions upon the election law, and among it the grandfather clause, and I don't remember who it was, but some one put the question up to me as to the good-faith proposition, and I answered it. I didn't know that I would write and ask the United States district attorney's office for an opinion upon that, as I presumed that question was brought up in the trial of those two parties from Kingfisher County in the United States district court, and I got it as much in the first place for my own information that I might answer those who made inquiry.

Q. Did you make general answer to inquiries, giving parties who inquired the substance of the Boardman letter after its receipt?—A. Now, I don't know whether anybody ever said anything to me about it; there might; one or two. I remember reading it in the paper, and I suppose they got their information from the paper.

Q. Didn't it occur to you to ask who took the liberty with your private correspondence to go and have it published without your request?—A. I had no objection to its being published. I thought it information to my friends over

the county who were on the election board. I only had the desire to follow the law, and I didn't want to see anybody get in any trouble.

Q. You know it was published and circulated throughout the county?—A. I know it was published in one newspaper.

Q. Do you know whether the Republican campaign committee of this county paid for its publication and circulation?—A. I know nothing about that.

Q. Do you know who paid the postage on these letters sent out?—A. I do not.

Q. Do you not know as a matter of fact those letters were printed and sent out to all the election officers in this county?—A. No; I do not, because I was not on good terms with the management of the Republican campaign committee and took no part in the last campaign; only made one or two speeches in the county.

Q. Did you ever see Exhibit 2 or an instrument similar to this prior to this time?—A. I never saw it in this form. It occurs to me I might have read those headings in the Chandler News Publicist.

Q. Was this published in the Chandler News Publicist prior to the election?—A. I don't know whether this other part was, but I have some recollections about this "talk it over with your wife," but I never saw it in this form. I don't know who sent it out—whether the Republicans, Democrats, or Socialists.

Q. You do know as a matter of fact it was sent out to every precinct and to the election officials throughout this county prior to the election?—A. No, sir; I don't know that that is an absolute fact. I don't know a single man ever received that through the mail. I don't know there was any mailed.

Q. You were on good terms with John Embry and his political associate were you not, while he was United States attorney?—Yes.

Q. Did you act in the campaign of 1910?—A. In what way?

Q. In any capacity?—A. For myself only.

Q. Did you take any part in the congressional campaign?—A. No more than a local candidate would take in working for his ticket or making speeches for his party.

Q. Did you take any part in sending out the Embry letter offered here in evidence that year?—A. No; not personally.

Q. Did you know it was sent out?—A. Yes, sir.

Q. Was it sent out under the auspices of the Republican campaign committee?—A. I think so.

I. N. BRADFIELD, recalled by the contestant, testified as follows:

Examination by Mr. FEUQUAY:

Q. Judge, what do you gather as the advice given you by the attorney general and the governor in the letters sent out as to the concerted enforcement by all election officers of the grandfather clause?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial, and witness having heretofore answered fully.

A. It put us on a question that we must be very cautious and not enter into any conspiracy to harass or keep anybody from voting. That is the reason I didn't take any liberty myself to challenge anybody, supposing the election inspector would do it.

Q. You were then instructed by those two letters that to act together would be conspiracy under the Federal law laid down in the case of Beall and Guinn, and for that reason you did not attempt to support the election inspector.

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial, and question asked is not in line with the answer of the witness heretofore given.

A. The grounds of prosecution of Guinn and Beall seemed to be on the grounds of conspiracy, and we desired to avoid any conspiracy to keep anybody from voting that was entitled to vote; that was one of the grounds I acted on as clerk in not taking any part to try to enforce it, leaving it all to the election inspector.

Q. You gathered from those letters that was what the governor and the attorney general advised?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial, recommendation of the governor and the attorney general can not be in conflict with the law, and no election officer would have the right to follow the suggestion of the governor or anybody else where said suggestions were contrary to law.

A. We certainly wanted to put ourselves on the safe side to avoid any conspiracy or any violation of the United States law, by agreeing that we wouldn't challenge anybody or put them to tests by entering into any conspiracy or agree-

ment; that we wouldn't do that; we didn't know how the courts might construe a conspiracy or talk or agreement; we didn't want to get up against that—take chances on it.

Cross-examination by Mr. WAGONER:

Q. Mr. Bradfield, nobody asked you election officers to violate the law, did they?—A. No, sir; nobody did.

Q. The object of everybody seemed to be that the officers learn what the law and then follow it?—A. That was the idea.

Q. And that was your intention over there?—A. We didn't know how the courts might construe at all and we wanted to be on the safe side.

Q. You understood under the law you had a right to test these people where you didn't know whether they could read or write?—A. Yes.

Q. And under all the instructions you had you were entitled to give them a reasonable test?—A. A reasonable test.

Q. And if a man made application to vote and you believed he was entitled to vote you had a right to let him vote without any test?—A. Yes, sir.

Q. And as soon as you satisfied your own mind, whether by a test or without, if you knew personally whether he could read and write, you didn't, under the law, have to submit him to any test, did you?—A. That's all.

GEORGE W. SCOTT, a witness called and sworn for the contestant, testified as follows:

Examination by Mr. HOFFMAN:

Q. What is your name?—A. George W. Scott.

Q. Where do you live?—A. I live three-quarters of a mile west of Sac and Fox, in South Keokuk Township.

Q. How long have you lived there?—A. It will be 10 years the 17th or 18th of next March.

Q. You have been a voter there during that time?—A. Yes; I have been voting there ever since I was a voter in the State.

Q. Did you attend the 1912 general election?—A. Yes, sir.

Q. In any official capacity?—A. No, sir; no official capacity.

Q. Were you there at the polls?—A. Yes, sir; I was there at the polls and give them some little assistance in opening the ballot boxes; I had served on previous election boards and the officials asked me to give them a little information.

Q. Did you remain there that day?—A. Pretty much of the day only when I went home at dinner.

Q. I call your attention, Captain, to Exhibits 1 and 2, and ask you to state whether or not you have seen these, or similar?—A. Yes; I have seen the letter signed by Homer N. Boardman.

Q. Did you also see the warning slip?—A. Yes; I saw each of them; something very much similar.

Q. Did you see any of them election day or prior to that time?—A. Yes, sir; just as election began the inspector came out and took them out of an envelope and asked me to read them and give him my opinion of them.

Q. Did you read them?—A. I did.

Q. What was that inspector's name?—A. Fred Norcom; I think F. C. Norcom.

Q. What effect, if any, did the receipt of this letter and notice appear to have on the official? \*

Mr. WAGONER. Objected to as incompetent, irrelevant, immaterial, and calling for a conclusion of the witness.

A. He seemed to be a little bit agitated, a little angry; he used a little profanity.

Q. How many negroes, approximately, voted in that precinct?—A. I think something between 30 and 40; something near that.

Q. How close is your residence to what is known as the Sac and Fox Indian Reservation?—A. I am just three-quarters of a mile from it.

Q. State, whether or not, that reservation is embraced within the boundaries of your election precinct?—A. It is.

Q. About how many persons from the reservation voted in your precinct at the election?—A. I think I saw all the employees, every man who were voters, I saw at the polls except Mr. Johnson, I don't remember seeing Mr. Johnson there.

Q. About how many would that be in number?—A. Some 8 or 10, possibly 12.

Q. Did you yourself receive a copy of this letter and warning slip?—A. No, sir; I never did.

Mr. WAGONER. No cross-examination.

J. A. JUSTICE, a witness called and sworn for the contestant, testified as follows:

Examination by Mr. FEUQUAY:

Q. State your name and place of residence.—A. J. A. Justice; Davenport, Okla.

Q. At the general election held last November, state your official position, if any.—A. I was inspector.

Q. At what precinct?—A. South Fox.

Q. Before the general election of last November—I will hand you Exhibit 1, and state if you received a similar letter.

(Objected to as incompetent, irrelevant, and immaterial, tending to prove no issues in this contest.)

A. I think I did, sir.

Q. I will hand you Exhibit 2 and ask you if that was contained in the same envelope the letter came in.—A. Yes, sir.

Q. Was there anything on the outside of the envelope to tell where the letter came from?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial, and not the best evidence—the envelope itself being best evidence.

A. I don't think there was.

Q. What happened to the letter and slip and envelope that came to you?—A. I think I threw it in the waste basket.

Q. Have you it at the present time?—A. No, sir.

Q. Was there anything on the outside of the envelope to indicate where it came from?—A. I don't think there was; I won't be positive about it.

Q. Were you an inspector or election official in that precinct in the general election of 1910?—A. No, sir.

Q. Had you heard of the prosecution of Beall and Ginn of Kingfisher County for offense committed against the Federal laws in that election in the matter of the enforcement of the grandfather clause?

(Objected to as incompetent, irrelevant, and immaterial, tending to prove no issue. It's proper for all persons who violate the laws to be prosecuted whether in the State courts or Federal courts.)

A. I don't think I ever heard anything about it; I might have saw it in the paper; it seems I have saw it in the paper.

Q. Had you ever seen the John Embry letter, written concerning the enforcement of the grandfather law in the general election 1910?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial, and tending to prove no issue in this case.

A. No, sir.

Q. Before the general election in this county in 1912 in the particular precinct in which you are inspector had any person holding official position in this county endeavored to encourage negroes to vote in your precinct?

(Objected to as incompetent, irrelevant, and immaterial, tending to prove no issue. A negro, if qualified as an elector, had a right to vote, and anyone had a right to solicit their vote the same as any other legal elector.)

A. Well, there was talk come to me; I don't know whether it is so or not; concerning parties went out through the district and told every negro in the district to come in and vote no matter what was said or what was done, to come in and vote.

Mr. WAGONER. Objected to for the additional reason the testimony of the witness is based on hearsay evidence and therefore incompetent, irrelevant, and immaterial.

A. I didn't pay any attention to the talk.

Cross-examination by Mr. WAGONER:

Q. You say you were an inspector?—A. I was.

Q. And your politics is what?—A. Democrat.

Q. The clerk of the Board?—A. A Democrat.

Q. And the judge?—A. A Republican.

Q. The majority, then, as provided by law that the dominant party shall have the majority was the way the board was made out there?—A. I think we had it divided, except myself, 3 and 3 on a side.

Q. You understand how the law provides it shall be—A. Yes.

Q. And that's the way it was out there?—A. Yes.

Adjournment taken until 1.15 p. m. of same day ,when all parties present as before, taking of testimony is continued.

J. P. FARRELL, a witness for the contestant, being duly sworn, testifies as follows:

Examination by Mr. HOFFMAN:

Q. What is your name?—A. J. P. Farrell.

Q. Your age, occupation, and place of residence?—A. Sixty-five; farmer; live at Rossville.

Q. How long have you lived in this county?—A. About 17 years.

Q. What is your polling precinct?—A. Rossville.

Q. Were you present and did you act in an official capacity at the general election in which a Representative to Congress was elected in 1912?—A. Yes, sir; I was the inspector

Q. At or about that time did you receive a letter similar to Exhibit I, which I hand you, the same purporting to be a printed letter from Homer Boardman, United States attorney for the western district of Oklahoma?—A. Yes, sir; I got one; I don't know whether it is exactly like this, I have it in my possession here.

Q. Will you produce it?—A. Yes, sir.

Q. Did you receive it in this envelope which you now hand me?—A. Yes, sir; like it is.

Q. And how did you receive it?—A. Through the mail.

Mr. HOFFMAN. We ask to have this letter marked for purpose of identification Exhibit No. 8 and the envelope No. 9. (So marked.)

Q. Do you know whether or not other officials at that box received letters similar to this?—A. No, sir.

Q. You do not know?—A. No.

Q. Did you receive any instructions from Hon. Fred Wagoner, at that time deputy county attorney of this county?—A. You mean with reference to the general election?

Q. Yes.—A. No, sir.

Q. Did you receive any instructions from him prior to that time with relation to the primary?—A. Yes, sir.

Mr. WAGONER. Objected to unless it is shown he received it direct from me in conversation or written by me.

Q. Did you receive it direct from him?—A. No; but through him.

Q. How?—A. I saw him writing through the window, and Mr. Beasler and they would hand one out to the negro and the negro came direct to me stating Mr. Wagoner and Mr. Beasler sent those and demanded a right to vote. That was at the primary, now.

Q. That was in Mr. Wagoner's presence?—A. He was out at the wagon writing.

Q. You have that here?—A. Yes, sir; I have the affidavits.

Mr. HOFFMAN. We offer the letter and envelope, Exhibits 8 and 9, in evidence.

Q. Were these instruments which you hand me accompanied by any threat or otherwise as to your duties?—A. Well, I was told but I couldn't give my authority.

Mr. WAGONER. Object to what anybody told him.

Q. Well, of these instruments you hand me, I ask the stenographer to mark this one Exhibit 10 for the purpose of identification (so marked) and ask you to state whether these other instruments you hand me are of similar purport and nature?—A. Yes, sir; they are all in substance, those—

Q. Who were they handed you by?—A. By the different negroes, one at a time.

Mr. HOFFMAN. We offer in evidence Exhibit 10.

Q. What, if any, threats were made to you about these negroes voting at that time?

Mr. WAGONER. Objected to unless first shown by the witness who made the threats.

Q. Were there any threats made there at that time?—A. Well, I heard there were; the bunch of negroes threatened to come and take me out of the booth.

Mr. WAGONER. Objected to unless he shows who told him.

Q. Were any of them armed there?—A. I can not tell you as to that.

Q. About how many negroes voted in that precinct?—A. Well, I believe 20 or 25; maybe more voted there.

Q. State how that precinct went at the last general election. I mean for which of the two candidates for Congress.

Mr. WAGONER. Objected to as not the best evidence.

A. It went Republican.

Cross-examination by Mr. WAGONER:

Q. Mr. Farrell, you were the inspector at the primary in 1911 for North Wichita Township?—A. 1912; yes.

Q. In August?—A. Yes.

Q. You were also inspector at the general election that same year?—A. Yes.

Q. Your politics are what?—A. Democrat.

Q. The judge of that election's politics was what?—A. Republican.

Q. And the clerk was what?—A. Democrat.

Q. The election machinery, then, of North Wichita was under the control of the Democratic Party there?—A. Yes, sir.

Q. You have presented here a typewritten paper which has been marked Exhibit 10 which you claim was handed to you by a negro at the primary election?—A. Different negroes.

Q. You refused to permit that negro to vote at that election?—A. Yes.

Q. You had done it before he made that written demand?—A. Yes, sir; I don't know what negro this is. Some few of them came in there and never had asked permission, but about those——

Q. Prior to the time any of these typewritten demands were presented to you you had refused some negroes to vote?—A. I had.

Q. You refused to test them?—A. I tested them all.

Q. You did?—A. Yes, sir; I did.

Q. Did you test W. M. Rankin that day?—A. Yes, sir; I did.

Q. Can't he write?—A. I didn't ask him to write.

Q. How did you test him?—A. On the reading.

Q. Could he read?—A. No, sir; he couldn't read the constitution.

Q. What section did you ask him to read?—A. It pertained to insurance.

Q. Wherein did he fail?—A. He failed in various ways. I will tell you wherein he failed: The very first, in place of saying "no foreign" he said "no furgin." I could name a number of things down the line.

Q. Just because he mispronounced a word?—A. Too many to count.

Q. I ask you to state whether W. M. Rankin couldn't read and write a section of the Constitution?—A. He couldn't read that section.

Q. I will ask you to state if you didn't state in the presence of various persons in the primary, 1912, "No damned nigger could vote" at that precinct where you are inspector?—A. No, sir; nothing of that kind, Mr. Wagoner.

Q. You had other of these typewritten slips presented to you?—A. I have eight of them I believe here.

Q. I will ask you to present them.—A. There they are; there are eight of them; the last one said I would get eight years in the penitentiary if he didn't vote. I understood he was told that by Mr. Wagoner, one year for each and every one of those affidavits.

Q. Well, you didn't let them vote even if I did say you would get eight years in the penitentiary?—A. No; I didn't.

Q. The reason you didn't let them vote was because they were negroes?—A. No, sir; because they were not eligible. I let some of them vote.

Q. You wouldn't let these negroes vote who presented you the typewritten slips in 1912 on account of their race and color?—A. No, sir; it was not on account of their race and color, it was because they were not eligible.

Q. Do you know John Rankins?—A. Yes, sir; when I see him.

Q. You are personally acquainted with him?—A. No, sir; I am not personally acquainted with him.

Q. I will hand you this slip and ask you if it was presented to you at the primary?—A. Yes, sir.

Q. Do you know whether that is his handwriting?—A. No, sir.

Q. Did you test him in reading and writing?—A. No, sir; he didn't get that far to writing; I tested him in reading; he couldn't read.

Q. Wherein did he fail?—A. Why they nearly every one failed in that first word, nearly every one, they failed all along down the line.

Q. Give me some other words they failed in; Rankins I am speaking about now.—A. Where it pertained to insurance, article 19. I think it is, now you give me and I will show you the words they missed.

Q. I am asking you now from memory.—A. I can not tell you every word they missed. Right here is the section, they didn't get that in right, insurance either.

Q. What did John Rankins do about insurance?—A. I can not tell you each and every one.

Q. Give me the words he missed.—A. Foreign, he missed that; as to telling you each and every word he missed, I can not tell you. You could not tell this morning what you did with that letter.

Q. Why didn't you try him in writing?—A. Because he didn't get that far along.

Q. You didn't intend to let him write?—A. It says he shall read and write any section of the Constitution and if he couldn't read he couldn't vote.

Q. Did the law say if he misspelled one word—A. I had the law before me, it says he is supposed to read and write any section of the Constitution.

Q. Satisfactory to your mind?—A. Words to that effect; you know what it says.

Q. It says just read and write any section of the Constitution. Does the law say he shall pronounce every word correctly?—A. Here is another, there was not a single negro got over "indemnity."

Q. Do you say John Rankins mispronounced the word "indemnity"?—A. As near as I remember; yes, sir.

Q. Did W. M. Rankins mispronounce the word "indemnity"?—A. I can not tell you, the majority mispronounced that, I can not tell you each and every word each one missed, I am telling you they missed numbers of words they couldn't read. Let me see. There is not hardly a one pronounced "collateral."

Q. Rankins couldn't pronounce collateral?—A. I can not tell you; Rankins missed enough so he couldn't vote.

Q. Give me the words Rankins missed.—A. He missed that one, "foreign." I can not tell you, but he missed a number of words; but I can not tell you each and every word he missed.

Q. Did W. M. Rankins miss the word "foreign" too?—A. Yes; I think he did.

Q. Did he miss the word "indemnity"?—A. I think he did.

Q. What other words did he miss?—A. He missed a number of them; I think he missed "collateral."

Q. I hand you blank submitted by Leonard Searcy. Did you test him as to his writing?—A. No, sir.

Q. As to his reading?—A. Yes, sir.

Q. What section did you have him read?—A. This very section.

Q. What words did he miss?—A. He missed numbers of them; this word right here.

Q. "Foreign"?—A. Yes; and I think he missed "collateral." and he missed "indemnity."

Q. What else?—A. I don't know as I can tell you each and every one; he missed enough; he couldn't commence to vote.

Q. Mr. Farrell, could you pronounce every word correctly in that Constitution if you were to read it over?—A. I don't know as I could, but I could pronounce enough to prove I am eligible to vote. You give me a section, and I am not a scholar as you are, but I can read it well enough so I am able to vote. You know "foreign" isn't a very hard word, or "license" and "collateral" and "indemnity" isn't such a very serious word for an ordinary man to read.

Q. You know M. C. Farrow?—A. Yes, sir.

Q. I now hand you typewritten statement presented to you in the primary, 1912, signed by M. C. Farrow. Did he appear before you that day?—A. Yes; two or three times.

Q. Did you test him as to writing?—A. No, sir.

Q. As to reading?—A. Yes.

Q. The same section?—A. Yes; the same section.

Q. Was he able to read it?—A. No, sir.

Q. How many words did he miss?—A. Numbers of them.

Q. Give the words.—A. He missed "foreign." He missed "license" and "collateral." I tried him a dozen times on that "collateral."

Q. But he could read the rest of it?—A. Oh, no, no, no; he couldn't read hardly any of it.

Q. He is a negro; he couldn't read?—A. Not enough so he was eligible to vote.

Q. He voted the Republican ticket, you thought?—A. I didn't ask him that question.

Q. You had an idea how he would vote?—A. Possibly.

Q. You had instructions from some parties as to the primary?—A. I had instructions to govern myself according to the election law.

Q. Mr. Farrell, after I reached North Wichita Township, after you refused 15 or 20 negroes the right to vote, I never came near the voting precinct, did I?—A. No, sir; but I saw your partner did.

Q. Nor I never said a word to you?—A. No; but your partner did.

Q. Did you not, after I came there, make the statement, in the presence of various parties there, either on the inside of the election building or on the outside, that you had instructions in regard to the conducting of that primary and that you were going to conduct it that way and that no damned nigger could vote, or words in that substance?—A. No, sir; never any time; no, sir.

Q. And after these negroes went back with these typewritten slips, didn't you then refuse to give them the test by reading and writing a section of the Constitution?—A. They didn't want any test; they wouldn't read.

Q. Did you ask them?—A. Two or three I did, and he wouldn't try it.

Q. Some of them you didn't ask?—A. I asked every man who wanted to vote to read, every negro who wanted to vote.

Q. But you didn't ask him to write?—A. No, sir; I didn't get that far along.

Q. I hand you one here from Willie Randells and ask you to state whether that was presented to you?—A. Yes; all that eight, the whole cheese.

Q. And Sam Parker?—A. Yes.

Q. And D. A. Sneed?—A. Yes, sir.

Q. And J. H. Tyree?—A. Yes, sir.

Mr. WAGONER. Now, I hand to the stenographer these slips of typewritten paper testified to by the witness and ask that they be marked for identification exhibits, commencing with Exhibit 11, 12, 13, 14, 15, 16, 17. (So marked.)

G. A. PROUGH, being duly sworn as a witness for the contestant, testified as follows:

Examination by Mr. DAVIS:

Q. State your name, residence, and age.—A. G. A. Prough; age, 39; live 3½ miles north of Wellston; farmer.

Q. Mr. Prough, were you on the election board of the general election, 1912?—A. I was.

Q. In what capacity?—A. I was inspector.

Q. Now, a few days before the election did you receive a communication of any kind from Mr. Wagoner, the then deputy county attorney of Lincoln County, or through him?—A. I did.

Q. What was the nature of that?—A. It was something from Guthrie.

Mr. WAGONER. Object to receiving any communication from me unless he knows he got it through me.

A. I got it through the mail, and I suppose it was from him.

Q. I hand you this paper marked "Exhibit 1."—A. Yes, sir.

Q. Is that the nature of the communication you received at that time?—A. Yes, sir.

Q. I hand you Exhibit 2 and ask you to examine that.—A. Talk it over with your wife; yes, sir.

Q. Was such an instrument as that inclosed in the same envelope?—A. Yes, sir.

Q. Where did you get those papers, Mr. Prough?—A. Out of the mail box.

Q. To whom were they addressed?—A. G. A. Prough.

Q. Was there any return card on the envelope as you remember?—A. Well, now, I can not remember whether there was or not, it seems to me like there was.

Q. I hand you Exhibit 9, and ask you to state if it was a similar envelope to that.—A. It came in an envelope like this, and I think there was one on the inside, a return.

Q. Now, Mr. Prough, did you receive any other communications from any officials at that time of Lincoln County or the State of Oklahoma?—A. I received a letter; yes, sir.

Q. Who was that letter from?—A. Mr. Wagoner here.

Q. What official capacity, if any, did he occupy in Lincoln County?—A. He was the deputy county attorney.

Q. What was contained in that letter, if you remember?—A. Well, I received it a few days before election, and he said if all the negroes were not allowed to vote I was subject to a fine, punishment, I would be prosecuted to



the full extent of the law; I read it over and just passed it up, I wasn't a bit scared.

Q. Now, Mr. Prough, where is that letter now, if you know?—A. I had it there at home in the dresser drawer and I looked for it this morning, but I couldn't find it.

Q. You don't know where it is now?—A. No; I got so much dope I couldn't take care of it all.

Cross-examination by Mr. WAGONER:

Q. Now, Mr. Prough, this last letter, you say you got a letter from me?—A. Yes, sir.

Q. Stating you would be prosecuted?—A. If I didn't let all the negroes vote.

Q. What was that letter—printed or typewritten?—A. Best of my recollection it was typewritten.

Q. Was my name signed to it?—A. Fred A. Wagoner.

Q. Was it signed in ink or typewritten?—A. Fred A. Wagoner; typewritten if I remember right; I have the letter at home.

Q. Now, give the substance of that. You are mistaken about any letter being written by me. God Almighty knows I never wrote such a letter.—

A. It was dated on the back of it "Chandler, Oklahoma"—to G. A. Prough—received at Wellston, Okla., and said I would be punished to the full extent of the law.

Q. Go ahead and give everything else you remember in that letter.—A. I can not remember all of it, because I didn't pay much attention to it, because it didn't run any bluff on me at all.

Q. You were not scared at any of these letters?—A. No.

Q. You went ahead and enforced the law?—A. I got instructions from the mogul of the State of Oklahoma.

Q. You got a letter from Gov. Cruce?—A. I got it from him word for word.

Q. What did he tell you?—A. He said not to go beyond the law, but you enforce the law reasonably.

Q. Fair and square, and you did it?—A. Yes, sir.

Q. Was that letter that you received in typewriting that was signed by my name on a machine, did it have the county attorney's office letterhead?—A. Well, now, I don't remember, Fred, it was in type.

Q. Was it in an envelope with Wilberforce Jones, county attorney, Lincoln County, Okla., on the outside?—A. No; I don't think it was.

Q. Did it have my name on the outside?—A. No; only on the inside.

Q. Now, then, Mr. Prough, do I understand you to say, and want to have this record to show, that letter was written by me?—A. I can not say as to that.

Q. Are you positive it had my name at the bottom of it?—A. Fred A. Wagoner.

Q. Do you remember whether it was one sheet or two?—A. No.

Q. Mr. Prough, to refresh your memory, isn't it a fact, if you saw the letter, my name was at the top instead of the bottom?—A. It finished off just like this, right down here at the bottom, Fred A. Wagoner. Just like if that was finished off there and your name was signed right here.

Q. You say you got that letter, supposed to be signed by me on a typewriter?—A. Yes, sir.

Q. You don't know whether it came from me of your own personal knowledge or not?—A. I can not say as to that.

Q. It might have been some Democrat who sent that out, or somebody else?—A. I can not say as to that.

Q. You don't know?—A. No, sir.

Q. Well, now, you say none of these letters you got had any influence with you; you went ahead and did what you thought was your duty?—A. Yes, sir.

Q. You tried to carry out the election law of the State of Oklahoma as you understood it?—A. Yes, sir.

Q. You tested the negroes, and those you found qualified you let them vote?—A. I did.

Q. And those you found were not, turned them down?—A. Yes, sir.

Q. And the test you submitted to them there was a fair and reasonable test according to the instructions you received from Gov. Cruce?—A. Yes, sir.

Q. You mentioned a while ago about a speech I made out there to the negroes a few nights before the election; did anyone inform you as to what I said about the enforcement of the grandfather clause—those who could read and write to go to the polls and submit to the test and those who couldn't to stay away?—

A. No, sir; some negroes told me you and your partner said for them to take their dinner and go and stay there and vote, if they had to take their guns. They told me so.

Q. What negro told you that?—A. A. H. Wilson and Mr. Battles.

J. T. GOGGIN, being sworn as a witness for the contestant, testified as follows:

Examination by Mr. HOFFMAN:

Q. State your name, age, occupation, and place of residence.—A. John T. Goggin; 52; farming; residence, near Wellston.

Q. Were you an election inspector at the congressional election, 1912?—A. Yes, sir.

Q. Did you receive any communication similar to this through the mail, Exhibit I, on this occasion?—A. Yes, sir.

Q. You did receive it?—A. Yes, sir.

Mr. WAGONER. Object as incompetent, irrelevant, immaterial, and tending to prove no issue in this contest.

Q. State whether or not in this same envelope was a slip called the warning slip "talk it over with your wife."—A. I have forgotten whether that was in there or not—in the letter—I got it just a day or two before the election.

Q. You have it here with you now?—A. Yes, sir.

Q. Please produce it. You don't remember whether you got the slip or not?—A. No; I don't remember.

Q. You received this through the mail, did you?—A. Yes, sir.

(It is admitted by attorneys for contestant and contestee that the letter and envelope which the witness produces is the same as Exhibits 8 and 9.)

Q. Do you know whether the other election officials in that same precinct received similar communications?—A. Not that I know of.

Cross-examination by Mr. WAGONER:

Q. Were you an inspector down there in Wellston Township?—A. Yes, sir.

Q. And you say you received this letter from Mr. Boardman?—A. Yes, sir.

Q. And on the day of the election you went ahead and conducted the election as you understood it under the law?—A. Yes, sir.

Q. It didn't have any effect on you one way of the other?—A. Not at all.

Q. You tried to enforce the law as you understood it?—A. Yes, sir.

Q. Negroes came to the polls to vote you gave them the test?

Mr. HOFFMAN. Objected to as no part of the cross-examination.

A. Yes, sir.

Q. And those entitled to vote—

Mr. HOFFMAN. I think you should make the witness, your witness, if you desire to prove these things.

Q. And those who couldn't stand the test you refused them?

A. Yes, sir.

Q. And they were not permitted to vote. Your post office address is Wellston.—A. Wellston.

GEORGE PROUGH, recalled for further cross-examination, testifies as follows:

Examination by Mr. WAGONER:

Q. Mr. Prough, Mr. Hoffman handed you a small slip of paper, Exhibit No. 2, and at that time, or just shortly thereafter, you testified as to receiving this letter with my name signed to it. Do I understand this slip of paper was inclosed in that letter or the Boardman letter?—A. The Boardman letter.

Q. And not with mine at all?—A. No, sir.

J. K. CHRISTY, being duly sworn as a witness for the contestant, testified as follows:

Examination by Mr. HOFFMAN:

Q. What is your full name?—A. J. K. Christy.

Q. And your place of residence?—A. McKinley Township, Lincoln County.

Q. How long have you been a resident of that township?—A. Well, sir, I don't remember just the years, but ever since the next spring after that Kickapoo country opened.

Q. Were you an election official at that voting precinct at the general election, 1912?—A. Yes, sir.

Q. What?—A. Clerk.

Q. Did you receive a letter and circular similar to the inclosed, Exhibits 1 and 2, at or just about the time of the election or just prior thereto? I refer to the Boardman letter and what is known as the warning circular.—A. Yes; I received a letter of that kind.

Q. Have you got it with you?—A. No; I don't know just what I did with it.

Q. Have you made a search for it?—A. No; because mail I got during that time, I would look over and throw it down and I didn't try to keep track of it.

Q. Now, you have examined Exhibits 1 and 2. Are you able to say the letter and circular you received are similar to these?—A. I don't remember about that, Mr. Hoffman, the warning circular, but I got the Boardman letter.

Q. Do you know whether the other officials there got that?—A. I can not tell you.

Q. Were there many negroes in your precinct?—A. There is quite a few; I don't remember the number.

Q. Did you know of the Guinn and Beall convictions for enforcing the grandfather clause prior to that time who were convicted?—A. Why I heard of it, but I never paid no particular attention to it.

Q. Do you know how many negroes voted in that precinct that day?—A. No, sir; I do not.

Q. About how many?

Mr. WAGONER. Objected to; incompetent, irrelevant, immaterial, tending to prove no issue in this contest—the mere fact a negro voted.

Q. About how many voted?—A. I presume there was a dozen and a half—18 or 20. I don't know exactly.

Q. Was there any test applied to them there?—A. Well, sir, the test, about all the test applied was they were given the election law to read on the back of that where it is large letters, "Primary and election law."

Q. Some of them were required to read that?—A. Yes, sir.

Q. Were any negroes turned down there?—A. No, sir.

Q. Do you know the negro population there pretty well in that township?—A. You mean being personally acquainted?

Q. Yes.—A. Well, no.

Q. Do you know whether any voted who were not qualified?—A. There were some voted I don't consider were qualified. While I was not the inspector and I didn't consider it my duty to look after it, but from what was said to them and from what I know of them they were disqualified.

Q. You know of your own knowledge they couldn't read and write a section of the constitution?—A. One was tried, it seems to me, like an hour. He was given a chance two years ago and couldn't pass and was turned down, and then voted this election.

Q. Was he tried at your precinct this time?—A. Not any more than I told you about reading the heading on the back of the session laws.

Q. That was in large letters and a few small words?—A. Yes, sir.

Cross-examination by Mr. WAGONER:

Q. Do you know whether your board was provided with the constitution?—A. Yes, sir.

Q. How was it printed as to the sized type? Like that—very small, wasn't it?—A. Something like that.

Q. About as small as that?—A. I think the majority of it about like that. Oh, it was a fair-sized book.

Q. But wasn't the type small and the lines together—close, so as to make it hard for anybody to read?—A. No; it was more like that, if I am not mistaken.

Q. They required them to write out there?—A. No, sir.

Q. Didn't require any of them to write?—A. No, sir.

Q. Who was inspector?—A. Jim Law.

Q. He was pretty well acquainted with the township?—A. Yes; better than I am.

Q. He might have known in his own mind these men could write?—A. Well, I don't know. If you will allow me—one old fellow came in, he and his son, and the old gentleman stood there a few minutes by the desk or table and turned and went out doors and the son was asked the question by the inspector if the old man could read and write, and he says, "He can read a little, but he can't write at all," and he never put him to any test. That's all the test there was.

Q. Did they let the old man vote?—A. Yes; he told him to call him in, and said it was all right for him to vote, and his son asked him to come in and he voted.

Q. How many were there who couldn't read and write who voted?—A. Well, those two are all I know. This one was turned down two years ago on that account and the one his son said he could read a little and couldn't write at all.

Q. Mr. Christy, might not the man who was turned down two years ago be able to read and write this time?—A. Well, I don't know; he was not given any test, and knowing he was turned down, I think it would have been proper to test him. He might have educated himself up, but he was asked the question whether he could read and write and he said, "Yes," and given this book, larger print than that, and he read that and was not put to the test.

Q. Mr. Christy, might it not have been the election officials two years ago required a severer test—that a man pronounce every word correctly; even punctuate and dot the "i's" and "t's"—might it not be that reason he was refused?—A. I was the clerk, and the inspector gave him plenty of time; they wanted to give him a fair chance; something like an hour.

Q. But according to your best judgment there would not be over two that voted in East McKinley who couldn't read and write who voted?—A. Well, I don't know as to that; there might have been more; there are a lot I don't know anything about.

Q. Your best judgment you only know of two?—A. I know these two; of course the others I don't know; they all look alike to me.

Q. The inspector permitted them to vote?—A. Yes; without giving them any test, only the heading of the election law.

Q. Now, in regard to this letter, you received you say, a good deal of campaign matter?—A. Yes.

Q. It was your custom just to glance it over and throw it down?—A. I would read it over, sometimes three or four, and if I thought it was any benefit I would kind of hold it, and if I thought it was not I didn't.

Q. This Boardman letter, you didn't pay any attention to it?—A. Only read it over; yes, sir.

Q. You intended to follow the law as an election official?—A. Yes, sir.

Q. And be governed by nothing else?—A. Yes; that's all I would have been if I had been inspector.

Q. You wanted to follow the law and didn't pay any attention to what anybody said?—A. Yes; I followed the law and told them I was going to comply with it.

Q. You did it to the best of your ability?—A. Yes.

Q. And this letter had no effect on you?—A. No, sir.

Direct examination by Mr. HOFFMAN:

Q. Did you understand it was a part of your duty to enforce the grandfather clause?—A. I understood that was what the inspector was for, and where he didn't understand or where there was a little variation, why, then he would ask of the other members to the board in regard to the matter. He being inspector, it was his business, and where he was a little doubtful, to ask advice of the others as to their ideas about it.

Cross-examination by Mr. WAGONER:

Q. You didn't challenge any of these fellows yourself?—A. No, sir.

Q. There wasn't any of these negroes who did vote who were challenged?—A. No, sir; none at all; I think it was the inspector's business and his duty, and where he knew the law he ought to abide by it; I would.

W. H. FALLIS, being sworn as a witness for the contestant, testifies as follows:

Examination by Mr. HOFFMAN:

Q. State your name, age, place of residence, and occupation.—A. W. H. Fallis; 74 years; Fallis, Okla.

Q. How long have you lived at Fallis, Squire?—A. I have lived there a little over a year in town?

Q. And on your place adjoining town?—A. Twenty-odd years.

Q. Are you acquainted with the entire adult male population of that precinct?—A. Yes, sir.

Q. And were you acquainted with them on and prior to the date of the last election?—A. Yes; I am well acquainted with them.

Q. In what official capacity did you act at that election?—A. Inspector.

Q. State whether or not you received on that date or just prior thereto a letter similar to the printed letter which I hand you, marked Exhibit 1 and known as the Boardman letter.—A. Yes; I received that.

Q. And state whether you received in the same envelope the printed slip known as the warning circular, which I hand you herewith, marked Exhibit 2.—A. Yes; I think that was in the same envelope. I don't remember so much the Boardman letter; I remember that warning.

Q. Have you that letter and slip at this time?—A. No; I can not find them.

Q. You made a search and can not find them?—A. Yes.

Q. Were they similar to these Exhibits 1 and 2?—A. Yes; they were the same letters.

Q. Now, Squire, as such election official having received these letters, state whether or not on or prior to that time you had known of the prosecution of other election officials who officiated at the 1910 election. I refer particularly to the cases of Guinn and Beall and those in Logan County, the adjoining county, and this county.—A. Yes; I kept well read up on those questions.

Q. And you knew Guinn and Beall had been convicted in the Federal court and sentenced to the penitentiary for enforcing the grandfather clause?—A. Yes, sir.

Q. After having received this letter and circular, state whether or not it operated on your mind to cause you to relax your vigilance in applying the test, what is known as the grandfather clause.

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial; second, because leading; third, the witness must state the facts.

Mr. HOFFMAN. Question withdrawn.

Q. State whether or not you did enforce the grandfather clause by applying the test of reading and writing a section of the Constitution to the voters who applied there that day wherever you had reason to believe them incapacitated for voting under the law.—A. I did not.

Q. Why not, Squire?—A. It didn't govern me altogether, but it had a strong effect on me, to not object to voters on account of the voting, more particularly for Congressman, reading the Boardman letter and others; it made me study and think over the possible outcome if there was possibly some parties who were turned down who ought not to be. That is the reason I was not as particular as I ought to have been; I have found out since I ought to have been more particular.

Q. Do you know whether persons voted in that precinct not qualified to vote under the law?—A. I am satisfied there were at least four, if not more.

Q. Negroes or whites?—A. Negroes.

Q. State whether or not the reason operating on your mind to cause you to not enforce the law strictly was brought about by reason of this Boardman letter and the knowledge of the prosecution of other officials who had enforced the grandfather law.—A. I will just make this statement: It made me go to work and inquire and get all the information I could on the probabilities of being prosecuted, and I undertook to find out from those I thought did know; and knowing I could let them vote for Congressman, I had no doubt I had the right to enforce the law as to local matters. But it bothered me to know in regard to Congressman, and that's where I relaxed, where I thought it was possible the parties could qualify or entitled to vote, I passed them.

Q. Did you reject anybody?—A. No, sir.

Q. Did you qualify any negroes?—A. No, sir.

Q. About how many negroes voted there?—A. If my memory serves me right, it was 10; I think it was 10.

Q. Could you determine the vote in that precinct, who carried that precinct, if those votes were cast out which you know to have been illegally voted?—A. You mean Mr. Davis or Mr. McGuire?

Q. Yes; can you tell who would have carried it if these illegal votes were thrown out?—A. No; it would have made it pretty close; I can not tell.

Q. Supposing the vote to have been the figures introduced here 17 for Davis and 23 for McGuire, if correct and the illegal votes were cast out, can you tell who would carry the precinct?—A. Yes; Mr. Davis would have carried it, I suppose.

Q. Candidly, now, Squire, is it not a fact this Boardman letter, this warning circular, and the knowledge of the previous Federal prosecution of others of our

State officials who had enforced the grandfather clause at the last general election?—A. Yes, sir; I consider that is the fact, and I didn't want to get into any trouble. I want to explain, some of those parties I had seen them write their names and I thought probably they were voters, but since that time I have found out they were not.

Q. And fearing a prosecution, you did not want to apply the test?—A. I didn't want to apply the test so particularly, because I knew they were contrary and vindictive, on account of their voting, and getting a warning and drawing my attention to the consequences of whether I would be convicted or not, I didn't feel like going through it.

Cross-examination by Mr. WAGONER:

Q. You say four over there voted who were not qualified?—A. Yes.

Q. The other six were all right, were they?—A. As far as I know.

Q. From your knowledge over there and by transactions had with them, you were satisfied they could read and write?—A. In the absence of a test.

Q. Now, Mr. Fallis, you understand the law to be where you are satisfied of your own knowledge that the law don't require you to submit him to a test?—A. No.

Q. Only where you don't know?—A. Yes.

Q. Did not these four men who voted who, you say, you found since should not, they all write their names before they voted, did you ask them to submit to that test?—A. No, Judge; my knowledge just of that, one of them has been a tenant for three years on my farm and I have seen him write his name; in fact, he signed his name to leases and things, that was one thing I thought he possibly was a voter.

Q. You didn't know that he could read?—A. I do since, that he can not read at all. I had occasion to write him and find out that he can not read, they have come to me and I have found those things out since.

Q. But at the time he presented himself to vote, from what knowledge you had you were satisfied in your own mind he could read and write and you let him vote due to that fact?—A. I will just say this in answer to that, if it hadn't, if I had been free of mind, I would have been more particular to know whether they were or not, because all of these, except one, I was satisfied they had a very limited education.

Q. Mr. Fallis, you understood it would be just as great a wrong to prevent a man from voting who had a right to as to let one vote who didn't have a right to?—A. Yes.

Q. You would not be any more particular in one regard than the other?—A. Its just this way: I didn't feel like taking the chances with parties who might pass the test—I will say this—several in town there, for instance; I could name them. If they came there to vote, I should have turned them down at once.

Q. For the reason you knew they couldn't read and write?—A. Yes; because I had made marks for them.

Q. It has been testified as to one A. W. W. Whitaker. He can read and write; is that right?—A. Yes; he writes some, but it is very limited.

Q. Don't he read better than write?—A. He can not read much.

Q. He is very near a white man?—A. Yes.

Q. Haven't you heard him say his grandfather was a white man?

Mr. HOFFMAN. Objected to as hearsay and not best evidence.

A. Why, I have heard him say so; he has told me so.

Q. When he came to vote that day, did he make that statement to the officials, he was entitled to vote regardless of the grandfather clause?—A. No; I will say, Judge, no one offered to vote there who was objected to that day. Some of them who couldn't write told me before he was not coming to vote because I knew they couldn't write.

Q. Did you know any negroes who stayed away from the polls on account of the grandfather clause who could not read and write?—A. No; I know one or two who could read and write not there, but they were out of town I think.

Q. You don't know but what they stayed away because of this agitation going around?—A. I don't know about that.

Q. Now, if four of those votes were illegal and McGuire got 23 and Mr. Davis got 17, McGuire would have still carried the town?—A. I answer that question that if they voted for the others; I went on the theory if some parties voted for the others, it would have made doubt.

Q. You don't know but what those four illegal votes might have been cast for Mr. Davis?—A. No; I don't.

Q. You don't know who they were cast for?—A. No; I do not.

Q. From your best knowledge and judgment the other six were entitled to vote?—A. As far as I know; yes.

Q. You have never heard to the contrary since?—A. No.

U. D. THOMPSON, a witness for the contestant, being duly sworn, testified as follows:

Q. State your name, age, occupation, and place of residence.—A. U. D. Thompson; age, 63; Iowa Township, Merrick.

Q. Mr. Thompson, were you an election official at any precinct in this county at the general election in 1912?—A. Yes, sir.

Q. What precinct?—A. South Iowa precinct.

Q. Did any negroes vote there?—A. Yes, sir.

Q. How many?—A. Well, I can not tell exactly. I didn't keep count; I should think—let's see, how many votes were cast there; sixty some I think right—about 27 is what I would think; something near 27 votes.

Q. Were any rejected?—A. Yes, sir.

Q. What official capacity did you act in?—A. Inspector.

Q. Did you receive a letter known as the Boardman letter and a circular known as the warning circular being referred to and marked "Exhibits 1 and 2 in this testimony?—A. There was a letter without this circular. I got a letter from Mr. Wagoner—he had written a letter to the United States attorney concerning the enforcement of the grandfather clause; and the United States attorney—that is, his reply—was inclosed in an envelope and sent to me.

Q. Printed form?—A. Printed form.

Q. Similar to this one?—A. Typewritten.

Q. How many negroes did you reject there that day?—A. Well, sir, I rejected I think it was two.

Q. Did any vote who were not qualified to vote?—A. No, sir. I rejected two on the test and the rest stood the test and they voted them.

Q. Do you know whether or not the other election officials received similar letters to this?—A. I know nothing about what they got at all. I took this letter of mine that I got from Mr. Wagoner, that letter there. I got just the day before election, and I stuck it in my inside coat pocket and showed it to our central committeeman of the township there, showed the letter, and we laid it down there. I let them read it, and I have never seen that letter since; I don't know what became of it; I left it with some of the boys, Carpenter, out there.

Cross-examination by Mr. WAGONER:

Q. Mr. Thompson, that letter you received didn't have any effect on you from doing what you understood under the law was your duty on the day of election?—A. Not at all. I was here the time the governor was here and made a speech and I heard his instructions, as far as that is concerned, and I thought I was pretty well posted, and I carried out as near as possible, I carried out the election law as near as a man could. It had no effect on me at all. I made up my mind as far as these other parties that had been in here, that had been prosecuted from his talk, I suppose you heard it, through conspiracy or something like that, if a man performed his duty right and there was no conspiracy and went according to law, he was doing his duty.

Q. You understood all that was required of an election official was to be reasonable and fair and right in the enforcement of the law?—A. That's the way I understand it.

Q. Not to jump on a man just because you don't want him to vote?—A. That's the way I understand it, a man who came and offered to read and write, and I didn't know, a colored man, he had to satisfy me he could, and whenever he satisfied me I had the constitution there and gave him a test and I voted him according to law. There were two men I voted there has been a little dispute. I might as well mention it; they came and swore, Enoch Bond and another fellow, who swore his father was a voter prior to 1866 and was a white man and voter, and the law, the way I understand it, if his father was a voter prior to 1866 had a right to vote. I had their word for it. I said, "Are you going to swear that your father was a voter prior to 1866?" and they said they were and I swore them in, and they say there is no place where I can swear in a

vote. I only swore them in to satisfy my own mind; that's how I came to swear them in and let them vote.

Q. They voted?—A. Yes, sir.

Q. Now, Mr. Thompson, give me the names of the two voters you rejected?—A. Enoch Bond, and I don't know the other fellow's name. I asked him if anybody knew him and he said John Sires over there knows me.

Redirect examination by Mr. HOFFMAN:

Q. You did let two vote that you are satisfied in your own mind couldn't read and write?—A. Yes; but I let them vote on the stand their grandfather was a white man prior to 1865—that's the ground they voted on.

D. KERR, a witness for the contestant, being duly sworn, testified as follows:

Direct examination by Mr. HOFFMAN:

Q. What is your name?—A. D. Kerr.

Q. Where is your place of residence and what is your age and occupation?—A. I live in South Wichita Township, Lincoln County; age, 52.

Q. You are a voter in that precinct, are you?—A. Yes, sir.

Q. Did you receive any letter purporting to come from Congressman McGuire shortly prior to the general election of 1912 relating to school-land lessee matters?—A. I had several letters accumulated there while I was away, and when I got back home I glanced over them and noticed one from McGuire and a letter or two from some other one in the State in regard to the election law, but I didn't take particular notice enough to know the contents of them exactly.

Q. You say you couldn't find those letters?—A. I couldn't find them; they accumulated, pile of them—old campaign letters and such like—and I gathered up an arm full and destroyed them.

Q. I ask you to state whether you received a letter similar to the one I hand you marked Exhibit 1, the Boardman letter, and Exhibit 2, known as the warning circular?—A. I remember seeing this warning circular; I don't remember this one.

Q. You don't remember the Boardman letter?—A. No, sir.

Q. You think the warning circular is one of the instruments you received through the mail?—A. Yes, sir.

Q. Do you know from whom?—A. I can not say.

Q. Was that just prior to the election?—A. Yes, sir.

Q. I hand you here a letter which I ask the stenographer to mark Exhibit 18 for the purpose of identification, and ask you to state whether or not you received a letter similar to that one and signed by Bird McGuire just prior to the election?—A. I think this is similar to the one I got—I couldn't state positively whether it is or not.

Q. Did you receive a letter similar to that, in your best judgment?—A. Yes; it was in my pile of mail when I got home.

Q. And did you receive that affidavit in a franked envelope or one with postage paid on it?—A. To the best of my belief it was in a franked envelope; in fact, I remember getting one from a Congressman that way.

Q. I hand you the envelope marked Exhibit 19 for the purpose of identification and ask you to state whether the envelope in which you received a letter similar to 18 was an envelope similar to 19.

Mr. WAGONER. Object to letter and envelope as incompetent, irrelevant, and immaterial.

A. I can not say.

Q. Have you any judgment on it as to whether or not it was an envelope similar to that?

Mr. WAGONER. Objected to as to his judgment, incompetent, irrelevant, and immaterial.

A. I will tell you I can not say now. I have got letters from McGuire with envelopes similar to this, but whether this special letter was in it or not I can not say.

Mr. HOFFMAN. I will not offer it at this time.

Q. Were you an election official in your precinct?—A. Not this year.

Cross-examination by Mr. WAGONER:

Q. During the last campaign you received envelopes from Senator Owen frequently?—A. Yes.

Q. Had his pictures in them?—A. Yes.

Mr. HOFFMAN. We object to this as immaterial.



HENRY RILEY, being duly sworn as a witness for the contestant, testified as follows:

Q. State your name, age, occupation, place of residence.—A. Henry Riley; age, 60; Sparks, Okla.; farmer.

Q. Mr. Riley, what official capacity, if any, did you serve in at the general 1912 election?—A. I was chairman of the county election board.

Q. Were you a school land lessee?—A. Yes, sir.

Q. Did you receive a letter through the mails signed by Bird McGuire similar to the letter marked Exhibit 18 which I hand you, just prior to the election?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial, and not tending to prove any issue in this contest.

A. I received one of these letters.

Q. Do you know whether or not it was in a franked envelope? That is, an official envelope without postage?—A. I can not say as to that, I just took it out and read it and threw it down.

Cross-examination by Judge WAGONER:

Q. Mr. Riley, the letter you received from Mr. McGuire pertaining to the school land question didn't have any influence or effect upon you one way or the other in the matter of voting?—A. No, sir.

An adjournment is taken until 7 p. m. of said 26th day of February, 1913. At 7 p. m. of said day, all parties being present as above, and W. B. DAVIS, a witness for the contestant, being duly sworn, testifies as follows:

Direct examination by Mr. HOFFMAN:

Q. Will you please give your name, occupation, and place of residence?—A. W. B. Davis; Prague; physician.

Q. How long have you lived there and been engaged in your profession?—A. Eight years.

Q. What, if any, people of foreign birth or extraction are settlers in that immediate vicinity?—A. Well, there are Germans and Bohemians.

Q. Is there a large Bohemian population in that vicinity?—A. There is.

Q. Were you present at the polling place in South Creek Township at the time of the general election in November, 1912?—A. I was.

Q. Did you know or hear of any electioneering for Congressman Bird McGuire within the polling place on that date?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial, and tending to prove no issue in this contest.

A. Well, I didn't relative to the Congressman.

Q. Well, including the Congressman?—A. I did.

Q. By any Republican?—A. I did.

Q. Just answer fully what you saw and heard there.—A. Well, there is one Mr. Blaum who approached several who came in while I was there and asked them to vote the ticket straight.

. Well, what ticket straight?—A. Well, he didn't designate any particular ticket that I heard.

Q. What are his politics?—A. He is a Republican.

Mr. WAGONER. Objected to as incompetent, irrelevant, immaterial, and tending to prove no issue in this contest.

Q. Do you know his personal feeling toward Mr. John J. Davis, the Democratic candidate?

Mr. WAGONER. Objected to as incompetent, irrelevant, immaterial.

A. I do.

Q. What are they?—A. Its not very friendly.

Q. Is it not a fact he is very bitter toward him?—A. It is.

Q. Do you know whether or not he was making a special appeal for his opponent, Bird McGuire, within the polling place on that day?

Mr. WAGONER. Objected to as incompetent, irrelevant, immaterial, tending to prove no issue in this contest.

A. I mean in the building where the voting was going on?—A. That's what I heard, all that I heard: he didn't make any suggestion of a personal nature that I heard.

Q. Was he there in an official capacity that day?—A. Only as a watcher, I believe they call them.

Q. For which ticket?—A. The Republican ticket.

Q. Was any attempt made by any of the officials in charge of the election at that precinct to suppress him or stop the electioneering?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial, tending to prove no issue in this case.

A. Yes, sir.

Q. Did they succeed in doing so?—A. No, sir; they didn't while I was there.

Cross-examination by Mr. WAGONER:

Q. You say, doctor, in the building where they were voting that Blaun electioneered for Mr. McGuire?—A. I didn't say that.

Q. He didn't mention Mr. McGuire's or Mr. Davis's name either, did he?—

A. Not that I heard.

Q. What was it he said?—A. He approached several while I was there, asking them to vote it straight.

Q. Just remarked to them as they came in, "Vote you ticket straight," and that was all he said was it?—A. That was about all I heard.

Q. Did you make any complaint to the election officials at that time?—A. I did not.

Q. Your inspector down there was who?—A. I think it was Soika.

Q. He is a Democrat, is he?—A. I believe he is.

Q. Who was the judge; do you know?—A. No; I do not. I don't remember now.

Q. Who was the clerk?—A. I believe Reel, Henry Reel.

Q. Do you remember who the other member of the board was?—A. J. B. Edmond.

Q. He is a Democrat, isn't he?—A. Yes, sir.

Q. Do you or do you not know it is the duty of the election officials if anyone electioneers within 50 feet of the voting place they have a right to reject them and arrest them?—A. I do.

Q. Do you know whether they did anything of that kind or attempted to?—A. While I was there there was several more in than allowed by law, and they tried to get them out; just asked them not to crowd in, there was too many in.

Q. When were you there—in the morning or afternoon?—A. It was probably about 11 o'clock.

Q. At that time it was raining, wasn't it, kind of a bad day?—A. Yes.

Q. And the election officials didn't enforce the law as strictly as they might have done, on account of the weather, no place for the people to be in shelter except in the building?—A. Yes; there's another house; it's within 50 feet, too.

Q. Now, these people who went into the building, which might be, strictly speaking, against the law, they went in for the purpose of voting and just waited until the time came to be out of the weather, didn't they?—A. I presume so; yes. They were crowding in; wanted to see what was going on, like they usually do.

Q. How many men did you hear Mr. Blaun say to to vote the ticket straight?—A. I don't know; probably four or five, while I was in there.

Q. Do you know Mr. Blaun pretty well?—A. Yes, sir.

Q. He is quite a talker?—A. Yes.

Q. A fellow who kind of butts in, and don't many people pay much attention to him, isn't there?—A. Yes; but he has quite a few friends.

Q. Just his manner of speaking, one of those fellows who talks a good deal and says a good deal—most anything?—A. Yes; he is that kind of a man.

Q. He probably has some influence. Did he stop that then when they asked him not to?—A. So far as I know; I voted and got out of there.

Q. He didn't mention anybody's name, he didn't electioneer against Mr. Davis in particular, and ask them not to vote for him?—A. Not that I know of.

Q. Were these men acquaintances of yours?—A. Part of them.

Q. Were they Democrats or Republicans?—A. They were Bohemians, most of them; I don't know their politics.

Q. If they were Democrats then he would not have been electioneering against John Davis, would he, as he was a candidate for Congress in this district against Mr. McGuire?—A. If that was all there was to it.

Q. That's all you heard, Doctor?—A. Yes.

Redirect examination by Mr. HOFFMAN:

Q. Are you acquainted with the Bohemian language?—A. Not any more than I know it.

Q. Do you understand some of the words?—A. Some of them; not very much.

Q. How did Blaun address these voters, in what language?—A. Well, after they came in, if he had any further talk with them he had it in their own language.

Q. These expressions you heard were in what language?—A. English.

Q. And then he talked to them further in Bohemian?—A. Yes.

Q. But you heard the further conversation in Bohemian? You heard him talking to them in Bohemian?—A. Yes.

Cross-examination by Mr. WAGONER:

Q. You don't know what that was; it might have been about social affairs or Bohemian affairs?—A. Oh, yes.

Q. It was not likely he would electioneer them in English and also Bohemian, is it?—A. Some of them, aside just from common expressions, he would have to carry on the balance of his conversation with them in Bohemian, some of the parties who came in.

Q. I am speaking of those four or five you heard him speak to, who he told to vote the ticket straight, did he have other conversation with them before they voted?—A. Yes, sir.

Q. Could you tell from his manner of talking or any acts that he did whether he was instructing them how to vote, mark a ballot, or anything of that kind, or was it more like friendly conversation about a general topic?—A. It was more like a conversation about some topic.

Q. He didn't go to show them, make any gestures, which you might think he was telling them how to vote?—A. I don't know.

Adjournment taken to Friday, February 28, 1913.

On Friday, February 28, 1913, all parties being present as before, the taking of testimony is resumed.

H. M. JOHNSON, being duly sworn as a witness for the contestant, testifies as follows:

Direct examination by Mr. HOFFMAN:

Q. What is your name, age, occupation, and place of residence?—A. H. M. Johnson; 39 years old; president First National Bank, Chandler, Okla.

Q. Are you a school-land lessee of this county and were you such at the time of the November general election, 1912?—A. I was and am still.

Q. Did you receive in that campaign a letter similar to the one I hand you there?—A. I did.

Mr. WAGONER. Object to this question for the reason it is incompetent, irrelevant, and immaterial, tending to prove no material issue in this contest.

Q. The letter I refer to is marked "Exhibit 18" and the envelope "Exhibit 19." You say you did receive a similar letter to that?—A. I did.

Q. Was it signed by Bird S. McGuire, or what purports to be his signature?—A. Yes.

Q. And was it in a franked envelope such as that?—A. It was.

Mr. WAGONER. Object to all of the above questions and answers for the reason they are incompetent, irrelevant, and immaterial.

Cross-examination by Mr. WAGONER:

Q. Mr. Johnson, you have received quite a number of letters and circulars, pamphlets from various Members of Congress, have you not, in franked envelopes?—A. I have.

Q. During the last campaign before the general election or the primary, did you not receive some from Senator Owen in which was inclosed his picture?—A. I did not.

Q. Don't remember getting one with his picture in a franked envelope?—A. No, sir; I didn't receive it.

Q. Ever receive any of his speeches—printed matters?—A. I did.

Q. This letter you are testifying about is pertaining to the school land, was it?—A. It was.

Q. Some matter that had been referred to McGuire and he wrote to the school-land lessees he would take the matter up in the departments or Congress and would see what he could do for them, an extension of payments or something?—A. Nothing mentioned about extension of payments.

Q. What was it they wanted him to do or try to do?—A. It was suggested in his letter he had received complaints; he had received none from me, however.

Q. Well, he suggests in his letter he had received complaints from some lessees, didn't he?—A. He did.

Q. And gave you the name of some lessee. You say you received a letter similar to the one sent to W. H. Franks, Route 2, Braman, Okla.?—A. I did.

Q. Well, that letter which you received didn't have any influence with you one way or the other in the election, did it?—A. It did not.

Redirect examination by Mr. HOFFMAN:

Q. Had you invited this correspondence by directing a letter to him upon any private matter?

Mr. WAGONER. Objected to as incompetent, irrelevant, immaterial.

Q. Had you addressed any letter to him in regard to your school land?—A. I had not.

Q. Do you know where the letter and envelope is that you received?—A. I haven't been able to locate it.

Q. You have made a search for it since you have been summoned here?—A. Yes.

Q. But have not been able to find it?—A. No, sir.

Q. They are similar to the ones you have been shown here—Exhibits Nos. 18 and 19?—A. It was.

Mr. HOFFMAN. We now offer Exhibits 18 and 19 in evidence.

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial.

Cross-examination by Mr. WAGONER:

Q. The school-land lessees of this State, did they have an organization in 1912 that you know of?—A. None that I know of personally; I didn't belong to any.

Q. They did have one before that?—A. They did have an organization.

Q. As a matter of fact, didn't they have one in 1912, and haven't they had every year since the school land has been settled by these lessees?—A. I have no personal knowledge of it.

P. G. RAWDON, being called and sworn as a witness for the contestant, testified as follows:

Examination by Mr. HOFFMAN:

Q. State your name, age, occupation, and place of residence.—A. P. G. Rawdon; age, 31; resident of Chandler; county superintendent of schools.

Q. Mr. Rawdon, have you what is known as a mimeograph machine in your office?—A. I have a mimeograph, neostyle.

Q. I hand you here Exhibit 8 and ask you to state whether or not that was printed on your machine?

Mr. WAGONER. Objected to as incompetent, irrelevant, immaterial, and tending to prove no issue in this case.

A. It was not.

Q. You can say that positively?—A. Yes, sir.

Q. You know what this instrument is do you, the letter referred to in this testimony as the Boardman letter?—A. Yes, sir.

Q. Do you know where it was printed?—A. I do not.

Q. Do you know where it was sent out from?—A. I do not.

Q. Do you know who sent it out?—A. I do not.

Q. Did you have any part or act in any capacity with the Republican campaign committee in this last campaign?

Mr. WAGONER. Objected to as being incompetent, irrelevant, immaterial, and tending to prove no issue in this contest, and an unfair question of the witness, stated in its broad terms, as he was a candidate on the county ticket.

Q. That is any further than your candidacy would require of you?—A. No, sir.

Q. I hand you here Exhibit 2, this printed slip, which has been referred to in this testimony as the warning circular and ask you to state if you know by whom that was sent out?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial.

A. I do not.

Q. Do you know of it being sent out in the campaign for the last general election?—A. I do not know of it being mailed out at all, and the only thing I know about it was I saw it at one time in the hands of some of the Republicans at a meeting, but if it was ever mailed out I know nothing about it.

Q. When and where was that meeting?—A. Now, Mr. Hoffman, I am not sure whether in Republican headquarters or in the courthouse.

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial.

Q. Do you know how long it was before the election?—A. I do not remember.

Q. Was it just a public meeting by those interested in your party's success in the election?—A. It was a Republican meeting.

Q. Was it a secret conclave among some of you officials?—A. It was not.

Q. Was any method devised in that meeting for sending out that circular?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial.

A. There was not.

Q. In what way did it come up.

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial.

A. It was not discussed any more than individuals had it.

Q. Was your attention called to it?—A. Nothing more than I saw it in the hands of some of the parties.

Q. Was your advice asked or were you questioned with regard to sending it out?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial.

A. I was not.

Q. Did you advise sending it out?—A. I did not.

Q. For what purpose was it shown you?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial.

A. It was not shown me.

Q. How did you get to read it?

Mr. WAGONER. Objected to for the same reason.

A. I didn't say I read it; I couldn't say I ever read it, more than just I see it in your hand there and reading the headline.

Q. In whose hand was it?

Mr. WAGONER. Objected to as above.

A. I do not remember.

Q. Who was present at that meeting?

Mr. WAGONER. Objected to as incompetent, irrelevant, immaterial.

A. That would be hard to tell, since I don't remember which meeting it was, whether the meeting in the courthouse or at Republican headquarters; I gave it very little thought or attention.

Q. Did you ever see this mimeographed copy of the Boardman letter or a similar one prior to the time I exhibited it to you?—A. I never saw before a mimeographed copy of this letter.

Q. Have you seen the printed copy?—A. I saw the printed copy.

Q. Where did you see it?

Mr. WAGONER. Objected to as incompetent, irrelevant, immaterial.

A. I saw that in the Republican headquarters.

Q. Just one copy or a pile?—A. There was a pile; I don't remember how many.

Q. Several hundred?—A. Oh, no; I should judge 100.

Mr. WAGONER. Objected to as incompetent, irrelevant, immaterial.

Q. About a hundred copies you saw there?

Mr. WAGONER. It don't tend to prove any intimidation or coercion.

Q. Do you know what purpose they were there for?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial.

A. I do not.

Q. Was there any discussion about them in that meeting?

Mr. WAGONER. Objected to for the same reason.

A. There was no discussion that I know of.

Q. What directed your attention to them?

Mr. WAGONER. Objected to for the same reason above.

A. My attention was directed to them simply seeing them lying there; I naturally picked up literature and read it.

Q. Do you know where they were printed?

Mr. WAGONER. Objected to as incompetent, irrelevant, immaterial.

A. I do not.

Q. Do you know whether or not the Republican committee sent any of them out?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial.

A. I do not.

Q. And you don't know what they were there for?

Mr. WAGONER. Objected to for the same reason as above; if he did know it would tend to prove no issue in this case.

A. I do not know what they were there for; I was not a member of the committee; had no part in it.

Q. And you didn't make any inquiry as to what they were there for?—A. I don't remember making any inquiry.

Q. And you don't know what was done with them?—A. I cannot say what was done with them; I put one in my pocket, and that's all I know.

Cross-examination by MR. WAGONER:

Q. Mr. Rawdon, Mr. Hoffman handed you a few minutes ago for inspection a printed slip of paper marked Exhibit 2; you say you saw that some place in the county?—A. I did.

Q. You don't know in whose hands it was at the time you saw it, whether Republican or Democrat?—A. I did not.

Q. You don't know who circulated it—whether Republicans or Democrats?—A. I do not know that it was circulated.

Q. This letter here, marked "Exhibit 1," you say you saw that in Republican headquarters and took one of them?—A. I did.

Q. Mr. Rawdon, you were over Lincoln County considerable during the campaign of 1912, weren't you, traveling over it?—A. I was over the county to a certain extent; not, perhaps as much as other candidates.

Q. Did you attend any of the meetings held by Republicans in the various precincts of the county?—A. I did.

Q. Did you hear speeches made there?—A. I did.

Q. In any of these speeches did you hear this Exhibit 1 which is known as the Boardman letter, addressed to me, read and commented upon?—A. I did not.

Q. Mr. Rawdon, were you a resident of Lincoln County two years ago?—A. I was.

Q. Did you take part in that campaign?—A. I did.

Q. What interest, if any, did you have in it other than as a citizen of this county?—A. That of a candidate.

Q. You were candidate for what office?—A. County superintendent public instruction.

Q. And in that campaign and in that election do you or do you not know to what extent the grandfather clause was enforced in the inspectors of election?—A. Not positively.

Q. During that campaign there was considerable agitation over the grandfather clause, wasn't there, on both sides?—A. There was.

Q. And each of the different political parties had different views as to how the law should be enforced; isn't that true?—A. Yes, sir.

Q. In that election do you know, of your own knowledge, in any of the precincts where negroes who could read and write were refused the right to vote—that is, two years ago?

MR. HOFFMAN. Objected to as incompetent, irrelevant, no part of the cross-examination.

A. I do.

Q. To what extent do you know him?—A. I was present at one precinct.

Q. Give the precinct.—A. West North Choctaw, when one man was denied the right to vote that I knew of my own personal knowledge could read and write.

Q. Do you know who was inspector of that precinct at that time?—A. I do.

Q. Who was it?—A. C. L. Edmonson.

Q. Do you remember the number of negroes that were refused the right to vote at that time in that precinct?—A. I know about the number that were present, but whether they were all refused the right to vote I do not know of my own personal knowledge.

Q. Now, Mr. Rawdon, in the last campaign was there any of the Republican speakers that you heard, or people speaking for and on behalf of the Republican ticket, congressional or otherwise, was there any language used of a threatening nature against any election official if they refused to permit the negroes to vote?

MR. HOFFMAN. Objected to as incompetent, and we object further as not proper cross-examination and not the best evidence.

Q. Those meetings you were present at I am asking you about, where you heard the speeches.—A. There were no threats against any inspector or election official.

Q. Just go ahead and state what was the attitude of the speeches.

Mr. HOFFMAN. Object to the witness giving his construction of campaign speeches.

A. Further than they wanted the inspectors and election officials to abide by the law.

Q. In your association and connection with the Republican organization in this county in the last election wasn't it their desire and ambition only that the law should be enforced as on the statute books?

Mr. HOFFMAN. Objected to as leading and suggestive, not best evidence, hearsay, and calling for a construction of political doctrine.

A. That was the only expression that I heard during the campaign.

Q. Was it not also a fact that the Republican organization, together with the Republican speakers—that is, those speeches that you heard—where they advised the negroes that could read and write to go to the polls and vote and those who could not read and write to stay at home?

Mr. HOFFMAN. Objected to as above.

A. That was true.

Redirect examination by Mr. HOFFMAN :

Q. The method of construction which your party wished enforced in the last general election in this county as to negroes voting was the construction put upon it by Federal Judge Cotteral, was it not?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial.

A. I don't know what Judge Cotteral's construction was, Colonel.

Q. That was that the grandfather clause was illegal so far as the congressional campaign was concerned, and they couldn't bar a negro from voting on account of his illiteracy.—A. The Republicans generally felt that was true, but they advised all negroes who could not read and write to stay at home.

Q. Did you do that?—A. I did.

Q. You say that was the advice of your party to the negroes of this county at the last general election, do you?—A. I say that was the only advice I heard.

Q. Were you admitted to the inner circles of your party?—A. I was never denied.

Q. You didn't manage the campaign?—A. I did not.

Q. You know, as a matter of fact, large numbers of negroes did vote in this county who were not qualified under the grandfather clause?

Mr. WAGONER. Objected to as incompetent, irrelevant, immaterial; this witness could not testify to that.

A. I do not know.

Q. The precinct you refer to—West North Choctaw—where you know of your own knowledge in the 1910 election, you say, of one negro being denied the right to vote, who, you say, could read and write, that was the district where Edmonson was the inspector, now State senator?—A. Yes, sir.

Q. And this same Edmonson was afterwards prosecuted by Federal authorities of the State, was he not, for his acts there as inspector at that polling place that day?—A. If he was I did not know it.

Q. Don't you know he was indicted by the Federal court?—A. You said State.

Q. I mean Federal.—A. I understand he was indicted by the Federal court.

Cross-examination by Mr. WAGONER :

Q. Mr. Rawdon, in the 1912 election, did you or did you not know of negroes who could read and write who were barred from voting; do you know of any?—A. No; I do not.

Q. I believe you are county superintendent of Lincoln County and have been—you are on your second term?—A. I am still on the first term, but I have been elected for the second term. My time don't expire till July.

Q. What do you know about the negro race in this county as to them being able to read and write; have you any way of knowing what per cent of them can read and write by reason of your office?—A. I have never made any particular calculation, and I would have a very poor way of knowing what per cent of the older ones can or can not read and write.

Q. Do you know what per cent of the younger ones over 21 years of age?—A. I wouldn't have any better way of knowing the younger ones over 21 than the older ones.

Q. Isn't it a fact in this county a great per cent of the negroes other than those who were slaves can read and write?

Mr. HOFFMAN. Objected to, the witness showing himself in previous questions not qualified to answer.

A. I have found very few in my official way that are unable to read and write.

Mr. HOFFMAN. We ask to have the answer stricken out.

Q. You mean that were not slaves—of the younger ones?—A. Of the younger ones.

Redirect examination by Mr. HOFFMAN :

Q. Do you know anything about the literacy or illiteracy among the adult negro population of this county.—A. I don't know what the per cent is.

L. B. NICHOLS, being duly sworn as a witness for the contestant, testified as follows :

Examination by Mr. HOFFMAN :

Q. What is your name, age, occupation, place of residence?—A. L. B. Nichols; 44 years old; editor News Publicist, Chandler, Okla.

Q. The News Publicist is and was in 1912 campaign the official Republican newspaper of the county, was it not?—A. I don't know what you would call an official Republican paper; we were a Republican paper.

Q. The only Republican paper published at Chandler, the county seat of Lincoln County?—A. Yes, sir.

Q. You were the official organ of the county, were you not—of the Republican board of county commissioners of the county?—A. Yes, sir.

Q. Did you do the printing for the Republican campaign committee of the county?—A. Some of it.

Q. Did you print what is known as the Boardman letter, Exhibit 1?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial.

A. No, sir.

Q. You did not.—A. No, sir.

Q. Did you run that letter as a news item in the news columns of your paper?—A. I think not. I do not recollect of running it.

Q. You do not recollect?—A. I do not.

Q. Will you examine your files sometime to-morrow and state in this record whether or not it was published in your newspaper sometime during this campaign?—A. Yes, sir; I will.

Q. I call your attention to Exhibit 2, the next slip there, and ask whether or not that was printed in your office?—A. No, sir.

Mr. WAGONER. Objected to as incompetent, irrelevant, immaterial.

Q. How do you tell whether or not it was?—A. I know we didn't print it.

Q. Do you tell by the type or personal recollection?—A. Personal recollection.

Q. Do all of the jobs which come through your office come under your observation?—A. Practically so; yes, sir; this would have.

Q. What official connection, if any, did you have with the Republican campaign in the county in the last general election?—A. I was secretary of the central committee.

Q. As such secretary, did you cause to be mailed out that printed Boardman letter or the printed warning slip?—A. No, sir.

Mr. WAGONER. Objected to as incompetent, irrelevant, immaterial.

Q. Do you know whether or not they were printed and sent out by your organization?—A. I don't think any of either one were mailed from our organization; if they were, it was without my knowledge.

Q. You heard the county superintendent testify a while ago that a pile of them, Exhibit No. 1, printed letter, were in Republican headquarters, did you not?—A. Yes, sir.

Q. Did you place them there?—A. They came to me.

Q. From whom?—A. I do not know.

Q. Was it anonymous?—A. I do not know just when they were brought there by parties here in town or whether they were sent through the mail.

Q. What was done with them at headquarters?—A. Well, I don't know; they were in the office, and anyone who came in could have them except this one, Exhibit No. 2.

Q. Was that in headquarters, too?—A. Yes, sir; and I destroyed them all, or thought I destroyed them all.

Q. How many of them, the warning slips, came to your headquarters?—A. I have an idea 50 or 100.

Q. How did they come, by messenger or through the mail?—A. I am not sure about that.



Q. You don't know where they came from?—A. No, sir.

Q. Why did you destroy them?—A. Why, I didn't like the way they read and I submitted it to one or two others and they didn't like the way it read, and we decided not to use them.

Q. Do you know whether or not any of those printed warning slips were mailed or circulated through the county?—A. I think not: not from headquarters.

Q. Do you know of any private individual having done so?—A. No, sir.

Q. Have you any knowledge, gathered from any source, as to whether they were mailed or circulated through the county?—A. Those are the only ones I saw there.

Q. You have seen no others except that printed stack and the one I hand you there? Were they circulated around by your committee?—A. I don't think half a dozen people saw this warning card. I am not sure about it. They were only there a day or two before I took care of them, put them away.

Q. Was the Boardman letter circulated around?—A. The Boardman letter was there for, oh, perhaps, two or three days anyway, and I don't know how many of them went out; I don't know how many we had; not very many.

Q. Do I understand you to say they were not mailed out?—A. They were not mailed out with my knowledge.

Q. Do you know anything about the mailing of the McGuire school land letter?—A. No, sir.

Q. What became of the stack of Boardman letters that were in your headquarters?—A. Well, if they were not picked up and carried away there, they are, maybe, in headquarters right now in the wastebasket.

Q. How many of them were received?

Mr. WAGONER. Objected to as incompetent, irrelevant, immaterial, and witness having testified they were not sent out.

A. As near as I can remember they were packed, probably about a hundred, I judge, from the size of the stack.

Q. Was there more than one receipt of them?—A. Not that I know of.

Q. Do you know whether the printed slip or the Boardman letter was sent from your headquarters?

Mr. WAGONER. Objected to as incompetent, irrelevant, immaterial, witness not having any knowledge unless he was present and saw them sent out.

A. No, sir; I do not.

Q. Did your organization have any headquarters, congressional headquarters, for the first district?—A. Not that I know of.

Q. Did you have any headquarters at Guthrie in the first district?—A. Not of my own knowledge, I don't know; I was not down there at all during the campaign.

Q. Did your committee authorize the publication of the Boardman letter in the Oklahoman just prior to that election?—A. The Lincoln County committee?

Q. Yes.—A. No, sir.

Q. Did your general committee authorize it?

Mr. WAGONER. Objected to as incompetent, irrelevant, immaterial.

A. I don't know.

Q. Was it published in any other newspaper of this county, of your knowledge?—A. I do not remember; I am not sure whether we published it or not.

Q. I call your attention here to Exhibit 9 and ask you to state if that is the envelope that your committee used or a similar one?—A. Yes; it was.

Q. Then, if witnesses have testified that they received the Boardman letter in that envelope and similar envelopes, it must have been sent out by some one from your headquarters, must it not?—A. It might have been.

Q. That was the official envelope that you used there?—A. Yes, sir.

Q. Did you attend to the mailing?—A. Part of it.

Q. Who attended to the balance of it?—A. Courtland Little.

Q. Anyone else?—A. The headquarters were open at all times and any of the candidates or Republicans could come in there and use the stationery, advertising matter, and anything there.

Q. The Boardman letter and official envelopes? And up to the time you say you destroyed what was left, the warning slips also?—A. I don't think anyone got hold of the warning slip.

Q. Did you keep them locked up in your charge or were they out where the Boardman letter was?—A. I believe I remember the very day we got the warning slips they were destroyed, the day or the day after, if I remember right it was the very same day, I would not be certain. I don't think anyone other

than just happened to be there when they came in carried them away, and I am almost certain none of them were mailed out by anyone in the office.

Q. Did you not, in the columns of your paper, previous to the general election of 1912, advise the voters of this county and the officers of election that if they tried to enforce the grandfather clause that they would be subjected to Federal prosecution the same as Guinn and Beall had been in Kingfisher County?—A. I don't think we used those names.

Q. Not that language or same in substance?—A. I think as strong as we went was to advise them to vote if they were qualified voters, if they could read and write.

Q. Did you not hold up the prosecution and conviction of Guinn and Beall as a warning to the election officers of this county?—A. I think we published that statement and account.

Q. And your paper circulates throughout the county, does it not?—A. Yes, sir.

Q. Did you send copies of your paper containing those articles to the election officials of this county?—A. Not unless they were subscribers.

Q. Did you mail out any special list just prior to election?—A. I don't remember mailing any. I think we printed if we had a good issue—we printed a whole lot of extra copies and distributed them among the candidates, and had them in headquarters, and they were distributed from there.

Q. Did you refer in those extras to the prosecution of Guinn and Beall by the Federal courts and to the prosecution of the election officials in this county, Senator Edmunson, among the others?—A. I don't remember. Any extra copies issued generally was where we spoke particularly about some candidate and he wanted lots extra for his own use; and, of course, they went over the county generally.

Q. Will you permit one of us to examine the files of your paper for the last few weeks prior to the election?—A. Yes, sir.

Q. And will you permit us to make copies of any articles or matters in these files that we desire to attach here as exhibits?—A. Yes, sir.

Mr. WAGONER. We object as incompetent, immaterial, irrelevant, and we object to it unless the witness is brought back on the stand and the copies be submitted to us first.

Mr. HOFFMAN. We will do all of that.

Examination by Mr. FEUQUAY:

Q. At the time of the general election 1912 and prior to that several years you were the authorized correspondent of the Daily Oklahoman at Chandler

Mr. WAGONER. Objected to as being incompetent, irrelevant, immaterial.

A. I don't think I have been correspondent for the Oklahoman for about two years—a little over two years, maybe.

Q. At that time you were not the recognized correspondent of the Oklahoman?—A. Not during the last campaign.

Q. And anything that appeared under Chandler date line would not come under your authority?—A. No, sir.

Q. While you were editor of the Chandler News-Publicist, immediately prior to the general election of 1912, did you clip and publish in the columns of that newspaper any of the articles about the enforcement of the grandfather clause from the columns of the Guthrie Daily Star?

Mr. WAGONER. Objected to as being incompetent, irrelevant, immaterial, and tending to prove no intimidation or coercion, of any authorized official in Lincoln County—the Boardman letter itself does not tend to show any intimidation or coercion.

A. I think we did.

Cross-examination by Mr. WAGONER:

Q. Mr. Nichols, as editor of the News-Publicist, if you did publish anything about the grandfather clause, was it not only for the purpose of informing the people and the election officials as to what the law was that they might not prevent any legal voters from voting at that election?—A. Yes, sir.

Q. You say you were secretary of the Republican county central committee?—A. Yes, sir.

Q. You were present at all the councils of the party?—A. Yes, sir.

Q. The county central committee and the executive committee?—A. Yes, sir.

Q. Were you present when any speeches were made in the county by outside speakers or local speakers?—A. Yes, sir.

Q. Mr. Nichols, you may state what was the attitude of the Republican Party of Lincoln County, both the county committee and the executive committee, in regard to the grandfather clause. By that I mean what instructions did they give and what were they trying to have done?—A. I never heard anyone make any remarks in any speech other than if a negro could not read and write to stay away from the polls—that's the only instructions I ever gave a negro.

Q. Was there any instructions or agreement reached in your organization in which you instructed the negroes to go to the polls where they couldn't read and write and to take their guns and demand their right to vote?—A. No, sir.

Q. You were in Lincoln County two years ago during the election?—A. Yes, sir.

Q. You were editor of the News-Publicist at that time?—A. Yes, sir.

Q. Did you take any part in the campaign?—A. Only as a newspaper man.

Q. Well, from what part you took in the campaign as a newspaper man, you know something about the enforcement of the grandfather clause at that time, do you not?—A. Well, all I know at that time would be hearsay; no personal knowledge.

Q. Do you know whether or not any members of the county election board in Lincoln County at the last election gave any instructions to the election officials in regard to enforcing the grandfather clause?—A. I don't remember of any just now.

Q. Do you know H. G. Stettmund?—A. Yes, sir.

Q. Did you ever have any conversation with him about the enforcing of the grandfather clause and what instructions he was giving the inspectors?—A. I had a conversation with him, but I can not remember just now what it was. I will try to remember—think of it.

Q. Wasn't the attitude of the Republican organization in Lincoln County the last time to simply fortify themselves for an unreasonable enforcement of the grandfather clause?—A. That is my understanding of it.

Q. And whatever talk and publications were had by the party was with that in view, was it not?—A. Yes, sir.

Mr. NICHOLS. I would like to make one statement, if I may. Republican headquarters were open at all times and Democrats had just as free access as any one else and some Democrats were there a great deal of the time.

Cross-examination by Mr. WAGONER:

Q. I desire to ask you this question: Mr. Hoffman asked you awhile ago about the Boardman letter being published in the Oklahoman. The Oklahoman is a Democratic newspaper, isn't it?—A. Yes, sir.

Q. The State paper; or claims to be?—A. Yes, sir.

Q. Now, you stated just a moment ago your headquarters were open and everybody had access there?—A. Yes.

Q. If this Boardman letter and this slip were sent out here it could have been sent out in this county by Democrats, could it not?—A. Yes, sir.

Redirect examination by Mr. HOFFMAN:

Q. At the 1910 election and prior thereto did you circulate and publish what is known as the John Embry letter, former United States attorney next preceding Mr. Boardman?

Mr. WAGONER. Objected to as being incompetent, irrelevant, immaterial, tending to prove no issue in this contest.

Q. A copy of which I hand you herewith.—A. I don't remember whether we published it or not. The files will show.

Q. We have the liberty of examining your files to ascertain that?—A. Yes, sir.

Mr. NICHOLS. I hand you Exhibit No. 8 and ask if you can state by whom that was mimeographed?

Mr. WAGONER. Objected to as being incompetent, immaterial, and irrelevant. A. No, sir; I do not.

Whereupon, by agreement of all parties, the taking of testimony in said matter is continued until Monday, March 3, 1913, at the same place.

Wherenpon, on Monday, March 3, 1913, all parties being present as before, the taking of said depositions on the part of the contestant is resumed.

H. G. STETTMUND, being duly sworn as a witness for the contestant, testified as follows:

Direct examination by Mr. HOFFMAN:

Q. What is your name, age, occupation, and place of residence?—A. H. G. Stettmund; age, 52; occupation, retired merchant; Chandler, Lincoln County, Okla.

Q. In what official capacity, if any, were you acting at the last general election in Oklahoma?—A. I was the secretary of the county election board—a member of the board.

Q. As such inspector was it among your duties to deliver the ballot boxes and election supplies to the inspectors prior to the election?—A. It was my duty to prepare the ballot boxes and deliver them to them, taking their receipt thereof; and also it was my duty to give each inspector an election law that he might thoroughly post himself as to the conducting of the election.

Mr. WAGONER. Comes now the contestee and objects to this, as the law defining the duties of the secretary of the county election board is the best evidence, and governs as to his duties.

Q. Did you have a meeting with the inspectors of election prior to election time. Did you call them in?—A. No, sir.

Q. Did you deliver them the ballot boxes?—A. I delivered the ballot boxes from the Thursday before the election up until Tuesday morning, the day of the election.

Q. Did you have an opportunity, and did you converse with these election officials as to their attitude and feeling in regard to the enforcement of the so-called grandfather law at that election?

Mr. WAGONER. Objected to as being incompetent, irrelevant, immaterial; anything the election inspectors might have said to him would be hearsay evidence.

A. I had occasion to meet most all of them, I had Mr. Hinchey appointed to help me deliver the boxes. The secretary alone couldn't handle it when they came in in a rush, and I had him appointed to help me to deliver them and answer such questions as they might ask for information regarding the election. There was, however, several of them that asked information and were very much——

Mr. WAGONER. We object to all of this answer.

A. In desire of resigning or to have someone else to handle it, as they were afraid of being indicted by the Federal authorities.

Mr. WAGONER. We object to all of the above as hearsay, incompetent, irrelevant, and immaterial.

Q. Did they express any fears as to whether or not they would be indicted and imprisoned if they should try to enforce the so-called grandfather law at the election and qualify the negro voters by the reading and writing test?

Mr. WAGONER. Object to this question on the ground it is incompetent, irrelevant, and immaterial, calling for conclusion of the witness, and hearsay evidence.

A. Yes, sir. In explanation——

Mr. WAGONER. To which explanation the contestee objects as incompetent, irrelevant, immaterial, not the proper evidence, calling for conclusion of the witness, and asking him to testify as to hearsay evidence.

A. I state there was at least four or five, probably more of them, that was very much aroused over the reports of the newspapers in regard to the enforcement of the grandfather law, also the last end of it, some were even in doubt after receiving a letter of Governor Cruce, which was mailed to the inspectors by myself instructing them that as long as they would enforce——

Mr. WAGONER. Object to what that letter said without producing the letter.

A. Well, then, even after mailing the letter to them from Governor Cruce, they would still be in doubt, and it took encouragement with some of them to have them act as inspectors.

Q. Do you know whether or not election officials who served in the last general election preceding the 1912 general election were indicted and prosecuted in this county for having enforced the grandfather law?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial, and not the best evidence.

Q. Do you know whether or not that was a matter of general knowledge throughout this county?

Mr. WAGONER. Objected to as being incompetent, irrelevant, immaterial; not the best evidence as to whether they were indicted and prosecuted.

A. Yes, sir; I do know the fact.

Q. Was it a matter of common and general knowledge throughout the county prior to the general 1912 election that former election officials had been indicted and prosecuted by the Federal Government for enforcing the grandfather law in this county?

Mr. WAGONER. Object to that as incompetent, irrelevant, immaterial, and not the best evidence.

A. It was.

Q. Are you able to state whether or not the inspectors who came in for their ballot boxes and instructions were intimidated and were afraid to enforce our State law at the 1912 congressional election with regard to qualifying the negro vote?

Mr. WAGONER. Objected to as being incompetent, irrelevant, and immaterial, calling for a conclusion of the witness, and being hearsay evidence.

A. They were, and I would state in regard to that that with one inspector on one occasion the county attorney, Jones, happened to be present while the inspector and I were talking over the proposition of the election; while he was asking me questions Mr. Jones made the remark, "We will be there and see that every negro votes at this election." My answer was to Mr. Jones that I as secretary of the election board would instruct the inspectors that if anyone interfered with the election officials they would be prosecuted; that they would take the names and have them prosecuted if there was anyone interfering.

Q. Do you know whether or not it was a matter of general knowledge and a topic of general conversation throughout the county prior to the November, 1912, election that the negroes in the heavy negro precincts were going to go armed, if necessary, to the polls at that election and insist on every negro voting?

Mr. WAGONER. Objected to as being incompetent, irrelevant, and immaterial, calling for a conclusion of the witness, and asking him to testify as to hearsay evidence.

A. I did hear that remark and would say that it has been ever since the law was enforced, as I was secretary of the election board two years ago last November. At that time there was threats made on the secretary of the election board by the county judge, F. A. Wagoner, on the streets—the next morning after election—by stating that the Federal United States marshal would be here from Guthrie after me. Not only some of the inspectors, but also after me.

Q. That's Judge Wagoner who appears for the contestee in this case?—A. Yes, sir; right in front of the courthouse the next morning after the election.

Q. What official position, if any was he holding in this county at that time?—A. He was judge of the county, and from that time on the inspectors could not hardly be kept in their office on account of being afraid of being prosecuted. I have had time and time again had to fill places on the election boards where inspectors did not want to face the troubles.

Q. Do you know former United States Attorney John Embry?—A. Yes, sir.

Q. Do you know anything about the letter which he issued and circulated just before the 1910 general election warning all inspectors in substance not to enforce the grandfather clause?—A. Yes, sir.

Q. Of what town and county was John Embry a former resident?—A. He was of Chandler, Lincoln County.

Q. Lived here for a number of years prior to his taking office?—A. Yes, sir.

Q. Do you know anything about him coming into this county just prior to the last general election and making a trip over the county electioneering for the Republican ticket and for Congressman McGuire?

Mr. WAGONER. Objected to as incompetent, irrelevant, immaterial.

A. I heard of him being here in the county as well as in the town of Chandler.

Mr. WAGONER. Comes now the contestee and asks that above answer be stricken out as being hearsay evidence.

Q. Do you know whether or not that is the same John Embry, United States attorney, who prosecuted and caused the conviction and sentence to the penitentiary of Guinn and Beall, election officials of Kingfisher County, at the 1910 election?—A. Yes, sir.

Cross-examination by Mr. WAGONER:

Q. Mr. Stettmund, you take a very active part in Democrat politics of Lincoln County, don't you?—A. Yes, sir.

Q. Have ever since you have been here?—A. Yes, sir.

Q. You are what is termed a very partisan Democrat, are you not?—A. No, sir.

Q. You are not?—A. Not a partisan; I believe in doing what is right.

Q. Have you always done what is right in regard to this election matter since you have held the official position of secretary of the county election board?—A. I did to the best of my knowledge under the understanding of the law.

Q. You have been the adviser of the inspectors of Lincoln County?—A. I give them information.

Q. You have instructed them from time to time, have you not, how to enforce the grandfather clause?—A. On their request.

Q. You have given your opinion as to how the law should be enforced?—A. No, sir.

Q. You were on the election board in 1910?—A. I was on the election board, but did not instruct them at that time.

Q. You say you did not in 1910?—A. No, sir; only merely information they would ask.

Q. What official position do you hold?—A. Secretary.

Q. And you held the same position in 1912?—A. Yes, sir.

Q. Did you not, in 1910, advise the various inspectors in Lincoln County that they had a right to test these negroes whether they could read and write substantially satisfactorily to their own mind or that in substance?—A. Yes, sir; I told them.

Q. Did you not tell them that was the law at that time, in 1910, that they were the sole judge and that they had to read and write satisfactorily to them; did you not do that; answer my question, yes or no.—A. Yes, sir; in explanation to that I will state we had a special printed copy of the grandfather clause which was sent to me by the State election board which I handed to each one especially for them to know.

Q. But in addition to that, did you not instruct them by word or letter that they had a right to test these men satisfactorily to their own selves? Didn't you do that in 1910?—A. I did instruct them to this effect. That they should test them according to law and that they must be able to read and write intelligently.

Q. Did you not say to them at that time that they had to read and write that satisfactorily to the inspectors?—A. I would say this in answer to that, that I had Mr. George Smith to help me at that time to get out boxes and he helped me instruct them any questions they asked.

Q. I am asking you, Mr. Stettmund, if you did not instruct these election inspectors in 1910 that no negro was entitled to vote unless he could read and write that Constitution or a section thereof satisfactory to him, and that he was the sole judge or that in substance?—A. I did.

Q. And did you not tell me and other Republicans that that was the instructions you were giving them?—A. I did.

Q. Did we not say to you in return to that, that that was not the law, that the law was they had a right to test them as to being able to read and write a section of the Constitution, but not satisfactory to themselves; that that was not in the law; didn't we tell you that?—A. I don't remember.

Q. As a matter of fact, did you not know that that latter part of my question was not in the law "satisfactory to the inspectors"?—A. I don't think it is in the law, I don't think I instructed them in that way; I instructed them and we read the leaflet, a copy of the grandfather law, as it was sent to us.

Q. What instructions did you give the inspectors in 1910?—A. I didn't give them any instructions, the instructions was given them—they were here at the special meeting.

Q. Who was present at that special meeting?—A. There was most all the inspectors.

Q. Besides the inspectors, who else was present?—A. Well, there was a good many citizens there.

Q. What was that meeting called for?—A. It was called for in order to get them to understand the grandfather law, so they wouldn't make any mistakes.

Q. Who instructed them at that meeting what the grandfather law was and what it meant and how it should be enforced?—A. Mr. George Smith.

Q. Who is George Smith?—A. George A. Smith is the editor of the Tribune.

Q. What official position in the Democratic Party did he hold at that time as to being a member of the county election board or otherwise?—A. He was not a member of the county election board. The county election board asked Mr. J. B. A. Robertson and George Smith to explain this law fully to them as it was understood by them.

Q. Mr. Smith made an explanation, did he?—A. Mr. Smith explained it.

Q. Did Mr. Robertson?—A. Mr. Robertson wasn't present.

Q. Mr. Smith is not an attorney, is he?—A. No, sir.

Q. Who else made any explanation?—A. No, sir.

Q. Did you not?—A. No, sir.

Q. You didn't give them any instructions at that time?—A. No, sir.

Q. You were secretary of the election board?—A. Yes; I was secretary of the election board.

Q. What did Mr. Smith tell them there to do?—A. I don't remember exactly, it has been some time ago; he explained it to them, the law, to those there present, and took it up with them; they would ask him questions and he would answer them.

Q. Mr. Stettmund, wasn't it a fact, in 1910, that the instructions of yourself and Mr. Smith and others who advised the inspectors, was with the idea in view to keep all negroes possible from voting?—A. No, sir.

Q. It was not?—A. It was not.

Q. Didn't you receive a telegram from the State Democratic committee, in 1910, less than a week before the election, as to certain instructions to give the inspectors?

Mr. HOFFMAN. Objected to as incompetent and immaterial.

A. I don't think so; I may have gotten letters but no telegrams that I know of.

Q. You did get letters from them?—A. I got letters from the—yes, sir; but not on that occasion. The only letters I received in regard to that was they notified me to be sure and hand a special copy of the grandfather clause to each inspector on account of it was not in the election law that was furnished to them for instructions.

Q. How was that?—A. The grandfather law was not in print in the constitution. It was to be put in the constitution for the election inspectors for their board so they would have it.

Q. Do I understand you were going to change the constitution and put the grandfather clause in the constitution?—A. It's either in the grandfather clause or the general election law.

Q. Now, isn't it a fact, in each ballot box that went out in 1910, there was a separate piece of paper with one or more pages on which was instructions from the Democratic State central committee or some other Democratic organization instructing the inspectors how and in what manner to enforce the grandfather clause in that election; wasn't that put in the ballot boxes by you or one of your employees?—A. I don't remember.

Q. Do you say it was not?—A. I couldn't tell.

Q. Mr. Fred Hoyt was present, wasn't he, when those boxes were fixed and sent out?—A. Yes, sir.

Q. Now, refresh your memory as to whether a piece of paper of that kind was not in those ballot boxes?—A. That piece of paper was the copy of the grandfather law.

Q. Wasn't there a paper in that box put in by you or some of your employees other than the constitution; other than the poll book and the ballots, and other than the election law, on which paper was instructions to the election officials or inspectors as to how or in what manner to enforce the grandfather clause or that in substance?—A. I don't think so; I don't remember.

Q. Will you say it was not there?—A. It was not in there to my knowledge; to the best of my knowledge.

Q. You were present when these boxes were fixed?—A. I was present when they were fixed. I will say this, Mr. Fred Hoyt was helping me put some of the supplies in or he was present in that connection. Fred Hoyt was secretary of the Republican central committee at that time, and he was present to see me fill the boxes. I had to go in another room to get the different supplies to put in, and at that time the constitution—I don't remember—I think the slip which had the grandfather clause on was usually put in the constitution; I think I put it in the front of the book of the constitution, and at that time all of the constitutions out of the boxes in the negro precincts was reported missing; in every precinct they phoned me.

Mr. WAGONER. This witness is on cross-examination and I am not asking him to make speeches and get clear outside the record and twist things around to suit his own convenience.

Q. I will ask you again if as secretary of the county election board in 1910 either you or some of your employees did not place in the ballot boxes, together

with the ballots, the poll books, the constitutions, and the election laws, a separate slip of paper with one or more pages upon which was instructions to the election inspectors as to how to enforce the grandfather clause?—A. I did not.

Q. You did not?—A. No, sir.

Q. Do you say there was no such sheets of paper put in the ballot boxes?—A. I don't remember of any.

Q. You were present during the preparing and fixing of those boxes to go out?—A. Yes, sir.

Q. You delivered them personally to the inspectors?—A. Yes, sir.

Q. Now, Mr. Stettmund, you say that in 1912 you had a hard time to keep these inspectors in office?—A. I did.

Q. And you say they were intimidated?—A. Yes, sir.

Q. How do you know they were?—A. They told me so.

Q. That's the only information you have, is it?—A. Yes, sir.

Q. Those inspectors were Democrats, were they not?—A. Yes, sir.

Q. How did they come to tell you they were intimidated?—A. They told me they read in the papers what the papers had to say about the election enforcement.

Q. There wasn't anybody arrested that hadn't violated a law, was there, as somebody understood it?—A. None of them.

Q. You said a moment ago there were inspectors in this county indicted and prosecuted.—A. They were what I heard of.

Q. You don't know of your own knowledge?—A. No, sir.

Q. You were not present?—A. No, sir.

Q. You were not a member of the grand jury?—A. No, sir.

Q. You were not at any court where they were tried?—A. No, sir.

Q. Do you know of a single inspector tried and convicted in Lincoln County for the enforcement of the grandfather clause?—A. No, sir.

Q. Then that testimony you gave about them being tried and convicted was not so, was it?—A. Yes; I mean I heard it.

Q. Well, if a man violates the law in the enforcement of the grandfather clause, he should be tried and convicted, shouldn't he?—A. Yes, sir.

Q. You don't mean to say for violating the grandfather law he should go scot free any more than any other law?—A. No, sir.

Q. Now, in 1910 this law had just been passed, had it not?—A. Yes, sir.

Q. And you didn't know exactly what it meant?—A. No, sir.

Q. Nor how it should be enforced, did you?—A. No, sir.

Q. You are not a lawyer?—A. No, sir.

Q. Have had no experience in law further than any ordinary citizen?—A. I have to some extent.

Q. Just like any ordinary citizen?—A. Yes, sir.

Q. Did you attempt to instruct the inspectors how they should enforce that law?—A. No, sir.

Q. Well, you did instruct them, didn't you?—A. I instructed them as far as I knew how.

Q. You gave them your version of it, didn't you?—A. No; at that time.

Q. Didn't you know in 1910, of your own knowledge, the inspectors of this county refused to permit men to vote under the grandfather clause who could read and write?—A. I don't know that.

Q. Don't you know men were kept in the voting precincts or the voting room as much as two hours?—A. I heard that.

Q. Reading and writing?—A. I heard of it.

Q. Did you not instruct the election inspectors, or some of them at least, in the 1910 election, if a man misspelled a word or mispronounced a word they had a right to refuse him the right to vote?—A. No, sir.

Q. Mr. Stettmund, did you give the same instructions to the election officials in 1910 you did in 1912?—A. Well, I suppose so; I don't remember.

Q. Now, Mr. Stettmund, as a matter of fact, is it not true you didn't instruct them the same in 1912 as 1910, because you understood the law better in 1912 than in 1910?—A. Yes, sir.

Q. Do you know of a negro in Lincoln County that the inspectors permitted to vote in 1912 that couldn't read and write, or were not entitled to vote under the grandfather clause?—A. I don't know; I was not present.

Q. In 1912, isn't it a fact you instructed the inspectors they must be reasonable in the test on the grandfather clause?—A. Yes, sir.

Q. And that anyone who could read and write you must let them vote?—A. Certainly.



Q. You instructed them that way?—A. Yes, sir.

Q. And as a matter of fact, don't you know as nearly as it is possible for you to know, that in 1912 all of the negroes who went to the polls who could read and write were permitted to vote and those who could not read and write were refused, and was that not your instructions to the inspectors?—A. Yes, sir.

Q. Have you heard of any complaint, particularly by the Republicans or anyone else, as to the manner of enforcing the grandfather clause in the 1912 election?—A. Why; no, sir.

Q. Weren't the people pretty well satisfied with it?—A. I don't know; I haven't heard any explanation of it.

Q. You know the grandfather clause was enforced in 1912, don't you?—A. Some of the inspectors I heard didn't enforce it like they should. They were scared.

Q. Scared about what?—A. About being arrested.

Q. Were they afraid to do their duty?—A. They were afraid they didn't know how, some of them.

Q. Why did you appoint that kind of men—that didn't know how?—A. I didn't appoint the men.

Q. Who did?—A. The board previous to the present board appointed all of the inspectors—that is, the new inspectors in 1911.

Q. Do you think the inspectors in 1912 were men who were competent to the extent the ordinary citizen is competent to act as an inspector?—A. I think so.

Q. Don't you believe they were fair men and tried to do the right thing?—A. I should think so.

Q. Do you think they did try to do the right thing?—A. Yes, sir.

Q. And don't you think they did do the right thing as near as you could tell, and knew how?—A. I don't know.

Q. Did you do the right thing as secretary of the county election board?—A. Yes, sir.

Q. Did you see that your inspectors, as near as you could, enforced the law?—A. Yes, sir.

Q. You know Sam Evans, don't you?—A. Yes, sir.

Q. You know the trouble we had with him to get some negroes registered?—A. Yes, sir.

Q. Do you know whether any of the other inspectors did like Sam did?—A. I don't know of any.

Q. What about Pat Ferrell, out in Wichita Township? You know he wouldn't let the negroes vote in that precinct?—A. I think he had some trouble out there.

Q. Didn't he call you up over the phone?—A. No; somebody else called me up and thought he didn't understand the law like he should.

Q. Do you remember what time of the day that was?—A. Forenoon.

Q. Didn't he call you up again in the afternoon about 4 o'clock?—A. No.

Q. Didn't he call you up and tell you Cap Beasler and Fred Wagoner was out there?—A. No; he was talking to me, but he was so excited.

Q. He did call you up, didn't he?—A. Yes, sir; but he was so excited I couldn't get a word out of him.

Q. Do you remember what you told him back?—A. To try to carry on the election as nearly according to law as possible and not be too stringent on the voters; something to that effect. Mr. Hall or some one out there called me up first—I don't remember who the person was—and said he was not giving them a fair show, and I had them bring him to the phone and I told him he must give everybody a fair show and a fair test; and I afterwards heard that he and the rest of the board there some one instructed them to get them to understand it more thoroughly and he carried it on all right after that.

Q. Don't you know he refused between 10 and 18 negroes the right to vote that afternoon, and you were so informed, and you called him up and told him to let each one of those negroes vote who could read and write?—A. That's the time I talked to him.

Q. And don't you know he never did let them vote?—A. I don't know that; no, sir.

Q. Now, Mr. Stettmund, don't you know of your own knowledge what caused a whole lot of talk that has gone around was due to the fact of the manner in which the inspectors in 1910 enforced or attempted to enforce the grandfather clause; isn't that true?—A. I don't think so. In explanation, I will say this, the threats as well as the talk of the enforcement amongst the people caused the trouble.

Q. Now, you said a little while ago I made some threats to you. Were you present and heard them?—A. I was right there when you met me.

Q. When I said the inspectors who violated the law would be arrested?—A. You said they had some already arrested and they would be over here after me. I thought that was pretty strong.

Q. That was in 1910; you were a pretty good man in 1912. You testified you had some conversation with some inspector in presence of Mr. Jones. Who was that inspector?—A. I don't remember just which one it was; Mr. Jones happened to come in and talked with them.

Q. Mr. Jones said he would be at the polls and see that the negroes voted.—A. He said, "We will be there and see that every negro votes at this election."

Q. What did you say?—A. I said, Mr. Jones, I am going to instruct the inspectors there is no one going to be allowed to be at the polls to interfere with the inspectors or any voters, unless he had business there.

Q. That was not what you said awhile ago to Mr. Hoffman. What was your answer to the question when Mr. Hoffman asked you what you said to Mr. Jones?—A. I told Mr. Jones I would instruct the inspectors nobody would be allowed to interfere with the election and they would be arrested if they interfered.

Q. In other words you meant anybody who went there to see if the negro voters, whether right or wrong, were refused, if they said anything to the inspector they would be arrested?—A. No, sir; I said if they came in there and raised any disturbance.

Q. Did Mr. Jones say anybody was going to raise a disturbance?—A. No, sir.

Q. He simply said the Republicans would be there to see that the legal voters were allowed to vote?—A. He said every negro voted.

Q. Suppose a negro came there who could read and write and the inspector refused him, he meant he would be there to see that the negro voted?—A. I don't know what he meant.

Q. You meant that the Democratic inspectors could do as they pleased and if any Republican said anything the Republican would be arrested?—A. No, sir.

Q. What did you mean?—A. I meant if anybody violated the election laws at the polls they should be arrested.

Q. Did you mean the inspector should be arrested if he violated the laws?—A. Certainly.

Q. Who was going to arrest him if the Republicans couldn't go to the polls; your statement to Mr. Jones was no Republican should say a word to the inspectors?—A. No, sir; that was not my instructions.

Q. But you did tell the inspector to arrest any Republican or anybody else who interfered with him at all?—A. No, sir; I said if anybody comes around and interferes and shows them what the penalties are in the instructions in the election law regarding the violation at the polls that they should stop them, or if they didn't stop interfering to take their names and have them arrested.

Q. So you say I threatened you two years ago?—A. Yes, sir.

Q. That was after the election was it?—A. The next day.

Q. All I said you ought to be arrested or would be arrested for what you had done?—A. No, sir.

Q. What did I say?—A. You said "They have got some of the fellows over in Logan County arrested and the United States marshal will be over here after you."

Q. Well, I think he ought to have been after you for what you did. Now, did I make any threats to you after that time?—A. No, sir.

Q. Did I make any threats to you in 1912?—A. No, sir.

Q. Did you and I talk about the 1912 election?—A. Yes, sir; I talked to you.

Q. And didn't we agree upon the proposition?—A. Yes, sir. I asked you at times for information as assistant county attorney, and you gave that to me.

Q. No threats in that at all?—A. No, sir.

Q. You remember of you and I having a conversation right on the sidewalk that goes over to the post office one evening; there was a crowd standing there, and you came along, and somebody stopped you—something about some question asked about the grandfather clause; enforcement of it?—A. I don't remember.

Q. And you gave your answer to it?—A. I don't remember.

Q. And I simply said to you, "I think, Mr. Stettmund, you have a wrong idea, or you haven't expressed yourself right"; and you went ahead and explained it and we agreed upon the proposition?—A. I don't remember.

Q. That was on the question whether or not you could test them under the law as it was now satisfactorily to the inspector; and also whether or not the

whole board didn't have a "say so" in it; and your first explanation you left out about the whole board had anything to say with it and afterwards corrected it and said it was for the election board to decide and not the inspector.—A. I don't remember; it may be so; I know we talked about it several times.

Q. Now, Mr. Stettmund, as far as the 1912 election was concerned, your instruction was to let all negroes and everybody else who could read and write vote?—A. Yes, sir.

Q. In other words, didn't you instruct the election officials of Lincoln County to carry out the law as laid down by Gov. Cruce here in Chandler, which you heard?—A. I heard it. I explained to them.

Q. You heard Gov. Cruce's speech?—Yes, sir.

Q. And in that speech he told the people a negro who could read and write must be permitted to vote?—A. Yes, sir.

Q. And that they must be fair and reasonable in that test?—A. Yes, sir.

Q. Did you ever read the decision of our State supreme court on the enforcement of the grandfather clause?—A. No, sir.

Q. Did you get Attorney Gen. West's letter?—A. Yes, sir.

Q. Did you act a member of the county elections board or a member of the Democratic county central committee?—A. I think I only got one letter that came to me—I think all I did was, I told them of the opinion of the attorney general.

Q. When was it you told them about that opinion?—A. Well, I don't remember exactly; just before they came after the ballot boxes, or at the time.

Q. You made it a point then to instruct each inspector as to his duties of the enforcement of the grandfather clause when he came after the ballot box?—A. No, sir; I only answered questions that they would ask.

Q. Well, what was some of the questions they asked?—A. Well, they had several questions to ask.

Q. Give us some of them.—A. Some in regard to the grandfather clause.

Q. What did they ask you in regard to the grandfather clause?—A. They wanted to know how it would have to be enforced.

Q. What did you tell them?—A. I told them to give them a reasonable, fair test to read and write, and the board had to be satisfied.

Q. What else did you tell them?—A. Some would ask questions in regard to having liquor around the place where it was unlawful, and I told them he had a perfect right to have a warrant got out by a justice of the peace to have anyone arrested who had any whiskey or who was drunk on the grounds.

Q. That was the law, wasn't it?—A. Yes, sir.

Q. That was printed in your general election law. I want to know about the grandfather clause. What else did you tell them about that reasonable, fair test of the grandfather clause?—A. I told them they should give them a chance and opportunity to vote when they were entitled to it, and give them a fair test.

Q. Did they ask you what you meant by a fair test?—A. No; I don't think so; I don't remember.

Q. Did you have a meeting of the inspectors in 1912 before they came after the ballot boxes?—A. No, sir.

Q. Didn't the Democrats of Lincoln County have a meeting over here in the Filtsch Building less than two weeks before election in which all the Democratic inspectors were invited to be present, and were you not present at that meeting yourself?—A. No, sir; we had no such meeting.

Q. And at which time wasn't it discussed as to the manner of enforcing the grandfather clause?—A. Not that I know of.

Q. And wasn't the instructions given him by the Democratic Party prior to Gov. Cruce coming here to try to keep all the negroes possible from voting?—A. No, sir.

Q. Didn't you hear Democrats say here after Gov. Cruce was here that they didn't like that part of his speech about the enforcement of the grandfather clause?

Mr. HOFFMAN. We object to this as immaterial.

A. No, sir; I haven't heard; I will say this in answer to the meeting: When Gov. Cruce was here, he was the first day when the ballots were ready to be delivered, and I informed the inspectors that he would be here and would be at Wellston, and that he, according to the papers, was going to explain the grandfather law, and they could hear him either at Wellston or here; and those

who would come, if they were present, they wouldn't have to come back for the boxes, and could get their election supplies at the same time and save two trips.

Q. Now, then, you say these inspectors were intimidated. Name me one who was scared to death when he came in here to get those ballot boxes, as you stated a while ago that they were.

Mr. HOFFMAN. I think this is putting it pretty strong.

Q. Name one of them.—A. I can name this man out in South Fox was very much scared.

Q. Do you know whether Mr. Justice has testified in this contest or not?—

A. I do not.

Q. What did Mr. Justice say when he came in now—that he was scared?—

A. Yes.

Q. About what?—A. He was afraid that he would be arrested.

Q. For what?—A. If he didn't let the colored men vote, or if he enforced the election law according to the law.

Q. He was? That's what he said to you, was it?—A. Something to that effect.

Q. Tell what he said?—A. I don't remember exactly. I know he was one of them who was afraid of having trouble.

Q. What did you tell him to do as secretary of the county election board?—

A. I told him he should not pay any attention to any threats or any newspaper items or anything of that sort, and go and carry out the law and he wouldn't be hurt.

Q. That's what everybody said in the county, if they went according to law, they wouldn't be hurt; that's all the Republicans asked?—A. That's what I said to them, to go according to law.

Q. That's all the Republicans asked?—A. Certainly.

Q. Fair, reasonable, and just?—A. Yes.

Q. You never heard anything else, did you?—A. No, sir.

Q. You were not, any of you fellows, afraid of being arrested for enforcement of the grandfather clause, were you not?—A. I was not; I was not an inspector; I was not in a position—

Q. You were a member of the county election board?—A. I was, but we didn't have any test to make.

Q. You understood if you conspired with the election officials for preventing any legal votes to be cast you could be arrested under the conspiracy act?—A. I didn't cause any conspiracy.

Q. You instructed the inspectors how to carry out the law?—A. I instructed the inspectors; yes, sir.

Q. And if you advised them wrong you would be guilty, wouldn't you?—A. I suppose so, but I didn't advise them wrong; I told them to go according to law.

Q. What did you tell them to do?—A. I told them to read the law just as it was.

Q. They had these instructions all the time?—A. Yes, sir.

Q. A moment ago you said you instructed the inspectors how to enforce the law.—A. I answered questions they would ask.

Q. They asked you how to enforce the grandfather law?—A. No, sir.

Q. What did they ask you?—A. They said they were afraid they would be arrested.

Q. Arrested for what?—A. For not letting fellows vote.

Q. That was entitled to vote?—A. No; for letting fellows vote that was not entitled to vote.

Q. Afraid they would be arrested for letting fellows vote who were not entitled to vote? Had you told them as secretary of the county election board if they let a man vote who was not entitled to, that they would be arrested?—A. No; I didn't tell them that.

Q. Is that the law?—A. Why certainly.

Q. Is there any section in our election law that provides for the arrest of an inspector who lets a man vote who is not entitled to?—A. If he knows it.

Q. Is there any section which fixes a punishment on him?—A. You get that mixed up.

Q. You stated a minute ago they were afraid they would be arrested if they let a man vote who was not entitled to. I am asking you if there is any provision of our election law for arresting an inspector, or judge, or clerk of election, that permits a man to vote that is not entitled to when a man hasn't been challenged?—A. I don't think there is such a law; I meant if they made a mistake and not let a man vote when he was entitled to. You got that mixed up on me.

Q. Is there any provision of our State law for arresting and punishing a man that keeps a legal voter from voting under the State law?

Mr. DAVIS. Objected to, the witness not having shown himself to be a lawyer.

Q. He is the legal adviser of the Democratic Party in Lincoln County, has been according to his testimony for four years, as secretary of the election board, and has stated under oath he has instructed the various inspectors at each of the elections how to enforce the grandfather clause.

Mr. DAVIS. I was objecting to the form of the question.

Question repeated.

A. I said no.

Q. Then, Mr. Stettmund, the fact is when these inspectors came in you and the inspectors just had a general conversation pertaining to the election, that is about all there was to it, wasn't it?—A. Yes; I had very little conversation with them only when they had questions to ask.

Q. And when they asked you about the enforcement of the grandfather clause you told them to enforce it reasonably, fair, and just?—A. Yes, sir.

Q. And to let every man vote who was entitled to vote?—A. Yes, sir.

Q. And who could read and write the constitution?—A. Yes.

Q. And they did that in Lincoln County?—A. I think so; I don't know.

Q. You say in the examination in chief here that you heard that negroes would go to the polls armed to vote; when did you hear that?—A. I heard that a little over two years ago.

Q. In 1910?—A. And ever since; especially at that election in 1910; it was talked on the streets that they were going to go armed.

Q. In 1910—that is, the first election?—A. Yes, sir.

Q. Who talked that?—A. Well, the people on the street.

Q. Name some of them.—A. I can not tell you.

Q. Wasn't it mostly Democrats talking it?—A. Well, I don't think so; it was the talk amongst the people of Chandler.

Q. Don't you know it was just simply campaign stories that always go the round every campaign?—A. Certainly that's what it was.

Q. It was done for political effect?—A. I think so.

Q. Campaign dope; trying to create a prejudice in the minds of people.

Mr. DAVIS. We object to that.

Q. You didn't believe it, did you?—A. Well, I believed it; I expected trouble, because there was so much talk.

Q. Talk about what?—A. In other counties; the papers was full where they had troubles other places—was going to have trouble.

Q. When?—A. At the election.

Q. They hadn't had an election at the time that stuff was said?—A. It was at the primary election, if I remember right, when the trouble first started, and I think the election was when the biggest talk was.

Q. In 1910?—A. Yes, sir.

Q. There wasn't any trouble in 1910 in this county?—A. I don't think so.

Q. Did you hear of any fight at any of the election precincts in 1910?—A. I don't remember.

Q. Was anybody arrested for carrying a gun in 1910?—A. I don't think so.

Q. Was there any negro arrested for having a gun on his person in 1910?—A. I don't think so.

Q. You instructed all your election officials to look out for that?—A. No, sir.

Q. Wasn't there a constable appointed for each election precinct in 1910 to be there and arrest anybody who had a gun on him?—A. Not by instructions of the board.

Q. You instructed your officials they had a right to appoint a man for that purpose?—A. No, sir.

Q. And didn't they appoint one?—A. No, sir.

Q. And didn't the Democrat Party put out the statement they would arrest the negroes who came there for having guns?—A. I don't know.

Q. And by that didn't you keep a whole lot of negroes away from the polls in 1910 who didn't go there?—A. I don't know.

Q. You talk about threats and intimidations—hasn't there been as many threats made by the Democrats as there has by the Republicans? I am not speaking about the organizations, but as individuals?—A. I can not say as to that.

Q. As a matter of fact, you know that is true, don't you; just campaign talk?—A. No, sir.

Q. You don't know that?—A. No, sir; I can not state that.

Q. But you do say and want to be understood in saying that your Democrat inspectors in 1912 were intimidated, scared, or coerced?—A. They were scared.

Q. About what?—A. About the enforcement of the grandfather clause; the way they had so many articles in the papers.

Q. Did they tell you that?—A. They told me so.

Q. They told you the reason why they were scared?—A. They were afraid.

Q. Who else was scared besides Justice?—A. I think Mr. Pickett asked if I couldn't appoint somebody else in his stead; he was afraid of trouble.

Q. That was out in Otoe Township.—A. Yes.

Q. Who else was scared?—A. I can not call the names, there was so many there at a time, you know, I can not recall all of them to speak of.

Q. Are you certain it was the election inspectors that were scared?—A. It was nothing but the election inspectors that came afer the boxes.

Q. You are sure these conversations took place at your office?—A. Yes, sir.

Q. He came in to resign?—A. No; I had some speak to me to put some one else in the office, some of them asked me some weeks before the election.

Q. The reason they asked you was because a Democratic organization was insisting on them not allowing the negroes to vote at all, and they didn't want to go that strong for fear they would be arrested, was this not a fact?—A. No, sir.

Q. Why were they afraid to do their duty?—A. They were afraid if they made a mistake unknowingly they would be prosecuted and have to go to the penitentiary. Some of them were afraid. They didn't want to be arrested.

Q. You assured them there would be no trouble at all; just to go ahead and enforce the grandfather clause, and the great State of Oklahoma would protect them; didn't you tell them that; didn't you tell them that; just go ahead and enforce the grandfather clause, and the great State of Oklahoma would protect them, hire their lawyers, and see no trouble came to them?—A. No; I said if they would go ahead and carry out the law as it was written they wouldn't have any trouble at all.

Q. Did you ever talk during the last campaign with any of the Republican organization, members of the Republican organization, about the enforcement of the grandfather clause?—A. I don't remember.

Q. Ever talk with M. W. Lynch?—A. Not that I know of.

Q. Ever talk with L. B. Nichols?—A. I may have talked with him; I don't know whether I talked about the grandfather clause or not.

Q. Ever talk with any Republican about the enforcement of the grandfather clause?—A. I can not say as to that.

Q. You do know all the Republicans asked was a fair and reasonable test and a fair and reasonable construction, fair and reasonable enforcement of that law, don't you; that's all they asked here in this county?—A. The majority of them did, but some of them would say the other way.

Q. That's true of the Democrats; you had Democrats here who didn't want negroes to vote at all?—A. Yes, sir.

Q. Your inspector, Sam Evans, in the third ward, even refused to keep the books out, and you and others of us had to spend half the night trying to find them?—A. Yes, sir.

Q. And we had to register those negroes afterwards, because he hid out the books.—A. He signed and turned the books over to the new inspector, and the new inspector was not to be found. Mr. Evans had nothing to do with it at the time, the registration was trying to be made the last night that was Mr. Harris was then appointed and had received the books.

Q. You say he had received them?—A. He had received them at the time or before that and he was the inspector at the time.

Q. Now, Mr. Stettmund, isn't it a fact that Harris never received those books; that he didn't have them in his possession in the afternoon or that night when we were trying to find them? Didn't you go to Harris's house and find out the books were not left there?—A. I will say this: We went to the house, you and I went to the house, and Mrs. Harris said that Mr. Harris had the books, but she didn't know where they were and Mr. Harris was gone up town, and I know that he had the books, because he came up town in the afternoon or the day before, whenever it was; it will show on the record at the clerk's office when he qualified, and he took possession of the books. I gave him an order to Mr. Evans to turn over the books to him; that he was the qualified inspector for that ward, and afterwards we looked for them and we took all the parties who wanted to file, their names and residence, etc., and did all we could for them to have them file, and also had them filed, I think, afterwards. I think you did or I; they were all filed properly.

Q. Now, Mr. Stettmund, isn't it a fact that when we went to the Harris house Mrs. Harris said that Sam Evans had been there at 2 o'clock or about that; that he didn't leave the books; that she told him where Bob Harris was working and that you started out to find Bob Harris; that those books were never delivered to Bob Harris that afternoon or that night, and you had to find the books afterwards and Bob Harris never did qualify at all, and you had to appoint another inspector in the place of Sam Evans?—A. I don't remember; I don't think so. I think Mr. Harris had the books; I know he did.

Q. He had never been home that night when we was over there, and if he had the books at all they were locked up in his tool chest over Charlie Finch's store?—A. Yes; they were in his tool chest.

Q. And didn't Bob Harris tell you he refused to take the books from Sam Evans when he brought them over there, and Sam laid them down, and he simply put them in his tool chest to keep them from being lost?—A. I don't remember; I know they were in his tool box.

Q. And we couldn't find Harris anywhere and you and Mr. Collar and I agreed these men should be registered afterwards on account of the acts of the inspector?—A. Yes, sir.

Q. And as soon as you got an inspector that could register them you registered them. That was before the primary election in 1912, wasn't it?—A. Yes, sir; I think so.

Q. Now, then, Mr. Stettmund, you said awhile ago that some Republicans had one view and some others. That was true of the Democrats, was it not?—A. Yes, sir.

Q. Some wanted the law enforced as the legislature passed it upon the statute books, others wanted it enforced so no negroes could vote at all?—A. Yes, sir.

Q. And that's what caused all the agitation and talk and political statements made by various people?—A. Yes, sir; I suppose so.

Q. Their own desire and inclination in the matter?—A. I suppose so.

Q. Can you name me any other inspectors that were intimidated and coerced and scared other than Justice and Puckett?—A. I don't remember just now but most of them spoke of it.

Q. Was Pat Farrell scared?—A. I didn't get to see him.

Q. How did he get his box?—A. He came and got his box and signed up, he didn't ask any questions.

Q. He didn't need any instructions?—A. I suppose he thought probably he knew about it.

Q. How about George Prough from Tohee Township—was he scared?—A. Well he was scared until he went down to Wellston and heard the governor speak, and after that he was not scared.

Q. How about U. D. Thompson, was he scared, he comes from a negro precinct up in South Iowa?—A. Well, he was not scared; no, sir; that I know of, not enough to want to resign.

Q. There was not very many that wanted to resign?—A. There was. There was a good many of them wanted to get off.

Q. That was right after the 1910 election?—A. After the primary was when they wanted to get off.

Q. Because they were scared or just because they didn't want to be inspectors?—A. They were scared, they were afraid of trouble.

Q. You say Justice and Puckett were scared. Prough and Thompson and Pat Farrell were not?—A. No; I didn't talk to them.

Q. Who else was scared?—A. Well, lets see, there was in Chandler Township I had to let off Mr. Carpenter because he was afraid to do just right or to be inspector because he said he didn't want to lay himself liable, he didn't understand the law well enough, and I excused him and we appointed a man named Hall in his place. He wanted to be off because he said while he was in business he didn't want to—

Q. Make anybody mad.—A. Make his colored friends mad, which I thought no more than right.

Q. And he couldn't stay on the election board and carry out the instructions given by you without making some of them mad, because the instructions was to not let them vote?—A. No, sir; he couldn't do it. Yes, sir; he could stay on the election board and carry out the instructions by the law without hurting himself.

Q. Which instructions, the ones given by you or Cruce or the attorney general?—A. The law, the election law.

Q. The election law says certain things about this grandfather clause and leaves it up to the election inspectors?—A. Yes.

Q. Anybody else now?—A. Mr. Carpenter was released on that account because he was in business.

Q. Because he wanted to get off—that's all you know about it?—A. Yes; on account of the colored vote.

Q. Didn't want to serve out there on the election board?—A. He didn't want to serve on the election board.

Q. How many colored votes in Chandler Township?—A. I don't know.

Q. Do you know how many voted in 1912?—A. How many colored ones?

Q. Yes.—A. No; I don't know that.

Q. These men you speak about that were intimidated were all intimidated just before the 1912 election?—A. Yes, sir; I think so; unless there were some of the old ones. There were several of the old ones that had served two years ago, some few new ones. The new ones, like Mr. Newcomb, he was quite confused, and after I told him that he follow the law he seemed to feel different.

Q. Mr. Stettmund, if I should desire to take additional testimony from you on cross-examination, would you be willing to appear any time I might arrange it, considering your convenience in the matter, letting you know ahead of time?—A. Yes, sir; if I am in town.

Q. If I should select some time at night, or something of the kind, would you come in and give further testimony?—A. I would have to come six miles. I stay out in the country all week when the weather is nice. I could be present at any time if it should happen to be bad weather—rainy.

Q. You are willing to appear upon notice from Mr. McGuire, or persons in charge of his contest, are you, to give further testimony upon our notifying you two or three days ahead of time?—A. I think so.

Q. If we give you that notice will you appear?—A. Yes, sir; if it's possible for me to be here.

Q. That is for you to be the judge.—A. Well, I will be here if I am not sick.

Q. Well, sick or dead, I wouldn't expect you to come. I believe that's all at this time. Let the record show we may want Mr. Stettmund on further cross-examination before commencing to take the testimony in chief for Mr. McGuire, or at the time we start to take his testimony.

Redirect examination by Mr. HOFFMAN:

Q. Mr. Stettmund, you stated you thought the grandfather clause was reasonably enforced in Lincoln County. Do you know of your own knowledge whether it was or not?—A. No; I do not. I was not at any election excepting while I voted.

Q. So far as your own knowledge goes there was no one applied the test?—A. No, sir; not that I know of; not a one. I haven't been at any precinct excepting the time I voted that day. I know nothing about it; not even had any conversation with any inspectors when they delivered the boxes, at the time they returned them. Had a special man there to receive the boxes from them—appointed for that purpose by the board. None of the board saw any of the members to find out.

Recross-examination by Mr. WAGONER:

Q. Mr. Stettmund, any negro voters in your precinct?—A. I could not tell.

Q. You were not there?—A. No.

Q. You don't know anything about how the law was enforced?—A. No.

Q. Awhile ago you stated you instructed those inspectors to give a reasonable test to those negroes. Now, what was it you said to them about it?—A. I told them to test them according to law.

Q. Did you tell them how many lines to make them read?—A. No, sir.

Q. Or make them write?—A. No, sir.

Q. Did they ask you that?—A. No, sir.

Q. Then you didn't give them any instructions at all?—A. I merely instructed them they should enforce the law according to the letter.

Q. You called their attention to the Cruce letter, didn't you?—A. Yes, sir; I told them Mr. Cruce sent out a letter.

Q. Now, Mr. Cruce in this letter said the test must be reasonable and fair, didn't he?—A. Yes.

Q. Didn't they want to know what that meant?—A. No, sir.

Q. Didn't ask you what it meant?—A. No, sir.



Q. What did they ask you when they came in after those boxes about the enforcement of the grandfather clause?—A. Well, they asked different questions; they wouldn't ask it just alike.

Q. Well, name me a man and give the question that he asked you about the enforcement of the grandfather clause, just how he asked it.—A. I can't call the men's name.

Q. They didn't ask you anything particularly about it because they had read Cruce's letter and the Attorney General's letter and the decision of the supreme court was published in the paper?—A. Yes, sir.

Q. And they didn't ask you anything about it, did they? You simply told them to enforce it according to law?—A. Yes, sir.

Q. According to Cruce's letter and the attorney general's letter and the Supreme Court decision?—A. I told them to carry out the law just as it was given to them and they wouldn't get into trouble.

Q. Did they ask you to what extent to test them; what if they mispronounced a word or misspelled a word?—A. Most of them asked if they had to be perfect in writing, and I said no.

Q. How about reading?—A. I told them if they could fairly read and write they would be entitled to vote; they shouldn't cut a man out that was entitled to vote at any rate; that was my instructions to them.

Q. These are the instructions you gave them when they spoke to you about the grandfather clause—if they could fairly read and write they should be entitled to vote?—A. Yes, sir; I cautioned them to not be stringent on account of the trouble in Logan County.

Q. Was that the reason?—A. I instructed them to follow the law and be careful so they wouldn't do anything wrong and get in trouble.

Q. Did they want to know of you what they would have to do to be wrong?—A. No, sir; I told them all they had to do according to their own knowledge and belief what was right, they should do it and take nobody else's advice; if anybody came in and wanted to tell them how they should do it they had nothing to do with it, they should take their own judgment.

Q. And if they wanted to give a severe test they should do it and if they wanted to give a light one they should do it?—A. No, sir; I said they should use their own judgment.

Q. Own judgment as to what?—A. As to how they should inspect them.

Q. How many lines they should read?—A. I told them if they knew a man could read and write they should not give him the test.

Q. How many lines they should read and write?—A. No; I didn't tell them anything about lines.

Q. And if they misspelled a word they shouldn't allow him to vote?—A. No; I didn't instruct them what they should have them write.

Q. You say you instructed them as to the grandfather clause?—A. I said they should enforce it as the law read.

Q. Well, the law says no man, unless he can read and write a section of the Constitution, shall vote unless his grandfather was a voter prior to 1866.—A. Yes, sir.

Q. Now, what instructions did you give on that law?—A. I told them to go to the extent as far as his belief was in the law; he should learn the law and read it carefully and follow it out as he best knew how.

Q. How far did you tell them to go with the test?—A. I didn't tell them.

Q. Then you didn't give them any instructions on the grandfather clause?—A. All the instructions I gave them was to follow the law.

Q. They had the law didn't they.—A. Yes, sir; and that's what I pointed to them.

Q. The law didn't say how far he should go?—A. But he should use his own judgment.

Q. Then he should go just as far or just as weak as he wanted to?—A. He should do as he pleased.

Q. If he wanted to turn a man down because he didn't dot a "t," he could turn him down according to your instructions?—A. No.

Q. What instructions did you give then?—A. I didn't give them any instructions, just to follow the law as it is and use his own judgment.

Q. Judgment on what?—A. On what was right.

Q. Right in what regard?—A. In regard to a man reading and writing in order to prove himself a voter.

Q. Didn't these inspectors ask you to what extent they should test them?—A. No.

Q. They didn't?—A. Some would say. "How much will you test them." I said, "You can test them to your own knowledge, whatever you think is right according to the way it is written."

Q. The law says a man should have to read and write a section of the Constitution—don't say whether good or bad or what, does it?—A. No; therefore I told them to follow the law, and that I had no advice to give them what to do.

Q. Then you didn't give them any advice, did you?—A. Only to follow the law correctly; I didn't tell them to go and enforce it this way or that way or the other way.

Q. You didn't tell them anything then only to follow the law and left them to figure it out; did you leave them to figure it out to the extent they should test?—A. Yes, sir; that is, I let them conduct it as they best knew how.

Q. Did you call their attention to Attorney General West's opinion?—A. I don't remember whether I did or not. I would say this also if you will allow me: I told most of them who asked me questions to allow no one to dictate to them, that they should use their own judgment in carrying out the law.

Q. You spoke a moment ago about fellows getting into trouble, did you mean by that fellows who would get into trouble who enforced the law or fellows who didn't enforce it in the Guinn and Beall cases by reason of these prosecutions. You testified a while ago about the Guinn and Beall cases and about people getting into trouble.—A. No, sir; I meant this, they were afraid they would be prosecuted if they carried on the election—

Q. I am asking you what they said to you?—A. They said they were afraid they would get in trouble.

Q. For what?—A. For carrying on the election if they didn't do it right, if they should make a mistake. I told them they would get into trouble if they did it wrong; the law said it must be done so.

Q. Was it your understanding these men got into trouble for enforcing the law or not enforcing it?—A. I understood it they got in trouble because they carried on the law different from what they should have done. The way I instructed them I told them this: "As long as you take your election law and follow it and use your own judgment and not be dictated to by anyone, listen to nobody, you can not be prosecuted, because you are not doing any more than what you think is right; as long as you do what's right you are all right. When you ask advice and let somebody dictate to you, you are liable to get wrong.

Q. Then you think by that if I thought I ought to kill you and somebody said not to kill you, I wouldn't be guilty if I went ahead and followed my own advice and killed you?—A. No; not that way.

Q. If they went ahead and did what they thought right they wouldn't be prosecuted?—A. I told them they must not have anyone else dictate to them or let anybody say anything to them or make out the law so there would be no conspiracy.

Q. You said that nobody could dictate to them except H. G. Stettmund?—A. No, sir.

Q. You gave them their final instructions at the time they received the ballot boxes; you have just said you instructed them how to enforce the grandfather clause; now, they musn't pay attention to anybody else except H. G. Stettmund?—A. No, sir; that is wrong; you have got that wrong.

Q. You said to pay no attention to anybody else?—A. I said pay attention to nobody.

Q. They asked you for instructions?—A. They asked me questions.

Q. They expected you to advise them right?—A. Why, certainly.

Q. You did advise them?—A. When I could; any information they asked me.

Q. You gave them all the information they asked, then?—A. I did what I could.

Q. And then, after that, told them to pay no attention to nobody else and go ahead and do what they thought right?—A. I said to pay no attention to nobody, and I didn't instruct them anything, only to carry it out as it was written.

Q. You didn't want them to pay any attention to Cruce's letter?—A. I told them they could see Cruce's letter.

Q. You meant by that not to pay attention to anything any Republican might say to them election day in regard to the enforcement of the law?—A. No, sir; I meant not—

Q. They got their final instructions from you and then they must not pay attention to anybody else?—A. No, sir; they didn't get their instructions from me.

L. B. NICHOLS, being recalled as a witness for the contestant, testifies as follows:

Direct examination by Mr. HOFFMAN:

Q. Since your former testimony in this case have you made a search of the files to ascertain whether or not you published the Boardman letter?

Mr. WAGONER. Objected to as being incompetent, irrelevant, and immaterial.

A. I have.

Q. Have you found it?—A. No, sir.

Q. I hand you herewith some extracts from your files which I will ask the stenographer to mark 20, 21, 22, 23, 24, and 25 for the purpose of identification, and ask you whether or not those are correct transcripts of the files as to the articles?—A. They are.

Mr. HOFFMAN. We now offer these pages so numbered as exhibits as a part of your testimony, and ask them to be attached and made a part thereof.

Mr. WAGONER. We object as incompetent, irrelevant, immaterial, tending to prove no issue in this contest; the exhibits show themselves to be simply press dope or clippings from other papers published in the State.

Q. Were these articles printed in the regular editions of your newspaper on the dates indicated?—A. Yes, sir.

Mr. WAGONER. Objected to as incompetent, irrelevant, immaterial.

Q. And did they go out in the regular issues in general circulation through the county?

Mr. WAGONER. Objected to for same reason as above.

A. Yes, sir.

Mr. WAGONER. No cross-examination.

H. B. GILSTRAP, being duly sworn as a witness for the contestant, testifies as follows:

Direct examination by Mr. HOFFMAN:

Q. State your name, age, occupation, and place of residence—A. My name is Harry B. Gilstrap; age, 43; lived in Chandler 21 years; postmaster; Republican politics.

Q. Were you connected with the Republican campaign at the last general election in this county?—A. In a small way.

Q. In what capacity?—A. Congressional committeeman.

Q. You handled the campaign for Mr. McGuire in this county, did you not?—A. Well, I looked after it; yes.

Q. I call your attention here to Exhibit I, known as the Boardman letter, and ask you to state whether or not you mailed or caused to be mailed that letter to any of the voters of this county prior to the 1912 election?—A. No, sir; I did not.

Q. Do you know who mailed that out?—A. No, sir; I don't know of them being mailed.

Q. I call your attention to Exhibit 2, that which is known in the record as the penitentiary warning slip, and ask you to state if you mailed any of these out or caused them to be mailed out in the campaign?—A. No, sir.

Q. Do you know where or how or by what means they were mailed?—A. No, sir.

Q. Do you know whether the typewritten copies of the Boardman letter, which has been introduced in evidence, was printed Exhibit S?—A. I don't know; I think it was printed in town, but am not sure.

Q. At what place do you think it was printed in town?—A. It appears to have been printed on a neostyle or a multigraph, and Mr. Johnson had the only multigraph and Hoyt and Rawdon has the only neostyle that I know of.

Q. When you answered you didn't know for sure, only what was your impression?

Mr. WAGONER. Objected to as being incompetent, irrelevant, immaterial, hearsay.

A. I can not guess any nearer than that; I think it is the Neostyle work.

Q. You say there is one in Mr. Hoyt's office?—A. Mr. Hoyt has one and Mr. Rawdon has one. I have one, but they didn't use mine, I am sure.

Q. Do you know where the printed copy of the Boardman letter, Exhibit 1, was printed?—A. Apparently in Oklahoma City.

Q. You take that from the face of the letter itself?—A. Yes; and also from the fact it came to the committee here by mail.

Q. You know of that?—A. Yes; I delivered a special-delivery letter which I understood was that.

Q. How many copies came?—A. I think about a dozen; a very small number.

Q. If there has been testimony here there were probably a hundred or more in Republicans headquarters; do you know where they could have come from?—A. No, sir.

Q. Did you ever see a stack of them lying in Republican headquarters?—A. No; I was advised by the chairman of the committee he only received a few copies, not enough to give one to each of the committee.

Q. Do you know whether any of them were circulated and mailed in the county?—A. No; I don't think they were; only the one circulated and given out to the committee.

Q. I call your attention to Exhibits 8 and 9, the school-land letter, and ask you if you know when and by whom that letter was sent out?—A. I know nothing more than just on the face of that.

Q. You have no personal knowledge?—A. No, sir.

Q. Did you pass around or circulate yourself any of these Boardman letters or the warning circular?—A. No, sir.

Mr. WAGONER. Objected to as being incompetent, irrelevant, immaterial.

Q. Did you cause any of them to be sent or forwarded or given or handed in anyway to the inspectors?—A. No, sir.

Q. Do you know whether or not the inspectors got them?

Mr. WAGONER. Objected to as incompetent, irrelevant, immaterial, a matter which he can not testify to, not being within his personal knowledge.

A. I don't know. I don't know of anybody having received them except members of the Republican committee. I know of a few of those having received them.

Q. Did they receive them through the mail?—A. No, sir.

Q. Did you hand them to them?—A. No, sir.

Q. How did they get them?—A. There was a meeting of the Republican committee the Saturday before the election and that was the day these printed copies were received, and they were given out personally, I suppose, to the members of the committee; the package came addressed to the chairman of the committee.

Q. Do you know where they came from?—A. I could not say positively, but I think they came from the State committee at Oklahoma City.

Mr. WAGONER. No cross-examination.

R. B. WELLS, being duly sworn as a witness for the contestant, testifies as follows:

Direct examination by Mr. HOFFMAN:

Q. State your name, age, occupation, and place of residence.—A. R. B. Wells; age, 54; occupation is farmer; residence, near Sparks, East North Choctaw Township.

Q. How long have you been a resident and voter of this county?—A. Well, sir, about 21 years I have been here.

Q. Did you prior to the last election receive through the mails in an envelope similar to the one marked Exhibit 9 a slip similar to the one marked Exhibit 2, and a letter similar to the one marked Exhibit 8?

Mr. WAGONER. Objected to as being incompetent, irrelevant, immaterial, it not being shown that this man was an election inspector or an election officer at the 1912 election.

A. I won't say as to the envelope, but I am confident I received this.

Q. Do you know whether or not the envelope you did receive it in had the printed words, "Secretary Republican county central committee"?—A. No; I couldn't swear to that; but this, Mr. George, our inspector, called my attention to it, and I remember about it afterwards.

Q. You say Mr. George was your inspector?—A. Yes; John H. George.

Q. How did he come to call your attention to it?

Mr. WAGONER. Objected to as being incompetent, irrelevant, immaterial, and hearsay evidence.

A. He and I are pretty intimate. I was the committeeman and he was the inspector. I suppose why I got this—why, I suppose I got it, if you want me to tell. I was the inspector at the time of the primary, and my brother then, during the primary, they run him for an office in the township, and that dis-

qualified me then, of course, and they put in Mr. George in my stead, and I suppose they thought I was still inspector.

Mr. WAGONER. Object to the answer above of the witness for the reason it is all hearsay, incompetent, irrelevant, immaterial.

Q. How did you come to talk it over with Mr. George?

Mr. WAGONER. Objected to as being incompetent, irrelevant, immaterial, and calling for hearsay evidence.

A. Well, the matter of the talk, it says here. "Talk it over with your wife," and he spoke to me on that account—of their trying to intimidate him by their sending out such literature.

Q. You mean he had gotten a similar one through the mails?—A. Yes; he had gotten a similar one through the mails.

Mr. WAGONER. Objected to as hearsay evidence, incompetent, irrelevant, immaterial.

Q. Did he say whether or not he was intimidated or scared?

Mr. WAGONER. Objected to as being incompetent, irrelevant, and immaterial, hearsay evidence, and calling for a conclusion.

A. No; he didn't say as to that, whether he was or was not.

Cross-examination by Mr. WAGONER:

Q. Mr. Wells, were you an election inspector or an election officer?—A. No.

Q. You were the committeeman?—A. Central committeeman.

Q. Of the Democratic Party?—A. Yes, sir.

Q. The majority of the election officers out there in your precinct were Democrats, weren't they?—A. Yes, sir.

Q. The inspector was a Democrat?—A. Yes, sir.

Q. The clerk a Democrat?—A. Yes, sir.

Q. The judge a Republican?—A. Yes—well, I won't be positive; I know all of them, but I didn't pay any attention—

Q. As a matter of fact, you know the majority is entitled to two and the minority to one?—A. Yes, sir.

Q. And the Democratic Party is in the majority in the State and entitled to two and had two?—A. Yes.

FRED H. NORCOM, being sworn as a witness for the contestant, testifies as follows:

Examination by Mr. HOFFMAN:

Q. State your name.—A. Fred H. Norcom.

Q. Where do you live?—A. I live south of Stroud 8 miles; Stroud is my post office.

Q. What township?—A. South Keokuk.

Q. What was your voting precinct at the last election?—A. South Keokuk.

Q. How long have you been a resident voter of this county?—A. I have been here about two years.

Q. Did you receive through the mails prior to the last general election the slip and letter such as I have questioned the last witness about?—A. I did not.

Q. Did you get any such slip and letter?—A. I did.

Q. How?—A. Why, through Mr. Harlow.

Q. It was handed to you?—A. Yes.

Q. In an envelope?—A. Yes, sir.

Q. Do you know where he had gotten it?

Mr. WAGONER. Objected to as being incompetent, irrelevant, immaterial.

A. I suppose of the central committee is my understanding.

Mr. WAGONER. Object to the suppositions of the witness not being competent unless he knows of his own knowledge where it came from.

Cross-examination by Mr. WAGONER:

Q. You say you were inspector, Mr. Norcom?—A. Yes.

Q. Your politics are what?—A. Democrat.

Q. And the Democrats had the majority of the election board over there, didn't they?—A. Yes.

Q. The clerk was a Democrat and the inspector a Democrat, and the judge was a Republican?—A. Yes, sir.

STIPULATION.

It is stipulated and agreed between counsel for the contestant and the contestee that there is an Indian reservation situated in the eastern portion of

Lincoln County, Okla., containing 800 acres, known as the Sac and Fox Indian Agency Reservation, and at the last general election eight persons residing on said reservation voted at South Keokuk precinct at the polling place held on said reservation, and that seven of said persons were employees of the United States Indian Service, the eighth being an Indian resident upon said reservation, the contention of the contestant being that persons residing upon said reservation were not entitled to vote.

G. W. HARLOW, being duly sworn as a witness for the contestant, testifies as follows:

Direct examination by ROY HOFFMAN:

- Q. Uncle George, what township do you live in?—A. South Keokuk.  
 Q. And how long have you lived there?—A. Twenty-one years.  
 Q. You are familiar with the voting population of that township and precinct, are you?—A. Well, a little.  
 Q. You know practically all of them, do you not?—A. No; Mr. Hoffman, there is a good many people there I don't know.  
 Q. You were an officer at the last election?—A. Yes, sir.  
 Q. What officer?—A. I was judge.  
 Q. And your politics are Republican?—A. Yes, sir.  
 Q. State whether or not you handed to Fred H. Norcom, the inspector at that precinct, the envelope containing the warning slip and the letter of United States Attorney Boardman?—A. Well, I think I did, Mr. Hoffman; yes.  
 Q. And that was prior to the time you began your duties there as, respectively, judge and inspector?—A. Yes.  
 Q. And on that day, was it not, the morning of the election?—A. No; it was not the morning of the election.  
 Q. Right close to the time?—A. Right close to the time of the election; yes.  
 Q. Within a day or so?—A. I think it was two or three days.  
 Q. Do you know where you got it?—A. Why, I got it here in Chandler somewhere, I don't know where it was at, but some of them handed it to me, I think.  
 Q. At the Republican campaign headquarters?—A. I was here that day; yes.  
 Q. You think you got it there?—A. I guess so; yes; I got so much of that dope I never paid much attention to it.

Q. For what purpose did you hand him that letter?

Mr. WAGONER. Comes now the contestee and objects to all the above questions and answers for the reason they are incompetent, irrelevant, and immaterial.

Q. For what purpose did you hand him that letter containing the warning slip?—A. We were just riding together and I got hold of this dope and we generally pass it around among one another, the stuff, what we were getting.

Q. Were you instructed by the Republican campaign committee to hand it to the inspector of your precinct?—A. No, sir.

Q. Why did you happen to hand it to the inspector instead of some other person?

Mr. WAGONER. Objected to as being incompetent, irrelevant, immaterial.

A. Just because we were riding together, I came up here with Mr. Norcom and we were riding together.

Q. Norcom didn't get one here that day in town?—A. I don't know whether he did or not.

Q. Did you give him any advice about the contents?—A. No, sir.

Q. Did he read it over in your presence?—A. No; he just looked it over a little, I don't remember very much about it; never thought much about it.

Q. Did Norcom make any challenges there that day?—A. Yes, sir.

Q. Was anybody prevented from voting?—A. Yes, sir.

Q. How many?—A. I couldn't say, but there were several turned down.

Q. White or black?—A. One white and several colored fellows.

Cross-examination by Mr. WAGONER:

Q. You election officials of that precinct enforced the grandfather clause as you understood it, did you not?—A. Yes, sir.

Q. When you were riding with Mr. Norcomb and gave him this letter or its contents you and he never discussed it?—A. No, sir.

Q. You didn't give him any advice and he didn't ask you for any?—A. No, sir; I don't remember of any.

Q. You and Mr. Norcomb were friends, living there in the same neighborhood?—A. Still are; live right close together there.

Q. You were not instructed by anybody to give it to him or to try to scare him?—A. No, sir.

Q. You didn't try to scare him or coerce him in any way?—A. No, sir.

Q. Anybody try to intimidate or coerce you in any way?—A. No, sir.

Q. When an elector applied at the polls to vote, if he was a colored man he was submitted to the test, and if he could pass the test satisfactory to you officers he was permitted to vote?—A. Yes, sir.

Q. And when he couldn't, he was refused?—A. Yes, sir.

J. F. COLLAR, being duly sworn as a witness for the contestant, testifies as follows:

Examination by Mr. HOFFMAN:

Q. State your name.—A. J. F. Collar.

Q. What, if any, official position do you occupy?—A. At the present time?

Q. Yes.—A. I am county commissioner.

Q. Were you a candidate before the last election?—A. I was.

Q. What, if anything, do you know about letters such as Exhibits 8 and 1 being, respectively, the typewritten and printed copy of the Boardman letter, and Exhibit 2, the penitentiary warning circular, being circulated and distributed throughout this county by the Republican campaign committee?

Mr. WAGONER. Objected to as being incompetent, irrelevant, immaterial, and not competent for the witness to testify as being circulated by the Republican campaign committee unless he knows of his own knowledge it was circulated by the Republican campaign committee.

A. Well, I had seen this one here.

Q. The penitentiary warning circular?—A. Yes, sir. I had one of these; it was given to me by one of the inspectors, but I don't know just which one it was.

Q. The inspectors were Democrats in this county, were they not?—A. Yes, sir. He also gave me a letter that came with that and I don't know just which one it was, and I saved them for future reference, and I gave them to Courtland Feuquay.

Q. Do you know whether or not he was scared and intimidated in any way?

Mr. WAGONER. Objected to as being incompetent, immaterial, irrelevant, calling for a conclusion of this witness as to whether a man was scared or intimidated. He can only testify as to the facts.

A. Yes, sir; he seemed to think——

Mr. WAGONER. I object to what he seemed to think.

Q. How did he act and talk?—A. He acted scared.

Mr. WAGONER. Objected to as calling for a conclusion of the witness.

Q. What did he say about it?

Mr. WAGONER. Object to hearsay evidence.

A. He seemed to think he was liable to be indicted before the United States grand jury.

Mr. WAGONER. Object to the above answer as to what Mr. Collar seems to think.

Q. Do you know whether or not there had been prior to that time a number of Democratic election officials of this county indicted by the Federal grand jury for enforcing the grandfather clause at the 1910 election?

Mr. WAGONER. Objected to as incompetent, irrelevant, immaterial, not being first shown the kind of information that he had, whether he was a member of the grand jury that indicted them, and hearsay evidence.

A. Yes, sir.

Q. Is that a matter of general information and notoriety throughout the county?

Mr. WAGONER. Objected to as incompetent, irrelevant, immaterial, hearsay evidence, and not competent.

A. The parties who were indicted told me they were indicted.

Q. Was it a matter of general information?—A. Yes, sir.

Mr. WAGONER. Object to that as being incompetent, irrelevant, and immaterial.

Q. Did you receive any communication from Judge Wagoner, at that time deputy county attorney and the attorney now appearing for the contestee?—A. No, sir.

Q. I will ask you if you had any conversation with any of the Democratic inspectors of this county at the last general election with reference to advice

that Judge Wagoner, then deputy county attorney, now appearing for the contestee, was giving in his public addresses over the county?

Mr. WAGONER. Objected to as being incompetent, irrelevant, and immaterial; hearsay evidence.

A. The election inspector for Tohee Township was very badly worked up over the speech Mr. Wagoner made and the remarks he made about the election officials.

Q. Did he quote any of his language or state what his statements were?

Mr. WAGONER. Objected to as being incompetent, irrelevant, immaterial, and I object to the above question and answer as being incompetent, irrelevant, and immaterial, and hearsay evidence. Mr. Collar not being present himself.

A. It was just a deal they had made up he was quoting to let all the negroes vote.

Q. I don't know that I understand you; please explain more fully.

Mr. WAGONER. Objected to as being incompetent, irrelevant, and immaterial.

A. This is just a speech Mr. Wagoner made the night before election. I think; it worked up this election official to a point where he was hunting Mr. Wagoner and wanted to whip him; I just saw him while he was hunting him.

Q. Is Tohee one of the heavy negro townships?—A. Yes, sir.

Q. Were you at any precinct on election day?—A. South Fox precinct.

Q. Did you observe the procedure there?—A. Yes, sir.

Q. You may state generally what you saw with reference to the enforcement of the grandfather clause.—A. It was not enforced.

Q. Did you call the attention of the inspector to it?—A. Not the inspector; I did to some of the workers.

Q. The inspector was not where you could get to him?—A. No, sir; couldn't talk to him. I tried to talk to him, but couldn't talk to him at all.

Q. Who was that inspector?—A. His name was Justice.

Q. Do you know why he was not enforcing the law?

Mr. WAGONER. Objected to as being incompetent, irrelevant, immaterial, calling for conclusion of the witness, and hearsay evidence.

A. He had got a letter that excited him very much.

Mr. WAGONER. I object to that.

Q. Did you talk to him about it?

Mr. WAGONER. Objected to as incompetent, irrelevant, immaterial, hearsay evidence.

A. Yes.

Q. What did he say?—A. He said he had got letters there; he was running that thing; nobody else had anything to do.

Q. Do you know whether he got the warning circular?—A. I don't know what he got.

Q. Did he challenge anybody there?—A. I don't think he challenged a man during the day.

Q. Blacks and whites all voted as fast as they could?—A. Yes; I stayed until 5 o'clock that night.

Q. Didn't apply the test to anybody?—A. I don't think he applied it to a single man.

Q. What was Justice's condition as to being excited or otherwise?

Mr. WAGONER. Objected to as being incompetent, irrelevant, immaterial, calling for a conclusion of the witness. Under no circumstances could it be material.

A. They were not letting them vote fast enough. They figured they were letting them vote one every 15 minutes, and they knew that was not fast enough to let them all even get started voting. So I tried to talk to him, to get him to let the judge assist the clerk, and I saw by that he was so very much excited and worked up that they couldn't do anything with him. I called in some of his neighbors. I called in the postmaster there, who is a deputy sheriff at Davenport. I called in Mr. Burgess, that was just one that I can remember, and he tried to talk to the fellow, but he couldn't talk to him, and we finally kept working at him and got the county attorney—Mr. Jones was there—to try to let us put in another booth or two. After working several hours, appealing to him, he finally permitted us to put another booth in there and let the judge write too, but the man was worked up to a point where if anybody had just started a little scrap there, if anybody had had a gun there would have been a riot. Mr. Burgess will corroborate my testimony on this point.

Q. How many negroes voted at this point?

Mr. WAGONER. Objected to as being incompetent, irrelevant, immaterial, and calling for a conclusion of the witness.



A. I judge 75; 75 to 100.

Q. Seventy-five negroes?—A. Yes; negroes.

Q. State whether or not it was a matter of current rumor and generally reported throughout the county, just prior to the last general election, that the negroes were going to vote, and, if necessary, they would resort to force to vote at the last general election.

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial, calling for a conclusion of the witness.

A. I have heard that; yes, sir.

Q. Did you hear it frequently or otherwise?—A. Yes; frequently.

Cross-examination by Mr. WAGONER:

Q. You say the negroes were going to resort to force?—A. Yes, sir.

Q. Who did you hear it from?—A. I can not remember just who.

Q. Was it a Democrat or Republican told you?—A. Just general common remark.

Q. Every place you went?—A. Not every place.

Q. You were a candidate for county commissioner, soliciting negro votes?—A. Yes, sir.

Q. And got some of them?—A. Yes, sir.

Q. And you advised the various inspectors in the precincts where negroes lived in your district not to enforce the grandfather clause strictly?—A. No, sir.

Q. Didn't you do that in South Fox Township?—A. No, sir.

Q. Didn't you tell the negroes they could vote if they voted for you?—A. The Republicans tried to make that kind of a deal with me, but couldn't cut it.

Q. You say the inspector was very much worked up?—A. Yes, sir.

Q. He was following Mr. Stettmund's advice not to pay any attention to any of you outsiders?—A. No; he wouldn't listen to anyone.

Q. You don't live out there?—A. No.

Q. He might have got excited because he knew you didn't live out there?—A. We sent other people to him, Mr. Burgess and his neighbors, to show him they couldn't all vote, only were voting one every 15 minutes.

Q. He was following the law?—A. I don't know what you mean by that.

Q. He was using all the booths the officers furnished him?—A. No; he could use one on each side.

Q. He had the required number of officials on the inside?—A. Yes, sir.

Q. And when you asked him to put in other booths and do other things he was excited?—A. Yes, sir; he was excited all the time from the time he opened the polls.

Q. If he was excited at all, isn't it because he was afraid to do what you people said for fear it would invalidate the election?—A. He was excited from the time the polls opened about letting the negroes vote.

Q. Mr. Justice is a truthful man isn't he?—A. Yes; I suppose so.

Q. If he has testified here and testified other than that it is the truth, isn't it?—A. He was worked up. I don't think he knew just what he was doing. I think Mr. Justice was worked up to a point all during that election day—

Q. About what?—A. This grandfather clause.

Q. How do you know it?—A. By his remarks.

Q. What did he say?—A. He just talked like a man raving—that is mad.

Q. What were his remarks?—A. I don't just remember his remarks.

Q. Didn't you tell Mr. Hoffman you couldn't get to talk with him?—A. Yes; he was so excited over this matter.

Q. In what way?—A. He was getting the fellows shoved in there and wanted to put a man out to hold the crowd back.

Q. Didn't you say he was excited about the grandfather clause?—A. Yes.

Q. What way was he excited?—A. When you would go to talk with him, you could tell by his manner he was nervous and excited, afraid he was going to do something that would make him go to the penitentiary.

Q. About what?—A. About the whole election.

Q. Then, the grandfather clause didn't have all to do with it?—A. No, sir.

Q. Your presence didn't have any effect on him?—A. No, sir.

Q. Certain of it?—A. Certain of it.

Q. You were trying to get him to run the election the way you wanted it run?—A. No. They thought maybe they could get in a booth so they could vote a little faster.

Q. They were contesting the negroes?—A. No, sir.

Q. You were inside there?—A. No, sir; but I was at the window.

Q. Do any electioneering out there?—A. No, sir; I didn't do any electioneering; I was trying to show them how to vote—these other things—they wanted the negroes to vote the straight ticket, even the county attorney went against me and told them they were wrong; I tried to tell them how to vote a mixed ticket.

Q. It was not all the grandfather clause that excited him?—A. No; that was part of it.

Q. Do you know whether he is of an excitable turn or not?—A. No; I do not.

Q. Do you ever get excited?—A. Yes, sir.

Q. Haven't you been as excited as Justice was and not over the grandfather clause?—A. No; I never was as much excited as Justice was that day.

Q. Do you know whether it is his natural turn or not to get excited?—A. No; I don't.

Q. The inspector was a Democrat?—A. He was supposed to be.

Q. Appointed by the Democratic election board?—A. Supposed to be; in all the precincts, though they are not Democrats.

Q. Inspectors?—A. No.

Q. Is there any precinct in this county where there is a Republican inspector?—A. Yes.

Q. Who is it?—A. Mr. Groom.

Q. He is inspector?—A. I think so.

Q. Was he last election?—A. I don't know.

Q. Do you know of any other Republican inspectors?—A. I do not.

Q. Now, Mr. Collar, you testified something about an election official from Tohee Township—who was that that wanted to get after me?—A. The inspector I think.

Q. About the speech I made?—A. Yes.

Q. Did you hear that speech?—A. I did not.

Q. Did the inspector hear it?—A. I don't know.

Q. Do you know what I said out there?—A. I do not.

Q. Do you say I excited the inspector in Tohee Township by my statements that night?—A. Very much.

Q. How did he get excited if he didn't hear me?—A. I suppose he was told about it.

Q. When was that?—A. I don't remember that. Right about election time.

Q. I was supposed to have made that speech the night before election?—A. That's my understanding.

Q. When did you see this inspector?—A. Right about election time; I can not say the exact date.

Q. Isn't it a fact, Mr. Collar, you made a combination in Tohee Township that all the negroes, if they would vote for you, they could vote, and was not that made with Sam Clark, the Republican judge?—A. No, sir.

Q. As a matter of fact you know no negroes voted in Tohee Township except those who could read and write?—A. I don't know.

Q. Don't you know the law was enforced in Tohee Township by Mr. Prough?—A. I don't know.

Q. You didn't inquire about that?—A. I did not.

Q. But the speech I made out there excited him very much?—A. Yes, sir.

Q. And it excited him to such an extent he couldn't enforce the grandfather clause. He told you that, did he—he was so excited he couldn't enforce the grandfather clause?—A. No; I was just judging from his appearance. He was hunting you.

Q. That was after the election?—A. Either the night of the election or the next day.

Q. Mr. Prough has sworn he was not excited and paid no attention to anything except Gov. Cruce's instructions. Now, do you mean to say Mr. Prough was excited and by my speech he was so excited he did let negroes vote; is that what you want to be understood as saying?—A. I don't think I said that.

Q. Why are you repeating that statement unless for the purpose of showing there was intimidation?—A. I just thought from his hunting you and saying he would whip you if he ever laid eyes on you.

Q. Haven't you become mad at people and not been intimidated?—A. He was pretty badly worked up.

Q. Haven't you been mad at people and not been intimidated?—A. I suppose I have been mad.

Q. Can't you be mad and not intimidated?—A. Yes, sir.

Q. You are testifying as to your own conclusion about Mr. Prough's intimidation?—A. Yes, sir.

Q. He was just mad at something I said?—A. In regard to the election officials.

Q. He got mad, didn't he, when I stated publicly what I said about the combination between you and some of the people in that township to let the negroes vote there if they would vote for Jake Collar?—A. I don't know.

Q. I publicly stated that there. Didn't he tell you?—A. No.

Q. And that's what he was mad about, thinking it was him I meant when I had reference to Sam Clark. You say you didn't have any understanding with Sam Clark in regard to that matter?—A. No, sir; nor no other election official.

Q. Nor didn't give Sam Clark any money to work for you out there when he was a member of the board?—A. No, sir.

Q. Did you hear any of the speeches I made during the campaign?—A. I don't think I did.

Q. Do you know how many speeches I did make in Lincoln County?—A. Not very many. I heard the Republicans talking about that.

Q. Do you say I advised the negroes in any of my speeches to go to the polls armed and demand their right to vote?—A. I didn't say it.

Q. Do you say I intimidated any election officer by talking with him direct? Did I ever threaten any of them to your knowledge?—A. I don't know what it was.

Q. I am talking about all outside of Prough?—A. No.

Q. Prough didn't hear it; it came to him second handed. Didn't he tell you he was not there?—A. It seemed to me if he had been there if he had wanted to whip you so badly he would have whipped you that night.

Q. You know from that he was not there?—A. That was my supposition.

Q. You know during the campaign, Mr. Collar, there was all kinds of statements, truths and falsehoods, stated by both sides?—A. Yes, sir.

Q. You have lived in this county how long?—A. Fourteen years.

Q. Been quite busy in politics during most of that time, especially the last five or six years?—A. Some.

Q. Been a member of the county election board here once?—A. Yes, sir.

Q. Run for commissioner twice?—A. Yes, sir.

Q. In this last campaign you were out campaigning for Jake Collar?—A. Yes, sir.

Q. Doing everything you could to win for Jake?—A. Yes, sir.

Q. You electioneered the negroes the same as whites?—A. Not so much—a few leaders.

Q. You urged those leaders to get every voter possible?—A. Yes, sir.

Q. Talked with Sim Garrett in South Fox?—A. Yes, sir.

Q. And B. T. McCall?—A. Yes, sir.

Q. Told them what you would like to have them do for you. And you also told them to tell their colored friends to all come out and vote, the grandfather clause wouldn't be enforced very hard if they would help you out out there?—A. I didn't say it.

Q. Or that in substance?—A. No, sir.

Q. Did you talk with any Republicans here in Chandler in which you made that statement to them?—A. No, sir.

Q. Didn't say that or that in substance to Harry Gilstrap?—A. No, sir.

Q. You used the words something about a deal in Toheel Township. I want to ask you about that; what it was.—A. I don't remember now.

Q. It was one of your very first questions about being mad about a deal over there; what deal was it, or did you just inadvertently use that word?—A. I expect so.

Q. You don't know of any deal over there that caused the inspector to be intimidated?—A. Something about letting negroes vote.

Q. What was the deal?—A. I don't know.

Q. Who made it?—A. I don't know that.

Q. You used that language right along in reference to your questions and answer in regard to me and my speech over there that night. What do you mean by it, or do you remember of a deal being had there?—A. They had a proposition up on some of the township members.

Q. Wherein I was connected with it, is what I am talking about—in my speech.—A. No; I don't know what the speech was. I understood they had a proposition up there if the negroes would vote for a certain bunch of township officers out there they would let them vote.

Q. Did you get that information from Harry Gilstrap?—A. I did not.

Q. Isn't it a fact Harry Gilstrap and Capt. Beasler were out there and they told them they were going to let those negroes vote, provided they would vote for you?—A. I don't know what it was about.

Q. And didn't you and myself and others get behind that deal and try to break it up?—A. I don't remember.

Q. You didn't break it up?—A. No, sir.

Q. Didn't inquire into it at all?—A. No, sir.

Q. Is that the way you run a political campaign?—A. I am talking about the township officers.

Q. They were framing up against you, and you got badly scared when it was reported to you?—A. I don't remember anything about it.

Q. But you remember about this inspector in South Fox being intimidated, scared, and coerced; you remember about that very distinctly?—A. Yes, sir.

Q. But you don't remember about the other, when it was of interest to you?—A. I don't remember about there being any frame up against me in Tophee Township.

Q. Were you in to it?—A. No; I was not.

Q. Didn't Mr. Gilstrap tell you about that deal?—A. I think it was all in connection with the township officers; I don't think anyone else was connected with it.

Q. You don't know they said if they would agree to vote for the Democratic township officers and Jim Lynch, of Wellston, and some other candidate, I don't now recall to mind, they would let them vote without contesting them?—A. Something, but I don't think Lynch was in the deal.

Q. And some other county officer and the township Democratic officers, some trouble I think they had out there over misappropriation of funds in that township.—A. I remember about the township officers, if they would vote for a certain—

Q. That was Mr. Gilstrap reported that to you?—A. I don't remember now.

Taking of depositions continued by agreement to Wednesday morning, March 5, 1913, at 10 o'clock.

G. A. SMITH, being duly sworn as a witness for the contestant, testifies as follows:

Q. What is your name?—A. G. A. Smith.

Q. Where do you live?—A. Chandler, Okla.

Q. What is your business?—A. Publisher of a newspaper.

Q. Were you connected in any way with the late campaign for Congressman in this district between John Davis and Bird McGuire?—A. Yes, sir; I was the manager of the campaign on behalf of Mr. Davis.

Q. In your capacity as campaign manager for Davis, did you travel over the district and did you or not become acquainted with the various inspectors of the election precincts throughout the district?—A. I was in every county except one, and met a number of the inspectors in a good many of the counties.

Q. How long have you resided in Lincoln County?—A. Twenty-one years.

Q. Were you acquainted with the inspectors personally of this county at the last election?—A. Several of them.

Q. Did you have any occasion to meet with the inspectors of this county just prior to the election and shortly after the election?—A. Yes, sir; I talked with most of the inspectors about the time they were coming in for their supplies prior to the election.

Q. About how long a time was that prior to the election?—A. That was Friday and Saturday before the election on Tuesday.

Q. These inspectors among whom you have lived and associated in your own county for so long a time, with whom you talked, could you tell from their manner or was there anything which caused you to judge from their manner, behavior, conversation, or other indications, whether or not they were excited, alarmed, intimidated, or coerced by any letters, constructions, or threats made by or through the Republican campaign committee of this county or of the district against them if they should enforce the so-called grandfather law in the election?

Mr. WAGONER. Objected to as being incompetent, irrelevant, and immaterial, calling for a conclusion of the witness and hearsay evidence.

A. A great many of them who lived in precincts having negro voters came to the headquarters for the purpose of talking over with me the matter of the

enforcement of the grandfather clause, and particularly the part relating to the penalties that had been threatened in a certain letter addressed to Fred Wagoner and signed by Mr. Boardman, the district attorney. There is no question in my mind but what the letter made an impression on the inspectors, as they were very nervous and talked freely about the proposed enforcement of penalties.

Mr. WAGONER. Contestee objects to the above answer and asks that the same be stricken from the record as not responsive to the question and being incompetent, irrelevant, and immaterial, and hearsay evidence, and calling for a conclusion of the witness.

Q. Do you know whether or not they endeavored to be relieved of the duties of inspector; in other words, did they try to resign?

Mr. WAGONER. Objected to as being incompetent, irrelevant, and immaterial, and tending to prove no issue in this contest.

A. Do you mean in this county?

Q. Yes, sir.—A. No, sir; there was no application made to me.

Q. Do you know whether or not they did in other counties in the district?—  
A. Yes, sir.

Q. For what reason?

Mr. WAGONER. Objected to as being incompetent, irrelevant, and immaterial.

A. For the reason they were afraid to try to enforce the grandfather clause. They were also afraid to try not to enforce it.

Q. I call your attention particularly to Kingfisher County. That county is in this district, is it not? Was at the last election?—A. Yes, sir.

Q. State whether that is the county of the residence of Guinn and Beall who were convicted of the so-called enforcement of the grandfather clause at the 1910 election and sentenced to terms in the penitentiary.

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial.

A. Yes, sir.

Q. Did you have any trouble with the inspectors in that county?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial, the witness not having shown that he was a member of the county election board or held any official position under the law that had to do with the appointing or accepting resignations of the various election inspectors in the district, and his testimony would be hearsay.

A. You mean by that, did any of them want to resign?

Q. Yes, sir.—A. Yes, sir.

Q. Make your answer more fully. I mean with regard to them tendering their resignations.

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial, hearsay evidence.

A. The prosecution of Guinn and Beall made it very difficult to secure election officials in that county.

Mr. WAGONER. We object to the above answer for the reason it is incompetent, irrelevant, and immaterial and hearsay.

Q. I call your attention to Exhibit 1, known as the printed Boardman letter; Exhibit 2, known in this record as the penitentiary warning circular, and Exhibit 8, being the same Boardman letter, only run off on a multigraph or some other multiplying process, and ask you to state whether you know that letter or that printed material was circulated throughout the district.

Mr. WAGONER. Objected to as being incompetent, irrelevant, and immaterial, and calling for a conclusion of the witness and hearsay evidence.

A. I know that Exhibit 1 and Exhibit 2 was generally circulated over the district. I don't know in regard to Exhibit 8.

Q. That is the printed Boardman letter and the penitentiary warning slip?—  
A. Yes, sir.

Q. Was wistributed and circulated generally over the district?—A. Yes, sir. I saw numbers of them personally.

Q. Do you know from what source they emanated?—A. I do not.

Q. In whose hands would you find them?

Mr. WAGONER. Objected to as being incompetent, irrelevant, and immaterial.

A. Election officers'.

Q. Did you see any of them in envelopes, addressed and postage on?

Mr. WAGONER. Objected to as being incompetent, irrelevant, and immaterial.

A. Yes, sir.

Q. Now, when the election inspectors would want to resign or get out of the duties, state whether or not reference was made to this penitentiary warning circular and the Boardman letter.

Mr. WAGONER. Objected to as being incompetent, irrelevant, and immaterial, hearsay, calling for a conclusion of the witness; not being shown what inspectors, where they resided, in what voting precincts they were inspectors.

A. Yes, sir; several of them objected to serving on account of the Boardman letter, the penitentiary warning, and certain newspaper articles published in a Guthrie newspaper, known as the Guthrie Star.

Q. Do you know whether or not numbers of the election officers, and especially the inspectors, did resign and were replaced by others throughout the district?

Mr. WAGONER. Objected to as being incompetent, irrelevant, and immaterial, not being shown that the witness was present at the time they did resign; that he knows of his own personal knowledge their reasons for resigning; and his testimony being hearsay and calling for a conclusion of the witness.

A. I know of but very few who actually resigned; a number tried to, but their resignations were not accepted.

Cross-examination by Mr. WAGONER:

Q. Mr. Smith, you reside in Chandler?—A. Yes, sir.

Q. And have for a number of years?—A. Twenty-one years.

Q. Politically you belong to the Democratic Party?—A. Yes, sir.

Q. And of your own knowledge you know, do you not, that the inspectors of the election held in November, 1912, in Lincoln County, that the inspectors were Democrats?—A. I think they all were.

Q. And the clerk was a Democrat?—A. Yes, sir.

Q. And the judge a Republican?—A. Yes, sir.

Q. Mr. Smith, you are editor of the Chandler Tribune, are you not?—A. Yes, sir.

Q. And the political faith of that paper is Democratic?—A. Yes, sir.

Q. And in Lincoln County that paper is the leading Democratic paper of the county, is it not?—A. Yes, sir; I admit that.

Q. Regardless of the contention between you and Brother Cameron, editor of the Chandler Review?—A. I will admit that, Judge.

Q. And as editor of the Chandler Tribune you published from time to time such articles written by yourself or other members of the party that you thought was beneficial to the Democratic Party, did you not?—A. Yes, sir.

Q. As manager of Mr. Davis's campaign in 1912 for Congress you did all within your power as such manager to try and elect Mr. Davis, did you not?—A. I did all that I knew to do, yes, sir.

Q. And you presumed that Mr. McGuire and his friends and managers did all they could to elect Mr. McGuire?—A. I believe they did.

Q. Mr. Smith, you have had considerable experience in politics, have you not?—that is, you have taken part in campaigns one way or another for several years past?—A. Yes, sir.

Q. And from your experience and knowledge of politics you know there is a good many things said by various people that they don't know whether they are so or not; they are simply repeated and added to and taken from, don't you?—A. That's true.

Q. And you know as a matter of fact, as a leader of your party, various reports come to you, and when you start out to run them down you find there is nothing in them, don't you?—A. Sometimes.

Q. And Mr. Smith, isn't it a fact that a great deal of the talk going the rounds in regard to the enforcement of the grandfather clause was statements made by a number of individuals who knew nothing about how it was going to be enforced or should be enforced, but simply giving their ideas and stating what they had heard other people say? Isn't that true, generally speaking? Wasn't there a good deal of these kind of rumors afloat in the 1912 campaign?—A. As to how it would be enforced?

Q. Yes.—A. I think the articles in the different newspapers—

Q. Just what generally go up and down the streets—that you hear a good many things there is nothing to?—A. In regard to the enforcement of the grandfather clause?

Q. Yes.—A. Now, let me understand.

Q. What I am getting at is this: Some fellow would come along and say So-and-so, inspector out here, isn't going to allow any negro to vote, as some said, and things of that kind. I am asking just about general rumors made by indi-

viduals. You might say these general rumors I am asking you about are made by people not members of the election boards or members of either of the campaign committees, but simply various citizens.—A. I know but very little about the street rumors. I had more important matters to attract my attention about that time.

Q. Well, Mr. Smith, as manager of Mr. Davis's campaign, when you were traveling around over the district, and you would go into a county other than Lincoln County, where you resided, various members of your political party, would they not report to you as to what the conditions over the county were and what the rumors as to various phases of the campaign were?—A. Yes, sir.

Q. Mr. Smith, as editor and manager of the Chandler Tribune, the leading Democratic paper of Lincoln County, do you keep a copy of each of your issues in your files?—A. Yes, sir.

Q. Did you during the campaign of 1910 and 1912—did you during the campaign of 1910 and 1912?—A. Yes, sir; I think I have a complete file.

Q. If we are not able to find copies of your paper prior to the election in 1910 and prior to the election in 1912, will you consent that we examine your files those years?—A. Yes, sir.

Q. And anything that we may think we want to introduce in evidence make a copy of it, or if you have an extra paper cut it out and have it?—A. Yes, sir.

Q. And also, Mr. Smith, when the contestee starts to take his testimony, if we should find it necessary or desire to use you as a witness, you would be willing to appear before Mrs. Adams and give any testimony and produce any files you might have that we might think we wanted?—A. Yes, sir.

Mr. WAGONER. I believe that's all I want to cross-examine him at this time. I would like to reserve the right if I desire when Mr. Smith is recalled to testify for the contestee, if I want to ask him a few questions on cross-examination that I might have the privilege. I don't know as I will.

Mr. HOFFMAN. All right.

Mr. WAGONER. I am willing to agree with you that before Mr. McGuire starts to take his testimony at the time set if you will make up a list of the witnesses now that you desire to use at that time, we have no objection to your using them then, just so we know what it is and we don't have a whole raft we don't know anything about.

Mr. HOFFMAN. We will prepare you a list.

It is stipulated and agreed by and between Roy Hoffman, attorney for the contestant, and Fred A. Wagoner, attorney for the contestee, that the letter marked "Exhibit 18" and the envelope marked "Exhibit 19," heretofore referred to in this record, may be received in evidence subject to the general objections as to their competency, relevancy, and materiality, and that they were received through the mails by W. H. Frank, Braman, Okla.

This agreement is made to void the expense of a long and expensive trip by both parties.

Mr. WAGONER. Contestee objects to the introduction of the exhibits for the reason they are incompetent, irrelevant, and immaterial.

#### EXHIBIT 1.

DEPARTMENT OF JUSTICE,  
OFFICE OF THE UNITED STATES ATTORNEY,  
WESTERN DISTRICT OF OKLAHOMA,  
*Guthrie, October 31, 1912.*

Mr. FRED A. WAGONER,

*Deputy County Attorney, Chandler, Oklahoma.*

DEAR SIR: I have your letter asking whether at the coming general election the precinct election officers can enforce the law commonly termed the grandfather law, and escape punishment therefor in the Federal courts on a showing of good faith in enforcing said law. I presume your question has arisen on account of the apparent conflict between the decision of the Supreme Court of the State of Oklahoma and the United States district courts for the eastern and western districts of Oklahoma on the constitutionality of the law, the State supreme court having held the law constitutional, while the two United States courts in the State have held it unconstitutional and void.

It must be borne in mind that this all involves purely State matters as well as Federal matters, and in considering the same these two phases of the law must be kept in mind. As to the purely State questions involved in the law, I

do not express any opinion, the same not being within the jurisdiction of this office, and this opinion is directed solely to the Federal question involved—that is, the application of the grandfather law to negroes who, on account of race, color, and previous condition of servitude, are not permitted to vote without submitting to certain tests of reading and writing. Nor shall I argue the question of the constitutionality of the law for the reason that, after very extensive argument by some of the best legal talent of the State, it has already been in positive terms declared unconstitutional by the two United States district courts in this State, which decisions are now the law of this State as far as the Federal questions therein involved are concerned, having never been reversed or modified.

Knowing this, that the Federal courts having jurisdiction over the entire State have declared the law to be unconstitutional and of no force and effect, the question arises whether the precinct election officers can enforce it against negroes on account of their race and color and then when prosecuted in a Federal court for doing so defend the prosecution on a plea of good faith in enforcing the law. The question of good faith must be determined with reference to the decision of the courts on the subject and having jurisdiction thereof, so there can be no good faith in acting in direct conflict with the known decisions of the courts, although in the absence of any such decisions such defense might be made. In the case against Beall and Quinn, who were convicted in the Federal court at Enid in 1911 for violating section 19 of the Federal criminal code in enforcing the grandfather law at the general election in November, 1910, the defense of good faith was attempted, although without success, as the verdict of the jury disclosed. However, in that case at the time the acts were committed which caused a prosecution—that is, in November, 1910—no Federal court had passed upon the law.

Furthermore, all precinct election officers are quasi judicial officers in a quasi judicial capacity, and being officers of inferior and restricted jurisdiction, are all bound by the decisions of the Federal courts declaring the law unconstitutional when applying the same to negroes desiring to vote for Members of Congress and electors for President, and the defense of good faith will not protect them from prosecution for enforcing the law in direct conflict with the Federal decisions.

Respectfully.

HOMER N. BOARDMAN,  
*United States Attorney.*

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EXHIBIT 2.

TALK IT OVER WITH YOUR WIFE, MR. ELECTION OFFICIAL, AND REMEMBER THAT YOU  
WILL GO TO THE PENITENTIARY

If you violate the Federal election laws and not Governor Cruce nor his brother, Attorney A. C. Cruce. You will remember that the latter defended Beall and Quinn, who last year were convicted in the United States court at Enid and sentenced to the penitentiary for violating the Federal election law, and the State paid the attorneys in these cases about \$14,000.00 for defending these two men. This averages about \$7,000.00 per case. It is not likely that the people of this State, already overburdened with taxes, will be willing to continue to pay out \$7,000.00 every time an election official violates the Federal statutes. The people are not sufficiently anxious to enrich the governor's brother, Attorney A. C. Cruce. Besides, what's the use? Where conviction is sure, there is nothing gained by paying out big sums of money for attorney fees. That is to say, there is nothing gained by anyone but the attorney.

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EXHIBIT 3.

Replevin bond—Justice court.

STATE OF OKLAHOMA, *Lincoln County*, ss:

Whereas S. A. Clark has this 10th day of January, 1912, commenced an action against Ella E. Clark and Osker Springs, before the undersigned justice of the



peace of Fallis Township, in said county, for the recovery of divers goods and chattels, all of the aggregate value of \$124;

Now, we the undersigned residents of said county, bind ourselves to said defendant in the sum of two hundred and forty-eight dollars, that said plaintiff shall duly prosecute the above-entitled action and pay all costs and damages that may be awarded against him, and if a return of the property therein delivered to him be adjudged that he will deliver the same to said defendant.

S. A. CLARK.  
WM. SMITH.

Approved by me this 10th day of January, 1912.

I. N. BRADFIELD,  
*Justice of Peace.*

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EXHIBIT 4.

Undertaking for costs. justice's court.

S. A. Clark, plaintiff, *v.* Ella E. Clark and Oscar Spring, defendants.

We, S. A. Clark, as principal, and ————, as sureties, do hereby undertake and promise to pay all costs for which the plaintiff may be legally liable in this action.

S. A. CLARK.  
W. M. SMITH.

Undertaken and surety approved by me this 10th day of January, 1912.

J. N. BRADFIELD, *Justice of the Peace.*

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EXHIBIT 5.

Undertaking for costs. justice's court.

Shederick Taylor and Nancy Taylor, plaintiffs, *v.* John Rogers, defendant. Justice's court of township of Fallis, Lincoln County, Okla.

We, Shederick Taylor and Nancy Taylor, as principals, and Charles Smith and Wm. Fillett, as sureties, do hereby undertake and promise the said defendant to pay all costs for which the plaintiff may be legally liable in this action.

CHARLES (his x mark) SMITH.  
WM. H. FILLETT.

Witness to mark:

W. H. McCANN.

Undertaking and surety approved by me this 5th day of September, 1908.

J. N. BRADFIELD, *Justice of the Peace.*

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EXHIBIT 6.

Criminal complaint, justice's court.

STATE OF OKLAHOMA, *Lincoln County, ss:*

Before J. N. Bradfield, justice of the peace in and for the township of Fallis, in said county. State of Oklahoma, plaintiff, *v.* Gaines Meadlock, defendant. Complaint.

Before me, the undersigned justice of the peace within and for township of Fallis, of said county, personally appeared A. W. Whitaker, on this, the 9th day of January, A. D. 1912, and being by me first duly sworn, says that on the 9th day of January, A. D. 1912, in the county of Lincoln and State of Oklahoma, one Gaines Meadlock, then and there being, did then and there, willfully, unlawfully, take, steal, and carry away two shock of hay belonging to said

A. W. Whitaker, and said Gaines Meadlock, knowing at the time that said two shock of hay, the value of which was two dollars (\$2), was the property of A. W. Whitaker, and this with the intention of depriving the owner, A. W. Whitaker, from said hay, and to appropriate the same to the use of said Gaines Meadlock, contrary to the form of the statutes in such cases made and provided and against the peace and dignity of the State of Oklahoma.

A. W. WHITAKER.

Subscribed and sworn to before me this 9th day of January, 1912.

J. N. BRADFIELD, *Justice of the Peace.*

Summons for the State the following witnesses: George Gaule and Jerry Irving.

DEPARTMENT OF JUSTICE,  
OFFICE OF THE UNITED STATES ATTORNEY,  
WESTERN DISTRICT OF OKLAHOMA,  
*Guthrie, Okla., October 31, 1912.*

Mr. FRED A. WAGONER,

*Deputy County Attorney, Chandler, Okla.*

DEAR SIR: I have your letter asking whether at the coming general election the precinct election officers can enforce the law commonly termed "the grandfather law," and escape punishment therefor in the Federal courts on a showing of good faith in enforcing the said law. I presume your question has arisen on account of the apparent conflict between the decision of the Supreme Court of the State of Oklahoma and the United States district courts for the eastern and western districts of Oklahoma on the constitutionality of the law, the State supreme court having held the law unconstitutional, while the two United States courts in the State have held it unconstitutional and void.

It must be borne in mind that this all involves purely State matters as well as Federal matters, and in considering the same these two phases of the law must be kept in mind. As to the purely State questions involved in the law, I do not express any opinion, the same not being within the jurisdiction of this office, and this opinion is directed solely to the Federal question involved; that is, the application of the grandfather law to negroes who, on account of race, color, and previous condition of servitude, are not permitted to vote without submitting to certain tests of reading and writing. Nor shall I argue the question of the constitutionality of the law, for the reason that, after very extensive argument by some of the best legal talent of the State, it has already been in positive terms declared unconstitutional by two United States district courts in this State, which decisions are now the law of this State, as far as the Federal questions therein involved are concerned, having never been reversed or modified.

Knowing this, that the Federal courts, having jurisdiction over the entire State, have declared the law to be unconstitutional and of no force and effect, the question arises whether the precinct election officers can enforce it against negroes on account of their race and color, and then when prosecuted in a Federal court for doing so defend the prosecution on a plea of good faith in enforcing the law. The question of good faith must be determined with reference to the decision of the courts on the subject and having jurisdiction thereof, so there can be no good faith in acting in direct conflict with the decisions of the courts, although in the absence of any such decisions such defense might be made. In the case against Beall and Quinn, who were convicted in the Federal court at Enid in 1911 for violating section 19 of the Federal criminal code in enforcing the grandfather law at the general election in November, 1910, the defense in good faith was attempted, although without success, as the verdict of the jury disclosed. However, in that case at the time the acts were committed which caused a prosecution—that is, in November, 1910—no Federal court had passed upon the law.

Furthermore, all precinct election officers are quasi judicial officers in a quasi judicial capacity, and, being officers of inferior and restricted jurisdiction, are all bound by the decisions of the Federal courts declaring the law unconstitutional when applying the same to negroes desiring to vote for Members of Congress and electors for President, and the defense of good faith will not protect them from prosecution for enforcing the law in direct conflict with the Federal decisions.

Respectfully,

HOMER N. BOARDMAN,  
*United States Attorney.*

## EXHIBIT 10.

STATE OF OKLAHOMA,  
County of Lincoln, ss:

J. P. FARRELL,

*Inspector for North Wichita Township, Lincoln County, Okla.:*

I, Wm. Rankin, do hereby state that I am a resident of North Wichita Township, Lincoln County, Okla., and a citizen of the United States and a resident of the State of Oklahoma for more than one year past and a resident of Lincoln County, Okla., for six months last past, and a resident of North Wichita Township, Lincoln County, Okla., for more than 30 days last past. I am a legal voter in said North Wichita Township, said county, and State, and as such I do hereby state that I desire to vote at the primary election held on the 6th day of August, 1912, and at the general election to be held on the 5th day of November, 1912, in said township, county, and State.

I do hereby present myself and demand that you, the inspector in and for North Wichita Township, Lincoln County, Okla., do allow me to vote at the primary election held this 6th day of August, 1912, in said North Wichita Township, Lincoln County, Okla., for Congressman and other Federal officers.

Dated this 6th day of August, 1912.

W. M. RANKIN.

Presented to me, the undersigned inspector for North Wichita Township, Lincoln County, Okla., and by me refused.

\_\_\_\_\_  
*Inspector for North Wichita Township.*

Witnesses to signature:

FRED A. WAGONER,

A. A. BEASLEY.

## EXHIBIT 19.

GUTHRIE, OKLA., *October 31, 1912.*

Mr. W. H. FRANKS,

*Route No. 2, Braman, Okla.*

DEAR MR. FRANKS: Since I have been in the campaign, hundreds of school-land lessees have spoken to me, and many hundreds have written to me to know if there is any relief from the exorbitant rents now being paid; also, protesting against the high prices and the terms under which the school land is selling.

The school-land department of this State is not carrying out the purposes and intent of the statehood bill. I have found the rents grossly excessive, and, where the land has been sold, almost invariably the prices paid and interest charged have ruined the lessee.

I shall take this matter up immediately and see if there is any possible means by which you who have improved this land and helped build the State can be relieved of the burdens which the American Congress never intended should be imposed upon you.

Very sincerely, yours,

BIRD MCGUIRE.

## POLITICS AND POLITICIANS.

Crooked election officials who by subterfuge may seek unlawfully to deprive voters subject to the "grandfather" law from voting on November 5, will expose themselves to prosecution in the Oklahoma courts as well as in the Federal courts. This was made plain for the first time in a unanimous opinion handed down by the State supreme court last week in a case from Wagoner County. The court said:

"The precinct officers were authorized to require such persons to read and write a section of the constitution. But, when such proposed voter read intelligibly and wrote legibly the section of the constitution designated by the election officers, he demonstrated his qualification to vote, and acts on the part of the election officers requiring him to write at great length many provisions of the constitution or detaining him for any great length of time under pretense of examination, and thereby delaying other persons from entering the polls, was without authority of law."

This opinion by the State supreme court has caused violent outbursts from Gov. Cruse and Senator Owen, but it is the law and any man who violates it may be sent to the penitentiary. (From Chandler News-Publicist of Friday, Nov. 1, 1912.)

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Attorney General West, Democrat, advises the election officials to go slow in enforcing the grandfather law. The attorney general, for once, seems to have got off on the right foot. (From Chandler News-Publicist of Friday, Nov. 1, 1912.)

TO PROSECUTE IS RESULT OF GRANDPA LAW.

KINGFISHER, OKLA., *October 26.*

If negroes are not permitted to vote for Members of Congress, election officials who refuse them the right through attempts to enforce the "grandfather" clause law of the State are liable under both sections 19 and 20 of the Federal criminal code.

This became known to-day when it was learned that the United States district attorney's office has received instructions from the Department of Justice at Washington to institute proceedings against election officials, not only under section 19 but section 20.

Under the former it is necessary to prove a conspiracy to prevent negroes from voting, whereas under section 20 one election official can be prosecuted without the conspiracy feature being considered. It was under section 19 that former United States Attorney John Embry secured the conviction of J. J. Beal and Jack Guinn (Guinn's father is a resident of Lincoln County), election officials of Kingfisher County, who are now under sentence to the Federal penitentiary for preventing negroes from voting for Members of Congress two years ago.

After a full consideration of the Oklahoma cases, Attorney General Wickershaw has instructed that prosecution be instituted also under section 20, which makes an individual election official liable. Only recently election officials have been arrested in Okmulgee and Seminole Counties, and indictments are now pending in the courts against election officials in Logan and Oklahoma Counties. (From Chandler News-Publicist for Friday, Nov. 1, 1913.)

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SUPREME COURT PASSES ON "GRANDFATHER CLAUSE."

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CONCERNING THE "GRANDFATHER CLAUSE."

Gov. Cruse, in a speech at Arnett last week, and Chief Justice Kane, in a recent decision, made some pertinent remarks touching the enforcement of this pernicious law. At Arnett Gov. Cruse said:

"I believe in the enforcement of the "grandfather clause," but I believe in a sensible enforcement. The negro in this State who can read and write has

just as good a right to vote as you or I, and where the judges of election know that a negro is a qualified voter there is no more reason for applying the test than there is for making me swear I am 21 years old."

Chief Justice Kane, in reviewing the evidence taken in an election case from Wagoner County, where so much time was taken up in applying the test to a few negroes that a large number were excluded, says:

"The conduct of the election officers in these precincts can find no justification in the laws, and their protest that they acted in good faith is refuted by their conduct."

The above simply means that the officials higher up intend to shift all the blame—and the penalty—of the enforcement of the "grandfather clause" onto the election inspector. (From the Chandler News-Publicist for Friday, Nov. 1, 1912.)

FOUR INSPECTORS ARE BOUND OVER—BEALL AND QUINN DECISIONS USED IN THE OKMULGEE ELECTION CASES.

OKMULGEE, OKLA., *September 12.*

Four of the election inspectors bound over under \$1,000 to await the action of the Federal grand jury and one dismissed of the charges against him was the outcome of the preliminary hearing before United States Commissioner Clapp here. Bert Hodges and G. A. Dooley, of Okmulgee, were bound over in the second hearing, and A. C. Post and E. A. Garrison in the first, while J. C. Milner was discharged.

The officials as election inspectors before the August primary refused to register negroes and later refused them the right to vote, and the United States district attorney, Gregg, has started prosecutions charging them with depriving citizens of their rights under the Federal Constitution. No evidence against Milner was produced, which resulted in his discharge.

The prosecution of the cases relied almost wholly upon decisions in the Beall and Quinn election cases, both of whom now are serving terms in the Federal penitentiary because of refusal to allow negroes to vote in this State.

The defense introduced very little testimony in the cases, indicating they will not make a strong fight until the cases come up for trial should the grand jury return indictments. Many witnesses, some negroes, refused the right to vote in the primary August 6, and others, white men, who witnessed the action of the inspectors, were put on the stand by the prosecution.

The Federal grand jury will be convened in Ardmore early in October. All of the inspectors have made bond in the sum of \$1,000 and been released. (From Chandler News-Publicist for Friday, Sept. 27, 1912.)

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PRECINCT OFFICERS ON GRILL—FEDERAL OFFICIALS ARREST INSPECTORS FOR ALLEGED INFRACTIONS.

OKMULGEE, OKLA., *September 10.*

The first arrests for violating the United States penal statutes regarding the election of Federal officers were made here yesterday when five election officials were arrested by deputy United States marshals on the charge of conspiracy to defraud voters of the right of suffrage. The "grandfather" clause, recently held unconstitutional by the Federal courts, is the basis of the arrests. Officials connected with the United States attorney's office declare they will vigorously prosecute all persons who enforce the "grandfather" clause.

The following election officials were arrested and released on bond to appear before the United States commissioner for preliminary hearing next week: J. C. Milner, Bert C. Hodges, and G. A. Dooley, of Okmulgee, and F. A. Garrison and C. A. Post, of Beggs.

The warrant charges that legally entitled voters were denied the right to vote at the primary election, August 6. On that date only 26 negroes out of 150 were allowed to vote in precinct No. 1. Professional men, preachers, lawyers, and doctors were turned down indiscriminately. At Beggs one man was examined for four hours, writing twenty-seven pages of the constitution on a pencil tablet with pen and ink. The polls were closed on the fourth man before he voted, while white voters cast their ballots unmolested.

Several other townships in Okmulgee County did likewise, allowing only a few to vote. Warrants have been issued for all election officials in every pre-

inct where negroes were denied the right to vote, and deputy marshals are now looking for them.

The penalty for the charge as alleged in the warrants is a fine not exceeding \$5,000 or not to exceed ten years imprisonment, or both. (From Chandler News-Publicist for Friday, Sept. 13, 1912.)

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#### WOULDN'T LET THE NEGROES REGISTER.

Because negroes were refused registration to vote in an election for Congressman complaints have been filed with the United States attorney's office here for investigation from Pawnee, Enid, and Chandler. All such complaints are to be investigated by the office prior to action being taken. Registration was refused in each instance because of the State "grandfather clause." Several days ago instructions came from Attorney General Wickersham to prosecute following investigations.—Guthrie Star. (Chandler News-Publicist for Friday, Aug. 16, 1912.)

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#### A WHOLESALE ARREST OF INSPECTORS EXPECTED.

The United States Government will take a hand in the Oklahoma primary election, and the election inspector who denies a negro the right to vote for a Congressman or any other Federal officer will find himself up against a mighty serious proposition.

Attorney General Wickersham wires from Washington to vigorously prosecute all inspectors who violate the law in parallel cases to those of Beall and Guinn, now under sentence of a year and a day in the penitentiary for refusing the negro the right to vote.

Beall and Guinn were both prosperous farmers, past the 50-year mark of their lives. They listened to the orders of a Democratic "high-up," and are now suffering therefor, broken financially and otherwise; needless to say, the "high-up" goes scot-free.

A recent article in the Guthrie Star follows:

"A statement from United States attorney's office made last evening is to the effect that the officials of that office are ready and willing at all times to prosecute all cases wherein negroes are denied the right to register or to vote because of the operation of the grandfather clause.

"Any negro in the State who will report this to the United States attorney will be given immediate attention, and Uncle Sam's attorneys will go right into the case and wage a vigorous prosecution, just as was done in the Guinn and Beall case."

#### INSPECTORS QUIT IN LOGAN COUNTY.

Word comes from Logan County that numerous Democratic inspectors have handed in their resignations, stating that they have no desire to lose their property and go to the penitentiary, just because they followed orders from "high-ups," who want others to do the dirty work.

Here in Lincoln County the same condition exists. Following instructions from the United States district attorney, the Republicans, backed by the leading attorneys, will keep a close watch on every precinct in the county, and the very first inspector found refusing any person the right to vote will be summarily arrested, the papers filed with the United States attorney, who will handle the prosecution.

When Uncle Sam takes a hand in any matter things happen. With unlimited funds and an unrivaled secret service department the wrongdoer has a mighty small chance to escape capture and punishment.

Remember, Mr. Inspector, you are the one who must suffer, not the fellow who orders you to do so and so. It is your property that is confiscated; it is you who must stand the expense of a long court trial. It is you who must go to trial and you and your family suffer.

There is but way out—do not violate the United States laws. A word to the wise should be sufficient. (From the Chandler News-Publicist, for Friday, Aug. 2, 1912.)

Before the House of Representatives, Congress of the United States. John J. Davis, contestant, v. Bird S. McGuire, contestee.

## STIPULATION.

It is stipulated and agreed between the contestant and contestee that the testimony upon the grounds of contest assigned in plaintiff's petition as to the irregularities as to the election in Osage County shall be the same as submitted in the contest hearing before the house of representative, fourth legislative session, of Oklahoma, 1913, in the contest of Riley v. Prentiss, and upon request of contestee, the contestant also agrees there shall be submitted in connection with such testimony the minority and majority report of the committee, and it is also agreed that as a result of said contest Prentiss, the Republican, was seated.

The copy of said testimony being as follows:

ROY HOFFMAN,  
*Attorney Contestant.*  
FRED A. WAGONER,  
*Attorney Contestee.*

Contestee objects to said evidence on the ground it is incompetent, irrelevant, and immaterial, tending to prove no issue in this contest.

Mr. E. L. GAY was called, and, after being duly sworn, testified as follows:

By Mr. D. S. LEVY, for the contestant:

Q. Where do you live?—A. At Pawhuska.

Q. What official position, if any, do you occupy in Osage County?—A. I am secretary of the county election board.

Q. Were you secretary of the election board at the time of the general election on the 5th of November, 1912?—A. Yes, sir.

Q. As such secretary, have you in your possession the records of the Osage County election board?—A. I have them with me.

Q. Will you produce them? [Mr. Gay here produces a book.] I wish that you would turn to the records and state what place was designated by the Osage County election board as the voting place in precinct 5 of Big Hill Township for the election on the 5th day of November, 1912.—A. (Mr. Gay reading from book). "The voting place in precinct No. 5, Big Hill Township, is hereby changed to Barney Gibbs's place on section 12-5-24." That was done by the election board on the 23d of September, 1912. All members of the board were present and all signed the resolution.

Q. Then, on the 5th, when the general election was held, the official voting place for precinct No. 5 of Big Hill Township was Barney Gibbs's place?—A. Yes, sir.

Q. Please state whether or not the election on that day was held at that place in that precinct.—A. I do not know.

Q. Subsequent to the time the board made the change, as you say, in September, to Barney Gibbs's place, was there any change made by the board?—A. No; that was the only action the board ever took on it.

Q. Was the official change of the polling place to the Barney Gibbs place advertised by the county election board?—A. It was.

Q. By due notice posted at the courthouse and other places?—A. I think the law requires 30 days' publication, and that was made.

(Mr. Pruitt objects to the testimony as to the publication of the change of the polling place as not the best evidence, as the publisher's affidavit with the notice of publication attached is the best evidence.)

Mr. MOORE. I think that was necessary.

Mr. HASKELL. This committee has no discretion as to whether it will receive evidence or not.

Mr. McGUIRE. Mr. Chairman, that is the first point, evidence, and that is legal evidence.

Mr. HASKELL. We do not care to discuss that question at all, but we want the committee to rule one way or the other and want the ruling established so that we can tell where we are. It will be satisfactory to us any way the committee rules. Are they going to hear nothing but legal evidence?

Mr. MOORE. I think the Chair will rule on that.

(The objection by Mr. Pruitt is overruled by the Chair.)

Q. As secretary of the county election board, have you in your custody the ballot boxes, ballots, certificates, etc., that were used at the election on the 5th day of November, 1912, for representative in the legislature from Osage County, all the paraphernalia?—A. Yes, sir.

Q. Please produce them.

Mr. KING. That is an unfair question. It is impossible for him to produce the booths that were used in the election.

A. I have had the keys to the boxes in my possession all the time. The boxes were locked and put in the county court room at Pawhuska, and kept there by order of the district court in that county until they had to use that court room for court purposes, when they were removed across into the jury room. If the returns are not intact, the boxes have been broken. None of them have been opened, except yesterday, when preparing to come down here, I called the chairman of the Republican central committee in that county and requested him to designate somebody to go with me to inspect the boxes, as I wanted to be sure to bring the four boxes designated in the summons, so that I opened these boxes to be sure that they were the right ones, containing the right returns—just simply opened them and locked them up again.

Mr. MOORE. What authority did anybody have to open these boxes?

A. Absolutely the secretary is made the custodian of them and has the right to open the boxes but not to unseal the envelopes. The speaker has the right to have the boxes opened.

Q. By what authority were they opened?

(Objected to and objection sustained.)

Mr. McGUIRE. I understand the offer has been made of the boxes. Mr. Prentice now asks the witness as to the care the boxes have been given since the election.

(This permission is granted by the chair.)

Mr. COYNE. For information, I ask the chairman of this committee, Can counsel for either side object to a member of the committee asking any question?

Mr. GLASSGO. The committee sits as a jury, and I think in that way the jury would have the right to ask the witness most any question.

The CHAIR. The committee has a right to ask a question, but attorneys can object, and the chair will rule.

Mr. PETERS. We have an agreement here that questions would be propounded by attorneys. We are not attorneys, but acting as jurors to hear this case and can ask any questions for information we want. It is only fair that we sit and listen and get information.

Mr. COYNE. Peters, do you speak now for the chairman or for the committee?

A. For myself, as to what took place there this morning.

Mr. MOORE. Now, if I have violated any of the rules I want to get right.

Mr. McGUIRE. Mr. Gay, what was done with the ballot boxes after the board had finished canvassing?

A. They were locked and left in the county court room.

Q. They were left in a public place?—A. The court room was locked.

Q. People going back and forth all the while?—A. I think not.

Q. Now, you say the boxes were all locked?—A. No; they were not all locked. Two boxes in an election are sent to each precinct. One contains the returns and the other box is brought back with the equipment for holding the election, or sometimes empty.

Q. What was done with the keys?—A. In my possession all the time.

Q. Has there been a bunch of keys lying around there loose?—A. No, sir.

Q. When were the boxes moved from the courthouse?—A. I do not know the exact date. I was in my office one morning and the sheriff came in and notified me to get the boxes out of the court room as the court was to convene and they wanted the room. Judge Hudson came in and told me that the boxes were moved.

Q. Who moved them?—A. I did not move them myself. I was there, the janitor, Lee, and the deputy sheriff.

Q. Where were they moved?—A. Into the jury room.

Q. What is that room used for besides a jury room?—A. I have no knowledge of its being used for anything else.

Q. Is it not a place where the fellows play cards, smoke, and loaf?—A. I found a bunch in there yesterday playing cards, but the room was in the custody of the sheriff. The boxes were in the room then.



Q. How long had they been in that room?—A. I can not tell exactly. They were in the court room some weeks after the 5th of November and then moved over.

Q. They were there at least a month?—A. I think so.

Q. That room, was it accessible to anybody?—A. No.

Q. Did it have the appearance yesterday of having been used as a smoking room?—A. It did.

Q. Looked as if it had been used for that purpose for some time?—A. No; the men who were there were not gamblers; just in there for a social game.

Q. Did anybody sleep there?—A. Do not know.

Q. It was used for the jury?—A. Yes, sir.

Q. When you got those boxes yesterday you found one of them unlocked?—A. I am not really sure whether it was one of the boxes or not.

Q. Was Mr. Sams with you?—A. Yes, sir.

Q. Did you, at the time you found it unlocked, say to Mr. Sams or to anybody else in his presence, that this was the very box which should not have been unlocked?—A. We opened the box and found that it was the one we wanted, and I believe we did make that remark.

Mr. GLASSGO. Do you expect to use Mr. Sams for a witness?

A. Yes, sir.

Q. Is there any objection to his remaining in the room?—A. No; he is a practicing attorney here.

Mr. MCGUIRE. We will excuse Mr. Sams.

Q. Then you did make that remark?—A. I believe that I did make that remark.

Q. Was it not unlocked at the time you went into the room?—A. It was bound to have been as we picked it up and found it so.

Q. You do not know how long? How many people were in that room when you went in that room yesterday?—A. Just enough to make a game; just four, I believe.

Q. Were they playing poker?—A. I do not know.

Q. Did they have spittoons on the floor?—A. I did not see any; I really could not say.

Q. Is there a bed in there?—A. Yes, sir.

Q. How many beds?—A. Several beds.

Q. Who occupied those beds?—A. I do not know.

Q. What box was unlocked?—A. I do not know.

Q. Can you tell now?—A. I can tell when I go to unlock the box—the box was hard to open.

Q. How do you know it has not been unlocked since then by some one?—A. It was unlocked.

Q. Did other people have keys to this room?—A. Just the sheriff.

Q. Had you been in that room before yesterday?—A. Not since the election, except the time we went to move the boxes in.

Q. Did the deputy sheriff have keys?—A. Maybe the deputy did.

Q. You spoke of changing the voting place—why was this done?

(Objected to by Mr. Levy. Objection sustained.)

Q. You have not, then, been in custody of these boxes since you caused them to be moved to this card room?—A. Just as much as I was before. I have not seen them since.

Q. Has anybody overlooked them for you?—A. Just the sheriff.

Q. Do you know how many people have had access to those boxes since you moved them there?—A. Nobody has had access to the boxes. I have had the keys in my possession.

Q. There were people in the room, though?—A. I do not know about that.

Q. Did they have a jury in that room after you put the boxes there?—A. I do not know.

Q. You never paid them any attention, then, after you had them moved over there?—A. No, sir.

Q. Were those boxes moved in there before the new officers went into office?—A. I believe they were moved about the 1st of December.

Q. Do you have the same sheriff now that you had in December?—A. No, sir.

Q. Did you ever authorize the new sheriff to take charge of those boxes for you?—A. That was not up to me.

Q. Did you authorize the deputy sheriff to take charge of them?—A. Yes, sir; I authorized him to take care of them. We are limited for court room

there. I asked the commissioners where we should put those boxes, and they said to leave them in the county court room.

Q. Has there been a change in the deputy sheriff?—A. Yes, sir.

Q. How many deputies are there?—A. I do not know.

Mr. LEVY. You said that yesterday, in the presence of some gentleman designated by the chairman of the Republican committee, you opened these boxes. Did you open the envelopes?

A. No, sir.

Q. The ballots that were cast on that day, the certificate of return, etc., were all sealed up in these envelopes?—A. Yes, sir.

Q. And were not disturbed?—A. No, sir.

Q. And have not been disturbed by you?—A. No, sir.

Q. Did they have the appearance of having been disturbed?

(Objected to as calling for a conclusion. Objection overruled.)

Q. You say you do not know which box had been opened?—A. I do not know. I think there were 112 boxes in our county and they were all stacked up together and we looked clear through the bunch, and one of the boxes we got the second time we were going through. They were not plainly marked on the outside, and we missed this box in going through the first time and found it on going through again.

Q. The boxes were piled up on top of each other?—A. Yes, sir.

Q. When you went in there to get the boxes were they in the same position?—A. Yes, sir; I don't think a box had been disturbed.

Mr. MOORE. Do you know who opened those boxes?

A. Yesterday I opened them myself.

Q. Who was with you?—A. Mr. Sams.

Q. Do you know of anybody else opening those boxes?—A. Some of the tags were torn off and I wanted to be sure that I was getting the four correct boxes, so opened them and looked at the envelope on the outside to see that we got the right boxes. The chairman of the Republican committee designated a man to go with me.

Q. Who did he designate?—A. Mr. Sams.

Q. The boxes that had been opened—the one box—was that on the top or bottom of the pile?—A. I think it was the last box, or near the bottom of the pile.

Q. I believe you said that the seals on the envelope were still intact?—A. We did not take the envelopes out; we could see without touching them.

Q. Judge Hudson, you say, directed you to put them in that room?—A. Yes, sir; he called me up to the court room and said that I had better get somebody to have them moved. Judge Hudson is the district judge.

Q. The only other person who had access to the room was the sheriff?—A. Yes, sir; E. A. Willison, a Republican.

Q. Is his office now being contested by the Democratic candidate?—A. Yes, sir.

Q. And those boxes have been in that room and he has had access to them since the 1st of January?—A. Yes, sir.

Q. Has anybody else got any keys to fit the locks?—A. No, sir.

Q. Could you tell which of the four boxes that had the lock sprung on it?—A. I can, when I go to open the lock, as it works very hard.

Q. Try it now and see if it is any of those four.

(Mr. Gay here examines the election boxes.)

Q. Have you found the box?—A. Yes, sir.

Q. What box is that?—A. I can not tell without looking on the inside.

Q. Look at the envelope and tell us what precinct it is.—A. No. 4, Big. Hill Township.

Q. I wish that you would look at that envelope now and state whether or not it has been tampered with; any of them; have they been tampered with since they came into your possession; the envelope marked "Voted ballots, ballot book, and tally sheets"?—A. It has no indication of being tampered with.

Q. It is in the same condition as when received by you from the precinct election board?—A. Yes, sir.

(The members of the committee here examine the election box. On examination of the envelope, the committee finds two seals broken and one intact. The return sheet had all three seals broken, and was marked by the stenographer "Exhibit 2." Mr. E. L. Gay here makes the following statement to the committee: "In serving on election boards, I have found that the seals are seldom intact when the returns are brought in. The election officers in the various

country precincts are very careless. They get their affairs all done up in the envelope, then double it up, and very frequently the seal is broken.")

Mr. HASKELL. Mr. Chairman, on behalf of the contestant, we ask the committee to find from the examination of the envelope marked "Exhibit 2" that there is no opening in that envelope large enough to permit of the removal of the ballots from it.

Mr. CRAWFORD. Is that the box that you found open when you went there the other day?—A. Yes, sir; the lock is not broken but it works very hard. My judgment is that whoever attempted to lock the box thought it was fastened when really it was not, and in this way it was left open on account of the lock working hard.

Mr. HASKELL. Please take the sense of the committee on the request that I have just made. The committee will realize that the main seal would have to be broken, and Mr. Crawford has just stated into the record the finding of the committee as to two of the three being broken and the third being intact, and I think, in view of the fact that this envelope must be opened in order to examine the ballots, that the committee should agree now as to its present condition and let that be entered into the record.

Mr. McGUIRE. There is an opening large enough for the ballots to be taken out. The committee will please find on that question.

Mr. PRUITT. I would suggest that this matter be passed until the committee decides whether it will open the envelope, and then, if so, it can be demonstrated as to whether it can be done or not.

Mr. CRAWFORD. It seems to me that this is a matter for the committee to pass on when we get to it. It is before us here now.

Mr. GLASSGO. Let us just make the examination now.

Mr. McGUIRE. This is now a question of the admissibility of it.

Mr. LEVY. The contestant now requests that the committee open the envelope marked "Contestant's Exhibit 1," and make an examination of the contents of the envelope.

Mr. McGUIRE. We request a little further examination before the committee passes on that. Mr. Gay, was that package in that condition when the board turned over these ballot boxes to the sheriff?

Mr. GAY. I don't know; I never had that package out; this is the first time I ever saw it.

Q. You said that you often found that the boards below were careless?—A. Yes, sir.

Q. Was this sealed or unsealed when it came in from the precinct board?—A. I could not tell.

Q. Was that ever taken out of the ballot box, to your knowledge?—A. Not to my knowledge. Our board had one member open the boxes and take out everything—rather take out the envelopes—and another called off the vote and I recorded it, in canvassing the vote. In a great many precincts in our county, we had one new member on the board who had just been sworn in the day of the election to help canvass the returns, and he opened the boxes and opened the envelopes as he came to them, and opened a great many of the envelopes—it may have been this one. I do not know.

Q. Did you examine this hole?—A. Mr. Sams went to take that out of the box yesterday and tore that. I stopped him before he got it all out.

Mr. CRAWFORD. Why was he taking it out of the box?

A. He was the man designated by the chairman of the Republican committee to go into that.

Mr. MOORE. He didn't continue to take it out?

A. No; he didn't take it out; he just started to and tore that hole. I made the remark that we had better not take it out. That was yesterday.

Mr. MOORE. Why did he want to take that out of the box yesterday?

A. I did not allow him to take it out, but I don't know, you will have to ask him why he started to take it out.

Q. What was his object in taking hold of it?—A. I refer you to him on that.

Mr. HASKELL. That hole that you have just referred to as being torn by Mr. Sams yesterday in taking it out, is the hole in the side that was mentioned by Mr. Crawford? Will you state whether it is or not? That was the only hole in the envelope?

A. Yes, sir.

Mr. COYNE. Mr. Sams simply went with you to witness you while you were looking into that box?

A. I explained a moment ago that the boxes were all tagged. Some of those tags were torn off when the election boards brought them back. I could not pick out myself which four boxes I should bring with me, and so asked to have some one go with me, and Mr. Sams was the man designated to go with me. We had to see the number of the precinct on the envelope, and I wanted a member of the opposite party with me.

Q. Then you disclaim any connection with the tearing of that hole in the envelope?—A. Yes, sir.

Mr. MOORE. Was it not a fact that in order to find out just what precinct these ballots were from, you had to tear the hole?

A. I do not think he had any idea of taking the package out; just simply picked it up and it tore.

Mr. HASKELL. Mr. Gay, did you lock that box—how soon after the hole was torn?

A. Immediately.

Q. Has it been unlocked since?—A. Not until here in your presence.

Q. And the box was not out of your possession from the time it was torn by Mr. Sams in lifting it out, until it was relocked?—A. No, sir; I have not had the box with me every minute since, but they have all been locked up.

Mr. PRUITT. Mr. Chairman, we would like to have Mr. Sams examined as to the condition and care of these boxes before the committee goes into an examination of the ballots.

Mr. McGUIRE. As to the question of going into these ballot boxes at all. That is the question we are discussing now.

Mr. LEVY. This is for the purpose of ascertaining the condition of them?

Mr. McGUIRE. Our courts hold that not only must they show that they have been properly cared for, but must show that there has been no good opportunity to tamper with them.

Mr. McADAMS. The decision of the supreme court of this State has no bearing on the acts of the legislature in this contest, but the legislature is the sole judge of the contest and the manner in which it should be conducted, and the courts have nothing to do with it.

Mr. McGUIRE. I agree with you, but the committee is not bound to count the ballots unless to see if they have been tampered with.

Mr. GLASSGO. In order to get on with this matter I make a motion that before the committee goes into the examination and counting of these ballots, that we go into executive session and have only present the custodian of the boxes, but will not proceed with that at this time.

Mr. McADAMS. You do not mean to incorporate in that motion that while the ballots are being counted the committee will be in executive session?

A. No, sir.

(Whereupon Mr. Glassgo's motion was carried.)

Mr. McGUIRE. You spoke of having the keys. Will you examine those keys and state if you know what they are [handing Mr. Gay a bunch of keys]?

Q. They are marked "Strike Ax No. 4." Now, do you know anything about this bunch of keys, as to what they belong [handing the witness another bunch of keys]?—A. They belong to one of the boxes in Hominy Township—precinct No. 1.

Q. Do you know where it has been kept?—A. No.

Q. Where has this bunch of keys been kept?—A. I do not know.

Q. These are keys from your county election boxes, are they not?—A. Those with the metal tags are—as I explained just now, there are about 112 boxes in that county. The boxes that contained the returns were opened, the returns taken out, and the other boxes locked, and I have had them ever since.

Q. These have been in a pile in the court room?—A. I can not tell about the empty box keys.

Q. Will these keys unlock any of the boxes containing the ballots?—A. I can not tell.

Mr. GLASSGO. These keys that have been shown you, they are not the regular keys?

A. No.

Q. You have had those?—A. Yes, sir.

Mr. MOORE. Do you know anything about these keys?

A. Well, the ones with the metal tags—the empty boxes were all in the same room with the other boxes; the board was all together; Sullivan Ezell and myself put all the keys to the boxes that contained any part of the returns into one small box, and that key was in my possession, and I have had it ever

since. The box that contained the keys was in the same place yesterday that I had put it.

Mr. GLASSGO. If these boxes have been opened at all, then, they have been opened by some one using a false key, have they not?

A. Yes, sir; I have no knowledge of their being opened at all.

Mr. MOORE. Has this newly elected sheriff a key to fit this box here?

A. The election boxes? No, sir; not that I know of.

Mr. COYNE. Mr. Gay, those locks—have they got one or two keys to each lock, and do you keep both keys?

A. Yes, sir.

Mr. CRAWFORD. Are you going to take one of these boxes at a time, or are you going to ask him about all of them?

Mr. LEVY. We have only asked him about Big Hill Township. He has testified that none of the others have been tampered with.

Mr. CRAWFORD. Mr. Gay has said that the other boxes were all locked?

Mr. LEVY. Yes, sir.

Mr. GAY. Yes, sir; this is the only box that we found unlocked yesterday.

Q. They are in the same condition as when you put them there?—A. So far as I have any knowledge they are in the same condition as when we locked the boxes after canvassing the returns.

Q. That is precinct No. 5—Big Hill Township—and precinct No. 4, or Fairfax?—A. I believe those are the precincts designated; yes, sir.

Mr. HASKELL. Comes now the contestant and offers in evidence the ballots, certificate of returns, and the book of unused ballots used at the general election on November 5, 1912, at precinct No. 4, of Big Hill Township.

Mr. E. B. SAMS, being duly sworn, testified as follows:

By Mr. MAGUIRE:

Q. Your name is E. B. Sams?—A. Yes, sir.

Q. Where do you live?—A. At Pawhuska.

Q. Were you present with Mr. Gay yesterday when he picked out those four boxes?—A. Yes, sir; I went with him at the request of the Republican central committee.

Q. Where did you find them?—A. In the jury room in the courthouse.

Q. What kind of a room is that?—A. Well, it is the southeast-corner room of the courthouse—a long, rather narrow room, and it has several beds in it that have been used for the jurors.

Q. Did you find anybody there yesterday?—A. One man—when we went the first time.

Q. And the next time, how many did you find?—A. The next time there were four men there playing cards.

Q. How was the room fitted up?—A. Well, there was a small stand in there and quite a number of beds—six or seven maybe.

Q. Had you been in that room before?—A. I was just inside of the door once only.

Q. What was going on then?—A. Two gentlemen were in the room at that time.

Q. What doing?—A. Just sitting by the fire.

Q. Was that room a kind of a loafing place for the employees around the courthouse?—A. Yes, sir; not so much the employees as the town people—they came up there and sat around.

Q. And played cards up there, and smoked and loafed, etc.?—A. I don't know of my own personal knowledge of their playing cards, except yesterday.

Q. Did you ever know anyone besides the jurors to sleep in there?—A. Yes, sir.

Q. Who?—A. Well, the ex-deputy sheriff—that is, my understanding is that he slept there a year or two.

Q. Was the door usually locked or not?—A. Usually not.

Q. Do you know when these boxes were put in there?—A. I do not.

Q. Where were they kept before they were put in there?—A. In the assembly room of the courthouse.

Q. In the daytime were the doors to that room locked?—A. Not always; sometimes.

Q. When you went there yesterday, did you have any difficulty in finding these boxes?—A. Yes, sir.

Q. Why?—A. The boxes have these block numbers, and when they were put out they were not put out to the election precincts that corresponded with those

numbers in many cases; they were written with a pencil sometimes, so that we overlooked them.

Q. State what was the condition of the four boxes as to being locked or unlocked.—A. Three of them were locked and one unlocked.

Q. Where was it?—A. Stacked up on the west side of the room with the other boxes.

Q. Was there anything said about this box being unlocked?—A. Yes; we had looked through all the boxes twice and failed to find Big Hill precinct No. 4 box, and Mr. Gay said that it would probably be necessary to unlock all the boxes before we could find Big Hill No. 4, and he started at one end and proceeded to unlock them and had probably unlocked six or eight, and I notched this box unlocked and said to him that we might look into that one. He was having some trouble in finding the proper key, and he took it out and opened it up, and it was Big Hill Township No. 4—the one that we were looking for.

Q. Did you see this package there yesterday?—A. Yes, sir.

Q. Do you know how the hole got there?—A. Yes, sir.

Q. How?—A. Well, it was in the ballot box with the end doubled under, and I asked Mr. Gay if it was sealed. I wanted to find out if the ballots were sealed, and he turned up a little corner here, and it looked to me as if the seals were broken; and I took hold of it to see, and that corner tore off.

Q. How was the end yesterday when you saw it, as compared to now, as to being open or not?—A. I did not examine it after the side gave away.

Q. You have had these keys?—A. I have not had them in my possession. I got them from the county judge about 5 o'clock last night.

Q. Where did he get them?—A. I only know from what he told me.

Q. Have you seen them before?—A. On about the 30th of December I saw them on the window sill in the county court room.

Q. Is Big Hill Township No. 4 your voting precinct?—A. No, sir.

Q. There was a change in the officers there, was there not?—A. In part.

Q. Was there a change of sheriff?—A. Yes, sir.

Q. The former sheriff was a Democrat and the present sheriff is a Republican, I believe; and there is a contest pending now, is there not?—A. Yes, sir.

Q. Is that between the former sheriff and the present sheriff?—A. Yes, sir.

Q. These ballots have been there in the court room under both sheriffs?—A. Yes, sir; the old sheriff held possession of the office until—I think it was the 10th day of January.

Mr. COYNE. Are you an officer in Osage County?

A. Temporarily, I am.

Q. By election or appointment?—A. By appointment.

Q. What is the office?—A. Sheriff.

Q. How did you come to be with Mr. Gay looking into those ballot boxes?—A. The chairman of the Republican committee telephoned me that Mr. Gay wanted him to designate somebody to go with him to be present when he got those boxes; so Mr. Mason called me up and asked me to go with him.

Q. The people that you found in the room where the boxes were, were they officers of Osage County, any of them?—A. I don't think I understood your question.

Q. Were the parties whom you saw playing cards officers of that county?—A. The ones who were playing cards were not. George Chambers was a deputy under the old sheriff.

Q. You spoke of the boxes being in the general assembly room of the courthouse of Osage County when court was not in session. Do they commonly keep a watchman, either night or day, around that courthouse?—A. No, sir.

Q. You spoke of the keys being in some window. Are they the same keys?—A. Yes, sir.

Mr. HASKELL. The keys you speak of as having seen in the window of the county courthouse, they are the keys over there on the table? [Hands witness the keys.]

A. Yes, sir.

Q. Are you positive about that?—A. I am, so far as these with the tags are concerned. Here is a set without a tag. I can't swear positively as to that.

Q. The four boxes that you examined yesterday had the tags on them?—A. I could not state now. There was quite a number of the keys that did not have tags.

Q. The bunch of keys that you saw on the window in the county court room did not contain the keys to either of the four boxes you selected yesterday to bring before the committee?—A. I think not.

Q. Will you please tell the committee what authority you had to take possession of those keys and bring them here?—A. I think it was on the 30th day of December—the day that Mr. Freece filed his contest—we were holding a conference in Mr. Mason's office, and he said he had seen some keys in the court room, and there were four of us went over and examined the keys.

Q. Was the court room unlocked at the time?—A. Yes, sir; and that was the last time I saw the keys until the new county judge was sworn in on the 6th of January, and he took possession of the keys and locked them up in his desk, and last night he gave me these keys.

Q. Is he a Republican or a Democrat?—A. Republican.

Q. What instructions did the new county judge give you as to what you should do with those keys?—A. None.

Q. Why did you bring them down here?—A. For whatever use they might be as evidence to this committee.

Q. Did anyone tell you to bring them down here as evidence for the committee?—A. No.

Q. Then you have no authority for taking them around?—A. No.

Q. As a matter of fact, these are the keys to empty boxes?—A. I do not know.

Q. What official position do you hold?—A. I have been in the sheriff's office since the new sheriff went in.

Q. Look at the lock on the box that you found open, being for Big Hill Township. State if that is a spring lock.—A. It is.

Q. It is hard, is it not?—A. Yes, sir; it works hard.

Q. Would it not be quite possible for a man to lock the box by snapping it shut?—A. Yes, sir.

Q. Could he not think he had locked the box when, as a matter of fact, it had not caught?—A. I would think that would be possible.

Q. This is rather heavy paper that this envelope is made of which contains the returns, is it not?—A. I would not call it very heavy.

Q. Well, fairly heavy, is it not?—A. It is reasonably heavy.

Q. There never was much wax on these seals, was there?—A. I could not state. As I stated before, the end was folded under. I did not see sufficiently to tell whether the seals were broken or not.

Q. As it appears now there was not very much wax there?—A. Sufficient for the seal. I should think.

Q. You do not know, do you, but what the weight of the contents caused this envelope to tear?—A. I think so.

Q. You would not undertake to say that the same weight that caused the paper to tear did not also break the seals?—A. I could not say.

Q. You could not say whether they were broken until you lifted them out?—A. I could not state.

Mr. KING. You did not lift those ballots out of the box?

A. No; just as I attempted to—I merely intended to lift the package up so that I could see under the end and see if the seal was broken.

Mr. MCGUIRE. Mr. Samis, where did Mr. Gay get the keys with which he opened these boxes yesterday?

A. Out of a ballot box.

Q. They were in a ballot box all together?—A. I think so.

Q. He had none on his person?—A. No, sir.

Q. Had they been in the same room with the boxes?—A. Yes, sir; I think so.

Q. Were the boxes—or rather the box—which contained the keys locked?—A. I think so.

Mr. GLASSCO. You say that you first saw the keys on the window sill in the county court room. How long was that after the election?

A. That was about the last day of December. I think it was the 30th, after the election on the 5th of November.

Q. You have here a tag marked "Hominy No. 4." Could either of those keys unlock the lock that was on the box that was open?—A. I could not state.

Q. Try the lock and see.—A. No, sir [after trying the key in the lock].

Q. I hand you the keys marked "Strike Ax No. 5," being two keys. Try those and see if they unlock the same lock?—A. They will not [after trying the keys].

Q. I hand you the keys to Hominy No. 1—Try those.—A. No; it does not seem to unlock it [after trying the keys].

Q. Here are the keys to Strike Ax No. 4—Will any of those keys unlock that box?—A. They will not. They are flat keys.

Q. The other keys that you brought here are also flat keys, and would not unlock this box then?—A. No, sir.

Q. What kind of box was it that Mr. Gray, secretary of the election board, took the keys from to unlock the boxes yesterday?—A. Similar to the one in evidence, except smaller.

Q. Did you notice the lock on that box?—A. Not particularly.

Q. Do you know whether it was locked when you went in there?—A. I do not.

Q. Did you see Mr. Gay unlock that box?—A. I think I did.

Q. You made no examination of the keys inside of the box?—A. No, sir.

Q. Did you observe the number of keys in that box?—A. Only in a general way.

Q. In regard to the number of keys?—A. Well, a large number of keys.

Q. How many boxes in that county?—A. Fifty-nine I believe; that is, 59 precincts with two keys to each precinct.

Mr. LEVY. You did make test then?

A. Yes, sir.

Q. Why did you not turn those keys over to the secretary of the election board?—A. It was not my duty to do so. I left them where I found them, in the window. I didn't have possession of them until last night.

Q. Instead of bringing them down here, why didn't you turn them over to the county election board? You knew they belonged to them.

A. It was not my duty. They should have taken care of them.

Q. Was it your duty to bring them down here?—A. That would probably be a matter of opinion. I take it that the committee wanted all the evidence available.

Q. Was it your purpose to aid the committee or the contestee?—A. To aid the committee.

Q. You had never turned them over to any member of the committee until the hearing?—A. I had them in my possession until Dr. Prentiss asked for them and I turned them over to him.

Q. You never said anything to anybody about having them in your possession until you turned them over to Dr. Prentiss?—A. I do not know who all the members of the committee are; I could not say whether I did or not.

Q. You made no effort to find out who the committee was?—A. No, sir.

Q. Did you try to find out who the chairman was?—A. I know the chairman.

Q. You learned yesterday who the chairman was, did you?—A. I did not get in until this morning. I learned then.

Q. When you learned who the chairman was, you made no effort to turn the keys over to him, did you?—A. I did not.

Q. Did you talk to Mr. Maguire this morning?—A. I did.

Q. You learned from him who the chairman was?—A. I do not think so.

Q. Did you tell Maguire about the keys?—A. I did.

Q. Did you tell the attorneys for the contestant about the keys?—A. No, sir.

Q. Did you see Mr. Riley?—A. Yes, sir.

Q. Did you say anything to him?—A. No, sir.

Q. It was not your purpose to let anyone know about having those keys in your possession except those that were interested in the contestee's case?—A. I was not acquainted with any of the members of the committee. It was my purpose to bring the keys here and I presumed that I would present them to the committee from the witness stand. I did not know the difference until I was asked for them.

Mr. LEVY. This is a surprise to the contestant here. Who was present when you told the doctor about having the keys in your possession?—A. I do not recall.

Q. Where did you tell him about it?—A. Well, I couldn't state exactly. It was either in this hotel or at the Skirvin, I guess.

Q. Where are you stopping?—A. I have not registered at any hotel. I just got in this morning.

Q. Did you have any communication with Dr. Prentiss?—A. I did not.

Q. Who told you to come down here?—A. No one.

Q. How did you know that this case would be heard to-day?—A. Well, I heard that Mr. Gay was to be here.

Q. You came as a volunteer witness for Dr. Prentiss?—A. Not entirely.

Q. You have no interest as to how these contests are decided?—A. I have the same interest that any citizen has.



Q. As to whether Big Hill Township precinct is allowed to remain or whether it is thrown out—do you care?—A. Yes; I care. I know from my own personal knowledge that the ballot boxes have not been cared for since the election. There are other contests pending that I am as much interested in as this one.

Q. That was the reason, then, that you came down here?—A. I do not know that it was. I was interested in this matter, but I have not analyzed my motives altogether, as to what my prime motive was in coming down here.

Q. You are the undersheriff of Osage County?—A. Yes, sir.

Q. And the present incumbent is being contested by a Democrat?—A. Yes, sir.

Q. As a lawyer, you know that it is to the interest of your superior officer that the returns as shown by the certificate of return be verified by the contents of that box. You know, as a lawyer, that if you can throw enough suspicion around the contents of that box that the court might possibly refuse to let the box be opened, the ballots recounted, and compel the parties to simply rely upon the certificate of returns—you know that?—A. That would be easy to do.

Q. That is not an answer to the question.—A. I understand, it is not a matter of suspicion; it is a matter as to whether the ballots have been properly cared for.

Q. As the undersheriff of Osage County, it is to your interest and to the interest of your superior officer, who is now being contested, to prevent the ballot box being opened and the ballots actually counted.—A. It is not to my interest as undersheriff.

Q. If your superior officer loses out, you lose out also?—A. That is a matter of little importance to me, as I am in the office only temporarily.

Q. You brought these keys down here with the purpose and intention of throwing suspicion on the contents of this box, did you not?—A. I did not; I brought them down here as evidence that the ballot box had not been properly cared for.

Q. So that you might, if possible, prevent this committee or the court from ordering the ballot box opened up and the ballots themselves actually recounted?—A. If it were not proper for them to be reopened.

Q. In the first instance, you presented these keys to Mr. Magnire, attorney for Dr. Prentiss?—A. I talked to him something about the keys.

Q. You were not subpoenaed to come here and you are simply appearing here voluntarily?—A. Yes, sir.

Q. And you were not requested to bring those keys with you?—A. I was not.

Mr. HASKELL. Did you not have an object in coming down here?

A. I suppose so, or I would not be here.

Q. Just tell the committee what that object was.—A. I will be glad to do that. The contest was pending here and the contest was pending there. The ballot boxes, part of the time, were in the court room and part of the time in the jury room. The keys were seen by myself and at least three other persons in a certain window sill of the court room on December 30, and they were left there until the new officers were sworn in on the 6th of January, and I believe that this was competent evidence that the ballot boxes had not been properly cared for, and my object in coming down here was simply to show these keys.

Mr. HASKELL. When did you go in as undersheriff?

A. We had two offices from the 6th of January until the 19th, and I was, in a way, running an office there between those dates and went into possession of the records on the 19th of January.

Q. You are a lawyer, I believe?—A. I have practiced some.

Q. Your evidence would indicate that you are pretty well up on election laws.—A. No; I have never been able to understand the election laws of Oklahoma.

Q. You had been thinking considerably over the question as to the care that ought to have been given those ballot boxes?—A. Yes, sir.

Q. How long have you thought of that?—A. It never occurred to me until the contest was filed on the 30th of December. I do not know, when the contest was filed here, but after that contest was filed it immediately occurred to me that I had seen those ballot boxes there and that they had not been properly cared for.

Q. That was about the 30th of December that it first occurred to you that the ballot boxes had not been properly cared for?—A. So far as I recall; there was nothing to call my attention to the ballots before that time.

Q. It did occur to you then?—A. Yes, sir; Mr. Mason called our attention to it, too, that day.

Q. What day was that conference?—A. The 30th day of December, I think.

Q. Was it before the new officers went in?—A. Yes, sir.

Q. You went in under one of the two sheriffs from the 6th of January to the 19th—you went in on the 6th?—A. Yes, sir.

Q. Both sheriffs claimed to hold office until the 19th?—A. Yes, sir.

Q. On the 19th, the present sheriff under whom you are acting got complete possession, did he not?—A. Yes, sir.

Q. Now, being a lawyer and having in mind all the time since the 30th of December that the election returns were not properly cared for, are you willing to tell this committee why it is that since the 6th, and especially since the 19th of January, you have taken no precaution yourself to have the room in which these boxes were, locked? Why have you been permitting persons to go in there and play cards? Please explain that.—A. I shall be glad to explain that. At the time the contest was filed, we discussed the advisability of going before the district court and asking for a custodian for the ballot boxes. We concluded, after discussing it, that if these ballots had been tampered with, they had been fixed before the contest was filed, and decided not to take any action before the district court looking to the protection of the ballot boxes.

Q. Please tell the committee who you mean by "we."—A. The ones that were in the conference at the time the contest was filed.

Q. Who was in the conference?—A. I do not recall. Mr. Mason, myself, and I think one or two others.

Q. One or two other Republicans? Republican politicians?—A. I do not recall whether they were politicians or not.

Q. They were discussing the question as to what would be the best policy in the interest of the Republican candidates for the contested office, were they?—A. Yes; I think so. As a matter of precaution in getting ideas to meet the issues.

Q. You had in mind, then, the interests of the Republican candidate, rather than your official duty to the people and the voters of that county, to have the ballot boxes properly protected?—A. I do not think so, I never did have any doubts as to the result of the opening of the ballot boxes if they were intact.

Q. Didn't you consider it proper, in order that the votes of the people might be counted the way they were cast, to take precaution against the opening of the ballot boxes?—A. That was six weeks or more before the election. There was not much use anyway in locking the stable after the horse was stolen.

Q. Did you have any evidence that the horse had been stolen?—A. From past election we had.

Q. You had no evidence whatever—had not even heard of the votes being tampered with in that box?—A. No, sir.

Q. Didn't you consider it your duty as a sworn officer of the law, to prevent any tampering with the ballot boxes, if they had not already been tampered with?—A. No, sir. As I have stated, the office was not turned over until the 19th and the key to this jury room—I think I did suggest to the sheriff at least twice, that I thought he ought to have a new Yale lock put on there and shut out the old deputy sheriffs and other loafers.

Q. What did he say about that?—A. I do not remember.

Q. Do you know that he did not close that room?—A. It has never been closed since election.

Q. You know that persons have been permitted to play cards, etc., in there since the 19th of January?—A. I was in the room once; went in to see if a certain man that I was looking for was in the room.

Q. Who was that certain man that you were looking for?—A. I do not know his name. We were looking for a fugitive from justice, and there was a stranger in there, and I just stopped to see if there was anybody in there that might answer to the description of the man I was looking for.

Q. Who else did you mean?—A. The fellows that stay around there.

Q. Who are they?—A. George Chambers was one of them. He is an ex-deputy sheriff.

Q. Who else?—A. Jess Jackson.

Q. Who is he?—A. I am not certain who he is. I am not certain, but he may have been a deputy sheriff there once.

Q. You say you thought it was the duty of the sheriff to keep that room locked, and suggested to him that he get a key?—A. After we got into posses-

sion of the regular rooms and records. Prior to that time we did not have the keys or records.

Q. You didn't consider that anyone had any business loafing there?—A. I did not think so.

Q. Why didn't you tell them to get out?—A. That was in the back of the building, and I was too busy to stand guard over that room.

Q. You have been back there time after time, and have seen them loafing there, and never told them to get out?—A. No.

Q. You have had in mind since the 30th of December that if it was brought to the attention of the court that those ballots were in a room in which people were in the habit of loafing, that it would result in the court refusing to receive them as evidence?—A. Not particularly. The report has been persistent there that both that contest and this contest were not going to be pursued. It has been generally understood that the cases would be dropped, and my understanding had always been that this case would be dismissed, and I thought very little about the proposition.

Q. When did you get the understanding that the contest would be dismissed?—A. I don't remember where the report from here came from, but we understood at Pawhuska that the contest had been dropped until the last few days.

Q. You people there have no interest in the event of the Maguire-Davis contest?—A. I have the same interest that any good citizen has.

Q. You have the same interest that any good citizen has, and your sole object would be to comply with your official duty and see that the returns were properly kept so that the legislature or Congress or the courts could examine them?—A. I did not understand that that was my official duty. I thought that was the duty of the election board—to take care of these ballot boxes.

Q. You do understand that it is the duty of all good citizens to see that the will of the people, as expressed at the polls, is not thwarted?—A. We have been working hard for that in Osage County.

Q. You have been very vigilant on that?—A. Not more than others.

Q. You thought the ballot boxes ought to be very carefully guarded, until you had this conversation with Mr. Mason and some other Republican politicians on December 30, and at that conference you decided that it was probably to the advantage of the Republican contestants for these offices that the ballot boxes should not be guarded, and just left them where they were?—A. No; we didn't decide anything, except that if there was anybody going to contest who would tamper with the ballots, that had already been done, and it would not avail us anything to have a custodian appointed.

Q. You also thought at that time that the ballots would not be evidence if it was made to appear that the boxes had not been carefully guarded?—A. I don't know that I did.

Q. You have permitted persons to make a loafing place of that room?—A. No, sir; I have had nothing to do with it.

Q. Have you ever made an effort to prevent it?—A. No; I have seen them go in and out—

Q. Is it not a fact that you had the same idea in mind when you permitted those persons to loaf around that room and permitted that room to remain unlocked that you had when you brought these keys down here, and that your purpose in both instances was to cast suspicion on the original ballots, so that the court or the legislature or Congress, as the case might be, in these pending contests would accept the certificate of the election board and not count the ballots?—A. Absolutely not. There was no way in which I could have exercised any authority until the 19th of January, and the room was used by those loafers from the 5th of November until January 19, more than two and one-half months, and it looked ridiculous for me to go in and order somebody out for fear they might bother the ballot boxes after that.

Q. You had no idea of affecting this committee when you brought those keys down here?—A. No; just the same way that any other evidence might affect them.

Q. You brought those down for the purpose of having the committee use them as evidence and tending to show that the ballot boxes should not be opened and their contents counted because of the carelessness in the way in which the boxes were kept: was that your purpose in keeping those keys and bringing them down here?—A. I think not. My idea was that the ballots, when they were opened—that the fact that the ballot boxes had been tampered with or that they had not been properly taken care of might throw some light on whatever is contained in those boxes.

Q. Your excuse for not locking them up from the 19th of January on was that they had been unlocked from November 5 until January 19?—A. No; I did not make that statement. I had no key to the room.

Q. The reason that you did not drive them off was because you thought that they had had access to them from the 5th of November until the 19th of January as an excuse for not keeping them away from the 19th of January down to this date. Is that it?—A. Not entirely so. I did not consider that I had any more business to do that than any other good citizen. The ballot boxes were supposed to be in the custody of the county election board, and I thought it their duty to take care of them.

Q. How about the duty of the sheriff to take care of the jury room; is that not the sheriff's duty?—A. Yes, sir; in a general way.

Q. You knew that there were filed county records in that room, and the sheriff had the key to that room?—A. Mr. Willison himself may have had one key, but most of the keys were retained by the old deputy sheriff, so I am informed.

Q. You knew, however, that it was the duty of the sheriff and not the county election board to keep the keys to the jury room?—A. I understand that it is in charge of the sheriff generally.

Q. You know that it is the universal custom in this State for the ballot boxes to be kept at the courthouse?—A. I do not know about the custom.

Q. It has always been so in that county?—A. I could not state.

Q. The fact that the county election board kept the election returns at the courthouse, that did not give them the right to keep the keys of the courthouse, did it?—A. Of course we have no regular courthouse building and our county offices are scattered in different places.

Q. You did not turn over the keys of the jury room to the county election board?—A. I could not very well, at least until we had received them.

Q. Will you please tell the committee now what you were doing there in Pawhuska before you went into the sheriff's office?—A. Practicing law.

Q. You never loafed around this jury room while you were practicing law?—A. I did not.

Q. Please tell the committee of any single occasion, from the 5th of November until you went into the sheriff's office, that you ever saw anyone in the jury room.—A. I could not give dates to specify. The jury room is in the southeast corner, over the Osage Mercantile Co., used for courthouse purposes. The men's toilet is just across the hall. I have had occasion, from time to time, to go back there and forth in that hall and have seen parties come in and go out of the jury room. In fact, it has been the custom, when farmers and men from the remote parts of the county came in, for the sheriff to allow them to go in there and sleep.

Q. On what dates do you know of the sheriff ever doing that between November 5 and January 19?—A. I could not specify any dates. I could not say they slept there. I was not in the room and did not see anybody sleep there, but I knew different ones—could not recall the dates now—saying they had stayed there.

Mr. GLASSGO. I want to object, on the part of the committee, to hearsay testimony that the parties did stay in the room. I move to strike out any reference as to what he heard other parties say in regard to other persons sleeping in the room where these ballot boxes were kept unless the witness knows of his own knowledge of such fact.

(This motion is sustained by the Chair, and it is ordered that this part of the testimony be stricken out.)

Mr. HASKELL. If you had a horse in the stable and had left the stable unlocked for several nights, and then came along and could not see in the stable, would you consider it advisable to leave the stable open from that time on, just because you couldn't see whether the horse was gone or not?

A. Well, if I knew there were several horse thieves around in my community I think I would think something like that.

Q. You would not leave it open, though, on the chance that the horse thief had already gotten the horse?—A. I think so, if I knew that they were men who took everything that was loose.

Q. When you went around there yesterday you didn't see any evidence of horse thieves having been at work, did you?

(Mr. Pruitt objects to the question as calling for a conclusion, and the objection is sustained.)

Mr. LEVY. You say that you went into the box yesterday with Mr. Gay?

A. I stood by and saw him go in it.

Q. You reached in and got that envelope?—A. No, sir.

Q. Didn't you say that you did?—A. I did not get the envelope.

(Mr. Pruitt objects to this as repetition.)

Mr. LEVY. I understood him to say that he reached in and got the envelope. I will withdraw the question, however.

We want to offer now the contents of Exhibit No. 1 in evidence, on behalf of the contestant in this case, and ask that it be opened and the ballots recounted.

Mr. PRUITT. In the absence of Mr. Maguire, and on behalf of the contestee, we desire to object to the committee opening the ballot box and counting the voted ballots, for the reason that the evidence of the witnesses for the contestant and the contestee show that the ballots have not been guarded; that they have been left in a room where the public were allowed to come and go and even sleep and play cards, and for the further reason that the ballot box containing ballots of precinct No. 4 of Big Hill Township was shown to be unlocked on yesterday and that the seal on the envelope containing the voted ballots had been broken.

(The Chair holds that the committee has the right to open and count the ballots.)

Mr. MCADAMS. Then I object to Mr. Sams remaining in the room while the ballots are being counted. It is manifest from the evidence of this witness that, while he did not hear it all, he is interested in other contests in this State, and especially that of the sheriff of that county; and if he is permitted to stay here it will be for no other purpose except that he may be permitted to testify in that contest as to the manner in which these ballots were counted, which would be a question of fact for them to decide there. If there is a contest over there, the members of this committee will be summoned before that court to determine whether or not the ballots were replaced in another envelope and in the same position as when delivered to the election board, and I would suggest to the committee now that these ballots, when they are counted, be properly sealed and turned over to the chairman of this committee and that he write his name, so that there can be no question, and turn them back over to the secretary of the election board here. I make that suggestion in the interest of both parties, and I do not think that one who is interested in that contest should be permitted to be present by the officers of this committee or any member of the committee.

Mr. LEVY. I think that he should be present.

Mr. MCADAMS. Well, I withdraw it then.

Mr. GLASSGO. The committee would have no objection to the secretary of the election board being present.

Mr. MCADAMS. This is a question I had not thought of, but Mr. Sams being interested in that contest, a contest in which this committee has no interest, and that there may be no advantage taken of either party to that contest in Osage County, I suggest that this committee exclude all parties interested except the secretary of the election board. I was going to suggest that Mr. Glassgo is correct in this, because the contestant of the sheriff's office in Osage County has not been notified of the opening of the ballots, and he is not present and has no representative here, and it would be unfair to permit the contestee to be represented without notice to the contestant.

Mr. KING. I can not see why, if the secretary of the election board, being custodian of the ballots and boxes, he has turned them over to this committee. We are in charge of the ballots and can do whatever we see fit. I don't see where he would have any legal or moral objection to allowing the secretary, as well as Mr. Sams, to remain in these proceedings—one is a Democrat and the other is a Republican; they have no decision or voice in the matter.

Mr. MCADAMS. The secretary of the election board, under the law of our State—it is not to be presumed whether or not he be a Republican or a Democrat interested in a contest?

A. Yes, sir.

Q. He is to act fair, just as you in the legislature. The gentleman who seeks to be present before this committee, now, it is apparent he is not an officer of the State except a deputy sheriff interested in a contest pending in his own county.—A. That is true. If Mr. McAdams has traveled over this State as much as I have, and these incidents have been presented to me as they have, we ought to have the Army and the Navy look over the secretary and every member of the election board.

(Mr. Pruitt objects to this as irrelevant, incompetent, and immaterial.)

Mr. COYNE. I move that we quit this foolishness and adjourn.

Mr. GLASSGO. I don't know what the pleasure of the committee is, but I think we ought to go ahead with this to-night, and so I move that we adjourn until 7.30 to-night.

Mr. COYNE. I want to object to Attorney Levy or any other attorney making an objection to a motion made by a member of this committee.

The objection is sustained.

(Whereupon the meeting adjourned to meet at 7.30.

At 7.30 p. m., the committee met with six members present, as follows: Mr. Coyne, Mr. King, Mr. Glassgo, Mr. Hunter, Mr. Searcy, and Mr. Moore.)

The CHAIRMAN (Mr. Searcy). What is the pleasure of the committee in regard to the keys?

Mr. GLASSGO. I move that the keys be turned over to the committee.

(Which motion was carried.)

On motion of Mr. Glassgo, the stenographer makes the following record of keys turned over by Mr. Sams: Hominy No. 4, 2 keys; Hominy No. 1, 2 keys; Strike Ax. 5, 2 keys; Strike Ax. 3, 2 keys; Strike Ax. 4, 4 keys; 2 keys on a twine string marked "P. 94."

The CHAIRMAN. What is the further pleasure of the committee?

Mr. GLASSGO. I move, Mr. Chairman, that we proceed with the counting of the ballots.

(Which motion was carried.)

Mr. Gay, secretary of the election board of Osage County, being called before the committee, proceeds to open the box containing the ballots from precinct No. 4, Big Hill Township, Osage County, he having received and placed said box under lock and key at the time of the recess of the committee the ballots of said precinct, and delivers the same to the chairman of the committee in open session.

Mr. GLASSGO. Mr. Gay, you were present before the committee when the recess was taken this evening about 6 o'clock?

A. I came in just after they adjourned.

Q. What did you do with the ballots for precinct 4 of Big Hill Township at the time the recess was taken?—A. I took them off the corner of the table, put them in this box, and locked it and left it in the committee room.

Q. Who had the keys?—A. I had three of them.

Q. You did that before the committee left the room?—A. Yes, sir; in the presence of the committee.

(On motion of Mr. Glassgo, Mr. Hunter and Mr. Peters are named to keep tally for the committee in counting the ballots.)

Mr. GLASSGO. I want the members of the committee to examine the seal of the string on which the ballots are strung.

(Which different members of the committee do.)

Mr. GLASSGO. The box having been opened by the secretary of the election board, and the envelope containing the ballots delivered to the committee, the same was opened by Mr. Glassgo, a member of said committee, and the ballots taken therefrom, which were found to be strung upon a twine string, the same tied on one side and sealed with wax, the same having never been broken.

(This statement as dictated into the record by Mr. Glassgo was agreed to by the members of the committee present, being Mr. Coyne, Mr. Peters, Mr. King, Mr. Moore, Mr. Hunter, and Mr. Searcy.) Whereupon the ballots are counted by the committee.

Mr. HASKELL. In behalf of the contestant, Mr. Riley, we desire to object to the consideration of this certificate of the ballots from Big Hill Township No. 4, for the reason that the certificate of vote found in the ballot box does not show on its face from what precinct or township or county the certificate is made, and for the further reason that the so-called official counters whose names are signed failed to certify the number, if any, of the spoiled ballots, the consecutive number of spoiled ballots, the number of unused ballots, or the consecutive number of unused ballots; and for the further reason that it does not appear that the certificate of vote was sworn to before the judge, clerk, or inspector of the precinct; whatever precinct it may have been of which this purports to be the certificate of vote.

Mr. GLASSGO. I move that Mr. Haskell's objection to the certificate be overruled.

(Which motion was carried.)

Mr. KING. We find that the certificate shows that in Big Hill Township No. 4, of Osage County: Carl E. Ripley, Democrat, received 13 votes; N. B.

Prentiss, Republican, received 38 votes. That said certificate is signed by: Fred E. Vantrees, J. D. Long, J. J. Keeler, Geo. M. Robey. That said certificate shows to have been subscribed and sworn to before W. H. Lucas.

Whereupon, a quorum being present, the box holding the returns from precinct No. 5, of Big Hill Township, was opened by the secretary of the election board of Osage County, in the presence of the committee, for the purpose of recounting the ballots. Said secretary unlocked said box and delivered to the members of the committee the votes therein contained, and the committee, each member for himself, examined the seal of said envelope containing said returns and found the same to be in good condition and unbroken. Said committee then proceeded to open said envelope and count the votes therein contained. The committee finds the bunch of ballots securely sealed, said seal being unbroken, and now proceeds to count the votes. From the count of the votes the committee finds that Prentiss received 62 votes and that Riley received 36 votes, with 6 doubtful votes to be hereafter determined by this committee as to whether or not said ballots will be counted and for whom.

The committee further finds from examination of the tally sheet of said precinct No. 5, of Big Hill Township, duly certified, that the same shows that Prentiss received 67 votes and that Riley received 34 votes.

The certificate shows the official counters to have been A. E. Williams, W. E. Witty, W. P. Clemens, and J. L. Moss.

Mr. McADAMS. The contestant, Carl E. Riley, now moves the committee for permission to amend his petition in respect to the allegations of fraud as to precinct No. 4, in Fairfax Township, and precinct No. 2, in Fairfax Township, by alleging that in each of said precincts the election board received and counted votes, or purported votes, in favor of N. B. Prentiss, which were not legal and were not such as could be counted for and in his favor, and disregarded votes that were intended to be for, and were in fact cast for, C. E. Riley, relator in this case.

On motion of Mr. Glassgo, it was ordered that the contestant be allowed to amend his petition to conform to the motion by the attorney representing him.

Mr. McAdams, one of the attorneys for C. E. Riley, contestant, now requests the committee to permit his motion to become a part of the record and part of the petition without setting it out specifically in the petition, and, there being no objection, the Chair so directs.

Mr. PRUITT. Comes now the contestee and moves the committee to require the contestant to elect whether he rests upon his allegation of irregularity and fraud and corruption in the holding of the election in precinct No. 5, of Big Hill Township, as a basis for their claim or contest, and that such fraud and corruption was such as would require the committee to throw out said precinct and hold the election therein as null and void; or whether they elect to rest upon the legality of the election and base their claim upon the true count as may be found by the committee instead of the count as found by the judge, counters, and counters of the election.

Mr. McADAMS. That was the precinct just counted awhile ago?

A. Yes, sir.

Q. You represent Dr. Prentiss?—A. Yes.

Q. Are you willing for this committee to determine that box leaving out the ballots, as to whether or not it could be legally held at that place? In other words, are you willing to decide precinct No. 5 purely upon the question of fraud; that is, if it was held at some other place other than the one designated by the law? It is for the committee to decide whether that was a legal election. Are you willing to stand upon that as the allegation for your defense?—A. I don't know about the fact of the election being held at a different place. Of course the mere fact that it was held at a different place, if the place was a place not far distant from the one selected by the committee, that would not affect the validity of the election in any one particular.

Q. What I am asking now is so that we can get these issues before the committee. Are you willing to stand upon that theory of the law as to whether or not that invalidates that precinct?—A. We don't think it does.

Q. Are you willing for this committee to decide?

Mr. PRUITT. I am not willing for the committee to decide upon the question as to whether the election was held at a different place. The mere fact that it was held at a different door or a block or two from the place designated by the committee would in no way affect the election.

Q. I think that the objection, or the motion to require us to elect, comes too late, as counsel for Prentiss sat by and permitted the committee to count the

ballots under one of our allegations, and he can not now require us to say whether or not we rely on the correctness of the ballot or vote—

Mr. GLASSCO. I move that under the record just dictated by the attorneys representing both parties to the contest that the committee proceed to count the ballots in the other boxes; leave the legal question to be determined afterwards by this committee as to the place of holding the election invalidating the votes cast at such precinct.

(Which motion was carried.)

Mr. PRUITT. Comes the contestee and moves the committee to require the contestant to elect whether he relies upon the fraud that he alleges was committed in precinct No. 2 of Fairfax Township, and that said precinct should be thrown out and the election therein held invalid by reason of the fraud committed as alleged therein, or whether he bases his claim upon the validity of the election, and that the judges and officers of the election counted votes for the respondent that should not have been counted for him, but should have been counted for the contestant, for the reason that the two allegations are inconsistent. The contestee also desires to make the same motion as to precinct No. 4, in Fairfax Township.

(Which motion is passed for further consideration.)

Fairfax precinct No. 2 having been opened by the secretary of the election board of Osage County, the contents thereof delivered to the committee, the committee found, on examining said returns, that the envelope in which the ballots were placed had the seal broken and the envelope torn, and that the ballots were strung upon a twine string and the envelope torn, and that the ballots were strung upon a twine string and also without a seal and without the appearance of ever having been sealed. The committee further finds, on examination of the box in which the returns were placed, that the same was a smaller box than that which the other returns heretofore examined had been placed in, and that the same fit tightly in said box, and that it required some force to remove the ballots and returns from said box. Whereupon the committee proceeds to count the ballots.

The ballots being counted, the committee finds, from examination of the certificate as returned by the election board, the same being duly signed and certified, of precinct No. 2, Fairfax Township, that the same shows that Prentiss received 72 votes and that Riley received 16 votes. The committee, in counting and canvassing the ballots, finds that Prentiss received 68 votes and that Riley received 15 votes, with five doubtful ballots, which are later to be determined by the committee as to who they were cast for, or if they are to be counted for anyone.

The secretary of the election board of Osage County having unlocked the box containing the returns of precinct No. 4, Fairfax Township, and having delivered to the committee the envelope containing said returns, the committee finds, on examination of the same, that one side of said envelope was torn open without the seal having been broken. The committee further finds that the ballots were done up in a package and sewed together with a twine string and sealed, and that said seal was unmolested and unbroken. Whereupon, the committee proceeds to count the votes.

On examination of the tally sheet of the official returns of Fairfax Township, precinct No. 4, finds that said sheet shows that Prentiss received 112 votes, and that Riley received 73 votes.

The committee finds, in canvassing the ballots, that Prentiss received 104 votes and that Riley received 71 votes; and they further find that said box contained some doubtful votes, which the committee will later determine for whom they should be counted, if for either.

Mr. LEVY. We wish to offer in evidence the ballot book showing that 189 votes or ballots were taken out of that book and, according to the count, 202 ballots were counted by the committee.

Whereupon, the committee hereby returns all the ballots and election returns, which they have had before them, of the different precincts, as herein set forth, to Mr. Gay, the secretary of the election board of Osage County, who proceeded to place them in the proper boxes and securely lock the same, and the said secretary of the election board is by the committee directed to keep said boxes under lock and in his possession until the next meeting of this committee, and to have said boxes before this committee at that time.

Whereupon, on motion of Mr. Coyne, the committee adjourned to meet again at 9 o'clock Monday morning, February 9, 1913.



On Monday morning, February 9, at 9 o'clock, the committee met with a quorum present. The chairman being absent, it is agreed by both parties that the committee proceed.

Mr. Durant takes the chair.

Mr. H. G. BURT, being duly sworn, testified as follows:

By Mr. LEVY.

Q. What is your name?—A. H. G. Burt.

Q. Where do you live?—At Fairfax.

Q. In what precinct of Fairfax Township do you live?—A. Precinct No. 4.

Q. Were you present at Fairfax precinct No. 4 on election day November 5, 1912?—A. Yes, sir.

Q. What time of the day were you there?—A. About 11 o'clock in the morning.

Q. What were you doing there?—I went down there to vote.

Q. You are a qualified voter of that precinct, are you?—A. Yes, sir.

Q. What happened when you got into the polling place?—A. I got my ballot to vote and started over to the booth. I started to vote and the inspector called me back and wanted to know if I knew how to vote, and I went back to where he was standing and he went over the ballot with me, and he said that if I wanted to vote the straight Democratic ticket, to vote here [indicating] and that if I wanted to vote the straight Republican ticket, to vote here [indicating]; and that if I wanted to vote for Representative from here, he put his pencil in the square opposite Prentiss, and said to vote there. I asked him again how that was and he went over it again the same way and when he got to Represenaive, he said to "vote here" and put his pencil by the square opposite Prentiss's name again; and I asked him if it was his business to instruct people how to vote, and he said he didn't know that it was, and so I went on in and voted.

Q. That was the inspector?—A. Yes, sir.

Q. What is your political faith?—A. I am a Republican.

Q. Did you request any assistance as to the manner in which you should vote, or how to mark your ballot?—A. No, sir.

Q. That was voluntary on his part?—A. It was.

Q. At the time you were in there did you see any of the candidates in the polling place?—A. Yes, sir.

Q. Who did you see there?—A. I saw Dr. Prentiss.

Q. Where was he?—A. At the end of the counting table.

Q. Were the counters there?—A. Yes, sir.

Q. Engaged in counting?—A. Yes, sir.

Q. Was he engaged in conversation with him?—A. Yes, sir.

Q. Did you hear what he said at the time?—A. I did not.

Q. Do you know what he was doing there?—A. I do not.

Q. Could you see whether he was watching the count?—A. I could not say. He was leaning over one edge of the table. The table was sitting like this [indicating a position], and he was standing there leaning on the table.

Q. Mr. Burt, do you know whether or not Dr. Prentiss is a physician of the United States Government for the Osage Indian Tribe?—A. He is.

Q. How long has he occupied that position?—A. I think the last time, something like a year—possibly longer.

Q. How long this time?—A. That is this time that I am speaking of.

Q. Has he been continuously down to the present time in this position?—A. That is my understanding. I understand he is still drawing a salary, but I think he left somebody in his place up there.

Q. And he draws a salary?—A. Yes, sir.

Q. From who?—A. From the department. From the Osage Agency, the checks are all issued from the agency.

Q. What department is the Osage Agency?—A. Well, Mr. Carroll is the agent there. It is the Indian business there in Osage County.

Q. Did you ever see a check that Dr. Prentiss received as pay from the Government?—A. Yes, sir.

Q. How often did you see them?—A. I saw two or three of the checks—they were issued by Hugh Pitzer.

Q. When was that?—A. That was something like a year ago.

Q. What was the last check you saw issued to him?—A. Somewhere about that time.

Q. Who is Hugh Pitzer?—A. He was superintendent of the Osage Agency at that time at Pawhuska.

Mr. HASKELL. You said that Dr. Prentiss has been physician there for about a year the last time?

A. Something like that.

Q. Do his duties call on him to furnish medical attention to all the Osage Indians there in the county?—A. Well, not all in the county—all over in our part of the reservation.

Q. If one of those Osages get sick then they just send for him?—A. Yes, sir.

Q. Then it was generally known there throughout the county at the time of the election that Dr. Prentiss was in fact the physician for the Osage Indians, was it not?—A. I think so; over on that side anyway—over on our side.

Q. What do you mean by "our side"?—A. The west side.

Q. Are there two Government physicians for the reservation there?—A. There was another one at Pawhuska, but I understand that has been abolished.

Q. Since the election?—A. Yes; I think so.

Q. That agency there, and the employees, they are under the Department of the Interior?—A. Yes, sir.

Cross-examination by Mr. PRUITT:

Q. How long have you lived in Fairfax?—A. About seven or eight years.

Q. Are you a Representative?—A. Yes, sir.

Q. What is your business?—A. I am a merchant.

Q. How long has that been your business?—A. About 14 years, off and on.

Q. What other business did you have?—A. Real-estate business.

Q. Do you have dealings or business relations with the Osage Indians there?—A. Yes, sir.

Q. Are you one of the Indian traders?—A. I used to be.

(Mr. McAdams objects as incompetent and immaterial, and as having nothing to do with the issues in this cause. Question withdrawn.)

Q. What is the relationship between you and Dr. Prentiss with reference to being friendly or unfriendly?—A. I don't know that it is very friendly.

Q. Is it not a fact that you and he had some kind of a dispute about a couple of years ago?—A. Yes, sir.

Q. Did you oppose his election in the last campaign?—A. I was not working for him.

Q. Did you not work against him?—A. I must have; I was not working for him.

Q. This inspector—is he a Democrat?—A. I think so.

Q. All of the inspectors were Democrats, were they not?—A. Practically all of them.

Q. Now, I ask you if you said that he wanted to know if you understood how to vote the tickets when you went in to get your ballot, or something to that effect?—A. Yes, sir.

Q. Did you stop and listen to any suggestions he had to make?—A. He called me back, and I went back.

Q. He told you how to vote a straight Democratic ticket—to mark under the rooster—didn't he; and if you wanted to vote a straight Republican ticket, to stamp under the eagle, did he?—A. Yes, sir.

Q. Did you or he say anything about how to vote the mixed ticket?—A. No; he just said if I wanted to vote for Representative to vote in the square opposite Prentiss's name.

Q. You mean that he told you that if you wanted to vote the straight Democratic ticket to stamp under the rooster, did he?—A. Yes, sir.

Q. And you did not understand, then, that if you wanted to vote for the Republican Representative and stamped under the eagle that you would be voting for the two?—A. He led me to believe, as I supposed, that the Representative was a separate ticket from the rest of the ticket, and in order to vote for the Representative you would have to stamp opposite the one you wanted to vote for.

Q. Where they all on the same ticket?—A. Yes, sir.

Q. And you understood when you voted under the Rooster that you voted all Democratic and when you voted under the Eagle that you voted all Republican?—A. Yes, sir.

Q. Do you mean to tell this committee that the inspector intended to convey the idea to you that by voting in the device you were not voting for Representative at all?—A. I mean that he told me if I wanted to vote for Representative, to vote opposite the name of Prentiss.

- Q. Did he mention any other names on the ticket?—A. No.
- Q. What is his name?—A. Mr. E. B. Glover.
- Q. What is his business?—A. He is a merchant.
- Q. One of the good, respectable men of the town, is he; stands well?—A. Yes, sir.
- Q. You just went in there and voted and then went right out again?—A. Yes, sir.
- Q. You think that was about 11 o'clock?—A. I think so.
- Q. That is all the people who voted while you were in there?—A. I do not remember.
- Q. You were not back again? You don't know anything else about how the election was conducted—just what you saw there?—A. That is all.
- Q. You don't know whether he ever said anything to any other voter about how to mark his ticket or not?—A. I do not.
- Q. Could you see Dr. Prentiss about the counters' table back there?—A. Yes, sir.
- Q. Did you know that he had been called in there to get some tally sheets for the tickets?—A. I didn't know anything about that.
- Q. Do you know of any other doctors making application to be physician for the Osage Indians there except Dr. Prentiss?  
(Objected to by Mr. McAdams. Objection overruled.)
- A. Yes, sir.
- Q. Who were the other parties?  
(Objected to as incompetent, irrelevant, and immaterial. Objection overruled.)
- A. Dr. Todd was the only one I know of.
- Q. Do you know that the physicians over there were asked to offer bids as to what they would act as physician for the Osage Indians for?—A. No, sir.
- Q. Do you know that in making these applications each physician said what he would do it for?—A. No, sir.
- Q. Didn't you state that in Dr. Todd's application he stated the sum for which he would agree to act as physician for them?—A. No, sir; I did not; I do not know.
- Q. Mr. Burt, at the time Dr. Todd made his application you assisted him all you could to secure the application?—A. I did.
- Q. That was when Mr. Prentiss was appointed, a little over a year ago?—A. Yes, sir.
- Q. And you are now seeking to assist Mr. Ripley in getting this place over Dr. Prentiss?—A. Yes, sir.
- Q. What is Dr. Todd's politics?—A. He is a Republican.
- Q. Did you ever hear of a Democrat holding that position there?—A. That is so.

By Mr. HASKELL:

- Q. I believe you said the inspector there was Mr. Glover?—A. Yes, sir.
- Q. Do you know anything about the relationship between Mr. Glover and Dr. Prentiss, as to whether it is friendly or unfriendly?—A. No; I don't know; I think they are friendly.
- Q. Do you know anything about the intimacy of their association with each other?—A. No, sir.
- Q. Do you know anything about the relationship of Mr. Glover and Mr. Riley?—A. That has not been very friendly.
- Q. Mr. Glover was the inspector?—A. Yes, sir.
- Q. I believe that you said that you asked him about it and that he went over it the second time and put his pencil in the square opposite the name of Prentiss, and told you that if you wanted to vote for Representative, to vote there?—A. I did.
- Q. Why did you ask him to go over that again?—A. I thought it was funny that he would stop his pencil in front of Prentiss's name, and I asked him the second time to see if he did it intentionally or by accident.

By Mr. PRUITT:

- Q. Have you not made the remark that you would defeat Dr. Prentiss if it cost you a thousand dollars?—A. No; I don't recall that I said that.
- Q. Did you say that you would beat him if it cost you any certain sum?—A. I do not remember that I did.

By Mr. HASKELL:

Q. Did you contribute anything to Mr. Riley's campaign?—A. No.

Q. You said you just went to the polls and voted and didn't go to the polls again that day?—A. Yes, sir.

By Mr. COYNE:

Q. Do you, or do you not know whether or not all the election inspectors in Osage County were Democrats, or some Democrats and some Republicans?—A. I do not. Do you mean in that whole county or in that special precinct?

Q. In the county of Osage?—A. I do not.

By Mr. DURANT:

Q. You spoke of seeing a check that the Government paid Dr. Prentiss by Hugh Pitzer. Was it Pitzer's private check or drawn on the Subtreasury of the United States?—A. On the Subtreasury.

Mr. ——— McCloud, being duly sworn, testified as follows:

By Mr. HASKELL:

Q. Your name is McCloud?—A. Yes, sir.

Q. Where do you reside?—A. At Gray Horse, in Osage County.

Q. What is your occupation?—A. School-teacher.

Q. How long have you lived in Osage County?—A. Five years.

Q. Are you a qualified voter of that precinct?—A. Yes, sir; in precinct No. 2 of Fairfax Township, Osage County.

Q. Were you at the polling place in that precinct on election day in November, 1912?—A. Yes, sir.

Q. About what time did you go there?—A. About 10 o'clock in the morning.

Q. Tell the committee what you saw when you went there.—A. Well, when I first went there in the morning about 10 o'clock—it was a little house just inside of a fence and it had a little porch right out in front, about 6 by 4, probably—there were no ropes or wires there—and they were discussing there whether—

Q. Who was "they"?—A. The election officers, Bill Bennett and Carl Omarion and the election officers.

Q. Who are Bill Bennett and Carl Omarion?—A. They live there in town—a couple of Republican electors in the town precinct.

Q. They did not hold any official position of any kind?—A. No, sir.

Q. Were they candidates for office?—A. No.

Q. What were they saying to the election officers?—A. They were saying that they would have to have an interpreter for the Indians. It seems the election officers didn't understand whether the law required them to have an interpreter or not.

Q. Where were the election officers?—A. In the room.

Q. Where the voting was?—A. Yes, sir.

Q. Bill Bennett and Carl Omarion were there, too?—A. Yes, sir.

Q. You say they were not voters in that precinct?—A. No.

Q. What is their politics?—A. They are Republicans.

Q. Were any of the candidates around there?—A. Homer Huffaker and Dr. Prentiss were there.

Q. Who is Homer Huffaker?—A. He was Republican candidate for county commissioner.

Q. By Dr. Prentiss you refer to the contestee in this case, who was a candidate for the legislature?—A. Yes, sir.

Q. Where did you see them there?—A. Well, right there, about 6 or 8 feet from the door.

Q. You say there were no ropes or wires there?—A. Nothing only the fence.

Q. There was no fence between them and the entrance to the voting place and they were within 6 or 8 feet to the entrance?—A. Yes, sir.

Q. Now, that entrance to the place where the voting was going on, about how many feet was that?—A. You mean the entrance to the gate that went to the yard?

Q. No; I mean where you say you saw Prentiss and Huffaker.—A. There was a little platform or porch about 6 by 4 in front of the door. They came in here [indicating with his hands], and there were the counters and the election officers, too, in the room. The voting was right back there [indicating].

Q. Do you mean to say that Dr. Prentiss and Huffaker were within 6 or 8 feet of the gate or door?—A. I mean within 6 or 8 feet of where the ballots were being made.

Q. Was that window open?—A. I don't remember.

Q. Tell the committee what Dr. Prentiss was doing.—A. He was talking to persons who came in. He talked to old man McKinney. The main thing was that they had destroyed a precinct out there, and they were making the plea that they ought to vote the Republican ticket because the precinct had been abolished. Everybody had to go over there and vote. They had changed the election precinct.

Q. The county election board had moved that voting place?—A. They had changed precincts in the county, and they were making the argument that because the county election commissioners had changed the boundaries of the voting precinct they ought to vote against all the Democrats, because the majority of the county election board were Democrats.

Q. They were not satisfied with the new precinct?—A. The people were not just exactly satisfied with it, and they were making the argument that they ought to vote against the Democrats.

Q. Were they telling those people that if they voted the Republican ticket they would get that precinct changed back again?—A. I don't know about that. They said they ought to vote against them because they had changed it.

Q. Prentiss and Huffaker were making that argument; were they advancing any other argument?—A. Not that I heard.

Q. Did you hear anyone inside the house making that argument?—A. No.

Q. Were you in the house at 10 o'clock?—A. No; I was on that little porch.

Q. What time did you vote that day?—A. About 3 o'clock.

Q. What did you see or hear when you went back to vote?—A. When I went back I went in and got my ballot, and Elliott and Bill Thrasher were there by the counters.

Q. Who were they?—A. Republican candidates for township offices.

Q. Now, you say they were leaning over the counters?—A. One was on the east side and one was on the south side.

Q. How near the table?—A. Thrasher had his hands on the table, and the other man was right up against the table.

Q. Were they talking?—A. They were all talking there. I didn't pay any attention to anything that was said.

Q. Were they watching the counters?—A. Yes, sir.

Q. You say they were both candidates for offices?—A. Yes, sir.

Q. Do you know whether the election officers had allowed Bennett to tell any of the Indians how to vote?—A. I do not understand the Indian language, but he made a speech there to the Indians that were present; at the time he said they would have to have an interpreter.

Q. He made a speech to them in the Osage language?—A. Yes, sir; about 10 o'clock in the morning. He was in the house, and I was standing on the porch, and the door was open and I heard him talking in Osage.

Q. How many Indians around there?—A. Three in the room—Wilson Kirk, Hay Shackett, and John Chenworthy.

Q. Could they talk English?—A. Two of them can.

Q. Which two?—A. Wilson Kirk and John Chenworthy.

Q. Did those Indians vote there that day?—A. Yes, sir.

Q. Did you see any of Dr. Prentiss's campaign literature up in the polling place there?—A. Yes; I saw it on the side of the house.

Q. How long a speech did Bennett make there?—A. About 5 or 10 minutes long.

Q. Did the election officers interfere with him?—A. They seemed to want the information, too.

Q. Those election officers allowed them to go ahead and make a speech to the Indians?—A. The question was about an interpreter.

Q. Did they ever get an interpreter?—A. None except Bill Bennett that I know of.

Q. Did you see any Democrats electioneering around there that day?—A. No, sir.

Cross-examination by Mr. PRUITT:

Q. McCloud is your name?—A. Yes, sir.

Q. What kind of a building was that they held the election in, and about what size?—A. It was a pine building, about 24 or 30 feet by 14—two rooms.

Q. With a little porch in front?—A. Yes; I guess about 6 by 4.

Q. Were there any ropes there?—A. No, sir.

Q. Who was the inspector?—A. I could not tell you their names.

Q. The inspector?—A. I do not know his name.

Q. You live in that precinct and do not know the inspector's name?—A. No, sir.

Q. Do you know Henry Sulphur?—A. No.

Q. Do you know the Democratic judge?—A. No; I only know Ralph Miller.

Q. Who was he?—A. He was the man who received the ballots.

Q. Was he Democrat or Republican?—A. I do not know.

Q. Are you a stranger there?—A. I have been there five years, but I do not know them. They had just been appointed a few days before.

Q. What occasioned their appointment just a few days ago?—A. I do not know.

Q. Don't you know the old board—the Democratic inspector and the judge—got mad because they changed the precinct from Gray Horse up there and resigned?—A. I did not know that. I knew they resigned, but I can't say that they all got mad. I can tell you that one of them didn't get mad.

Q. You say there were no ropes there?—A. No, sir.

Q. That would not be the fault of Dr. Prentiss or Mr. Riley, would it?—A. I suppose not.

Q. Which room were the counters in?—A. In the room where they were handing out the ballots, the one that you went in from the little porch.

Q. Where was the voting?—A. In the next room, west.

Q. The fact that the counters were not 40 feet from the place where the ballots were received—that would not be the fault of either Dr. Prentiss or Mr. Riley, would it?—A. I suppose not; no, sir.

Q. Where was Dr. Prentiss and this Republican commissioner when you saw them?—A. Inside the house by the window.

Q. They could not see how anybody was voting in there?—A. I do not know.

Q. You do not think they could?—A. No; I would not think they could.

Q. You said they were arguing that they ought to vote the Republican ticket because they had moved the precinct. Who?—A. Dr. Prentiss, Bill Thrasher, and Homer Huffaker.

Q. Did you hear them?—A. Yes, sir.

Q. I thought you said that you didn't know what they were talking about?—A. You misunderstood me.

Q. That talk was all outside the building?—A. Yes, sir.

Q. And they were not inside of any ropes?—A. No, sir.

Q. Where did the crowd generally stand when they were not in the building?—A. Some of them were out in front of the gate where the wire was and the others right up next to the building on the inside. It was a rainy day.

Q. Were Dr. Prentiss and this Republican commissioner crowded any closer than anyone else?—A. They were on the inside of the fence.

Q. Did you see any Democratic candidates there?—A. No, sir.

Q. Did you hear any Democrats talking there that day?—A. No, sir.

Q. Were there many Democrats there?—A. Not many.

Q. You don't mean to say that Dr. Prentiss and this Republican commissioner acted unfair?—A. No; I don't propose to do that; I merely said what I saw.

Q. These two people that you tell about wanting an interpreter for the Indians, who were they?—A. Bill Bennett and Carl Omarion.

Q. You say there were some who could not talk English and these men wanted an interpreter for them?—A. Yes, sir.

Q. You understand that the voters have the right to ask the officials for instructions when they do not understand?—A. I do not know about that.

Q. You said that one or two of the Indians could speak English?—A. Yes; one pretty well and the other one some.

Q. An Indian's knowledge of English—I mean those not educated—is it not confined to something of everyday occurrence when it is limited?—A. Yes, sir.

Q. Do you think that these two who could understand English some could understand well enough to comprehend what the election judge might say when they instructed them how to vote?—A. Yes, sir; I think two of them could.

Q. Did you hear Bill Bennett and Omarion talking to these three Indians in Osage?—A. I heard Bennett.

Q. Was he giving instructions as to how to vote?—A. He was merely talking about the election—pointing to the ballots.

Q. When he got through talking to them what did Bennett do?—A. He came on out and the Indians went back and voted. I saw nothing more at that time.

Q. Is it not a fact that those Indians over there—that they are rather timid about talking English when they do not understand English very well?—A. Yes, sir.

Q. They always like to talk their own language?—A. If you ever talk Indian to them, they will never talk English again.

Q. You say these two Republican candidates for township offices were there. Had they voted when you saw them there?—A. I do not know.

Q. Do you know that they were not there for the purpose of voting?

(Mr. Haskell objects, as the witness has testified they were at the counters' table.)

Q. Were they voters there at that box, and were candidates for township offices?—A. Yes, sir.

Q. Will you say that they were not there to vote at that time?—A. I don't know. I judge that they were not voting at that time: they were standing up there by the table.

Q. One was Thrasher?—A. Yes, sir.

Q. Was he one of the challengers?—A. I do not know.

By Mr. HUNTER:

Q. Were Thrasher and Bennett both candidates for township offices?—A. Thrasher and Elliot were candidates. Bennett did not belong there.

By Mr. McADAMS:

Q. These gentlemen that you have just testified as being at the counters' table did they have any ballots in their hands when you saw them there? Anything to indicate that they were intending to go into the booth and vote?—A. No; they were just standing there. One of them had his hands on the table and they were talking about how they stood; that is about all I know.

Q. You mean as to how the candidates stood?—A. Yes, sir.

Q. You mean as to the result of the fight?—A. Yes, sir.

Q. That was about when?—A. About 3 or 3.30.

Q. The counters—were they counting there where these gentlemen could see the result?—A. They had the tally sheets on the table there and were making out the day's vote. The polls had not closed and the voting was still going on.

Q. The ballots they had counted were there on the table?—A. Yes, sir; they were strung.

Q. The tally sheet of that precinct, showing the result on the vote up to that time, was there for the public inspection on the table?—A. Yes, sir.

Q. And the counters were permitting them to stand there and see it?—A. Yes, sir.

Q. Was it raining there at that time?—A. Not then: it was in the morning.

By Mr. HASKELL:

Q. Do you know how that precinct had gone—Democratic or Republican—at the preceding election?—A. I think Republican by 2 or 3.

Q. How many this time?—A. I think 3 or 4 to 1.

Q. Is it not a fact that neither Bennett nor Omarion were voters in that precinct at all?—A. No; they were not residents of that precinct.

Q. And they were standing by the counters' table?—A. No; they were the ones there in the morning making the argument that they ought to have an interpreter. Thrasher and Elliott were there in the evening. I was there about an hour in the morning.

Q. They were both Republican candidates?—A. Yes, sir.

Q. Is it not a fact that Bennett was Republican county committeeman?—A. I could not tell you as to that.

Q. What do you say as to the interest those people took in politics and the extent of their interest?—A. They were both active Republican politicians.

By Mr. GLASSGO:

Q. What time did you go to the election in the morning?—A. At 10 o'clock.

Q. Bennett and Omarion were there then?—A. Yes, sir.

Q. When did you hear them make this speech?—A. Just as soon as I got there. I went back uptown when I voted.

Q. What time did you come back to the election?—A. I was down there once after that.

Q. And you saw Bennett?—A. Yes; I was there at 11.30 and he was there then, out in front. He had just come out there and stood a few minutes and got on his horse and rode uptown. He was not there when I went back in the

evening. Omarion was there in the evening. He went in where the election was being held.

Q. He seemed to have free access to the voting place there?—A. It seems the rush was on. They didn't have a stamp, and he had been uptown to get the stamp and he went in there and stayed about 10 or 15 minutes.

Q. Did you see the stamp?—A. No.

Q. How did you know he went after a stamp?—A. I just heard him talking about it.

Q. How many Indians voted in that precinct?—A. I could not say. About 60 or 75.

Q. Are you pretty well acquainted with them?—A. Reasonably well.

Q. What per cent of them can speak English?—A. About half—the young ones.

Q. They all ought to know an eagle from a rooster?—A. That is what they go by; yes, sir.

Q. Did you see anyone, or know anyone who saw anybody, in the booth with the Indians instructing them how to vote?—A. No, sir.

By Mr. PRUITT:

Q. Did you vote in the morning or afternoon?—A. In the afternoon, about 3 o'clock.

Q. You said you were there about 30 minutes?—A. No; I was not in the room in the morning at all.

Q. How long were you in the room in the afternoon?—A. About 10 minutes, I guess.

Q. Did it take you that long to vote?—A. It probably took me 5 minutes to vote, and I probably stayed 5 minutes after I voted.

Q. Where had the election been held in that precinct before this?—A. At Gray Horse.

Q. How far was that from where it was at this time?—A. About 4 miles away.

Q. Do you know whether some of the Democrats at Gray Horse were mad because the precinct election had been changed?—A. I do not know.

Q. You said you did know that the election judges had resigned?—A. Yes, sir.

Q. Do you know the cause of their resigning?—A. They had moved the precinct, and the judges didn't want the responsibility of trying to hold the election without knowing whether they could go or not. I was one of them. They had changed the precinct and we didn't know whether we could go legally or not.

Q. Do you live over there near Gray Horse?—A. Yes, sir.

Q. Were the people at Gray Horse dissatisfied?—A. I heard of several of the Republicans being worked up quite a lot. I didn't hear any Democrats complaining much.

Q. That change was made by the county election board?—A. Yes, sir; two Democrats and one Republican.

Q. Do you know why Joe Bennett resigned?—A. You mean Bill Bennett; Joe Bennett was not on it.

Q. Why did Bill Bennett resign?—A. Because they had moved the precinct from Gray Horse, and he didn't know whether he could go over there or not.

Q. Did you ever hear him express himself about the action of the board in changing the precinct?—A. No, sir.

Q. You spoke about the vote two years ago being about two or three Republicans, and this time you say it was about three or four Republicans to one Democrat?—A. Yes, sir.

Q. Was the same territory in this precinct that was in it before?—A. They had taken off east of us one township and added one on the north.

Q. You just had half of the old precinct?—A. No; we had more.

Q. But you just had half of the old precinct in the new one?—A. No; they cut off from range 7 E.; they threw that to Hominy School and then they added on the north.

Q. It was not the same territory?—A. No; not at all.

Q. Are you acquainted with that territory added on to the old precinct?—A. Yes, sir.

Q. How did that go two years ago?—A. It all went Democratic.

Q. What about the other part of it—that that was taken off?—A. I could not tell you.



Q. But two years ago, this precinct that was on there—how did that go?—  
A. That part, it belongs to the part that we are in.

Q. Taking into consideration the same territory that was voted two years ago—that was attached to this precinct for election purposes in 1912—how was the result between the Democrats and Republicans? My purpose is to show that he is acquainted with that territory and that the change of it would not affect the result if it had not been for undue influence. What do you say to that?—

A. That is right, because the whole end there went Democratic there and we were about the lowest ones.

Q. Are you acquainted with the voters in the precinct that was added to this precinct two years ago?—A. I know a reasonable amount of them.

Q. You say the majority of them two years ago voted the Democratic ticket?—A. Yes, sir.

Q. As well as that part taken of this precinct?—A. Yes, sir.

By Mr. HASKELL:

Q. What would you say as to the part that was taken off—how thickly settled was that? About how many voters?—A. Five or six, probably.

Q. The part added on for this year, was it thickly settled?—A. Oh, yes.

Q. You say the part added on this year is Democratic?—A. Yes, sir.

Q. So the effect of the change, if any, would have increased the Democratic strength rather than the Republicans?—A. Yes, sir.

Mr. PRUITT. Please draw a diagram of that precinct as it was two years ago and then draw it as it is now.

Whereupon the witness states that he is unable to draw a diagram from memory, and would have to have a map.

By Mr. PRUITT:

Q. How did the county go as a whole two years ago?—A. I think about 300 Democratic.

Q. Which side elected the county officers two years ago?—A. The Democrats.

Q. Which side this time?—A. About half and half, I think.

Q. Do you think there was any change, except in that precinct?—A. I don't know; I am not a politician.

By Mr. HASKELL:

Q. Is it not a fact that all the Republicans who claim to have been elected this year are being contested on the grounds of fraud and irregularity in the election?—A. Well, there has been a great deal of "rowing around" about it.

Q. You know that at least some of the Republicans who have been elected, or claim to have been elected, are being contested by the Democratic candidates on the grounds of fraud and irregularity in the election operating to the prejudice of the Democratic Party?—A. Yes, sir.

Witness is excused.

Dr. PRENTISS, being first duly sworn, testified as follows:

By Mr. McADAMS:

Q. Please give your name.—A. M. B. Prentiss.

Q. You are the contestee in this case?—A. Yes, sir.

Q. Where do you live?—A. At Fairfax.

Q. How long have you lived there?—A. About eight years.

Q. Are you a practicing physician?—A. Yes, sir.

Q. How long have you been practicing?—A. About 15 years.

Q. Do you hold, or did you hold, any official position on November 5, 1912, with reference to the Osage Indians?—A. I hold a contract with the Osage Indian Agency for doing certain work.

Q. Is that contract in writing?—A. Yes, sir.

Q. Have you that contract with you?—A. Yes, sir.

Q. Will you produce it?—A. Yes, sir. [Hands Mr. McAdams the contract.]

Q. I hand you Contestant's Exhibit A and ask you to state to the committee whether or not that is an application made by you to the Commissioner of Indian Affairs to be employed as physician for the Osage Indians there, and employees of the agency at Pawhuska. Please answer yes or no.

(Objected to for the reason that all questions are not answerable by yes or no.)

Q. Then I will ask you if that is your signature?—A. Yes, sir.

Q. I will ask you if the Secretary of the Interior made a contract with you pursuant to that exhibit that I have handed you?—A. I don't know as he made any separate and distinct contract out of this.

Q. Is it not marked here "Approved by the Interior Department"?

Mr. McAdams here offers in evidence this exhibit:

*Statement of applicant for employment as physician in the Indian Service.*

In counties excepted from civil-service examination all answers must be in ink and in the handwriting of the signer. In questions relating to him, give dates and periods of time in years and in months as accurately as possible. If more space is required, an additional sheet may be used, but it must be securely fastened to this form.

Question 1. What is your full name? Age?—Marvin B. Prentiss; 41 years.

Question 2. At what school or agency is the service for which you have applied to be rendered?—Substation, Osage Agency, Fairfax, Okla.

Question 3. Are you conveniently located for its performance?—Yes.

Question 4. Will your private practice interfere with your properly rendering this service?—No.

Question 5. Do you agree to render medical attendance to the employees and pupils of the school, answering such emergency calls as may be necessary from time to time; visit the school at least one time each week for the purpose of sanitary and hygienic inspection; furnish medical treatment to all adult Indians who may call at the school for same; also in times of epidemic on the reservation to render such medical treatment to Indians living adjacent to the school as may be necessary to prevent the spread of the disease to the school?—Also give prompt attention to all calls from Osage Indians living in Fairfax and vicinity; and render without further charge services to Osage Indians who may call at my office. My services will be at the disposal of all Osage Indians living in Fairfax and vicinity whenever requested. St. John's Boarding Mission School, located 10 miles from Fairfax. Will answer all calls from the school and visit school often enough for hygienic inspection.

Question 6. For what compensation per annum will you render the services required?—Fifty dollars per month.

Question 7. With respect to your general and professional education, state briefly the names and location of the schools or colleges attended and the courses of study pursued, name any degree or degrees received by you and the institution by which conferred. If you have pursued any post-graduate course of study, state what studies and when, where, and for what length of time they were pursued.—Metamora High School; graduated Michigan College of Medicine and Surgery, 1896; post-graduate course at Post Graduate Medical School and Hospital, New York City, 1905.

Question 8. Give locations and length of time of your private practice.—Lyons, Ohio, about five years; Hudson, Mich., about four years; Fairfax, Okla., about six years.

Question 9. If you have served as interne, resident or consulting physician or surgeon in any hospital, give name, location of hospital, character, and period of service.—None.

Question 10. If there are any specialties in which you regard yourself as expert, state them.—General medicine; give surgery some special attention.

Question 11. If you have any physical defects or infirmities, describe them; also state whether you use intoxicants, opium, morphine, or other narcotic drugs, and to what extent.—Have no physical defects; do not use intoxicants or any narcotics.

MARVIN B. PRENTISS, M. D.

FAIRFAX, OKLA., *October 16, 1911.*

In the upper right hand corner of said exhibit, on the front page thereof, is a stamp containing the following imprints and statement: "Commission of Indian Affairs. Received October 28, 1911. Filed 92522."

Also another stamp in the corner of said exhibit, on the front page thereof, with the following imprint and statement: "Commission of Indian Affairs. Approved January 5, 1912. 1536."

In the left-hand corner of said exhibit is attached a yellow slip of paper with the following words and figures thereon contained: "5-378. Inclosure 40013. From office of Indian Affairs, Department of the Interior."

On the other side of said ticket is the following words and figures: "Respectfully tendered to the Commissioner of Indian Affairs with the statement that I have thoroughly investigated the character and efficiency of the within named applicant; his reputation is good as physician and man and I recommend that his application be given favorable consideration, provided he renders professional service to Indians in the vicinity of Fairfax without charge other than his salary.

HUGH PITZER, *Supt.*"

On the other side: "Application of Marvin B. Prentiss for employment as physician at ----- School, Osage Agency, Oklahoma."

By Mr. McADAMS.

Q. Doctor, when did you, if ever, enter upon the duties required of you under this exhibit that I have just handed you?—A. I could not state exactly, but about 60 days, or maybe 90 days, after that was given me.

Q. When did you first receive any pay under this certificate?—A. After I was notified by the Osage Indian office to assume those duties.

Q. That was about January, 1912, was it not?—A. Possibly; I do not remember. Some little time after the application was made out.

Q. Do they pay monthly or quarterly?—A. Every month.

Q. From whom did you receive your check pursuant to this exhibit of employment in this case for your services rendered therein?—A. From the superintendent of the Osage Indian Agency at Pawhuska.

Q. He signed the check?—A. Yes, sir.

Q. What department was that check drawn upon?—A. If you will allow me, I will introduce one of the checks.

Defendant's Exhibit A-2 is here introduced in evidence by agreement, as follows, to-wit:

"To Ewing, supt., and special disbursing agents. Interior, No. 970957. Osage Agency, Pawhuska, Oklahoma. January 31-1913. Assistant Treasurer of the United States, St. Louis, Mo. Pay to the order of Marvin B. Prentiss fifty and no/100 dollars. Voucher No. ——. \$50.00.

JAMES A. CARROLL,

*Supt. and Special Disbursing Agent.*

State object for which drawn. Salary.

Voucher No. 2, 3rd qu. 1913."

On the back of the check is the following:

"This check must be endorsed on the line below by the person in whose favor it is drawn, and the name must be spelled exactly the same as is on the face of the check. If endorsement is made by mark (X) it must be witnessed by two persons who can write, giving their place of residence in full.

\_\_\_\_\_  
Sign on this line."

Q. When you became a candidate for the nomination for Representative of your district in Osage County, Okla., on the Republican ticket, to be elected at the general election 1912, were you then receiving a salary pursuant and under and by virtue of the contract which has been introduced here as Defendant's Exhibit A?—A. Yes, sir.

Q. You were nominated as one of the candidates on the Republican ticket for Representative of Osage County at the general primaries for that purpose in 1912?—A. Yes, sir.

Q. Were you a candidate at the general election for Representative on the Republican ticket from Osage County at the November election, 1912?—A. Yes, sir.

Q. At the time of that election, was it not a fact that you were then performing the duties and receiving the salary under and by virtue of the contract marked Exhibit A and introduced in this case by the contestant?—A. Yes, sir.

Q. When did you take the oath of office as Representative from Osage County?—A. I think it was on the 7th day of January, 1913.

Q. At the time you took that oath of office, is it not a fact that you were then the recognized physician of the Osage Indians at Fairfax under the contract, Contestant's Exhibit 1, introduced in this case?—A. Yes, sir.

Q. And you still are at this time?—A. Yes, sir.

Q. In other words, you have not resigned your position designated and your duties designated, all of which is set forth by Contestant's Exhibit 1?—A. No, sir.

Q. And you are still receiving the salary, as therein set forth, for your services?—A. Yes, sir.

Q. And your monthly checks for payment for your services under that contract have been at all times and are now in the same form, drawn on the same fund, and by the same parties as the check just introduced?—A. Yes, sir.

(Mr. McAdams here returns the check to Dr. Prentiss, the members of the committee having examined it.)

By Mr. HASKELL:

Q. You have been holding that position then for nearly a year?—A. Yes, sir.

Q. The people there in your county generally know that you occupy that position?—A. I don't know that they know it all over the county.

Q. Those people knew that on election day in 1912?—A. I don't know how generally it was known. It has been no secret. Those who knew anything about the Indian affairs there knew it.

Q. The Indian citizens generally knew it?—A. Yes; they all knew that I am acting as their physician.

Q. They know that you did it by virtue of your official position, and that you did not expect them to pay you for your services?—A. Yes, sir.

Q. They knew that in November, 1912, did they?—A. Yes, sir.

Q. That was generally known in Fairfax Township, was it not—your employment?—A. I suppose that it was generally known among those interested.

Q. Was it generally known in Big Hill Township?—A. A great many knew it. I never took pains to explain it to the general public. Those generally interested knew it.

Q. What proportion of the population of that township were Osage Indians on November 5, 1912?—A. I could not say. A great many Indians lived around there.

Q. Of that township that I have asked you about?—A. I really could not tell. A great many Indians lived all over the country.

Q. One-half the population?—A. No; not half. In a rough way, probably 20 per cent.

By Mr. McADAMS:

Q. I believe you testified awhile ago, in answer to my question, that the other checks you have received under this contract, Exhibit A--1, were in the same form as this check which has just been introduced. Have they all been paid?—A. They have all been cashed except this one.

Q. The only purpose in your retaining this check at this time was so that the committee could see it?—A. I just happened to have the check. I had not needed the money particularly, and when this came up I simply kept it.

Q. You have no intention of not cashing it, then?—A. No; I would have cashed it the other day, except that I kept it to bring up here to show to the committee.

By Mr. PRUITT:

Q. After you were elected did you go to see the Indian agent about your election?—A. Yes, sir.

Q. What was your purpose for calling there?

(Mr. McAdams objects, for the reason that it tends to vary the terms of a written contract, and under all law that can not be done; the contract introduced in evidence and the approval thereon is the best evidence, and it can not be changed by oral evidence. The Doctor has testified that he has not resigned and still holds the position of trust imposed in him under that contract. It is immaterial here as to what negotiations he had made with the Federal Government or the authorities touching that contract, he having testified that he had not resigned and was still serving under it. Objection is overruled.)

A. I went to the office for the purpose of resigning from this position.

Q. Who did you go to?—A. To Mr. Carroll. It was payment week, and I sent word up to him that I wanted to see him, and he was busy and I did not get to see him. I went to Mr. Whiting, the next man, and told him the purpose of my visit, and he said he would take the matter up with Mr. Carroll and let me know. He later informed me—I never did get to go back—that the office requested that I did not resign, as I would only be here two or three months, and that it would not interfere with my duty there if I would have some one to take care of my business there.

Q. Have you secured some one to attend to your duties there?—A. I have a doctor there.

Q. What is his name?—A. Dr. Tucker.

Q. When did you come down here to attend this legislature?—A. Just a few days before it convened.

Q. Have you been absent?—A. I have been there every day.

Q. Are you letting your duties as a physician under this contract interfere with your duties as a member of the legislature?—A. No, sir.

Q. Do you intend to stay here and give your attention to your duties as a member of this legislature?—A. As long as I am a member.

Q. And you will let your duty here be superior to your duties as physician under this contract?—A. Yes, sir.

Q. And you have made arrangements with Dr. Tucker to perform your duties there while you are a member of this body?—A. Yes, sir; and he gives the same attention to it that I would.

Q. Do you know on what fund the Indian office there at Pawhuska pays out for any products, such as hay or provisions or things like that?—A. I have no positive knowledge that they are all that way, but I have seen a great many checks drawn for clerks' salaries, etc., and I have never seen one that was not drawn on that same treasury.

Q. Have you ever seen one drawn that way for hay or provisions or products of that kind?—A. I know that the office draws their checks on the Subtreasury at St. Louis. I could not state positively as to seeing any of them.

Q. You heard Mr. Burk testifying about your being in Fairfax precinct No. 4 at the counters' desk on election day?—A. Yes, sir.

Q. Please tell the committee why you were there and what you were doing there.—A. Mr. Glover sent for me to come down there; sent a boy up and said they wanted to see me—no, it was one of the counters that sent for me; I am not sure which one it was. I went down there and went back to where they were voting, and as I walked by Mr. Burk was in there about to get his ballot to vote. I went back to the table and they told me the election officials had failed to send a blank for tabulating the county votes on, or return blank, and he marked on a large piece of paper about the form that he would like and asked me to go up to the bank and get a stenographer and to draw up a blank or something they could take the county returns on; that they had nothing there to use. That was my purpose in the booth. I was not in the election room, and I was not there more than three minutes.

Q. Were they counting ballots while you were there?—A. They had been counting. They had the State return blank and had counted some of the State ballots, I think, and were getting ready to begin on the county ballots and discovered that they had no blanks there and had to improvise that form.

Q. In precinct 2 of Fairfax Township you heard Mr. McCloud testify. Please tell us about that.—A. I do not know much about that precinct. I was only there once during the whole day. Some one came up the street and said there was a dispute about letting the Indian vote, and I went down there and Bill Bennett was there arguing over the points of law; that they were allowed to instruct the Indians how to vote.

Q. Did you go in?—A. I was there a few minutes and went back uptown.

Q. Were you back there any more?—A. I don't remember about going back again. The booth is not far from the main part of town.

Q. Do you know who was inspector up there at Fairfax No. 2—I believe that is your home precinct?—A. Mr. Glover, I think.

Q. Who is he and what is his business?—A. He is a dry goods merchant there in town.

Q. You heard Mr. Burk's testimony about the part Mr. Glover took in explaining about the vote for Representative. Did he ever talk to you about who he was going to vote for for the legislature?—A. Yes; I went into his store the day before the election for the purpose of talking to him about supporting me for legislature the next day.

On motion of Mr. Peters the committee adjourned to meet again at 7.30 p. m. the same day.

At 7.30 p. m. the committee met, with a quorum present, and the examination of Dr. Prentiss was continued.

By Mr. PRUITT:

Q. Well, go ahead, Doctor.—A. Mr. Glover at that time told me—

(Mr. Haskell objects to anything Mr. Glover told Dr. Prentiss. Objection overruled.)

A. Well, Mr. Glover told me if I was on the county ticket he would support me; that he thought more of me personally than he did Mr. Riley and would support me on the county ticket, but on the State ticket he expected to vote that straight, but expected to split his county ticket.

Q. Who were the two judges of the election in that precinct besides Mr. Glover?—A. The Republican member was an attorney named Hagler, and the other Democratic member of the board, I don't believe I can recall. I think it was one of the business men there.

Q. Out in the other precinct, No. 2, where Mr. McClelland has testified about, who were the election inspectors there?—A. Henry Saxy.

Q. What is his business?—A. He is a farmer.

Q. What is his political faith?—A. He is a Democrat.

Q. Who were the two judges?—A. The Republican member was Harry McNabb, and the other member was, I think, a young man living over by Gray Horse; I did not know him personally; did not know his name.

By Mr. McADAMS:

Q. How many Indian voters in Osage County come under your supervision and control, or under your duties as prescribed by the contract introduced in evidence here?—A. I have no idea at all.

Q. Approximately?—A. I think the Osage rolls show something like 2,200 Indians in the county in the reservation—men, women, and children.

Q. Give me approximately, if you know, how many Indian voters come under your supervision.—A. In the west end of the county there, it would be pretty hard to give anything like an accurate number.

Q. As many as a hundred?—A. Oh, yes; probably that many.

Q. So you think there were at least a hundred Indian voters?—A. Only about 1 in 10 of them ever vote. Two years ago at Gray Horse, I believe they voted nearly all Indians, and voted the Democratic ticket, because there was another man had charge of the election there and he took an active interest in the election. He was Democrat leader and stands well with the Osage Indians.

Q. You testified a while ago, in response to question propounded to you by your counsel, that your duty under that contract with the Government would not interfere with your duties here as a member of the legislature?—A. That is correct.

Q. You intend, as soon as your duties here are over as a member of the legislature, to return to your home and carry out the provisions of that contract?—A. Yes; that is what I intend to do.

By Mr. PRUITT:

Q. Do you know how many Indians voted in precinct No. 4 of Fairfax Township?—A. I understand—

(Mr. McAdams objects to hearsay evidence.)

A. I know practically that there were not over 15 Indians voted in that precinct.

Q. What precinct was that?—A. The one that was moved from Gray Horse. I think Fairfax No. 2. When these Indians lived at Gray Horse they all lived over there and voted, but they will not go 4 or 5 miles to vote.

Q. Were there any voted in your home precinct there?—A. Two or three who lived there.

Q. And the other district made up Gray Horse territory?—A. Not over 15; not over that many full-blooded Indians, I don't believe.

By Mr. HASKELL:

Q. Those mixed-blood Indians are recognized as members of the tribe to the same extent as the full bloods, and your contract includes them the same as the full bloods?—A. Yes, sir.

By Mr. LEVY:

Q. Doctor, you said this morning that one of the counters sent word to you to bring a tally sheet there?—A. He sent word to me to come down there, and when I got there I found out what was wanted.

Q. Who was that that sent for you?—A. I don't remember which one it was—I think it might have been Nat Cook.

Q. What is his politics?—A. He is a Republican.

Q. Can you tell this committee why the counters should have sent for you instead of applying to the inspector to get the tally sheet?—A. I do not know.

Q. The inspector was there, was he not?—A. I suppose so.

Q. Did you consult the inspector about getting the tally sheet?—A. I didn't ask him anything about it.

Q. You knew that the inspector had charge of the election there?—A. I didn't stop to go into details.

Q. You made no inquiry of the inspector or other election officers there for the purpose of finding out if they had the tally sheet the counters desired?—A. I did not ask them anything about it.

(Mr. McAdams here introduces in evidence contestant's Exhibit A-3, which is a certificate by Ben W. Riley, secretary of the State election board, and Exhibit A-4, showing the townships and voting precincts, together with the result thereon in each precinct in the Osage Nation.)

Mr. McADAMS. I desire to call the attention of the committee to the fact that the total vote, as appears by this certificate, shows that Dr. Prentiss received 1,827 votes; but the committee will observe, upon going over the votes received by him from each such precinct in the district, that the party making up the total made a mistake of 3 votes, and it should show that he received 1,824 votes instead of 1,827, and that Mr. Riley received 1,804 votes. I call that to the attention of the committee, so that they can make the count for themselves.

Witness excused.

Mr. WARREN D. OZMUN, being the next witness called, and upon being first duly sworn, testified as follows:

By Mr. LEVY:

Q. State your name.—A. Warren D. Ozmun.

Q. Where do you live?—A. At Fairfax.

Q. In what voting precinct of Fairfax Township do you live?—A. In No. 4.

Q. Where were you on the day of the general election on November 5, 1912?—A. I was in Fairfax.

Q. Do you know where the election was held on that day in precinct No. 5 of Big Hill Township?—A. Yes, sir; it was held at a little house on Martin Creek place known as the "cider joint."

Q. Was that the Barney Gibbs place?—A. No.

Q. How far from the Barney Gibbs place was that?—A. Just a quarter of a mile, exactly.

Q. From the Barney Gibbs place?—A. Yes, sir.

Q. Do you know of any reason why the election was not held there?—A. I do not know.

Q. Could it have been held there?—A. I do not know whether it could or not.

Q. Was there any place across the road or near where it could have been held?—A. Yes, sir; right west of the Gibbs place, about half a block away.

Q. Was there a place across the road from it?—A. Yes, sir; across the street, west.

Q. The Barney Gibbs place was the place designated by the county election board for that precinct?—A. Yes, sir.

Q. You are a member of the Democratic central committee of Osage County?—A. Yes, sir.

Q. Did you have any voters apply to you the day before the election with reference to the location of the voting place in precinct 5 of Big Hill Township?—A. On the morning of the election some of them came to me about it; not the day before. One came to me about 9.30 in the morning, though.

Q. Who was that?—A. George Wilson.

Q. Did he vote?—A. I do not know.

Q. What did he say?—A. He asked me where they were voting and I said I thought they were at the Barney Gibbs house, and he said he had been down there and that they were not.

Q. Did anybody else come to you that day?—A. No, sir.

Q. What did you tell Wilson?—A. I said I supposed they were at the Gibbs House and if they were not there I didn't know where they were.

Q. Do you know whether he voted or not?—A. I do not know.

Q. Do you know whether he is a qualified elector in Big Hill Township, precinct 5?—A. Yes, sir.

Q. Did you visit the voting place of precinct 5 of Big Hill Township on the day of the election?—A. Yes; I went down there some time between 10 and 11 o'clock.

Q. What did you see there?—A. They were voting there.

Q. Were there any poles or ropes there?—A. I did not see any.

Q. Did you see any persons on the outside electioneering?—A. I didn't stay there very long; it was just about 10 or 11 o'clock.

Q. They were just beginning to prepare to vote?—A. Yes, sir; just beginning to vote.

Q. Up to that time they had not been prepared for voting?—A. I do not think they had cast a vote.

Q. Did you visit any other precinct in Fairfax Township that day?—A. I was in precinct 2.

Q. What time was that?—A. About 2 o'clock p. m.

Q. What did you see and find down there?—A. They were voting down there. When I went in Bill Bennett was in the door.

Q. Who is he?—A. A gentleman from town there who belongs in precinct 4. He was electioneering and talking to the Osage Indians in their language. He wanted an interpreter.

Q. What did you do?—A. I called Mr. Selzer's attention to the fact that there was no authority for an interpreter to be inside the voting place. I told him he had no authority and that the box would be thrown out if they did not obey the election law, and he said they had to have somebody to interpret for the Osages, so I left there.

Q. Were there any ropes to keep the crowd back 50 feet from the polls?—A. No, sir.

Q. Where was the crowd?—A. Inside, around the door.

Q. Was Bennett doing any electioneering?—A. I just heard him talking to the Indians in the Osage language.

Q. Do you understand the Osage language?—A. Not very well.

Q. Did you go inside?—A. No.

Q. You did not see anything that was going on on the inside at all?—A. No.

Q. What is the politics of Bennett?—A. He is a Republican.

Q. Member of the county central committee?—A. Member of precinct 4, Fairfax.

Q. Did you go back there that day?—A. I did not.

Q. What has been the political complexion of that precinct up to that time?—A. It has changed some. Precincts 2 and 3 of Fairfax township were thrown together; the eastern part of the two precincts were made a precinct itself over at Hominy School, consisting of about twelve or thirteen voters. Both precincts two years ago went Democratic.

Q. You know the politics of those precincts there together, now, from your past knowledge, taking the territory comprised in precinct 2 as now constituted, what would be the politics of it?

(Mr. Pruitt objects, as the witness can not answer that.)

Q. Taking the territory that now comprises, and did comprise on November 5, precinct No. 2 of Fairfax Township, what had that territory been up to that time?—A. Including the precinct that I spoke of, about 25 Democrats two years ago.

Q. What was the result at this election?—A. I don't know exactly; I think about 50 Republican.

By Mr. HASKELL:

Q. Who is Homer Huffaker?—A. He was a Republican candidate for county commissioner. He was electioneering there that day.

Q. On what ticket?—A. Republican.

Q. Was he talking to Dr. Prentiss?—A. Well, they were all talking there together. I don't know that I could say that they were talking together particularly.

Q. Did he say anything about voting the straight ticket?—A. I didn't hear him say anything about voting the straight ticket.

Q. In what precinct did you see Huffaker on election day?—A. Precinct No. 2, Fairfax.

Q. Where was he?—A. Near the voting place.

Q. How far from it?—A. Well, the voting was on the inside of the house, and he was 15 or 16 feet on the outside.

Q. How long did you see him there?—A. I was only there about 20 minutes.

Q. Did you see Dr. Prentiss and Mr. Huffaker together?—A. They were both there. I don't know that I could say that I saw them talking together.

Q. Has Dr. Prentiss had Huffaker here in Oklahoma City since this investigation began?—A. He was here. I don't know who brought him here.



Q. Were there any wires or ropes or fence there to keep the crowd from the polling place at that precinct?—A. There was no fence there except the fence that was built around the house where they were voting—around the yard.

Q. In coming into the yard, anyone could come in who wanted to?—A. Yes, sir.

Q. There were no ropes or wires, then, to keep the people back?—A. No, sir.

Q. What was the distance of that fence from the house?—A. I should judge in the neighborhood of 40 or 50 feet—the house sits back off the street.

By Mr. PRUITT:

Q. What is your name?—A. Warren D. Ozmun.

Q. You live in Fairfax Township precinct No. 4?—A. Yes, sir.

Q. You were at precinct No. 5, Bill Hill Township, on election day?—A. Yes, sir.

Q. Were you at the voting place?—A. I was at the building where they were voting, about 10 o'clock.

Q. What other precincts were you at during the day?—A. At No. 2 and No. 4, Fairfax Township.

Q. What precinct was it that you say you were about the time they commenced voting?—A. Big Hill No. 5.

Q. You say you were there about the time they began to get ready to vote?—A. Yes, sir.

Q. What place were they voting at?—A. At the Creek (Creed) place.

Q. Is there a little town there where they were voting?—A. Just across the line from Fairfax. I am speaking of No. 5, Big Hill. It was close to the town of Fairfax. There were three voting places at Fairfax, one on the north and one on the west—Big Hill 5 was about 150 or 200 yards southwest on a little tract of land that belongs to the Yellow Horse place—that is in the town—but still belongs outside, just west of the depot. Fairfax No. 2 was at the auditorium.

Q. How far was this voting place in precinct No. 5 from the Barney Gibbs's place?—A. A quarter of a mile.

Q. Has anybody moved into the Barney Gibbs place?—A. I don't know; I was not there.

Q. Did you learn that day why they were not holding the election at the Barney Gibbs place?—A. No; I did not. I went down there to see where they were voting, as I had been asked about the voting place, and that is all I know about it.

Q. Did you go to the Barney Gibbs house that morning?—A. No.

Q. How did you find out where they were voting?—A. I inquired about it and was advised.

Q. You didn't have much trouble in finding the voting place?—A. No.

Q. You don't think Mr. Wilson would have had much trouble, do you?—A. I could not say about him.

Q. What direction was the Creed place from the Barney Gibbs place?—A. Due north.

Q. Which is closer to town?—A. There is no difference. The Gibbs place is a block south of the main part of town, and the other place is a little over a block north.

Q. Was the Creed place in sight of the Barney Gibbs place?—A. Yes, sir.

Q. This voting place, then, must have been at the edge of the precinct.—A. Yes, sir; it was at the east side.

Q. Precinct No. 2 where that voting was held, that is at the edge of the precinct, is it not?—A. Yes, sir. Near the edge of the precinct; the west side.

Q. How close was that voting place to the west line of the precinct?—A. About a quarter of a mile.

Q. How far to the east line of the precinct from the voting place?—A. Five and three-fourths miles.

Q. Prior to that the voting place of precinct 3 had been at the Barney Gibbs place?—A. Yes, sir.

Q. The people living over at Gray Horse at the last election would have to go to Fairfax to vote?—A. Yes, sir.

Q. Was there much complaint about the voting place being on the other edge of the precinct.—A. I heard some dissatisfaction from some of the people—two I believe—at the south side of the precinct.

Q. Don't you remember of learning that the board resigned when they learned where the voting place was, and that a new election board had to be selected?

(Mr. Haskell objects as to what he may have heard about the board resigning.)

Q. Do you know of the fact that the old board resigned?—A. I knew that they resigned, but there were two boards in that precinct—

Q. Yes; but I mean the board that was first selected for precinct No. 2—did they not resign?—A. No, sir; part of that board served; I think nearly all of them. Mr. Brock was put in precinct No. 3, by that precinct being separated he was put over there, and the board served with the exception of him.

Q. Did the elected board at Gray Horse resign on account of the voting place being changed?—A. Their precinct was changed, too.

Q. Did they resign.—A. The old No. 2 board served, and Mr. Selzer and the board from the north part of the precinct—with the exception of Mr. Brock.

Q. Where do most of the Indians live in that precinct?—A. On that Gray Horse Reservation. Southeast of town.

Q. Two years ago the election was held in Gray Horse for that precinct?—A. Yes, sir; west of Gray Horse.

Q. Did a great many Indians vote there?—A. I think about 30.

Q. Did you know Bill Hale?—A. Yes, sir.

Q. Do you know whether he succeeded in voting several of the Indians in that precinct?—A. I do not know. I was not there.

Q. Is Bill Hale a Democrat?—A. Yes, sir.

Q. Now then, did Bill Hale take an active part in the election two years ago in behalf of the Democratic ticket?—A. I don't know that he did. I never saw him take an active part.

Q. How did Osage County go two years ago, as a whole?—A. About 200, I think, on the State ticket.

Q. On the county ticket, two years ago?—A. All the way from 25 to something like 800 Democrat.

Q. How did it go last fall as a whole on the county ticket?—A. All the way from Republican to about four or five Democratic. Part of the Republicans were elected. I think the highest Republican majority was 350 and the highest Democratic majority was 500.

Q. How did the ticket divide up last fall?—A. Four Republicans and the balance Democrats.

Q. This Republican commissioner that you mentioned electioneering, Huffer, was he outside of the building and the voting going on inside the building. Was he any closer to the building than the balance of the crowd?—A. No; they were all around the door. I was within about 7 or 8 feet of the door.

Q. You said you were within about 15 feet on the outside?—A. Yes, sir.

Q. What was your business over there?—A. I went over there to request them to carry on the election according to the election laws, being interested in our county election and being on the county committee.

Q. Were there some Democrats around there electioneering, too?—A. Not at the time I was there; but Mr. McCloud came as I started away.

Q. This Creed place—what kind of a place did you say that was?—A. A little building that was moved out of the townsite and was used as a cider joint.

Q. How long prior to the election?—A. About a month or six weeks. It was a vacant building at the time in plain sight of the Barney Gibbs place; just a quarter of a mile away.

Mr. HASKELL. We have some affidavits here that we desire to have you consider.

(Mr. Pruitt objects to the introduction of ex parte affidavits as they were taken without any notice to the contestee.)

(Mr. Durant rules them out and will submit them to the committee leader.)

Mr. E. L. GAY was here recalled and testified as follows:

By Mr. LEVY:

Q. Mr. Gay, will you please produce the poll book containing the names of the persons voting at precinct No. 5 of Big Hill Township on November 5, 1912?—A. I can get it, but it will take a little time—

Mr. McADAMS. The contestant, Riley, in this case respectfully requests the committee to make a finding of fact at this time as to the result of ballots and votes cast for the contestant and the contestee in this case which are uncontested in each precinct; that is, to so eliminate from the consideration of the committee at this time the contested ballots from Fairfax Township, precinct No. 2 and precinct No. 4, and in Big Hill Township, precincts No. 4 and No. 5,

and that the committee find what the uncontested vote to be from the evidence now before them in the district from which the contestant is elected.

Mr. PRUITT. Comes now the contestee, M. B. Prentiss, and demurs to the evidence offered by the contestant for the reason that the same is insufficient to sustain the allegations of the petition of the contestant, and for the further reason that it fails to show that a certificate of election was erroneously and wrongfully issued to the contestee, M. B. Prentiss, but, on the other hand, does show that the certificate of election to M. B. Prentiss was rightfully and lawfully issued to him and that he was entitled to the same according to the ballots cast at the November, 1912, election. Contestee moves the committee to dismiss the contest for the reason that the contestant, by his evidence, has failed to impeach the certificate of election held by the contestee and fails to show sufficient reason why the same should be canceled, and moves the committee to so report to the House of Representatives.

Mr. MCADAMS. Comes now the contestant and moves the committee to strike from the files and records in this case the purported motion and demurrer, or some other kind of pleading unknown to the contestant, as this contestant knows of no rule of practice in any court of justice, or before this committee, or one of its kind or character, authorizing a motion and a demurrer to be included in the same pleading.

The contestant now moves the committee to require the contestee to either produce his evidence and proceed with the trial or to close his case.

On motion, the tickets were sealed and returned to Mr. Coyne for safe-keeping.

Whereupon the committee adjourned, subject to call.

The committee on registrations and elections met at the Lee-Huckins Hotel at 7.30 p. m., February 17, 1913, with a quorum present, as follows: Mr. Searcy, chairman; Mr. Peters, Mr. Hunter, Mr. King, Mr. Glassgo, Mr. Charles, Mr. Moore.

The case of Riley *v.* Prentiss was taken up by the committee for consideration, and the first witness called was:

Mr. E. P. GLOVER, who, being duly sworn, testified as follows:

By Mr. PRUITT:

Q. Please state your name.—A. E. P. Glover.

Q. Where do you live?—A. At Fairfax.

Q. What is your business?—A. Mercantile.

Q. How long have you been in that business?—A. Four years this April.

Q. What position did you hold on the election board in Fairfax last fall?—A.

I was inspector.

Q. Of what precinct?—A. Precinct 4.

Q. Is that the precinct that Dr. Prentiss lives in?—A. Yes, sir.

Q. Is that the precinct that Mr. Riley lives in?

Mr. MCADAMS. The contestant objects to this witness testifying any further in this trial with reference to precinct 4 of Fairfax Township, in Osage County, for the reason that he now withdraws any contest with reference to that precinct and will not ask this committee to hold the election in that precinct void or irregular, except as to the ballots which have been laid aside by the committee to be determined in the future as to whether or not they were legal ballots. The only question that we make in that precinct is as to whether or not the ballots heretofore laid aside and sealed in an envelope by this committee shall be by this committee counted for either the contestant or the contestee.

Whereupon the witness was excused, and the next witness called was:

Mr. JAMES WARDLOW, who, being first duly sworn, testified as follows:

By Mr. PRUITT:

Q. State your name.—A. James Wardlow.

Q. Where do you live?—A. Six miles west of Fairfax, in Osage County.

Q. What is your business?—A. Precinct committeeman on the election board;

I am a farmer by trade.

Q. How long have you lived there?—A. Seventeen years.

Q. You said you were precinct committeeman; for what party, Democratic or Republican?—A. Democrat.

Q. How long have you been precinct committeeman?—A. I was inspector when we got statehood, and have been on the election board ever since.

Q. Did you hold any position on the precinct board last fall?—A. Yes, sir; in precinct 5 of Big Hill Township.

Q. Where was your voting place?—A. Pretty near in the center of our district and pretty near in the center of the township, our primaries; they then moved us to the edge of the township.

Q. Do you know what house was designated as the voting place?—A. I know what house they appointed at first—it was the house that was known as the Barney Gibbs house.

Q. Did you hold the election there?—A. No, we held it in the neighborhood of 300 yards north of there.

Q. In the precinct?—A. Yes, sir.

Q. Why didn't they hold the election in the Barney Gibbs house?—A. Well, my sister was living in the Barney Gibbs house, with her five children and the rooms were full.

Q. How long had she been living there prior to election time?—A. I think I moved her there the latter part of September or the first of October. I would not say exactly as to the date.

Q. Election day was November 5th?—A. Yes, but she was there long before the election; I helped to move her.

Q. In whose house did you hold the election?—A. At the Martin Creed place.

Q. Was the Martin Creed place where you voted in sight of the Barney Gibbs place?—A. It was right due north of the Barney Gibbs house.

Q. Was it in plain view?—A. Yes, sir; it was about 300 yards north.

Q. What did you do about notifying the people of the change in the voting place?—A. They notified—

McAdams objects to the witness talking about what "they" did—unless he did it himself.

A. I saw it in the paper that the election place had been moved.

Mr. LEVY. Contestant objects, for the reason that it is immaterial as to whether the change was published or not or whether anyone was notified, unless the change was made under authority of law by the county election board.

Mr. PRUITT. I withdraw the question then.

By Mr. PRUITT:

Q. Do you know George Wilson?—A. Yes, sir.

Q. Did you see him at the place where you held the election that day?—A. Yes, sir.

Q. Did he vote?—A. Yes, sir.

Q. Do you know of anybody who failed to vote, or lost their vote by reason of the voting place being changed from the Gibbs house to the Creed house?—A. No, sir.

Cross-examination by Mr. McADAMS:

Q. What did you say your name is?—A. James Wardlow.

Q. What position did you hold at the election in 1912?—A. Inspector of Big Hill Township No. 5—No, I think Sam Brown was inspector in 1912.

Q. Well, what position did you hold?—A. I was just a precinct committeeman; went in to vote and they put me on the election board.

Q. What did you do on the election board?—A. Well, I was kind of watcher against the Republican watcher and I helped to count the votes.

Q. Did anybody swear you in?—A. Yes, sir.

Q. You were just elected that day by the election officers and not by the election board?—A. Yes, sir.

Q. The election board designated the Barney Gibbs house as the place to hold this election, and that is about 300 yards away from the place where it was really held?—A. As near as I could judge.

Q. Was it not just three blocks away?—A. I never measured it; I would not say just how far it was.

Q. What you said was just an offhand guess then?—A. Yes, sir.

Q. What is your sister's name?—A. Mrs. Bunch.

Q. Did the officers go down there and ask permission of her to hold that election there or not?—A. I don't know.

Q. Do you know your sister's signature?—A. Yes, I think I do.

Q. [Handing witness a paper]. Look at this letter and see if that is her signature?—A. Yes, sir; that is her writing.

Q. So the signature of Mrs. Lizzie Bunch on Exhibit 4-a here is your sister's signature, is it?—A. Yes, sir.

By Mr. PETERS :

Q. What precinct are you talking about?—A. Precinct 5; I think I am in Big Hill Township.

Q. Which way is precinct 5 located from the town of Fairfax?—A. It runs right up to the phone line.

By Mr. McADAMS :

Q. Were you there when the polls opened?—A. No, sir.

Q. What time did you get there?—A. I got there between 9 and 10 o'clock some time.

Q. Were they open then?—A. Yes, sir.

Q. How many had voted?—A. Not very many for we didn't commence counting until about 11 o'clock.

Q. While you were counting, just any and everybody were in that room?—A. No, sir.

Q. How many were there?—A. About 7.—Q. How many counters?—A. Three.

Q. Who were the other four that were in there?—A. The judge, the clerk, and another watcher.

Q. As soon as you found out how the election was going, you announced it around there to the people, did you?—A. No, sir; I never told a man.

Q. You don't know who it was that ordered the election moved, do you?—A. No, I suppose it was the election board.

Q. There was a house just across the street where they could have held it; just within a few feet, was it not?—A. Yes, sir; it is not very far.

Q. Approximately how far was it?—A. I suppose 50 or 100 yards.

Q. You said that you moved your sister down there to the Barney Gibbs' house and that it was very crowded, etc. Now, so far as you know, she would have been perfectly willing for them to have held the election there that day?—A. I never asked her.

Q. Now how far was it where you held the election to that cider joint?—A. It was in the house that the cider joint used to be in.

Q. Is that not just a booze joint?—A. Well, I hunted the house over and I couldn't find anything to drink on election day.

Mr. PRUITT. How big is the Barney Gibbs' house?

(Mr. McAdams objects, as it is immaterial, the election board having designated it for that purpose. Objection overruled.)

A. I never measured it; it was not a very big house. I think probably about 16 by 18, somewhat along there, with a side kitchen.

By Mr. PRUITT :

Q. How many rooms in that house?—A. The main house is cut in two, and then the side kitchen, which makes three rooms in all.

Q. The main house, you think, is 16 by 18, with a partition and then a kitchen?—A. Yes, sir; I think so.

Q. This Creed place where the voting was held—was that an empty house?—A. Yes, sir.

Q. You say that there was another building about 100 yards of the Barney Gibbs house?—A. Yes, sir; right west of it. It was inside of the precinct.

Q. Was that a vacant building at that time?—A. I could not say. I was never in it.

Q. How did the vote in that precinct last year compare with the vote two years ago as to number?—A. Well, two years ago we had about 76—

(Mr. McAdams objects unless they show the population of that precinct two years before.)

Q. What do you know about the relative population of that precinct in 1910 and in 1912?—A. I have told it twice. I think we had 117 in 1912—117 voters in that precinct.

Q. And in 1910?—A. It was right close to the same; maybe a few under; it was a big precinct.

Q. How did the vote in 1912 compare with the vote in 1910?—A. It was not quite as large a vote in 1910 as in 1912, but then more people come in in two years.

Q. How many voted, do you know, last fall?—A. One hundred and seven, I believe.

Q. How many voted in 1910?—A. I think it was 65 or 66.

Q. What made the difference in the two votes?—A. I could not tell you that; I guess people just stayed at home.

Q. Where had the election been held two years before that?—A. In our schoolhouse.

By Mr. McADAMS:

Q. You say that you polled the precinct in 1912?—A. In 1910 and 1912.

Q. And there were 117 voters in it in 1912?—A. I think so.

Q. And only 107 voted?—A. Yes, sir.

Q. You say that house is about 16 by 18?—A. I think about that; it is not a big house.

Q. How many in your sister's family?—A. Five besides her.

Mr. McADAMS. We now offer in evidence Exhibit 4—a on cross-examination, for the reason that the contestee has been permitted to introduce evidence here to the effect, or leading up to the effect, that this election could not have been held at the Barney Gibbs house, and we offer this, which is an affidavit of the witness's sister, to show why the election was not held there.

(Mr. Pruitt objects to the letter being introduced for the reason that it is ex parte evidence.)

Mr. GLASSGO. I move that the evidence be excluded as illegal and incompetent, as it is only rebuttal testimony and could not be introduced under any rule of evidence as to why the election was not held at that house.

(Mr. McAdams here withdraws his motion to introduce the affidavit in evidence.)

By Mr. LEVY:

Q. You were not forbidden by your sister to hold the election there?—A. I was not there when the election board was made up and I don't know whether they asked her or not; I went up to the house that morning and she said they were coming to the house to vote and that she had the house full.

(Mr. McAdams moves that the above be stricken out, which motion was sustained.)

Q. So far as you know, then, there was no objection on her part?—A. I never did ask her.

Q. You don't know why they moved it to the cider joint about a quarter of a mile away?—A. No, sir.

By Mr. KING:

Q. Was that a cider joint?—A. It was not then; it had been, but I never was there in my life when there was any cider there. I heard it was a cider joint before and there were some empty kegs in there then, but there was nothing to drink there at the time.

By Mr. HASKELL:

Q. What was the general reputation of that Martin Creed place in the community for being a cider joint?—A. Well, there was a good bit of talk about it, but I was never there in my life when there was any cider there.

Q. Where do you live? How far from the Barney Gibbs house?—A. About five and one-half or six miles.

Q. How often do you visit your sister?—A. Nearly every time I went to town; once a week I would go by to see her.

Q. Did you spend some little time there?—A. Yes; I stayed all night once or twice.

Q. Where was this other place, about 150 yards away?—A. Right west.

Q. Would you pass that on your way to and from your sister's?—A. No.

Q. What made you think it was empty?—A. Well, I would see it setting there by itself; I never saw any signs of life around there.

Q. Do you know Ed Cox?—A. Yes, sir.

Q. Did he vote there that day?—A. No.

Q. Do you know Simon Henderson?—A. Yes.

Q. Did he vote there that day?—A. No.

Q. They were both legal voters in that precinct?—A. Yes, sir; I presume every Indian is; I have seen a good many of them vote.

Q. Were they both Indian citizens there?—A. Yes, sir.

Q. Had they lived in that county and in that precinct over a year?—A. Yes, sir.

Q. Were you there all the time from the time you went to the voting place in the morning until the polls closed?—A. I was there until very near 11 o'clock.

Q. Were you there about 1 o'clock that day?—A. Yes, sir.

Q. Was there a big crowd there about 1 o'clock?—A. No; it was raining—I am not certain—I think the crowd was there in the morning, but it may have been the afternoon. There was a crowd of men there, about 10 or 12, and I invited them all in and lined them up by the side of the door and told them not to talk politics and sent them out just as soon as we could. Frank Shaw stayed about half an hour; he was sick and didn't have an umbrella and he stayed longer than the others.

Q. How far off of the main road was the cider joint?—A. The road run right down in front of it; it was on the west side of the road. The road was our line.

Q. Where was the entrance to this cider joint? Was it on the main road?—A. Yes, sir; facing east on the main road.

Q. That was the same north and south road that the Gibbs place was on?—A. Yes, sir.

By Mr. PRUITT:

Q. You speak of the Creed place as being a cider joint. Was it a cider joint then or at some other time?—A. Well, it was before that. I don't know just when they shut them down, when they quit selling; in fact, I couldn't swear they ever sold any there, as I never was there.

Q. Just describe the house; what kind of a house was it?—A. The house sat north and south and had a west shed kitchen on it; there had been a partition in it, but the partition was out and we had two booths in the kitchen on the west side.

Q. What furniture was in there?—A. Just a spring cot; we didn't even have a chair.

By Mr. GLASSGO:

Q. How far from this voting place do you live?—A. Just about 6 miles. That was right in the edge of Fairfax, and I live 6 miles from Fairfax.

Q. Did you know that morning when you left home where you were going to vote?—A. I knew it would have to be held in some of those houses, but I didn't know where. I knew they could hardly hold it where my sister was living.

By Mr. PRUITT:

Q. Did Ed Cox vote?—A. I don't think he did.

Q. What is his politics?—A. I don't know.

Q. No Indians voted then?—A. I don't think so; Frank Shaw voted.

Q. Is Henderson a full blood?—A. Yes.

Q. And he didn't vote?—A. I don't think we voted a single full blood to my recollection.

By Mr. HASKELL:

Q. Those Indians don't read the papers, do they?—A. Simon Henderson and Ed Cox do.

Q. Do all of them around there read papers?—A. All that can talk English do; all of them can not talk it.

Q. You don't know anything about the removal of this voting place except what you saw in the papers?—A. No.

Q. Did you see in the papers that it was going to be held at the cider joint?—A. No; it didn't say where; just said the election place had been changed.

Q. You say you knew it could not be held at your sister's house?—A. I did not think it could.

Q. If she had moved her things out of that large room, it could have been held in that room?—A. Well, that room was just about 10 by 14.

Q. If she had moved the things out into the kitchen and let them hold the election in that room, could not the counters have been in the other bedroom?—A. I don't think there was room enough to put a table in there for the four counters.

Q. In the kitchen?—A. Yes; but she would have had to put her things out—just move out of doors.

Q. If she had put her things out, there would have been plenty of room, wouldn't there? How many beds did she have?—A. She had two, a bed and a cot.

Q. That cot and bed could have been in that little bed room, could they not?—A. They could by being torn up and put in endways.

Q. What room is the cot in?—A. In the front room, the one that is about 10x12.

Q. Where is the bed?—A. Well, she has moved them both in the same room during the cold weather.

Q. And the other room is about 8 by 12?—A. Yes, sir.

Q. You started to ask me a question a while ago about how far the booth is supposed to be from the counters, etc. Now, you also know how far the ropes must be. Were there any ropes there?—A. Not when I was there; I didn't see any ropes. There might have been a wire, but I don't think there was.

Q. How far was the door from where the voting was going on?—A. The place where we got the ballots was in the south end of the room and the counters were in the north end.

Q. Where they got the ballots, and where they voted and where the counters were—that was all in the same room? How big was that room?—A. I never paid any attention to it; I supposed it was about 14 by 16.

Q. It was a little larger than the room in your sister's house?—A. No, sir; there as not much difference.

Q. How many miles square is that precinct—how many north and south, and how many east and west?—A. I could not tell exactly; the east end of it must be 12 miles—as near as I know north and south.

Q. How far east and west?—A. About 10 miles.

Q. How far was this voting place where you held the election to the north line of the precinct?—A. In the neighborhood of 10 miles.

Q. How far from the south side?—A. The people come about 5 miles.

Q. That would make it 15 miles then?—A. No, I was counting from the west side to the voting precinct.

Q. How far from the south line was that election held?—A. Well, if you go clear down there as far as anybody lives—

Q. But I mean the south line?—A. We just follow the river.

Q. How far to the river, the nearest point, from where the election was held?—

A. I presume about  $2\frac{1}{2}$  miles or 3 miles.

Q. Then it was about 7 or 8 miles to the north line?—A. Yes, sir.

Q. So this was down in the south corner of the precinct?—A. No, it was pretty near in the center of the precinct, north and south.

Q. Which way east and west?—A. Right on the east line.

Q. How far from the east line?—A. Thirty feet, maybe.

Q. And about 10 miles to the west line?—A. Somewhere close to that.

By Mr. PETERS.

Q. What is the relationship between you and your sister—friendly or unfriendly?—A. Yes, sir; we are sure friendly.

Q. Do you know what prompted the election officers to designate her house as the election place?—A. No, sir.

Q. Did they hold it at her house 2 years ago?—A. No, sir.

Q. Do you know whether she gave notice to the election officials that she would not allow them to hold it there?—A. No; I do not know.

Q. Do you know what reason was given by anybody for not voting at her house?—A. No, sir.

Mr. HUNTER. Why was your sister's place designated as the place for holding the election with her consent?

A. I think it was put there before she rented the house; she rented the house after the election board named it as the place to vote.

Mr. CHARLES. It was about the nearest place in Fairfax in the precinct, was it not?

A. Yes, sir.

Mr. KING. Is it not a fact that this election precinct was located at the Barney Gibbs house when they knew that it was a vacant house?

A. I think so. She rented the house—

(Mr. Haskell objects.)

Mr. PETERS. How long had the house been vacant before your sister moved in?

A. I could not say. Quite a while; probably six months, for all I know. I don't know whether anybody has lived in it since Mr. Gibbs had it or not.

Q. That is all, I believe.

Whereupon the witness is excused.

Mr. H. C. HAYES, being the next witness called, and being first duly sworn, testified as follows:



By Mr. PRUITT :

Q. State your name.—A. H. C. Hayes.

Q. Where do you live?—A. At Fairfax.

Q. Were you one of the election officials for precinct 5 of Big Hill Township last November?—A. I was.

Q. What position did you hold?—A. Judge.

Q. Democratic or Republican?—A. Democratic.

Q. Where did you hold the election in that precinct?—A. At the east edge of the district, in the Creed house.

Q. How far was that from the Barney Gibbs house?—A. About 250 yards due north, in sight of the other house.

Q. Was there anything to obstruct the view of the Barney Gibbs house from the Creed house?—A. No; it is just in the edge of the town.

(Mr. Haskell objects, as there is no excuse for violating the law whether they could see it or not. Overruled.)

Q. Why was the election not held in the Barney Gibbs house?

(Mr. Haskell objects, unless the witness had something to do with it himself. Objection sustained.)

Q. Being a member of the election board, did you have anything to do with selecting the place where the election was held?—A. I did not.

Q. Do you know whether the Barney Gibbs house was occupied or not at that time?—A. It was occupied.

Q. Who occupied it, if you know?—A. No; I don't know; but a family lived there.

Q. What kind of a house was the Creed house?—A. It was a three-room house.

Q. Was it vacant or occupied when you held the election?—A. It was vacant.

Q. What fixtures were in there?—A. Nothing but the partitions in the room.

Q. Do you know of anybody who lost their vote or failed to vote by reason of the election being held in the Creed house instead of the Barney Gibbs house?

(Mr. Haskell objects, as the witness had nothing to do with it. Overruled.)

A. I do not.

(Mr. McAdams moves to strike out the question and the answer for the reason that it is a conclusion unless he knows of his own knowledge. Overruled.)

Q. Do you know George Wilson?—A. Yes, sir.

Q. Was he there and did he vote on election day?—A. Yes, sir.

Cross-examination by Mr. McADAMS :

Q. What is your name?—A. H. C. Hayes.

Q. You say that you don't know of anyone not voting by reason of the voting place being moved. You don't know that some of them in that precinct did not vote, do you?—A. No.

Q. You don't know how many were in that precinct there, and, so far as you know, there may have been 20 who were entitled to vote and who did not vote?—A. I don't think that could have been, as it was the primary election, and we have something like 121 voters.

Q. And only 107 voted? So there must have been 15 or 20 who did not vote in the general election?—A. There were 121, and 107 voted. As to why the others didn't vote, I don't know.

By Mr. PRUITT :

Q. What is your business?—A. I am a farmer.

Q. How long have you lived there?—A. Three years.

Q. Where did you come from?—A. Snyder.

Q. What has been your politics?—A. I have been a Democrat all my life.

Q. Have you been active in your work, or have you just voted and taken no part in it?

(Mr. Haskell objects, as this is immaterial. Objection sustained.)

Whereupon the witness is excused.

Mr. HENRY SELTZER, being the next witness called, and being duly sworn, testified as follows:

By Mr. PRUITT :

Q. What is your name?—A. H. W. Seltzer.

Q. Where do you live?—A. Ten miles northeast of Fairfax.

Q. How long have you lived there?—A. This makes eight years.

Q. What is your business?—A. I am a farmer.

Q. Did you hold any official position in the election in your precinct last fall?—A. I was inspector.

Q. Of what precinct?—A. Of Fairfax, No. 2.

Q. What is your politics?—A. Democrat.

Q. Who was the judge?—A. I could not tell you his name; I can't call it.

Q. Who was the clerk?—A. I can't think of his name, either.

Q. Who were the other members of the board?—A. Henry McNabb and W. T. Smith were the other two members of the board, and myself.

Q. How did you conduct the election that day?

(Mr. Haskell objects to this conclusion as to his conduct. Objection sustained.)

Q. Do you know Bill Bennett?—A. Yes, sir.

Q. Was he over there that day?—A. I seen him there once.

Q. What time of the day was he over there?—A. I think it was in the morning; I don't know just when it was.

Q. Was he in the house?—A. No; he was just outside.

Q. Did he have anything to say to the election board?—A. No, sir.

Q. Or to any Indians who came there to vote?—A. I was not outside; I didn't know what he said to the Indians outside.

Q. Did you see Homer Huffaker over there that day?—A. Yes, sir.

Q. Was he inside the house where you were conducting the election?—A. No; we had adjourned for dinner, and he went and got our dinner and brought it in to us, and then he went on outside.

Q. Was there anybody there interpreting for the Indians inside of that building that day?—A. No.

Q. How many Indians voted in that precinct?—A. Probably about 12 or 14. I would judge that many, but do not know exactly.

Q. Was anybody allowed to 'lectioneer inside the building that day?—A. No, sir.

Q. What size building was that?—A. It was two rooms, probably 14 by 20—divided into two rooms. We had the booths in one room and the tables on the west side of the building for the clerks.

Q. The election board was in the front room. Where were the counters?—A. They were on the west side of the building; the door was on the east side and the counters and the clerk were over on the west side of the house next to the window, where they could get the light.

Q. Is that the side or the end of the house?—A. The side. It sits north and south.

Q. Was there a little porch in front of the door?—A. Not that I know of; the only thing I remember being there was a kind of platform, or some steps in front of the door.

Q. Do you know Mr. Ozmun in Fairfax?—A. Yes, sir.

Q. Did you see him there that day?—A. He was there before the election.

Q. Did he say anything to you about how you were conducting the election that day?—A. No; he never said anything to me.

Q. Did Bill Bennett interpret to three Indians in there where you were holding the election?—A. No; not in my presence, and I was there all the time the election was being held. I was right there and know who went in and came out. The only time anybody was in there was when it rained and a few voters came there and we let them in while it was raining, but they never said a word while they were in there.

Q. Where were the booths?—A. On the south side of the building by the partition.

Q. Do you think that anybody in that booth could hear anyone 8 or 10 feet from the building on the west side talking in ordinary conversation?—A. I would not think they could.

Q. What has been your politics since you have been a voter?

(Mr. Haskell objects.)

Q. How long have you been inspector in that precinct?—A. I can't tell you exactly. I was the first man that was inspector in that precinct, but I don't know the exact time.

Q. Have you been inspector ever since?—A. Yes, sir.

Q. And you have lived there eight years?—A. Yes, sir.

Q. They have just been holding elections there at Fairfax since statehood?—A. That was the first election we ever held at Fairfax in 1912. We used to hold it at our schoolhouse.

Q. That is the precinct in which the counters have been changed since the last election?—A. Yes, sir.

Cross-examination by Mr. HASKELL:

Q. Do you know Bill Bennett?—A. Yes, sir.

Q. Do you know Carl O'Marion?—A. Yes, sir.

Q. Were they around the voting place in that precinct that day?—A. They might have been, but I never saw Carl O'Marion.

Q. Did you see Bill Bennett?—A. Yes; he was on the outside.

Q. He was not a voter there, was he?—A. No.

Q. Was he a Republican?—A. I do not know his politics.

Q. You are a politician yourself and knew that he was, too, but did not know Bill Bennett's politics?—A. I never was personally acquainted with him.

Q. You knew him as something of a politician, and that he was not a Democrat?—A. I do not know.

Q. You are a politician yourself and knew that he was, too, but did not know his side?—A. No; I am not much politician.

Q. What was Homar Huffaker?—A. He was a Republican candidate.

Q. And Dr. Prentiss?—A. Yes, sir; he was a Republican candidate, too.

Q. Did you see them around there?—A. Homer Huffaker brought my dinner to me.

Q. Who sent him out for your dinner?—A. I don't know.

Q. Dr. Prentiss was not in the house then?—A. No.

Q. And Carl O'Marion was not in the house?—A. No.

Q. And Bill Bennett was not in the house?—A. No.

Q. Do you know Bill Thrasher?—A. Yes, sir.

Q. Was he a Republican candidate there?—A. I forget what he was running for.

Q. Do you know Mr. Elliott, who was running for office there that day?—A. I know one Elliott, but I don't know whether he was running for office or not.

Q. Did you see him there with Bill Thrasher?—A. There are two Elliotts, and I don't know them apart.

Q. Was there a man named Elliott with Thrasher?—A. I don't know whether it was Elliott or not.

Q. Was there another man with him?—A. I don't know that there was.

Q. Do you understand the Osage language?—A. No.

Q. Then, you don't know what Bill Bennett said to the Osage Indians, but you heard him there making a speech?—A. He was on the outside talking to the Indians and we told him we would not allow it.

Q. Then did he go on with his speech?—A. I don't know as he did.

Q. Who do you mean by "We" told him it wouldn't be allowed?—A. The board.

Q. You will not say that he didn't go on with his speech, will you?—A. I don't know whether he did or not.

Q. You didn't pay any attention to whether he was doing what you told him or not?—A. He didn't there at the house. He was at the door at the time. The Indians were on the outside at the entrance of the door. He commenced to make his speech there. I told him he didn't have any business talking to the Indians there.

Q. Do you know what he was talking to the Indians about?

A. I didn't know, but I knew he didn't have any business talking to them there, raising a row.

Q. He didn't have any business talking outside, did he?—A. No; they were all bunched up out there.

Q. And you consider that he didn't have any business to be talking out there. A. They come there to the door and I told them they had no business there and they went away.

Q. Didn't you let them talk there 5 or 10 minutes?—A. No, sir.

Q. Do you know Mr. McCloud, the school-teacher over there?—A. No.

Q. Do you know Mr. Ozmun?—A. Yes, sir.

Q. Then, if Mr. McCloud and Mr. Ozmun say that Bill Bennett made a speech to the Indians there for 5 or 10 minutes, with your permission and that you didn't interrupt the speech, they are mistaken, are they?—A. No; I know he did not.

Q. Will you say the testimony of these witnesses on that point is not true?

A. I am satisfied that they didn't have that much time there; they may have been a speech away from the house, but at the time, he did not.

Q. If they said they were right up in the house, that is not true then, is it?—  
A. No.

Q. But they were right up there where you didn't consider that they had any business?—A. We kept them all away from the door except when it was raining.

Q. Then, if Bill Bennett says that he told you the Indians ought to have an interpreter, that is not true?—A. I don't know that he said that.

Q. Then if he says that he had quite a discussion there about the interpreter, that is not true, is it?—A. I don't know whether he said that or not.

Q. You are not positive about that?—A. No, sir.

Q. You were not there all day, were you?—A. Yes, sir; they sent me down after some paper.

How long were you gone?—A. Just as soon as I could go to the other precinct and get it; just about 5 minutes—it was just about two and a half blocks.

Q. You saw everyone who was around the counters' table did you?—A. I don't know the men's names who did the counting. They were strangers to me; had just been elected that day.

Q. Who were the men standing around watching the counters?—A. I do not know.

Q. Just describe to the committee, as near as you can, the men who were standing there by the counters' table. What did they look like?—A. I don't remember who watched the counters.

Q. You say you know Bill Bennett?—A. Yes, sir.

Q. Was he there watching the count very long?—A. I don't know that he was there at all.

Q. You didn't see him there?—A. No.

Q. Then if Mr. McCloud and Mr. Ozmun says that he was there looking over the counters you didn't see him?—A. I didn't see him.

Q. Will you say that he was not there?—A. I didn't see him there.

Q. Who sent you up to the other precinct after those supplies?—A. They talked it over there and said for me to go on up there—the board.

Q. Who sent you?—A. The other members of the board.

Q. Who was running the election while you were gone?—A. Well, the rest of the board.

Q. How long have you known Mr. Ozmun?—A. I haven't known him very long.

Q. Do you remember seeing him around there election day?—A. Just before the election.

Q. Don't you remember that he came in there and protested to you against Bill Bennett making that speech to those Indians in Osage?—A. No, sir.

Q. Will you say that he didn't do that?—A. I don't remember anything about it.

Q. Your memory is not very good after election, is it?—A. About as good as usual.

Q. Then if you have a good memory on that subject did he or did he not ask you about that speech?—A. Not that I know of; I never paid any attention to it.

Q. You haven't a very clear recollection on that and could not say whether he did or not?—A. No.

Q. Do you remember what your instructions were for holding that election?—  
A. No; that would be pretty hard for me to tell.

Q. Do you remember any of your instructions?—A. No.

Q. Do you remember what your instructions were on the question of staying there from the time the polls opened until they closed?—A. No; I don't know as I remember that.

Q. You remember that they sent your lunch out to you?—A. Yes, sir.

Q. And that is about all that you do remember—that they sent your lunch to you and that you went uptown and got some papers?—A. Yes; I got the lunch all right and I went uptown and got the paper.

Thereupon the witness was excused.

Mr. HASKELL. Comes now the contestant and demurs to the evidence submitted by the contestee on the ground that said evidence is not sufficient to constitute a defense to the case made by the contestant.

#### REPORT OF COMMITTEE ON ELECTIONS.

Mr. SPEAKER: We, your committee on privileges and elections, having had under consideration the case of Carl E. Riley, contestant, *v.* M. B. Prentiss,

contestee, and having heard all the evidence offered and introduced by both the contestant and contestee, and having heard the argument of counsel for the respective parties, beg leave to make the following report:

First. We find that in Big Hill Township, precinct 4, that there were five ballots cast, which we hold shall not be counted for either the contestant or contestee in this case, for the following reason: That the parties casting such ballots stamped in the circle on said ballots, under the Democratic device, and then stamped opposite the name of M. B. Prentiss, the contestee in this case.

And we, your committee, further find that in Big Hill Township, precinct 5, that there were likewise five ballots voted in the same manner and form as were voted in Big Hill Township, precinct 4, as above set forth.

And we, your committee, further find that in precinct 2, of Fairfax Township, there were five ballots cast in the same manner as in precincts 4 and 5 of Big Hill Township, as above set forth.

And we, your committee, further find that in precinct 4, Fairfax Township, there were eight ballots cast in the same manner and form as in precincts 4 and 5 of Big Hill Township, and precinct 2 of Fairfax Township, as above set forth.

Eliminating these ballots from the consideration of this contest, we find that the contestee and contestant received in their district, should this contest stop here, 1,803 votes each, making, therefore, a tie in the election, should the same in other respects be held legal.

In support of our contention that these ballots should not be counted for the contestant or contestee, we desire to call to your attention a contest case decided by Yerkes, presiding judge, reported in Pennsylvania district reports, volume 2, page 1, in which Judge Yerkes said:

“If the voter marks an X opposite the party designation of a group and also opposite the name of a candidate in the same group under the other party designation, the vote for that office must not be counted at all.

“Where more than one person is to be elected to the same office and the names of all the candidates for the office are included in the same group, and an X is marked opposite the group accompanied with a mark opposite the names of one or more of the candidates under the other party group, the vote can not be counted for any of the candidates for such office.”

Judge Yerkes further said:

“Where more than one person is to be elected to the same office and the names of all the candidates for the office are included in the same group, accompanied with a mark opposite the name of one or more of the candidates under the other party group, must result in a refusal to count the votes for any of the candidates for such office of elector or assembly for the reason that the act enjoins that the vote for such officer shall not then be counted, and it is also impossible to ascertain which candidate the voter intended to cut. Therefore, a voter who proposes to vote for a candidate for assembly or elector, not under the same group as others for whom he wished to vote, should be careful to mark an X opposite the name of every person he wishes to vote for in that group, and should omit to mark to the right of the party name at the head of the particular group containing the name or names he proposes to cross; otherwise he will lose his vote for such office altogether.”

In this case there were four candidates for representative from Osage County, to wit, M. B. Prentiss, the contestee, and P. D. Lindsey on the Republican ticket, also Carl E. Riley, the contestant, and Chas. B. Peters on the Democratic ticket. The parties casting the votes heretofore referred to having stamped in the circle under the Democratic device, thereby voting the entire Democratic ticket, including the contestant, Riley, in this case and the said Peters, for representative from Osage County, and having also stamped opposite the name of M. B. Prentiss on the Republican ticket, it is impossible for this committee to determine whether or not the voter intended to exclude from his vote the contestant, Carl E. Riley, or Chas. B. Peters.

Your committee further finds, and so holds, that the contestant Riley and the said Peters were opponents and running against the said contestee Prentiss, and the said Lindsey, and that the voters casting the ballots so as aforesaid described voted for 3 representatives from Osage County, when in truth and in fact only 2 were to be elected, and for that reason and other reasons hereinbefore assigned we hold that said ballots can not and should not be counted or considered in this contest for either the contestant Riley or the contestee Prentiss.

Second. Your committee further finds that in precinct 2 of Fairfax Township, from an actual count of the votes by this committee, that the contestee Prentiss received 68 votes and the contestant Riley received 15 votes.

Your committee further finds that the county election board did not provide said precinct with a chute or passage, with a railing, rope, or wire on each side, commencing 50 feet away and leading to the polling place, as provided by section 3135, Snyder's Compiled Laws of Oklahoma.

Your committee further finds from the evidence that one Bill Thrasher and one Elliott, candidates for township officers, were permitted to be in the room and around the counting table while the counters were counting the ballots in said precinct, in violation of section 3134 of Snyder's Compiled Laws of Oklahoma.

Your committee further finds that one Bill Bennett, who was then and there the Republican committeeman from precinct 4 of Fairfax Township, was permitted and did make a speech to the Indians in the Indian language, some 12 or 14 being present, inside of the polling place, in violation of section 3208 of Snyder's Compiled Laws of Oklahoma.

Your committee further finds that one Huffaker, Republican candidate for county commissioner, in company with the contestee Prentiss, was permitted to electioneer among the voters, in the presence of the contestee Prentiss, within 6 or 8 feet of where the voting was being carried on.

In view of our law governing elections, hereinbefore referred to, and the actions of the respective parties in conducting the election in this precinct, we hold that the ballots cast for the contestant Riley and the contestee Prentiss shall not and should not be counted for either party.

In support of our contention that the actions of Bennett in making a speech to the Indians in the Indian language is such as to vitiate the election in this precinct as to the contestant and contestee, we call your attention to the case of *Maynard, Attorney General, ex rel Harwood v. Stillson* (Supreme Court of Michigan), reported in 66 Northwestern, page 388, in which it was said:

"Session Laws 1891 article 190, section 21, provides that no person shall be allowed within the railing of an election room except to vote, or to assist an elector, as hereinafter provided. Section 31 provides that, 'in case of necessity, an interpreter may be employed. Held, that, where in a county election, an interpreter hostile to one of the candidates was allowed within the railing of the polling place and conversed freely with foreigners, who only understood their own language, after they had been admitted to vote, although they had not applied for an interpreter, the vote of the entire township should be excluded, where its exclusion would change the result of the election."

Your committee further finds that after eliminating this precinct from the consideration of this contest, that the contestant Riley has 1,788 votes and the contestee Prentiss 1,735 votes.

Third. Your committee further finds that the county election board of Osage County, Okla., designated a house known as the Barney Gibbs House as the place of holding the election on November 5, 1912, and that some one connected with said election, and without authority from said county election board, moved the place of holding said election to a house known as the Martin Creed House.

Your committee further finds from the evidence that the Creed House is 1.320 fee from the Barney Gibbs House, the place designated by the county election board as the place for holding of the election in Big Hill Township, precinct 5.

Your committee further begs leave to report that after the contestant Riley had closed his case, the contestee Prentiss asked time in which to produce evidence in rebuttal, which request was granted by your committee, and Mr. Prentiss asked time in which to produce evidence in rebuttal. And your committee reports to this House that although the contestee Prentiss knew that the contestant Riley was contending that the moving of this voting precinct, without the authority of the election board was such as to vitiate the election in this precinct, the said contestee Prentiss failed and neglected to bring before this committee any of the county election board, in order that they might explain or give reason if any they had, or if they knew, why the place of the election was changed from the Barney Gibbs house to the Martin Creed house. We therefore hold, in view of the actions of the contestee Prentiss in not summoning before this committee any of the members of the county election board, that the presumption is that he knew that the place of holding the election was moved without their consent or authority.

Your committee, however, further finds from the testimony of a witness, Gay, secretary of the county election board, produced as a witness on behalf of the contestant Riley, that the moving and holding of the election at any other place, other than the Barney Gibbs house, was without the knowledge or authority of the county election board of Osage County, Okla.

Section 3106 of Snyder's Compiled Laws provides, among other things, the following:

"The county election board of any county may change the boundaries of any precinct within such county, or divide any precinct into two or more precincts, or consolidate two or more precincts into one, or change any place of holding elections when public convenience or public good may require it: *Provided*, That no such change, division, or consolidation shall be valid without first giving due notice of at least one month by printed notices posted, one at the courthouse door, and at least three in conspicuous places in the precinct affected."

Your committee finds from the evidence that this provision of our law was violated in holding the election in Big Hill Township, precinct 5, and we hold that the moving and holding of the election at a place other than that designated by the county election board vitiates the election in Big Hill Township, precinct 5, and in support of this holding by your committee, we call to your attention the case of *Goree et al. v. Cahill et al.* (opinion by the supreme court of this State), decided November 16, 1912, and reported in the 128 Pacific, at page 124. We quote the first point of the syllabus:

"The requirements of the law relative to the place of holding an election are generally held mandatory, and an election conducted at any other than the designated place is void."

Justice Dunn, speaking for the court, in the body of the opinion, said:

"Without noticing the other grounds on which it is claimed it ought to be held void, it is sufficient for us to say that the holding of this election at a place other than the regular voting place of the village and at a private residence, which is not shown to have been in proximity of the council house, where no proclamation was posted, is sufficient to render it void; the rule being that the requirements of the law relative to the place of holding an election are generally mandatory and an election held at any other than the designated place is void. (15 Cys., 343; *Johnson v. Robertson*, and others, 78 Ga. 165; *Melvine* case, 68 Pa. 333; *State ex rel. and others v. Potter and others*, 144 Ill. 628.) See also annotated case of *Whitcomb v. Chase*, 17 Annotated Cases, 1088 (83 Nebraska, 360), where the authorities, pro and con, are collated, and which contains a very satisfactory discussion of the subject."

The Supreme Court of Arizona in *Johnson v. Robertson*, reported in 76 Pac., page 465, said:

"It is the general rule to which there are very few exceptions, that the statutes relative to the time and place of holding an election are mandatory, and that an election held at any other than the designated place is absolutely void without proof of any fraud or injury."

Your committee further finds that in this precinct the contestee Prentiss received 62 votes, and the contestant Riley received 36 votes, and that said votes should not be counted for either the contestant Riley or the contestee Prentiss. Eliminating the votes counted for the contestant and contestee in this precinct, we find that the contestant Riley received in said election 1,752 votes, and that the contestee Prentiss received 1,673 votes, giving the contestant Riley a majority of 79 votes.

From the finding herein made by your committee and the construction of the law applicable thereto, we hold that the contestant Riley is the duly elected representative of Osage County, Okla., and that he is entitled to a seat in this house, in the place and stead of the contestee, Prentiss. We therefore recommend that the contestant Riley be seated as a member of this house, and the contestee Prentiss be declared not elected to his seat.

GEO. L. SEARCY, *Chairman*,

T. W. HUNTER,

JOHN CRAWFORD,

H. M. MOORE,

W. A. DURANT,

CHAS. B. PETERS,

E. E. GLASCO,

H. V. JOSEPH,

*Members of Committee.*

I concur in this report except as to contested ballots and for my reason in this regard I was not present and did not make a personal inspection of them.

H. V. JOSEPH.

The ballots which I examined, in my estimation, should be thrown out and counted for no one. Will also say that I only examined ten (10) ballots and in my opinion were illegally voted.

H. M. MOORE.

There is no evidence showing where the law had been complied with in moving the precinct where the election had formerly been held. I also agree by the evidence that the law had been violated by permitting certain parties to remain in the election room for the purpose of instructing the Indian people how to vote, as, in my opinion, most all the Indian people know how to vote as they are familiar with this.

REPORT OF COMMITTEE ON ELECTIONS—MINORITY REPORT.

We, the undersigned members of the committee on elections, beg leave to make the following report on the contest of Riley *v.* Prentiss, to wit:

We recommend that M. B. Prentiss retain his seat, and that the contest of Mr. Riley be dismissed for the following reasons:

The uncontested and unchallenged votes for each party show that both Prentiss and Riley received one thousand eight hundred three (1,803) votes each. That there are twenty-three (23) challenged votes that should be counted for Prentiss and three for Riley. One challenged vote was stamped in the circle under the eagle and stamped also in the square in front of the names of candidates for presidential electors and nowhere else. This ballot under the decision of the Supreme Court of Oklahoma in the case of McClellan *v.* Erwin, 16 Okla., 612, should be counted for Prentiss. There was another straight Republican ballot that the election board had evidently used to make a copy of the returns on that was challenged. The mere fact that the election board had used this ballot to figure on should not cause the voter of same to lose his ballot. The marking was evidently done after the ballot had been voted and counted and not before. There were twenty-one (21) challenged ballots that were stamped in the circle under the rooster, and then stamped in the square in front of the name of M. B. Prentiss, on the Republican ticket. Under the law, these twenty-one (21) ballots stamped in the circle under the eagle and then stamped in the square in front of the name of Mr. Riley, on the Democratic ticket. These three ballots should be counted for Riley. Twenty-three (23) of the challenged ballots should be counted for Prentiss and three (3) for Riley, leaving Prentiss a majority of twenty (20).

The evidence showed that in precinct 5 of the Big Hill Township that the county election board named the Barney Gibbs house in said precinct. This was done when said house was vacant, and had been vacant for many months. During the last of September or first of October, 1912, a widow woman, with five children, moved in this house of Barney Gibbs, and was living there on election day in November, 1912. It was a small house, about 14 x 18, with a small shed room.

The evidence further showed that there was some furniture stowed in the Gibbs house belonging to the man who rented the house to the widow woman, besides the furniture belonging to the widow woman. The election board, on leaving this, held the election in this precinct in the Creed house, a vacant house about three hundred (300) yards north of the Barney Gibbs house and in plain view.

The evidence of the Democratic committeemen of that precinct showed that there were one hundred seventeen (117) voters in said precinct and that one hundred seven (107) voted in said precinct in the November election, 1912. The evidence further showed that said precinct was a large country precinct about ten miles wide and twelve miles long. There was no evidence to show that any voter lost his vote or was prevented from voting by reason of such change in place of voting. The evidence also showed that about forty (40) more votes were cast in that precinct in 1912 than were cast in 1910.

While there may have been some slight irregularity in the manner of conducting the election in precinct 2 of Fairfax Township, there is no evidence that any legal voter was denied the right to vote or any illegal voter permitted



to vote, or any other irregularity that prevented an honest election or a fair count.

There is no evidence that any legal voter was denied or prevented from voting in any precinct in Osage County, and no evidence that any illegal voter was permitted to vote and no evidence that an honest election and a fair count was not had.

The evidence shows that M. B. Prentiss as a physician has the position of physician to the Osage Indians in Fairfax and vicinity. The evidence shows that he secured this position by making application to the Indian agent at Pawhuska and in the application stated for what monthly compensation he would perform certain service as physician to the Indians of Fairfax and vicinity. This application was approved by the Indian agent and the authorities at Washington. He has performed such duties as physician for about a year for \$50.00 per month. With the approval of the Indian agent at Pawhuska, Dr. Prentiss has secured another physician to occupy his office and perform all duties required of him under such contract of employment while he is attending the legislature.

The evidence does not show that Dr. Prentiss took an oath of office under such contract. The evidence does show that Dr. Prentiss is faithfully performing his duty as a member of the legislature and that such contract in nowise interferes with his duties as a member of this house.

The evidence does not show that Dr. Prentiss took any employment under contract with the Federal Government and was not an officer of such Government.

We submit that the evidence shows that M. B. Prentiss was elected and should retain his seat and that he is in nowise disqualified under the law from holding his seat in the honorable body.

GEO. L. KING.  
J. B. CHARLES.

It is stipulated and agreed between Roy Hoffman, attorney for John J. Davis, contestant, and Fred A. Wagoner, attorney for Bird S. McGuire, contestee, that depositions for contestant may be taken at Guthrie, Logan County, Okla., this 13th day of March, 1913, at the Ione Hotel, and that same may be taken before James G. Lewis, notary public, within and for said Logan County.

It is further agreed that the same stipulation heretofore entered into with regard to the signatures of witnesses is continued; that is, that the witnesses need not sign their testimony, and that the same may be taken by Lucy Adams in shorthand and afterwards transcribed by her.

STATE OF OKLAHOMA, *Logan County, ss.*

I, the undersigned notary public in and for Logan County, State of Oklahoma, hereby certify that on this 13th day of March, 1913, the following-named persons appeared before me and were by me first duly sworn to tell the truth, the whole truth, and nothing but the truth in the matter of the contest of John J. Davis against B. S. McGuire: James McNulty, Miles Allen, J. I. McDaniels, John G. Waldman, A. E. Timbers, Walter S. Wilson, Hugh Scott, S. Pulliam, Walter Towle, G. W. Greenway, Joseph Wisby, C. M. Le Grande, J. E. Hopkins, C. H. Lee, R. E. Stovall, M. G. Thomas, J. P. Martin, J. A. Martin, William Brown, Frank Olsmith, Henry Porter, Frank Hindman.

Witness my hand and official seal at Guthrie, Logan County, Okla., this 13th day of March, 1913.

[SEAL.]

JAMES G. LEWIS,  
*Notary Public*

My commission expires March 26, 1914.

JAMES McNULTY, being duly sworn as a witness for the contestant, testified as follows:

Direct examination by Mr. HOFFMAN:

Q. Please state your name.—A. James McNulty.

Q. And where do you live?—A. Guthrie. 322 East Springer.

Q. What is your business?—A. Grocer.

Q. Were you acting in any official capacity at the election last November?—

A. Yes, sir.

Q. What?—A. I was inspector.

Q. Did you serve as inspector during the entire time?—A. No, sir.

Q. Why not?—A. Why, Bill Brooks was appointed first inspector, and I think he registered about a hundred.

Q. Do you know why he quit?—A. Well, no; I don't know why; he just resigned; wouldn't have anything to do with it any longer, as far as I know.

Q. Did you complete the work then?—A. I completed the work.

Q. In your registration did you refuse to register anyone who came in?—A. No, sir.

Q. You registered everybody who applied?—A. Yes, sir.

Q. Blacks and whites?—A. Yes, sir.

Q. Are there many negroes in that ward?—A. I think about 60.

Q. Did all the negroes register?—A. Yes, sir.

Q. Did you register anyone who could not qualify under the so-called grandfather clause?—A. I think so.

Q. You know you did, do you not?—A. There were two I know of told me they could not read and write.

Q. But you registered them anyway?—A. Yes.

Q. I understood you to say awhile ago, Mr. McNulty, there were about 10 or 12; did I misunderstand you?—A. There might have been that many not qualified voters, but they could read and write some.

Q. About how many negroes were registered in that ward, if you know?—A. Something over 60—sixty-three or four.

Cross-examination by Mr. WAGONER:

Q. You say you were inspector for what ward and what precinct in Guthrie?—A. The third ward A.

Q. You served as inspector on the day of election?—A. Yes, sir.

Q. You registered part only of the voters?—A. Of the ward.

Q. The former inspector resigned and you were appointed in his place?—A. Yes.

Q. These parties came to you and made application to register?—A. Yes, sir.

Q. And you registered them?—A. Yes.

Q. And on election day they came and made application to vote and you permitted them to vote?—A. They all voted; that is, I never challenged anybody.

Q. You say your politics are what?—A. Democrat.

Q. And was there any other members of the board other than yourself?—A. There were two others on the board.

Q. The clerks' politics was what?—A. One was a Democrat and the other was a Republican.

Q. Did they challenge anybody?—A. There was nobody challenged that I know of.

Q. You had the election law there the day of election, did you not?—A. Why, I don't know whether I did or not.

Q. Well, Mr. McNulty, you said awhile ago there was only two that voted there that could not read and write at all.—A. I am not positive whether they voted or not; they registered.

Q. Mr. McNulty, do you know of your own knowledge there was any votes cast in your precinct, which was third ward A, in the November election, 1912, that were not legal voters under the laws of Oklahoma—if you know of your own personal knowledge there were any illegal votes cast in your precinct in the November election, 1912, that were not legal voters under the Oklahoma election law?—A. That's a hard question to answer.

Q. Well, you, as an officer, who had taken an oath to enforce the law, would not have permitted anyone whom you knew to be an illegal voter to vote, would you?—A. Well, there were two sides to the law; some said everybody was entitled to vote and some said they had to be qualified. I didn't want to be inspector in the first place, and they insisted on me taking it, and I told them at the time I was not going to disqualify anybody.

Q. The men who applied you thought were legal voters, did you not?—A. They always had voted.

Q. You didn't willfully and maliciously permit anybody to vote knowing and believing at the time they were absolutely illegal voters, did you?—A. No, sir.

Q. And in your registration you only registered two that couldn't read and write that you permitted to register?—A. Yes; that was all I asked; that is all that told me personally they couldn't read and write, and I asked them what they wanted to register for, and they said if I didn't register them I would be liable to get into it.

Q. And you registered them?—A. Yes.

Q. And permitted them to vote on election day?—A. If they came; I was not at the polls all day.

Q. But you don't know of your own knowledge there was an illegal vote cast in your precinct on election day?—A. No; I won't say there was.

Q. And you would not say there was an illegal vote cast, would you?—A. No, sir.

Q. Even a negro who couldn't read and write could vote under the election law by reason of the fact that his grandfather could vote prior to 1866?—A. Yes, sir.

Q. And would be entitled to vote if his grandfather was a legal voter prior to 1866?—A. Yes, sir.

Direct examination by Mr. HOFFMAN:

Q. You were a property holder in Guthrie?—A. Yes.

Q. Doing all you could to get the capital located here?—A. I don't know as I did very much.

Q. You were interested in having the capital located here?—A. Yes, sir.

Q. And that was one of the subjects submitted to the voters at the last general election in 1912?—A. Yes.

Q. And that was one reason you wanted to let everybody over there vote?—A. Yes; there was some talk to get as big vote out as we could.

Q. Did that have anything to do with your letting everybody vote regardless?—A. No, sir; I don't think it had.

Q. You were not any stricter on that account?—A. No, sir.

Cross-examination by Mr. WAGONER:

Q. And the fact you desired the capital to be located at Guthrie ever so much would not cause you to violate your oath you took the day of election, would it?—A. No, sir.

MILES ALLEN, being duly sworn as a witness for the contestant, testifies as follows:

Direct examination by Mr. HOFFMAN:

Q. What is your name?—A. Miles W. Allen.

Q. Where do you live?—A. Meridian.

Q. How long have you been a resident of Meridian and vicinity?—A. More than 23 years.

Q. What is that voting precinct?—A. Bear Creek that I vote in.

Q. What official position, if any, have you occupied in the State?—A. Well, I have occupied a number. In 1910 I was secretary of the Logan County election board.

Mr. WAGONER. Object to any official position he held in 1910, its not being material in this case.

Q. Were you ever a member of the legislature?—A. Yes, sir; I was a member of the Sixth Territorial legislature.

Q. Were you the secretary of the board in 1912?—A. No, sir; not the county board.

Q. Did you have any connection with the county board?—A. I have met with them in 1912.

Q. Do you know anything about the selection of inspectors for the 1912 election?

Mr. WAGONER. Objected to as being incompetent, irrelevant, immaterial, and calling for hearsay testimony. Unless he was a member of the county election board his testimony could and would not be competent.

A. Well, I knew at the time of a number of precinct boards that had been appointed by the county board 1912.

Q. Do you know whether or not they served?—A. I know some of them that served.

Q. Do you know any that didn't serve? Do you know of any failing or refusing to serve?

Mr. WAGONER. Objected to as being incompetent, irrelevant, immaterial, calling for a conclusion of the witness, and hearsay testimony.

A. Yes, sir; the Springvale board, a part of them, refused to serve.

Q. For what reason, if you know?

Mr. WAGONER. Objected to as being incompetent, irrelevant, and immaterial, calling for a conclusion of the witness and hearsay evidence.

A. Because of intimidation.

Mr. WAGONER. Objected to, and ask that the answer of the witness be stricken from the record as a conclusion of the witness.

Q. For what reason?—A. Having received threatening letters from an attorney.

Mr. WAGONER. Objected to, and ask that the answer be stricken from the record.

Q. How do you know that?—A. Demonstration by colored people. I saw some of the letters.

Q. Have you them with you?—A. No, sir.

Q. Do you know where they are?—A. No, sir.

Q. Is that what is called the Boardman letter from the United States attorney?—A. I think so.

Q. I hand you here Exhibit No. 1 in this record and also Exhibit No. 8, being the same as No. 1, only a typewritten reproduction of the printed form, and ask you to examine them and state whether or not the letters which you saw were of the nature and substance of these.

Mr. WAGONER. Objected to as being incompetent, irrelevant, and immaterial, not having been first shown in whose possession he saw the letters, whether an election official or an individual, calling for a conclusion of the witness, and hearsay testimony.

A. This seems to be a copy of the letters that were in general circulation at that time.

Q. Do you know whether or not such letters as those were circulated generally throughout this county just prior to the election in 1912?—A. I know they were.

Q. Did you receive a copy?—A. I saw a number of those copies, but didn't receive any myself.

Q. I also hand you Exhibit No. 2, known in this record as the penitentiary warning circular, and ask you whether or not you know whether that instrument was generally circulated throughout this county prior to the last election?—A. I heard of this, but had never seen this one.

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial—hearsay testimony.

Q. Now, you stated a moment ago that the officers who refused to serve in the precinct you named were intimidated by the negroes. What do you mean by that?

Mr. WAGONER. Objected to as being incompetent, irrelevant, and immaterial, calling for a conclusion of the witness, and hearsay testimony.

A. Well, the colored people were very demonstrative and threatened in some instances violence if they were not allowed to vote.

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial, hearsay testimony, and ask that same be stricken from the record, calling for a conclusion of the witness.

Q. Did you have personal knowledge of these matters?—A. Yes, sir.

Q. You may state what you know about it of your own knowledge.—A. Well, at Meridian, just prior to the election, there was a bunch of colored people there, and the statement was made if there was only one vote cast in Logan County that he intended to cast that vote, although not a voter, or that he couldn't read and write.

Q. Was that a negro?—A. Yes, sir.

Q. Was he qualified to vote?—A. I do not know.

Q. Did he state he couldn't read and write?—A. Yes, sir.

Q. What else do you know of your own knowledge about the negroes themselves endeavoring to intimidate the officials?

Mr. WAGONER. Objected to as calling for a conclusion of the witness and being hearsay testimony.

A. It was commonly current on the streets of Meridian. They would get together and make demonstrations against the election officers if they were not permitted to vote. I understand one Anthony Baily purchased a new Winchester for the purpose of forcing his privilege to vote.

Q. Was he a negro?—A. Yes, sir.

Q. Could he read and write?—A. No, sir.

Q. Now, this last November election was the second election which had been held since the so-called grandfather law was in force in this State?—A. I think so; yes, sir.

Q. In 1910 were there any disturbances in that vicinity at that time owing to the so-called grandfather law?

Mr. WAGONER. Objected to as being incompetent, irrelevant, and immaterial, calling for a conclusion of the witness—hearsay evidence.

A. Yes, sir.

Q. You may state what you know of any troubles or difficulties at that time with relation to the negro vote?—A. In 1910 I was secretary of the Logan County election board, and it became my duty as a member to keep the precinct boards full, and we had a great deal of difficulty from the precinct members resigning: sometimes they came in and resigned in a body and frequently they set up as their cause for doing so their fear of the colored people.

Mr. WAGONER. Object to that part of the testimony as to what they set up as to being hearsay testimony.

A. And also threatening letters that had been received.

Q. State whether or not you were forced to reorganize practically every black precinct in the county at that time.—A. Yes, sir; we were.

Q. Now, after that election, do you know of any prosecutions under the Federal law of election officials for refusing to permit negroes to vote under the grandfather law?

Mr. WAGONER. Objected to as hearsay evidence.

A. Yes, sir.

Q. Do you know about how many such prosecutions were instituted and carried on in the State?

Mr. WAGONER. Objected to as above.

A. As near as I remember, three; two from Kingfisher and one from Logan County.

Q. Do you know of any other indictments having been brought?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial, and hearsay evidence.

A. Only from newspaper reports.

Q. Was that knowledge generally disseminated and in general circulation throughout this county prior to the last general election?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial, hearsay testimony, and calling for a conclusion of the witness.

A. Yes, sir.

Q. Now, the result of the Kingfisher case; was that known through this county and by the election officials prior to the last general election?

Mr. WAGONER. Objected to as incompetent, irrelevant, immaterial, calling for a conclusion of the witness, and hearsay evidence.

Q. I refer to the case of Guinn and Beall.—A. Every member I talked to seemed to know all about the prosecutions.

Mr. WAGONER. Objected to, and ask that it be stricken as hearsay.

Q. And was the knowledge general that Guinn and Beall had been convicted and sentenced in Kingfisher County for enforcing the grandfather clause?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial, a conclusion of the witness, and hearsay testimony.

A. Yes, sir.

Q. That knowledge was general?—A. Yes, sir.

Q. What arrangements were made, and what was the general understanding, if you know, among the election officials of this county and in the black precincts with reference to avoiding any conspiracy charge for enforcing the grandfather law?

Mr. WAGONER. Objected to as being incompetent, irrelevant, and immaterial, calling for a conclusion of the witness, and hearsay testimony.

A. I think there was something of an understanding by which certain members of precinct boards were given absolute control, and no interference by other members of the board.

Q. Was any support given to the inspectors by the judges?—A. No, sir; I think not.

Mr. WAGONER. Object to the answer above for reason it is not responsive to the question.

Q. Were you an official at the last general election?—A. No, sir.

Q. Were you there at the polls in attendance on election day?—A. All day; yes, sir.

Q. Were there any challenges made, or were there any tests applied under the grandfather clause to the voters there?—A. No; not in my presence.

Mr. WAGONER. Objected to as incompetent, irrelevant, immaterial; he could not know unless he was an election official; he had no right to be in the voting precinct during the conducting of the election.

Q. Were you where you could see who voted at that election?—A. A part of the time.

Q. Did you see who went in to vote?—A. Yes, sir.

Q. Were all of the persons who went in to vote qualified under the law?—A. No, sir; they were not.

Mr. WAGONER. Objected to; calling for a conclusion of the witness.

Q. You know that?—A. I do.

Q. Know whether or not those negroes could read and write?—A. I know some could not read and write; I had a list I made that day, but it's got away from me. There was 16 or 18 that voted on that day that could not read and write.

Q. At that precinct?—A. At that precinct; yes, sir.

Q. About 16 or 18, according to your list, you counted who voted there who were not qualified under the law to vote?—A. Yes, sir.

Q. Excluding those negroes, could the general result of the election for Congress in that precinct have been determined?

Mr. WAGONER. Objected to as being incompetent, irrelevant, and immaterial, calling for a conclusion of the witness, and hearsay testimony; a matter which is not within his knowledge.

A. I don't think so.

Q. Are you able to say who would have carried the precinct with those negroes thrown out.

Mr. WAGONER. Objected to as above.

A. I think not; I did not charge my memory with the result.

Q. Were there any persons who applied to vote in that precinct rejected?—A. None to my knowledge.

Q. Now, Mr. Allen, one of the questions submitted at that general election to the people of this State was the location of the capital of the State, was it not?—A. Yes, sir.

Q. And there was a contest on between Guthrie and Oklahoma City, was there not, at that time?—A. Yes, sir.

Q. Was there an effort made over this county, so far as you know from your own knowledge, to waive any qualification for electors in order to get as large a number of persons to vote as possible for Guthrie, situated in this county, for the capital?

Mr. WAGONER. Objected to as incompetent, irrelevant, immaterial, calling for conclusion of the witness, and hearsay testimony.

A. The feeling was general throughout the county that all that should desire should be permitted to vote, because they wanted all to vote for Guthrie. It was common conversation throughout the county every place that I met people; it was the common conversation, common sentiment, and the common feeling that questions should not be asked too close because of the fact that the capital was desired at Guthrie, and that Logan County people would support Guthrie.

Q. And that the capital issue being at stake, that any disqualification should be waived in order to permit the person to vote for Guthrie for the capital?

Mr. WAGONER. Objected to as incompetent, irrelevant, immaterial, calling for a conclusion of the witness, and hearsay testimony.

A. Yes, sir.

Q. Was such a campaign as that carried on and the argument made by public speakers and emissaries from Guthrie?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial, calling for a conclusion of the witness, and hearsay evidence.

A. I don't think I heard any public speaker advocate that.

Q. Were there any private advocates of it?—A. Yes, sir.

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial, hearsay evidence.

Q. Was that a fact or otherwise?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial, calling for a conclusion of the witness, hearsay testimony.

A. Common.

Q. Do you know whether or not the Chamber of Commerce of Guthrie made such representations to make that kind of a campaign?

Mr. WAGONER. Objected to as above.

A. Not any personal knowledge of that fact.

Q. Were persons through your vicinity who claimed to be representatives of the Guthrie Chamber of Commerce advocating that?

Mr. WAGONER. Objected to as above.

A. Yes, sir.

Q. What arguments would be made by such persons?

Mr. WAGONER. Objected to as being incompetent, irrelevant, and immaterial, calling for a conclusion of the witness, hearsay testimony.

A. In some cases it was set up that the county was irrevocably Republican; that there was nothing to gain, only the capital, and they desired everybody to vote.

Q. What is the negro population of your precinct; what was it at that time?—

A. The voting population?

Q. Yes; the male adults.—A. I think about 60.

Q. And about what proportion of them could read and write and were qualified under the law to vote?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial, calling for a conclusion, the witness not having first shown he has personal knowledge of the negro population of his precinct, and hearsay testimony.

A. About 50 per cent can read and write.

Q. From your long acquaintance there and your activity in politics you are acquainted, are you not, with practically every man, woman, and child, white and black, in that precinct?—A. Well, pretty much so; perhaps not entirely; but a very large per cent I am personally acquainted with. I have been 16 years in business and dealt with most of them.

Q. Are you in business there now?—A. Yes, sir.

Q. What is the nature of your business?—A. General merchandise.

Cross-examination by Mr. WAGONER:

Q. Mr. Allen, you take a very active part in politics?—A. I have taken quite an active part.

Q. You say you have held several official positions?—A. I have held some.

Q. At one time was secretary of the county election board of this county?—A. Yes.

Q. And as such secretary was ousted out of office by Gov. Haskell, were you not?—A. No, sir; I was not.

Q. Was not asked to resign?—A. Sir?

Q. Weren't you asked to resign?

Mr. HOFFMAN. We object to that as immaterial.

A. We were asked to resign because we refused to fail to count several colored precincts in this county.

Q. Was that in the 1910 election?—A. Yes, sir.

Q. Now, you have in your testimony tried to convey the idea that there was a great amount of intimidation of the election officials, or, in other words, a great number of your election officers in 1912 were intimidated; that is true, is it?—A. Yes, sir.

Q. They were intimidated?—A. They were.

Q. Yet you state, in answer to another question, that it was generally understood around all over the county you wanted everybody to vote so you could get the capital?—A. Not in 1910.

Q. I am speaking about 1912, not 1910. In 1912, did you not state to Mr. Hoffman, by reason of the Boardman letter and other literature, that your election officers were intimidated?—A. I did.

Q. Now, then, do you want to be understood in saying they were intimidated?—A. I do.

Q. And thought it was understood by everybody that they were to be permitted to vote so they could vote for the capital to be at Guthrie?—A. I didn't say it was understood by everybody.

Q. You said that was the general campaign?—A. I did.

Q. Speeches were made—that is, individuals made those statements?—A. Yes, sir.

Q. And you were at the precinct that day?—A. I was.

Q. And you wanted the capital located at Guthrie?—A. Certainly.

Q. And did all you could to retain it here?—A. It was not necessary to do anything here.

Q. I am speaking in your precinct: didn't you do all you could out there to get every voter to vote for the capital at Guthrie?—A. I don't think there was a single vote against it. I did not advocate the capital at Guthrie because it was not necessary.

Q. Did you have a challenger at your precinct on election day?—A. No; I don't think there was.

Q. What were you doing there?—A. I was there voting.

Q. You said you were around there all day; what were you doing there?—A. I was trying to defeat the Republican candidate for trustee.

Q. You didn't challenge any of those negroes?—A. I did not.

Q. Do you want to be understood as saying your officials—your inspector, who is a Democrat, and your clerk—willfully and maliciously violated their oaths at the November election, 1912, and permitted illegal votes to be cast there under the election law?—A. I do not think they willfully and maliciously did so, but they didn't challenge or prohibit or prevent anybody. They all voted that presented themselves to vote. They were influenced by their desire for the capital at Guthrie and intimidation.

Q. What intimidation?—A. Threats of prosecution.

Q. Who made them?—A. Those circular letters.

Q. Do you know what was in that circular letter?—A. Yes; I do.

Q. What was it?—A. I haven't it memorized.

Q. Was there any threats in that letter?—A. There is a copy of it there.

Q. Was there any threats in that letter?—A. Not to me; it would be to some people.

Q. Was there any threats to anybody?—A. Yes, sir; there was.

Q. What were they?

Mr. HOFFMAN. Objected to as attempting to get a legal construction upon the language of the letter.

Q. What was the threat in the letter?—A. Prosecution for violation—

Q. Does this letter say anybody would be prosecuted?—A. It says what the law was, don't it?

Q. I am asking you about this letter—does it make any threats that anybody would be prosecuted?—A. The effect of that letter intimidated them.

Q. What does that letter say in the nature of threats or intimidations?—A. I can read it to you.

Q. Do you say there are any threats in that letter?—A. I said it had the effect of intimidating the precinct officers.

Q. Do you say there were any threats in that letter?—A. I said it had the effect of intimidating the precinct officers.

Q. You refuse, then, to answer my question, do you, and avoid it by giving another answer?

Mr. HOFFMAN. Object to this as having been fully answered; argumentative.

A. Give me the letter [looks letter over]. There seems to be no direct threat of prosecution.

Q. Do you say now that that letter which you have just read intimidated, coerced, scared, or frightened any official in this county to the extent that it permitted him to violate his oath on election day and permit illegal votes to be cast? Do you say that?—A. It had the effect—

Q. Did you say it did? Did it?—A. I think so.

Q. Name me the inspector that the letter you just read intimidated, scared, frightened, and coerced to violate his oath.—A. It had the effect, as I said before, to allow people to vote—

Q. Name me the inspector, as I said before, that that letter scared, frightened, intimidated, and coerced to the extent it caused him to violate his oath.—

A. I don't think it had the effect of causing him to maliciously violate his oath.

Q. Name me the inspector.—A. I think every inspector in the colored districts.

Q. You think—I am asking you to name me one that you know was intimidated, scare, coerced, and frightened and caused him to do so.—A. I won't attempt to say I know of any inspector who maliciously violated the law because of that letter.

Q. Mr. Allen, you refuse to answer my question? Name me one inspector who was intimidated by that letter. You answered a moment ago they were intimidated.—A. Yes, sir.

Q. Well, name me one.—A. George Greenway: I will name you one.

Q. George Greenway?—A. Yes, sir.

Q. You say George Greenway was intimidated by reading the contents of that letter?—A. That and the demonstration of the colored people.

Q. I am speaking about the letter now. Answer my question. Do you say George Greenway was intimidated by reason of reading that letter?—A. I think this coupled with other things did.



Q. Who else was intimidated?—A. David S. Johnson.

Q. What precinct is he inspector of?—A. Bear Creek.

Q. And Greenway?—A. Springvale.

Q. Give me the post-office address of George Greenway.—A. I think it's Guthrie; he's present here.

Q. Now, David S. Johnson, what's his post-office address?—A. Meridian.

Q. Now, Mr. Allen, do you say these men violated their oaths by reason of this intimidation?—A. No, sir; I don't.

Q. What caused them to violate the law—if they violated the law they violated their oath, didn't they?—A. I don't so understand it.

Q. That's the reason, is it, these men permitted illegal votes to be cast out in their precincts on account of intimidation?—A. Yes, sir; that and the incentive to get as many votes as possible for Guthrie.

Q. Well, if they did permit illegal votes to be cast, probably was not it the incentive to get votes for Guthrie and not any intimidation?—A. I think it was both.

Q. Do you know it was both?—A. Yes; I know it was both.

Q. How do you know it?—A. From what I saw and heard.

Q. You don't know of your own personal knowledge?—A. Yes, sir.

Q. How do you know when a man is intimidated?—A. By general actions.

Q. How did Mr. Greenway act?—A. Now, you don't want to get after me.

Q. The reason I am getting after you is because you are testifying to hearsay evidence. I want to know if you know what you are talking about or whether it's something some one else has told you. What I want to know is what you know—how Mr. Greenway acted out there.—A. He didn't desire to serve.

Q. And that's the reason you think he was intimidated?—A. That's the reason he set up.

Q. Now, of your own knowledge, you don't know only what he told you?—A. That and what others told me.

Q. Then what you are testifying to in regard to his intimidation is hearsay evidence?—A. Yes; but I am as certain of it as I am that there is a New York City. Although I never saw New York City I am certain there is a New York City.

Q. You know there is a lot of things we might be certain of we could not swear to?—A. Yes.

Q. You have some awful bad negroes out in your precinct?—A. We just sent 11 of them to the penitentiary.

Q. Did you get all the bad negroes in your precinct?—A. No, sir; I don't think we did.

Q. You probably also have some white ones out there yet?—A. Yes; I think so.

Q. A man's color don't make him any better?—A. No; I don't think so.

Q. Probably a lot at large that ought to be in there?—A. I think probably; yes, sir.

Q. And probably some in that ought to be out?—A. I don't know about that.

Q. How many votes were cast out there you say that didn't have a right to vote—that were illegal?—A. Sixteen or eighteen of them I know couldn't read or write.

Q. Do you know they were illegal voters?—A. I do.

Q. Why?—A. I have done business 15 or 16 years with all of these people, and most of these people, in fact all of them, have attempted to write their signatures by mark in my presence, most of them having given me their notes and mortgages.

Q. You are basing your idea upon the fact they can not read and write is the reason they are illegal?—A. Yes, sir.

Q. You know the law provides a man whose grandfather was a legal voter under some form of government prior to 1866, even though he can not read and write, is a legal voter?—A. Yes; I am aware of that.

Q. Now, might not some of these fellows' grandfathers have been voters?—A. None that I know of.

Q. You don't know their grandfathers were not voters?—A. No, sir.

Q. Then you can not say whether or not they were legal voters?—A. I didn't say that—I said they couldn't read and write.

Q. You don't say now they were not legal voters?—A. I don't say their grandfathers might not have been able to vote under some form of government prior to 1866.

- Q. Then all you base your idea on is that they can not read and write?—  
A. Yes, sir.
- Q. And how many were there of those?—A. Sixteen or 18 of them.
- Q. Will you give me the names of those men?—A. No; I can not do it; I can give you part of them, perhaps. I lost my list.
- Q. Will you furnish a list of those 16 or 18 who voted?—A. I can do it.
- Q. Will you prepare that list for me?—A. I don't know as I am obligated to do it, am I? I will furnish you some of them right now that I remember.
- Q. I want all of them.—A. I don't know that I can give them all to you from memory.
- Q. Could you do it in the next day or two—in a week?—A. I think so.
- Q. Will you?—A. I don't know that I am under any obligation to do so.
- Q. Mr. Allen, you are under obligations to tell the truth, aren't you?—  
A. Yes, sir.
- Q. I am now asking you for the names of those men who you say voted at the November, 1912, election in Bear Creek precinct, in Logan County, who can not read and write.—A. I will give you some of them, what I remember, right now.
- Q. Give me those you remember.—A. Frank Hider.
- Q. His post-office address?—A. Meridian.
- Q. The next one?—A. Mose Graham.
- Q. His post-office address?—A. Meridian.
- Q. The next one?—A. Thomas Moore.
- Q. Post office Meridian?—A. Yes, sir; I think it is.
- Q. The next one?—A. Well, there was Johnson, I disremember his initials; there are two Johnsons; I think both get their mail at Meridian.
- Q. Neither of them can read or write, can they?—A. No, sir.
- Q. Do you know what quarter section of land they live on?—A. No, I don't; they are both renters, I believe; I know one is a renter.
- Q. What way do they live from Meridian?—A. Southwest from Meridian.
- Q. The rest?—A. There was Walt Hamlet.
- Q. Post office?—A. Meridian, I think.
- Q. Who else?—A. I don't know that I think of any others right now.
- Q. That is six. Mr. Allen, my postoffice is Chandler, Okla., and will you within the next week furnish me by mail the names of the remaining 18 who you say voted at that election that can not read and write?—A. If you can convince me its my duty to do so I will.
- Q. I am asking you whether you will or not.—A. I am asking you whether its my duty or not?
- Q. You are under oath. I now ask you, will you furnish me the list of those names, or all you can remember other than the six names you have given here in this testimony?—A. If its my duty to do so I will.
- Q. Do you refuse?—A. I haven't refused.
- Q. I will ask you again, will you furnish me those names?—A. If you satisfy me its my duty to do so.
- Q. These six are the only ones you know of, aren't they?—A. No, sir; it is not.
- Q. Name me the rest.—A. I haven't them memorized.
- Q. You know everybody in the township?—A. No; not everybody.
- Q. Didn't you testify to Mr. Hoffman you were acquainted with all of them, especially the negro population?—A. No, sir; I didn't say that.
- Q. You said about 50 per cent of them can not read and write?—A. Yes, sir; about that.
- Q. Name me the others; you have only named six.—A. I can not name them.
- Q. Do you know there are more than those six?—A. I know there are.
- Q. Name them to me.—A. I haven't them in mind.
- Q. You have a very good memory?—A. Fairly good.
- Q. You remember about the intimidation and coercion that took place in the election last fall?—A. I took an interest in those affairs, and can not very well forget them.
- Q. You took an interest in affairs election day?—A. Yes, sir.
- Q. You were there all day?—A. Yes, sir.
- Q. You saw every man who voted?—A. Perhaps I didn't see every one.
- Q. But you saw most of them?—A. I think I did.
- Q. You saw all the negroes there?—A. I might not have seen every one.
- Q. How many voted in there you think you didn't see?—A. I could not tell you.

Q. Mr. Allen, will you appear before Mrs. Adams, or whoever takes—I will say Mrs. Adams—at the time Mr. McGuire starts to take his testimony in Logan County, and submit yourself for further cross-examination?—A. If its my duty to do so I will.

Q. I am asking you, will you do it?—A. I would come if its my duty to do it.

Q. Are you a good citizen of this county?—A. I try to be.

Q. Isn't it the duty of every good citizen to appear before every body or board or court to tell what they know?—A. Is there not a legal way to bring a witness?

Q. Do you refuse to appear for further examination, without being subpoenaed?—A. I do.

Q. Were you subpoenaed to appear here to-day?—A. No.

Q. You appeared of your own free will and accord, didn't you, at the solicitation of Mr. Davis or his counsel, didn't you?—A. Yes.

Q. Do you refuse to appear for further examination without being subpoenaed?—A. I do; it is injustice that caused me to appear here to-day in the matter of elections to assist in righting a wrong.

Q. How is that?—A. It is injustice that caused me to appear here to-day to assist in righting a wrong.

Q. Aren't you willing to appear for further testimony that the wrong may be righted?—A. If there was no legal process I think I should be willing, but since you have your remedy I don't think it is necessary for me to volunteer, is it?

Q. So you won't do it, then, unless your are subpoenaed? That's your answer, is it?—A. Yes.

Q. When you were a member of the county election board here in 1910 you gave the various election officials instructions as to their duties under the law, did you not?—A. I supplied them with the law and when they asked questions I gave them my version of the law. I didn't give any particular advice to precinct election officers.

Q. As to the manner of enforcing the grandfather clause, you say you didn't in 1910?—A. When they asked me I gave my construction of the law.

Q. You told them how and to what extent they had a right to test these various electors who appeared, and also in that election you gave the advice and instruction to do anything they could to keep the negroes from voting, didn't you?—A. No, sir.

Q. You did not?—A. No, sir.

Q. And wasn't that your attitude in the 1912 election?—A. No, sir.

Q. To try to keep every negro from voting?—A. No; it was not.

Q. Mr. Allen, don't you know the law in Logan County, the same as every other county of the State, was reasonably and justly enforced this last election?—A. It was not.

Q. Did you read Gov. Cruce's letter in regard to the enforcement of the grandfather clause and the manner it should be enforced?—A. I rather think I did.

Q. Did you read Attorney General West's letter?—A. I think so.

Q. You read the supreme court decision of this State in regard to the grandfather clause?—A. I don't believe I read that.

Q. Don't you know as a matter of fact the attorney general's letter and the Cruce letter was based upon the decision of the supreme court, and that was that the law must be enforced reasonably, fairly, and justly, and that a man who is entitled to vote must be permitted to vote and no unreasonable test must be placed upon any voters, and if the election inspector was satisfied that a man could read and write he was not required to test him and it was not his duty to test him—don't you know that was the contents or in substance of those letters that went out?—A. Yes, sir.

Q. Isn't it a fact in Logan County the Republicans never asked for anything else during the last campaign than that kind of a test and the carrying out of the law?—A. They asked for more than that.

Q. What did they ask for?—A. Well, I have already stated.

Q. They didn't threaten anybody?—A. The colored people did, and those letters—

Q. Who was the colored fellow who did all that threatening?—A. I disremember the individuals.

Q. You said one fellow bought a gun?—A. That was Anthony Baily.

Q. And Anthony Baily was just simply going to the polls and vote?—A. That was a rumor.

Q. Baily didn't tell you he was going to the polls and shoot up the election officials if they didn't let him vote, did he?—A. No, sir.

Q. Who was it told you Baily was going to do them up; wasn't that some Democrat?—A. I think it was Mr. Gatewood; I am not quite sure.

Q. What is Mr. Gatewood's politics?—A. He is a colored man.

Q. What's his politics?—A. All colored men I know of are Republicans.

Q. Don't you know of any colored men who are Democrats?—A. I don't know of any.

Q. Are you well acquainted with Logan County?—A. Pretty fair.

Q. Don't you know there are colored men right here in Guthrie who are Democrats?—A. There may be.

Q. You are well acquainted in this county?—A. There may be some colored people who are Democrats.

Q. But you don't know of any?—A. I do not.

Q. Who else out there of the colored people intimidated the election officials?—A. It was general talk.

Q. Now, you want to be fair in this matter?—A. I am fair in the matter; you want the truth, don't you?

Q. Don't you know there is lots of talk in every community—don't amount to anything; only just campaign stories?—A. That may be so.

Q. Were you intimidated?—A. No; I was not intimidated.

Q. Don't you know every side was trying to conduct and carry on a campaign, and individuals in the neighborhood would make statements they didn't know anything about?—A. I know there was a special effort made to intimidate the precinct officials.

Q. Don't you know it is true most of this stuff that goes around is just simply stuff in the neighborhood, campaign stories?—A. As a rule that's true.

Q. That was true this last time?—A. It had its effect just the same.

Q. What effect?—A. Of intimidating the election officials.

Q. How many did it intimidate?—A. I think everyone in the colored precincts more or less.

Q. Don't you know of any others except Greenway and Johnson?—A. I am satisfied they were all intimidated.

Q. What made you satisfied?—A. Oh, actions.

Q. What?—A. Demeanor.

Q. How many did you see during this campaign and talk with?—A. I don't know.

Q. Did you ever talk with anybody except Greenway and Johnson?—A. I think so.

Q. Well, who?—A. A number of them.

Q. Well, who? Name me another.—A. Well, John Bivert and Stockton.

Q. What precinct was he in?—A. Iowa.

Q. Know his post-office address?—A. I think it's Luther.

Q. What is the other man's name?—A. F. M. Stockton.

Q. He was an inspector?—A. He was inspector in 1910.

Q. I am talking about 1912.—A. I am not so sure whether he was inspector in 1912 or not.

Q. What precinct does he live in?—A. North Cimarron, Coyle.

Q. Well now who else?—A. Oh, I don't know, a lot of them, I talked to a good many.

Q. They were all intimidated because the people in Logan County wanted the capital located at Guthrie?—A. They all talked about they were going to be careful about enforcing the law.

Q. They were all intimidated because the people of Logan County wanted the capital located at Guthrie?—A. I never made such a statement.

Q. Do you know that John Bivert got any of those letters of your own personal knowledge?—A. No.

Q. Do you know Stockton received any of them?—A. No.

Q. Do you know that Greenway did?—A. I think Mr. Greenway exhibited his.

Q. Which one—the one exhibited here a while ago?—A. A copy of it.

Q. You know it was a copy?—A. Yes.

Q. You read it over when he showed it to you?—A. In part.

Q. Do you know whether Johnson received that or not?—A. He received one similar to it.

Q. Did you read the Johnson letter?—A. No, I read a number of them, I suppose it is the same thing.

Q. You don't know who sent them to them?—A. No.

Q. Did you circulate any of these letters around over the country yourself?—  
A. No, sir; I did not.

Mr. WAGONER. Comes now the contestee and notifies the witness that he desires to examine him further either in chief or cross-examination at the time that the contestee takes his testimony in Guthrie, Logan County, and asks the witness to appear at that time upon notice from us as to the date the testimony will be taken without any subpoena or other notice.

Redirect examination by Mr. HOFFMAN:

Q. Did you know a negro named Graham who voted there?—A. Yes, sir; I know Graham.

Q. Could he read or write?—A. No, sir.

Q. Do you know anything about the Boardman letter having been printed in newspapers in this county and circulated generally throughout the county?—  
A. I don't believe I noticed it printed in the papers. I heard it spoken of in the papers but I don't know that I saw a copy of it in the newspaper.

Q. Did you get the Guthrie Star during the campaign?—A. Yes, sir.

Q. You don't remember whether or not it was published in that?—A. There was an article touching the letter, but I disremember whether there was a copy of the letter.

Q. Were frequent articles published on it concerning the letter and referring to it; were there?—A. Yes, sir.

Q. What are the other black townships—that is, the townships in which there is a heavy negro vote in your immediate proximity?—A. North and South Cimarron, and Langston; it used to be Antelope, but it has been divided into two precincts, the South is the black one, called Langston, I think.

Q. Is that the precinct in which there is a colored school?—A. Yes, sir. Then, there is Iowa, Bearcreek, Springer, Springvale.

Q. Now, those are all townships in which there is a heavy negro vote?—  
A. Yes, sir.

Q. Do you know whether or not the test was applied in those precincts?

Mr. WAGONER. Objected to as incompetent, irrelevant, immaterial, calling for a conclusion of the witness, hearsay testimony, this witness having testified he was present all day at the voting precinct in Bearcreek.

Q. Have you any means of your own knowledge of knowing?—A. Only what the members of the election board told me.

Q. Have you had conversation with the members of the election board?—  
A. In one case.

Q. Which precinct was that?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial, hearsay testimony.

A. Springvale.

Q. That's one of the precincts which has a heavy negro vote?—A. Yes, sir.

Q. And what was that conversation?

Mr. WAGONER. Objected to as being incompetent, irrelevant, and immaterial, and hearsay testimony.

A. E. M. Rinehart is Republican member of the precinct board over there and he told me they didn't apply the tests to anybody in the 1912 election.

Q. And all the negroes voted?—A. Yes, sir.

Mr. WAGONER. Objected to and ask it be stricken out as hearsay testimony.

Q. Do you know whether he is here to-day?—A. I don't think so; I haven't seen him.

Q. He is the Republican member?—A. Yes, sir.

Cross-examination by Mr. WAGONER:

Q. Mr. Allen, your memory is very good to all questions asked by Mr. Hoffman, but not so good as to mine. Now, can you recall any other negroes out in your precinct who couldn't read and write that voted?—A. The one I just answered, Mr. Hoffman, is one I gave you; look over the list and see if that isn't correct. Mose Graham.

Q. I thought you said Grimm.

Adjournment taken until 1 p. m. of said day, at which time, all parties present as before, taking of testimony is resumed.

MILES ALLEN is recalled on cross-examination by Mr. Wagoner.

Q. Mr. Allen, you testified Frank Hyder voted in Bearcreek Township this last time and he could not read and write.—A. I stated that I thought that he voted and that he couldn't write.

Q. Do you know whether Frank Hyder did vote or not?—A. He was at the polls; I didn't see him vote.

Q. You can not say whether he did vote or not?—A. I am not positive.

Q. If you testified he was an illegal voter, you based that solely upon your knowledge that he couldn't read and write?—A. Yes, sir.

Q. You don't mean to say, then, that he was an illegal voter other than the fact he couldn't read and write under the Oklahoma law, do you?—A. That's all.

Q. Mose Graham. He's a colored man living out there in Bearcreek Township?—A. Yes, sir.

Q. I believe you testified he voted, or did you?—A. I think I did.

Q. And that he was an illegal voter?—A. That he couldn't read and write.

Q. You don't mean to say, then, do you, that he was an illegal voter other than the fact he couldn't read and write?—A. I don't know anything about his ancestors.

Q. He might have been qualified by reason of the fact his aucestors voted prior to 1866?—A. Possibly.

Q. Thomas Moore—he is a colored man living in Bear Creek Township?—A. Yes, sir.

Q. Do you know whether he voted, of your own personal knowledge?—A. He was there—he was upstairs; I presume so.

Q. You didn't see him get a ballot and vote?—A. No, sir.

Q. You state Thomas Moore can not read and write?—A. I stated that.

Q. You base that upon transactions you have had with him?—A. Yes, sir.

Q. And that only?—A. Yes, sir.

Q. You do not say he is not a legal voter under the Oklahoma election law, do you?—A. I don't think he is a voter.

Q. If you say that he is not a voter or don't think he is, you base that solely upon the fact you don't think he can read and write?—A. I have no knowledge of his ancestors.

Q. He might have been, even if he voted, a legal voter for aught you know under the grandfather clause?—A. Not under the grandfather clause.

Q. Don't the grandfather clause say if a man's grandfather was a voter under some form of government prior to 1866 he is a legal voter?—A. Yes, sir.

Q. You don't know whether his ancestors were legal voters or not; so if you say he is an illegal voter you base it solely upon the fact that he can not read and write?—A. Yes, sir.

Q. Is that same thing true as to the two Johnsons?—A. Yes, sir.

Q. Then you base solely on the fact you know they can not read and write?—A. Yes, sir.

Q. Do you know whether they both voted, or either of them, in the November election, 1912?—A. No, sir; I didn't see them vote; they were there—up and down the stairs; the records will show whether they were there.

Q. I am asking you?—A. I saw them there.

Q. You don't know whether they voted or not?—A. I didn't see them vote.

Q. And Walt Hamlet—he is a colored man out there?—A. Yes, sir.

Q. You say he can not read and write?—A. Yes, sir.

Q. Do I understand you to say and do you want your testimony to so read that he is an illegal voter?—A. So far as reading and writing is concerned.

Q. You don't say he is not entitled to vote, due to the fact his ancestors might have been legal voters prior to 1866?—A. I know nothing of his ancestors.

Q. Then these six names I have just asked you about—you base your testimony that they are illegal voters, if they did vote, upon the ground solely that you know they can not read and write, and that only?—A. Yes, sir.

Q. And would that same condition exist in the remaining of the 18—the other 12 that you can not give me their names—just due to the fact you know they can not read and write?—A. Yes, sir.

Q. Do you know whether the other 12, that you don't now recall their names, did vote or not—you didn't see them vote, did you?—A. Not all of them, I don't just recall to mind the parties I did see vote; I saw several, but I don't just recall to mind now the individuals other than Graham.

Q. Can you call to mind now any of the names other than Graham of those that you saw vote that were illegal voters?—A. I can not call to mind any others.

Q. During the noon hour you have been unable to refresh your mind as to any other names, have you?—A. I haven't attempted to.

Q. Mr. Allen, I will ask you if you didn't have a conversation on election day in Bear Creek Township with Billie Chappel in which you said to him

that you were interested in getting the votes for Davis and beat a fellow by the name of Temping, and that you were letting them all vote that would vote for Davis, and this man that was running against Temping, or that in substance?—A. I disremember whether I talked to Mr. Chappel on that date or not.

Q. Do you say now whether you had that conversation with Mr. Chappel, or that in substance, on that day or any other day prior to the November election, 1912?—A. I don't remember such a conversation with Mr. Chappel.

Q. Do you say that you didn't have it?—A. Sir?

Q. Do you say that you didn't have it, or that in substance?—A. No; I had a conversation with a good many people; it is possible; I don't remember it.

Q. Do you ever remember making that kind of a statement, or that in substance, to any person, that you were interested in getting votes for John Davis and to beat this man Temping, and you would let them all vote who would vote for Davis and against the man Temping?—A. No, sir; I didn't make such a statement to anybody, and I was not on the board or in a position to allow people to vote or disallow it.

Q. You were doing everything you could, and you did do everything you could on election day, did you not, to elect Mr. Davis?—A. I didn't make any special effort for Mr. Davis.

Q. You did not?—A. I did not. I made a special effort against Temping, as far as I could legally and justly.

Q. Did you use your influence with any of the election officers or with anybody who might have influence with the election officers, for them to be slack with the enforcement of the grandfather clause where the officials would let men vote, if they would vote against Temping, whether they were legal voters or not?—A. I think not.

Q. Refresh your memory; did you?—A. I did not make any such attempt with members of the election board.

Q. Did you with anybody else, and seek to have them use their influence with the election board to seek to get them to bring about that state of affairs?—A. I did not.

Q. Did you use your influence with the election board or any person or persons who might have influence with the board to induce them to be slack in their enforcement of the grandfather clause by reason of the interest you had in the location of the capital at Guthrie?—A. I did not.

Q. Did you use your influence or solicit the influence of any other person or persons who might have influence with the members of the election board to induce them to be slack with the enforcement of the grandfather clause for any candidate whom you might be interested in?—A. I did not.

Q. You say, I believe, in your examination to Mr. Hoffman just before the noon hour, that there were a great many negroes in Iowa Township or voting precinct, that's right, is it?—A. That there were a great many?

Q. Yes; that is one of the negro precincts.—A. I disremember whether I made that statement, but there are a good many negroes in Iowa Township.

Q. Don't you remember Mr. Hoffman asking you about the largely populated negro precincts, and you said South and North Cimarron, Bear Creek, Springvale, and Iowa?—A. Yes.

Q. I believe in answer to his question you said the election law was not enforced in these negro precincts in this county; that's correct is it?—A. Not properly enforced.

Q. You say the law was not enforced in Iowa Township?—A. I don't think it was properly enforced.

Q. You were present in Iowa Township on election day?—A. I was not.

Q. Do you know of your own knowledge that it was not enforced?—A. The per cent of the vote cast there was too large.

Q. I am asking you if you know of your own personal knowledge that the law was not enforced in Iowa Township?—A. I was not present.

Q. Do you know it was not enforced in North Cimarron of your own personal knowledge?—A. No, sir; I was not there.

Q. And do you know it was not enforced in South Cimarron?—A. I was at South Cimarron a time or two.

Q. I thought you stated before dinner you were at Bear Creek all day?—A. That's true, but the two voting preeincts are about 100 yards apart.

Q. You went back and forth?—A. I was over at Cimarron precinct a time or two.

Q. What were you doing there?—A. I was talking among the boys.

- Q. Electioneering?—A. Oh, I was working politics.
- Q. Did you do any work there for Mr. Davis?—A. Not specially.
- Q. Never mentioned his name while you were over there?—A. I don't think I did; I don't remember mentioning his name.
- Q. Didn't solicit any of the negroes there to vote for him?—A. No; I didn't.
- Q. You don't know but what some of the negroes in those precincts voted for Mr. Davis, do you?—A. No; I don't.
- Q. You say the law was not enforced in Springvale precinct; do you know that of your own personal knowledge?—A. I know what Mr. Rinehart told me.
- Q. I am asking you what you know of your own personal knowledge.—A. I was not over at Springvale.
- Q. Then you are testifying as to what somebody else told you?—A. And conditions.
- Q. What conditions?—A. The size of the vote.
- Q. What about the size of the vote?—A. It was too large.
- Q. How do you know the vote was too large?—A. In 1910 they didn't cast as big a vote there by considerable.
- Q. Do you know the same people lived in the precinct in 1912 as in 1910?—A. No; not exactly.
- Q. Then how do you know the size of the vote was improper?—A. As I stated before I never saw New York City, but I am certain there is a New York.
- Q. That's the only reason you have for making that statement under oath?—A. Various things I have seen and heard.
- Q. Just what have you seen and heard? What about Langston precinct? Illegal votes cast over there, were there?—A. I don't know.
- Q. Did you not state to Mr. Hoffman before noon that the law was not enforced at Langston?—A. I don't think it was enforced in any of the precincts.
- Q. Do you know it was not?—A. I was not present.
- Q. Mr. Allen, do you understand it is as much a violation of the law to testify falsely in an examination of this kind as to testify falsely in a court?—A. Certainly it is.
- Q. Do you know that a man can be prosecuted for perjury for false testimony given before this notary public just the same as if he was in court?—A. I think so.

J. I. McDANIELS, being duly sworn as a witness for the contestant, testifies as follows:

Direct examination by Mr. HOFFMAN:

- Q. Please state your name.—A. J. I. McDaniels.
- Q. Where do you live?—A. In South Cimmaron Township.
- Q. How long have you lived there?—A. Oh, about 10 years.
- Q. Were you an official there at the last general election in November, 1912?—A. I was the inspector.
- Q. Prior to the last general election you may state whether it was generally talked and urged by the people of this county and throughout your precinct every person should be allowed to vote, so they might vote for Guthrie, the county seat of this county, for the capital of the State at the general election?—A. It was; there was a good deal of pressure brought to bear to get votes for Guthrie for the capital.
- Q. Was that generally talked throughout your township and precinct?—A. It was.
- Mr. WAGONER. Object to all this testimony as being incompetent, irrelevant, and immaterial; hearsay evidence.
- Q. How many adult negroes, approximately, males, live in that precinct?
- Mr. WAGONER. Objected to as being incompetent, irrelevant, and immaterial, calling for a conclusion of the witness.
- Q. Do you know about how many?—A. I do not at present; I had a list; I knew the number of votes cast there, but I can not trust my own knowledge to give even a reasonable—
- Q. When you came to get your election supplies were you given any instructions at that time?—A. Why, I was told by the officer in charge, after he delivered me the supplies, he had some instructions he wanted to give me, and I told him no, I didn't want any instructions.
- Q. Why did you do that?
- Mr. WAGONER. Objected to, on the ground it is hearsay, and ask that it be stricken from the record for that reason.



Q. Why did you do that?—A. I was afraid if he instructed me, and I agreed to carry out his instructions it would be a case of conspiracy, and I would get pinched.

Q. Were you told that by any officials?

Mr. WAGONER. Objected to as being incompetent, irrelevant, and immaterial, and hearsay testimony.

A. Well, I don't know that I was told that directly by officials, but it was the general impression that there would be trouble; that if there was any consulting or talking of that kind it would be considered conspiracy.

Q. Did you have any assistance on election day from the judges?—A. None whatever; they absolutely refused to give me any assistance.

Q. Did they assign any reason for refusing?—A. They said they didn't want to get pinched.

Mr. WAGONER. Object to this as being incompetent, irrelevant, and immaterial, hearsay testimony, and ask that same be stricken from the record.

Q. Did you and the judges at your precinct at the date of the last general election, know on that day and prior to that time, of the conviction of Guinn and Beall, of Kingfisher County, for alleged conspiracy of enforcing the state election law?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial and hearsay evidence.

A. I did.

Q. Was that what you were afraid of that you refer to?—A. Yes, sir.

Q. Did you know of other election officers having been indicted under the Federal law for enforcing our State election law after the 1910 election?

Mr. WAGONER. Objected to as being incompetent, irrelevant, and immaterial, hearsay evidence.

A. Yes, sir.

Q. State whether or not all these things operated on your mind to coerce and intimidate you from enforcing our State election laws at the last general election.

Mr. WAGONER. Objected to as being incompetent, irrelevant, and immaterial, calling for a conclusion, he not stating facts, and hearsay evidence.

A. Well, it had this effect: it had its effect; it made me very careful and very cautious.

Q. Did you or not pass large numbers of negroes at your precinct that day without challenging them or giving them any test of any kind?—A. Yes, sir.

Q. And do you know whether or not they were qualified to vote?—A. Many of them; I don't know whether they were qualified or not.

Q. Had you heard of the so-called Boardman letter prior to that time?—A. I had heard of it; yes, sir.

Q. I refer to the letter which has been introduced, and is a part of the record in this case, known as Exhibit 1, which I now hand you—is that the letter to which you refer?—A. Well, I don't remember whether I saw this letter, but anyway I was familiar with its contents, I had heard it talked about and had heard of it. I probably saw it. I don't remember, there was so much of this literature.

Mr. WAGONER. Objected to, and ask it be stricken from the records, as the witness has shown it was hearsay.

Q. Do you know whether or not it and its contents had had large circulation throughout your precinct prior to election day?—A. It certainly must have had the way it was talked about.

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial, calling for a conclusion of the witness.

Q. Is it not a fact you did not enforce the grandfather clause there that day as inspector by reason of this Boardman letter and similar threats of that kind?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial, calling for a conclusion; the witness must state what was done, and it's a question for the committee who passes on the evidence to determine whether there was intimidation and coercion.

A. It had its effect to a certain extent. There was another reason I didn't enforce it, was on account of the large number of negroes voting, and I hadn't the time possible to test all of them. I just simply had all the work to do myself alone, and I passed many of them just upon their looks and by asking a few questions. I asked a number of them if they voted in the primary and

they answered yes, and of course I passed them, but I learned afterwards they had been turned down in the primary.

Cross-examination by Judge WAGONER:

Q. Mr. McDaniels, you say that you refused to receive any instructions when you received your ballot box?—A. Yes, sir.

Q. And you did that for the reason you thought if you did they might prove a conspiracy?—A. Yes, sir.

Q. You knew that no conspiracy could be proven against anybody if they followed the law, didn't you?—A. Well, it depends on what the law is, if we followed the law, if we knew the law, that's what I was trying to do.

Q. And somebody told you not to pay any attention to any instructions but to use your own judgment as to the enforcement of the law, had they?—A. I believe the inspector answered that, when I said I wouldn't receive his instructions, to use my own judgment.

Q. That was the secretary of the county election board?—A. Yes; use your judgment enforcing the law.

Q. Well, now, Mr. McDaniels, you are, are you not, and don't you try at all times to be a law-abiding citizen; you do that, don't you?—A. Why, certainly.

Q. And you wouldn't violate a law knowingly simply because somebody asked you to, would you?—A. Well, but that wasn't it.

Q. I am not speaking about that. You would not violate a law just simply because somebody asked you to, would you?—A. Why, I think not.

Q. Now, when you went to your voting precinct on the morning of election, 1912, you took an oath, did you not, as inspector of that election?—A. Why, certainly.

Q. And that oath was that you would enforce the law?—A. To the best of my ability.

Q. And conduct the election honestly and fairly?—A. Sure.

Q. You tried to do that, did you not?—A. I tried to as best I could and as near as I understood it.

Q. You never entered into a collusion out there with any Republican to permit illegal votes to be cast?—A. No collusion with anybody.

Q. You didn't agree with any Republican workers or citizens or anybody else that you would permit any illegal votes to be cast?—A. Well, I was importuned a dozen times to be as lenient as possible and let everybody vote for Guthrie.

Q. You voted for Guthrie yourself?—A. Sure.

Q. Now, Mr. McDaniels, you say when these voters applied on the day of election to vote you asked them some questions, did you?—A. Yes, sir; those I didn't know.

Q. And at that time you satisfied yourself as inspector that they were legal voters?—A. Well, I was not fully satisfied. There was this idea, that it was impossible for me to test all of them alone that I didn't know and get through and let them all vote in time to close the polls, and I was anxious that we would get through in that time—

Q. Well, now, that's the reason, then, was it, why you didn't submit the test more, because you say you couldn't get through in the time allotted by law?—A. That was one reason.

Q. That was the main reason, wasn't it?—A. That and the fact I couldn't do—I did all I probably could.

Q. Well, now, Mr. McDaniels, you were not intimidated, coerced, and scared, were you? You were there trying to do your duty and you did it the best you could?—A. I don't know that I was scared and intimidated, and still I might have been to some extent. I wanted to enforce the law, if I knew what the law was, and I was probably more lenient than I ought to have been. I have seen since.

Q. Mr. Hoffman has asked you about certain threats and statements; I want to know if that is what influenced you to violate the law out there, if you are now testifying—A. It had its effect.

Q. But the main reason, you figured the number of voters you had there, you couldn't test them within the time allotted by law, and you were anxious to do that?—A. I was anxious to do that, because I was afraid of fire in the rear; if we failed to let them vote, then we would be in it.

Q. You asked them questions and satisfied yourself at that time they were entitled to vote?—A. I let them vote; I was not fully satisfied.

Q. You understand, Mr. McDaniels, that the law said you must be satisfied, and if you were satisfied you should let them vote?—A. So far as I could under the circumstances.

Q. So far as you could under the circumstances you satisfied yourself and let them vote?—A. So far as I could; yes, sir.

Q. Now, you say the judge and clerk refused to give you any aid?—A. Yes.

Q. In what way?—A. Well, they refused to challenge any negro; in fact there was no one outside myself that made any objection to anyone voting, and they wouldn't test them; they refused to give anyone a test and relieve me.

Q. That was due to the fact in 1910 the people generally understood over the State the inspector had all that to do himself?—A. No, sir; I think not, from what they said; they said they were not going to get pinched or get in hot water.

Q. In other words, they wanted to keep out from under the conspiracy part of it, and if there was any violation of the law to have it done under the State so there wouldn't be any prosecution, was that it?—A. It might have been; I can not say as to that.

Q. You say there was many voted who were not entitled to vote? Do you know the names of any of them?—A. Not of my own knowledge; I don't remember the names now.

Q. I am only asking you about your own knowledge.—A. There were many voted there; of course I don't know whether they were legal voters or not. Of course I have my doubts about a number, since the election has passed I know more about them than—

Q. You have made investigation since?—A. Yes; and from talking with citizens there who personally know the voters.

Q. Now, Mr. McDaniels, your politics are what?—A. I am a Democrat.

Q. And the county election board of Logan County—two members of it are Democrats?—A. I believe so.

Q. And one Republican?—A. I think so.

Q. As a matter of fact, you know you were appointed by the Democratic members of the county election board?—A. Sure.

Q. And Mr. Davis, the contestant, is a Democrat?—A. Yes, sir.

Q. Run on the Democratic ticket for Congress?—A. Yes.

Q. And the clerk of your election out in South Cimarron Township was a Democrat?—A. No, I think the clerk was a Republican.

Q. Under the law the clerk is a Democrat and the judge a Republican; wasn't that the way it was in your precinct?—A. I think not.

Q. A majority of your board, though, would be Democrats?—A. Yes, sir.

Q. And you had it in your power as such to enforce the law in whatever manner you saw fit, did you not, on the day of the election?—A. Well, now, I don't know; that's a pretty broad question. Seemingly, that's true. I don't know whether it's so or not.

JOHN G. WALDMAN, being duly sworn as a witness for the contestant, testifies as follows:

Direct examination by Mr. HOFFMAN:

Q. State your name to the stenographer.—A. John G. Waldman.

Q. Where do you live, Mr. Waldman?—A. I live southeast of Meridian, in Iowa Township.

Q. Were you on the election board at the last general election?—A. Yes, sir.

Q. In what capacity?—A. Judge.

Q. Mr. Waldman, did you ever see what is known as the Boardman letter that was published and circulated generally just prior to the 1912 general election?—A. Only in print in one of the papers, and I don't remember which, whether it was an Oklahoma City paper or the Guthrie Star.

Q. Who is the inspector in Iowa Township?—A. John Bivert.

Q. Did you ever talk with Mr. Bivert concerning the penitentiary threat and the Boardman letter?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial, and hearsay evidence.

A. No, sir; we didn't have much talk about it.

Q. Did you have any?—A. We referred to it and kind of joshed about the effort that was being made—mentioned it—that was about all.

Q. Now, what do you know about the enforcement of what is known as the grandfather clause in your precinct at the last general election? Was there a strict test or otherwise?—A. It was enforced, but they were not all tested; there were a good many turned down. I told Mr. Bivert that if it was not enforced I wouldn't serve on the board, because I took an oath to enforce the law of this State, and I was going to see it was enforced to the best of my ability.

Q. There were a number of them went through without ever being challenged?—A. Yes; I left that to Mr. Bivert because he knew them.

Q. Who was the Republican member of the board?—A. Albert Briscoe; post office, Luther.

Q. Did you have any conversation with him concerning the manner in which the law was being enforced any time during election day?

Mr. WAGONER. Objected to as being hearsay.

A. Yes, we met a few days after election and talked about that matter, and he said John let them through easier than he thought John would. There were some he believed could have been turned down on a rigid test.

Cross-examination by Mr. WAGONER:

Q. Now, John, you and the inspector out there tried to enforce the law, didn't you, and you did do it to the best of your ability? If a negro applied there that day and you knew he could read and write you simply informed the inspector to that effect and he was let vote without any test?—A. I didn't test any; I let the inspector do the testing.

Q. If a man came along you knew that could read and write, you and the inspector, you didn't submit him to the test?—A. No, I didn't think it was necessary. There was J. Faver, county commissioner of this county, and J. F. Ayers, and one man I told, Bivert, he had served in the United States Regular Army; I said those fellows are all right; there is no need to test them; they lived in my end of the county and they were all right.

Q. But any negro who appeared there you didn't know about, you tested them?—A. No; I didn't know all of them John let through.

Q. Didn't you and John have an understanding between you, those he knew you would let go?—A. No, we had no understanding; I just told John he had to attend to the matter.

Q. You don't know of any of your own personal knowledge that couldn't read and write?—A. There are some I have my doubts about being able to read and write; one negro turned down told me he knew of three or four John let vote who couldn't read and write as well as he could.

Q. You know the law don't say he shall read and write well?—A. No, it says he shall be able to read and write a section of the constitution; now, whether it means he shall read it and write it so anybody can read it, I don't know; I know some of the lawyers who can not do that.

Q. You think the law was enforced out in that township?—A. I think we did our duty.

Q. You tried to do your duty?—A. I did my duty to the State. There was a little effort made to intimidate. I told Mr. Mitchell right there about it that time at the picnic. A man came to me and told me about something that might happen and all that, and I said that didn't make a bit of difference to me.

Q. You were not scared or intimidated?—No, sir; I have been told by a resident of Lincoln County and a resident of Fallis that my life had been threatened and they intended to shoot me in the back sometime before last election.

Q. You didn't pay any attention to them?—A. I kept my eye open.

Q. You understand there are a lot of things go around; we have all probably been threatened.—A. I think it would amount to something if they were not afraid.

Q. You think they would have done it if they hadn't been afraid?—A. Yes; there is always a hereafter.

Q. Those statements were not made by the Republican organization that threatened you?—A. A Republican candidate, I don't know, he was a member of the organization that far, he was a successful Republican candidate in this county.

Q. You didn't pay any attention to that in the election?—A. No.

Q. Went ahead and did your duty?—A. I did my duty the best I could.

Q. You say you turned down a lot of the negroes who couldn't read and write?—A. Yes; and there might have been some more turned down from what I have learned since.

Q. You may have let some men through who couldn't read and write very well, and you may have kept some from voting that maybe ought to have voted, might you not?—A. Well, I don't know; that depends on from what standpoint we view the matter. When you come to the standpoint of good moral citizens, I think some may have voted who hadn't out to vote at all.

A. E. TIMBERS, being duly sworn as a witness for the contestant, testifies as follows:

Direct examination by Mr. HOFFMAN:

Q. Give your name to the stenographer.—A. A. E. Timbers.

Q. Where do you live?—A. North Cimmarron.

Q. How long have you lived there?—A. Two years last July.

Q. Are you an occupant of school land?—A. Yes, sir.

Q. I will ask you to state if you received this letter or one similar to it which is marked "Exhibit 18," in a franked envelope, such as exhibit 19, or one similar, just prior to the last general election?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial.

A. Yes, sir; I think I am satisfied I got the envelope, but I don't remember the letter, whether it was written just in that way or not.

Q. Read that letter over; was it a letter of similar import to that?—A. It was concerning the lessees.

Q. Was it signed Bird S. McQuire?—A. Well, I could not say.

Q. Don't you know how it was signed?—A. I could not say.

Cross-examination by Mr. WAGONER:

Q. Your politics are what, Mr. Timbers?—A. I am a Democrat.

Q. Did you receive any letters from Senator Owen during the campaign?—A. Yes, sir.

Q. Got one from him during the campaign in a franked envelope with his picture in it and a whole lot of printed matter?—A. I think so.

WALTER S. WILSON, being duly sworn as a witness for the contestant, testifies as follows:

Direct examination by Mr. HOFFMAN:

Q. Please state your name.—A. Walter S. Wilson.

Q. Where do you live, Mr. Wilson?—A. I live 3 miles west of Meridian, Bear Creek Township.

Q. What is your business?—A. I am a farmer.

Q. Did you in 1910 see or hear, prior to the general election of 1910, see or hear what was known as the John Embry letter, the then United States attorney?—A. Yes.

Mr. WAGONER. Objected to as incompetent, irrelevant, immaterial, tending to prove no issue in this contest.

Q. Was that letter or not generally circulated throughout your precinct?

Mr. WAGONER. Objected to as being incompetent, irrelevant, and immaterial.

A. Everybody knew about it; yes.

Q. After that election and prior to the general election in 1912 did you see or hear of the Boardman letter?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial.

A. Yes.

Q. Was that letter or not generally circulated?—A. I think so, people seemed to know about it anyway.

Q. And did you, prior to the 1912 general election, see or hear of what is known as Exhibit 2, the penitentiary warning slip?—A. I saw this or a paper like this nailed up on a tree in our precinct in Bear Creek. I remember it by "Talk it over with your wife."

Q. You remember the penitentiary part?—A. Yes; that paper, one like that, was nailed up on a tree.

Q. Were you an officer at that election?—A. No.

Q. Were you about there during that election?—A. Yes; I was there all day.

Q. Was the place where they voted a place where you could see what was going on inside the polls?—A. Well, you could see them going in and coming out, you couldn't see what was going on in the house.

Q. What was your precinct?—A. Bear Creek.

Q. Do you know whether or not the so-called test of the grandfather clause was applied to those who voted there that day or any of them?—A. It was my understanding it was not.

Mr. WAGONER. Objected to as incompetent, irrelevant, immaterial, calling for a conclusion of the witness, the witness having testified he was not on the inside.

Q. How did you arrive at that understanding?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial, calling for a conclusion of the witness, hearsay testimony.

A. The voters would go in and then when they would come out they would be asked if they were tested or to that effect and they said no, everybody is voting to-day.

Q. "No; everybody is voting to-day."—A. Yes, sir.

Mr. WAGONER. Object to the above and ask that it be stricken out as hearsay.

Q. Was that the general conversation or not around there that day?—A. Oh, it was there; yes.

Q. What was the reason, if you know, that everybody was voting?—A. Oh, for Guthrie.

Q. For the capital?—A. Yes; we were all voting for the capital.

Q. Bars were down?—A. Yes; seemed to be.

Q. No challenges and no qualifications?—A. I think so.

Q. Many negroes in that polling place?—A. Why, if I remember, I think I polled the township, if I remember, there is 55 or 56 negro voters, I haven't the poll book with me.

Q. What is the voting strength of the township—of the precinct?—A. I—oh, we run from 100; sometimes, I think, about 125 votes are cast, but sometimes it has run as high as 175.

Q. State whether or not the negroes are about 50 per cent of the voting strength of the precinct?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial, and calling for a conclusion of the witness; and further, the questions suggest the answers.

Mr. HOFFMAN. Question withdrawn.

Cross-examination by Mr. WAGONER:

Q. So, Mr. Wilson, the bars were down in Bear Creek Township, were they?—A. It seemed that way.

Q. Everybody voted?—A. That was the general way they wanted it to be.

Q. No intimidation at all; everybody voted?—A. It seemed as if Guthrie was the question.

Q. You were interested in Guthrie yourself?—A. I have a half section of land out here.

Q. You wanted the bars thrown down?—A. I don't know as to that; I didn't ask anybody to violate the law.

Q. You solicited yourself?—A. I worked for Guthrie.

Q. You solicited negro votes for Guthrie?—A. No; I didn't solicit negro votes.

Q. You don't associate with them?—A. Not that way.

Q. Never electioneered a negro in your life?—A. Not to vote the Democratic ticket.

Q. Why?—A. It is a hopeless effort.

Q. Why, Mr. Wilson, the man you are now here testifying in favor of in this contest can get more negro votes than any Democrat in Lincoln County; don't you know that?—A. If he could get one I would think he could.

Q. He got lots of them. You say you saw that warning sign tacked up on the tree?—A. Yes; I did.

Q. You don't know who tacked it up?—A. Well, it was tacked up there.

Q. You don't know who tacked it up there?—A. No; I didn't see the man.

Q. It might have been a Democrat who did that?—A. No; I don't think a Democrat would have nailed that up.

Q. Wouldn't he resort to anything in a political campaign?—A. I don't think so?

Q. You don't?—A. I don't think so.

Q. Every one of them good men?—A. Most of them are good men.

Q. Once in a while there is a black sheep in the flock?—A. Yes; there is one gets in once in a while.

Q. You saw the Boardman letter in a newspaper?—A. No.

Q. Where did you see it?—A. I think I had one mailed to me.

Q. You heard about it by reading in the newspaper?—A. I expect so.

Q. You take the Daily Oklahoman?—A. No.

Q. You know it was published in the Daily Oklahoman and cast broadcast by the Democrats?—A. No.

Q. What newspaper did you see it in?—A. I didn't say I saw it in any.

Q. Where did you get yours?—A. I might have had one mailed; I am not sure; I saw one, anyway.

Q. That Boardman letter didn't scare anyone, did it?—A. It had its effect, anyway, I think.

Q. You think?—A. Yes, I do.

Q. The most of your testimony you are thinking about it, aren't you—those things happened out there—as to the effect it had upon people; you don't know, do you?—A. They didn't want to face the Federal court.

Q. Didn't you say the bars were thrown down in that township, due to the fact you wanted to carry the capital for Guthrie?—A. That was one of the reasons.

Q. That was the main reason?—A. I think the test would have been more severe if it hadn't been for Guthrie.

Q. Do you mean by your testimony to state here and have it in the record that your election officials of that township out there on election day violated their oaths and committed the crime of perjury?—A. I want it to go in the record that there were negroes voted there who couldn't read and write, if that's what you want.

Q. Do you mean to state here to-day that your inspector and the clerk and judge of that election violated the oath that they took that morning on election day and committed the crime of perjury by permitting men to vote who didn't have a right to vote when they knew it?—A. If it's against the law for the ignorant negroes to vote—

Q. I am asking you if that's the condition out there?—A. I am telling you in answer to that there were ignorant negroes voted who could not write their names.

Q. Do you know they were illegal voters?—A. I know they were ignorant negroes.

Q. Answer my question: Were they illegal voters?—A. If ignorant negroes are illegal voters, they were illegal voters.

Q. Is an ignorant negro an illegal voter under the law?—A. That's the way I interpret it.

Q. Your construction of the law is every man who has black upon his face is an illegal voter?—A. That's not the law.

Q. That's your construction of it?—A. No, sir; that's not the law.

Q. Is it the law every ignorant negro is an illegal voter even under the grandfather clause?—A. No; I think there is a clause whereby if his ancestors voted prior to 1866, there is a clause in there that he is not an illegal voter. But there was men there that didn't claim that right.

Q. I am asking you to name me an illegal voter—that is, a man who didn't have a right to vote under the grandfather clause that voted out there?—A. They didn't claim—

Q. I am not talking about what he claimed.—A. All right, I can do that.

Q. Who?—A. I can tell you men who said they voted—

Q. I will ask you the ones who said they voted. Go ahead and answer my question.—A. There is an old negro—Frank Hyder—said he voted.

Q. Do you know he is not a legal voter?—A. I know he was turned down two years before.

Q. Does that make him an illegal voter, because he was refused two years ago?—A. Yes, sir; because I was up there—one of the challengers—and the test was put to him and he didn't claim his ancestors were voters.

Q. Do you know whether his ancestors were voters or not?—A. I know two years ago—

Q. Answer, on cross-examination, do you know?—A. I know what he said.

Q. You are swearing.—A. I wasn't at his birth.

Q. You don't know, then.—A. I know what he said two years before.

Q. Do you know whether he was an illegal voter or not, I am asking you if you know?—A. I have sworn two years before he was turned down and he didn't claim the ancestor part of it.

Q. Answer my question. Do you swear now he was an illegal voter in 1912?—A. I am swearing that he wouldn't vote in 1910.

Q. Answer my question: was he an illegal voter in 1912?—A. I would think he was.

Q. Do you know whether he was or not?—A. If I had been an inspector I wouldn't have let him vote.

Q. That may be; you might do a good many things: do you know whether he was an illegal voter in 1912 or not?—A. I think he was an illegal voter. yes, sir.

Q. You think he was; do you know whether he was or not?—A. I have told you all I am going to. I will tell you, in 1910, he said he was not a legal voter.

Q. I am asking you 1912; do you know whether he could write in 1912, even if he couldn't read and write in 1910?—A. I would think he couldn't.

Q. Do you not know as a matter of fact there are negroes in this county who have become good writers and readers since 1910?—A. I suppose some of the children.

Q. No; voters.—A. No; I didn't know it.

Q. Men turned down in 1910 who can now write a better hand than you can,

Q. No; voters.—A. No; I didn't know it.

Q. Do you still say Hyder was not a legal voter in 1912 under the grandfather clause?—A. I say, I think he was not.

Q. But you won't say he was not, will you?—A. I think so.

Q. But you don't know whether he was or not of your own personal knowledge?—A. Well, I don't know, he was—

Q. You don't know he voted of your own knowledge?—A. He said he did.

Q. I am asking you of your own knowledge.—A. No; I was not upstairs there but I have his word for it.

Q. What's your business?—A. Farmer.

Q. What has been your business the last four years?—A. I have been a farmer all my life.

Q. You are an active partisan?—A. I am a pretty strong Democrat.

Q. Been mixing up in politics in Logan County considerable?—A. I have been with the boys.

Q. You are one of the workers?—A. Central committeeman up there.

Q. You are one of the fellows who does most anything they want done?—A. No; they never ask me to do anything I can not do, I never had a Democrat candidate ask me to do anything I couldn't do with good conscience.

Q. Now, you say there were 65 or 66 negro voters?—A. I think that's what there is as I polled it, I might have overlooked some, but I think that's about what there is.

Q. There was 65 or 66 negro voters, those were the ones entitled to vote?—A. No; they were men over 21 years old.

Q. How many negroes have you in Bear Creek Township who can not read and write at all, and could not read and write the 6th day of November, 1912?—

A. Oh, I wouldn't say just exactly how many, but there was quite a good many.

Q. About how many?—A. It's owing to who is putting the test.

Q. I am saying that can not read and write—I could keep every one in Bear Creek Township from voting if I wanted to.—A. Not on me, but you might on the negroes.

Q. You can not write a Spencerian fine hand like some professor, can you?—A. I am not required to.

Q. How many negroes out there can't read and write at all?—A. I should judge probably 20.

Q. That can not read and write at all?—A. I think so.

Q. That can not sign their names?—A. I expect fully that many.

Q. How many of that 20 made application to vote at the last election.—A. They told me they all did.

Q. How many do you know of them did?—A. I could name you probably 10 or 12.

Q. Do you say every negro over 21 years of age in Bear Creek Township at the last election made application to vote?—A. No, I couldn't say that, I think most of them did.

Q. How many staid at home that can not read and write—didn't go to the polls at all?—A. I didn't see any of them; all I know about were there.

Q. You think every negro in Bear Creek Township was at the polls and voted?—A. I think every one of them.

Q. And there wasn't one of them refused?—A. I was not up there but that's what they said when they came down, they all voted.



Q. And they were all there?—A. I think so, they are generally all there, they are pretty good about coming to the election.

Q. No better than any of the rest of the people out there, are they?—A. Oh, yes; a nigger always goes to election; I know a nigger goes to the election—

Q. White men go, too?—A. More of them will stay at home as a rule than the nigger according to the population.

HUGH SCOTT, being duly sworn as a witness for the contestant, testifies as follows:

Examination by Mr. HOFFMAN:

Q. You are a resident of Guthrie, are you not?—A. Yes, sir.

Q. And one of the officers of the United States land office at this place, are you not; register or receiver, which?—A. Receiver.

Q. Do you know who printed or circulated this letter known as the Boardman letter, Exhibit 1?—A. No, sir.

Q. Did you have charge of McGuire's campaign at this place?—A. No, sir.

Q. Were you connected with it in any capacity?—A. No capacity.

Q. You were around there during the campaign?—A. Frequently.

Q. Do you know who printed or issued Exhibit No. 8, the typewritten or multigraph copy of the Boardman letter?—A. No, sir.

Q. Did you see any copies of that or Exhibit No. 1, the printed letter, in the headquarters during the time you were about there?—A. Not in McGuire's headquarters I didn't.

Q. Did you see it in some other headquarters?—A. No, sir.

Q. Why did you emphasize McGuire's headquarters?—A. Because we were talking about that.

Q. Did you see Exhibit No. 2, the so-called penitentiary warning circular?—No, this is the first time I ever saw that.

Q. You have heard about it?—A. Yes, I heard about it but I never saw it?

Q. Do you know who printed it, issued it, or circulated it?—A. No, sir.

S. PULLIAM, being duly sworn as a witness for the contestant, testifies as follows:

Direct examination by Mr. HOFFMAN:

Q. State your name, please.—A. S. Pulliam.

Q. Where do you live, Senator?—A. Out in Antelope Township, eastern part of this county.

Q. How long have you lived there?—A. Since 1889.

Q. Have you ever served the State in any official capacity? You were a member of the State Senate were you not?—A. Yes, sir.

Q. Senator, do you know whether or not in this county of Logan there was a general sentiment against the enforcement of the so-called grandfather clause and applying the test to negroes who voted at the last general election, in 1912?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial, hearsay testimony, and calling for a conclusion of the witness.

A. Yes; in our part of the county; of course I was not all over the county.

Q. Such part of the county as you were familiar with?—A. Yes.

Q. What was the general reason for that sentiment against the enforcement of the grandfather clause?—A. Fear of prosecution by the Federal authorities.

Mr. WAGONER. Objected to and ask that it be stricken out as hearsay evidence.

Q. Did you talk with any of the election officers?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial, and calling for hearsay evidence.

A. Yes, sir.

Q. Do you know whether they were intimidated or feared Federal prosecution if they enforced the so-called grandfather clause?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial, calling for a conclusion of the witness, and hearsay.

A. Yes, sir.

Q. Did they or did they not?—A. They were fearful of prosecution if we enforced the grandfather clause.

Q. Was there any other feeling through your section and the part of the country you were familiar with with regard to the nonenforcement of the grandfather clause by reason of the State capital question being up for a vote at that time and Guthrie, the county seat of this county, and close to your vicinity, being a candidate?—A. I was not acquainted with any of that sentiment.

Q. You were not?—A. No, sir. All my ideas about that were a matter of inference from what I saw.

Mr. WAGONER. Object to that and move it be stricken from the record.

Q. What did you see in that regard?—A. On the morning of the election pretty early in the day there was an auto came to our precinct and I noticed several gentlemen get out and go out to the end of the voting way and appeared to be in earnest conversation with the voters out there, and I recognized at least one of those men to be a prominent Guthrie citizen, in fact I thought two of them were Guthrie citizens, and I inferred from the fact they came out there that there was some mission they were interested upon, but they didn't come into the voting place—I had no talk with them.

No cross-examination.

WALTER TOWLE, being called and sworn as a witness for the contestant, testifies as follows:

Direct examination by Mr. HOFFMAN:

Q. State your name.—A. Walter Towle.

Q. Where do you reside, Mr. Towle?—A. I live in Springer Township at the present time.

Q. What official position, if any, did you hold on the election board at the last general election?—A. I was inspector of Springvale Township.

Q. How long were you appointed to that position before the election?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial.

A. Just before the primary.

Q. Now, Mr. Towle, how was the law commonly known as the grandfather clause enforced out there that day; were there any challenges there?—A. There were no challenges.

Q. Was any test applied to any of the negroes who made application to vote?—A. No, sir.

Q. Were there any turned down?—A. No, sir.

Q. How many voted?—A. I don't know.

Q. About how many?—A. Between 80 and 90, I think, or maybe a little over; it was less than 100.

Q. Is that a majority of the votes cast out there?—A. Yes, sir; I think so.

Q. There are more male adult negroes in the precinct, then, than male adult white men?—A. Yes, sir.

Mr. WAGONER. Objected to as being incompetent, irrelevant, and immaterial, calling for a conclusion of the witness, the witness having answered he don't know.

Q. What do you know about the so-called Boardman letter and the penitentiary-threatening circular?—A. I don't know that I saw the letter, but I saw an article in the newspaper regarding that letter—that the Federal courts would prosecute or give instructions to the county attorney to prosecute if any negroes were not allowed to vote.

Q. Is that the reason there were no tests made?—A. That was the reason I made no test.

Q. You were afraid of the criminal prosecution?

Mr. WAGONER. Objected to as leading and calling for a conclusion of the witness.

A. Yes, sir.

Q. Mr. Towle, was there any sentiment out there in that community about letting everybody vote and letting the bars down so all could vote for Guthrie for the capital?—A. No, sir; I don't think there was; there was nothing said to me about that anyhow, nor by me to anyone else.

Q. Do you know of your own knowledge whether any of those negroes who voted could not read and write?—A. No, sir; I don't know for sure. I couldn't swear to it.

Q. Of your best knowledge and belief, could they all read and write?—A. There was probably some that couldn't read and write; there probably were.

Q. You made no test of any kind to determine?—A. No, sir.

Cross-examination by Mr. WAGONER:

Q. Mr. Towle, you are a good citizen—try to be?—A. That's what my neighbors tell me.

Q. You try to be a law-abiding citizen?—A. Yes, sir.

Q. Always try to do the right thing, don't you?—A. Yes, sir.

Q. On the morning of election you took an oath?—A. No, sir.

- Q. Weren't you sworn in?—A. Yes, sir; not that morning.
- Q. You remember the nature of that oath?—A. Yes, sir.
- Q. And when you went to the precinct that morning and all during that day you tried to keep that oath?—A. As far as I could; yes, sir.
- Q. You never conspired to let an illegal voter vote or keep a legal voter from voting?—A. Yes, sir.
- Q. You were not solicited by anyone to do either?—A. No, sir.
- Q. In the enforcement of the grandfather clause and any other election laws you used your best judgment in regard to them?—A. Yes, sir.
- Q. And at this time you think you did as near right as any man could under the election law?—A. I think so.
- Q. You tried to do that all that day?—A. Yes, sir.
- Q. You say there was not any test made?—A. No test made.
- Q. But you felt satisfied those men who applied there were entitled to vote, didn't you, and let them vote by reason that you felt they were entitled to?—A. I let them vote because they asked to vote; that's the reason I let them vote.
- Q. There were other men around the polls that day?—A. Yes, sir.
- Q. Did they have any challengers or watchers?—A. No, sir; there were none appointed that I know of.
- Q. Didn't the Democrats have a challenger at the polls, or the Republicans, either?—A. No, sir.
- Q. You understood under the law if anybody applied there who you really doubted being a legal voter under the law, it was your right and duty to challenge them?—A. I understand it was my right, but not necessarily my duty.
- Q. You understand if I was to apply, being a white man, and you had doubts about my being a legal voter, it was your duty to challenge me and compel me to swear in my vote?—A. No, sir.
- Q. And didn't you also understand if a negro should apply to vote and you were satisfied he could read and write, it was not your duty to test him?—A. Yes, sir.
- Q. But if you have doubts about it you have a right to submit him to a fair and reasonable test?—A. Yes, sir.
- Q. Now, Mr. Towle, you don't remember much about these letters?—A. No; I had no letters that were sent to me; all I saw was in the papers.
- Q. Did you ever get a letter from Gov. Cruce?—A. No, sir.
- Q. Do you know about the governor sending out a letter, or one that he wrote, broadcast over the State?—A. I think I saw that, but it was not sent to me.
- Q. You remember they said under the law the officers could only submit those men to a fair and reasonable test?—A. Yes, sir; I read that.
- Q. Did you ever see Attorney General West's letter?—A. Yes, sir.
- Q. That letter said you had the right to submit them to a fair and reasonable test?—A. Yes, sir.
- Q. It also stated if you were satisfied they were legal voters you should not submit them to any test?—A. Yes, sir.
- Q. And you tried to follow Gov. Cruce's instructions and the attorney general's instructions in conducting that election out there?—A. Yes, sir.
- Q. And you did it to the best of your ability?—A. Yes, sir.

G. W. GREENWAY, being sworn as a witness for the contestant, testifies as follows:

Direct examination by Mr. HOFFMAN:

- Q. Please state your name.—A. G. W. Greenway.
- Q. Where do you live, Mr. Greenway?—A. I live in Springvale Township.
- Q. How long have you lived there?—A. Ever since 1889.
- Q. You are acquainted with the voting population of that township?—A. I have been fairly well; yes.
- Q. You haven't lost your touch with it, have you?—A. No.
- Q. Were you an officer in the general election last November?—A. No; I was not.
- Q. Were you there at that time?—A. I was; yes.
- Q. Were you at the polling place?—A. Yes, sir.
- Q. Do you know whether or not there were any tests under the so-called grandfather clause applied at that polling place there that day?
- Mr. WAGONER. Objected to as incompetent, irrelevant, immaterial; not necessary for any test to be made unless the party applying could not read and write.

A. During the time I was there I didn't see anything to indicate there was any test made.

Q. Do you know of any persons voting during the time you were there, of your own knowledge, who were not qualified to vote?—A. No; I do not.

Q. Had you been inspector prior to that time?—A. Yes.

Q. Why didn't you serve that day?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial.

A. I had other matters that I thought needed attending to more than the election. I had been on the board so long, I was tired and getting old; that was one amongst other reasons.

Q. What were the other reasons?—A. Well, the other reasons was I thought my property was not as safe in Springvale Township as it might be.

Q. Why?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial, and calling for a conclusion of the witness.

A. Gentlemen, I would like to speak a word. If I have a right to make a statement without being interrupted until I get through with my statement, I would like to do it.

Q. Go ahead.—A. Well, once I have been intimidated.

Q. By whom?—A. Well, I will say two or three different parties—I can not call their names, and, in fact, I have the name of one of them at home—came to me while I was at my work before the election and said if they were in my place they would resign off the board. And I says, "For what reason?" And they said, "We have been holding meetings in our township and also Iowa Township"—(This fellow pretended to be a friend of mine.)—"night meetings, and they have come to the conclusion they are going to get rid of you some way, and if they can they will waylay you or burn your property." And I just kind of laughed and made the remark this way: "I expect I will be at the polling place the proper day; I will conduct the election according to the instructions of the election board and the laws of Oklahoma." Well, in a short time there was another come and said about the same thing. He says, "If you are on that election board I guess it will be about the last one you will ever serve on." was the way he put it. "Well," says I, "if the Lord is willing I will certainly be there." I then considered the matter over, and I thought: "My property isn't safe, neither is my life safe; possibly I better, if there is anybody else who will take my place, get off the board." So I came to the election board and told them I didn't desire to serve, under the circumstances, but if they wouldn't release me I would try it through.

Q. Why were these threats made against you?—A. I had repeatedly told parties who wanted to know, asking me as to whether I would enforce the grandfather clause, says I: "I will go according to the laws of the State under which I reside, if I have the power to do it."

Q. And then these parties told you if you did enforce the grandfather clause and served as inspector you would be killed or your property burned, and for that reason you got off?—A. No; I went ahead with the election and did hold the election.

Q. I thought you said you wouldn't serve?—A. I offered my resignation to the board, but they wouldn't accept it.

Q. Did you go ahead and serve?—A. Yes.

Q. Did you challenge anybody?—A. I think I did; I challenged, I think, something like 80 voters; there were 34 votes cast in our township.

Q. You did enforce the grandfather clause?—A. Yes; I enforced the grandfather clause.

Q. In what election was that?—A. The election of 1910.

Q. I am talking about 1912.—A. I had nothing to do with it, only as a voter, in 1912.

Q. I ask you if you served in 1912 on the election board?—A. No; I did not.

Mr. WAGONER. Comes now the contestant and moves that all the testimony pertaining to threats and intimidations made before the 1910 election be stricken out as incompetent.

Q. Then, if I understand you, after you did enforce the grandfather clause so strictly in 1910 the parties came to you and made these threats prior to the 1912 election?—A. One of the parties came to me after that and said: "You better never serve on another election board in Springvale Township."

Q. Was that one of the parties who made these threats against your life and property?—A. Yes, sir.

Q. What was his politics, do you know?—A. He was a colored man.

Q. Well, it was for that fear, and by reason of that intimidation, you resigned and got off the board before the 1912 election; is that it?—A. Partly that; yes.

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial.

Q. What was the number of votes cast at that precinct in 1910?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial, calling for a conclusion of the witness, and hearsay.

A. I don't remember precisely; 46, I believe, white; 34 negroes; that's 1910.

Q. That was in 1910?—A. Yes; 1910.

Q. How many colored voted and how many white in 1912?

Mr. WAGONER. Objected to, witness having shown by his testimony he is not qualified to answer.

Q. How many colored voted?—A. I don't know; I haven't kept tab of the negroes since.

Q. Have you heard how many voted?

Mr. WAGONER. Objected to as hearsay.

A. No; I ain't.

Q. Did you make any calculation from any observation you made there election day as to how many negroes voted?

Mr. WAGONER. Objected to as calling for a conclusion of the witness and hearsay.

A. No; I didn't make any calculation.

Q. Do you know whether or not any were challenged or turned down on election day?—A. No; I don't know of one, election day, while I was there; I was there about two hours.

Q. All of the negroes were voting?—A. Seemed to be; the booth was filled up; more negroes than whites.

Mr. WAGONER. Objected to; they seemed to be voting; it don't show he knows.

Cross-examination by Mr. WAGONER:

Q. Now, Mr. Greenway, you say this was a negro who came to you after the 1910 election and told you you better get off the board or you would be killed and your property destroyed?—A. Yes; it was after 1910; I don't remember the time; a couple of months maybe.

Q. Is he the negro who made the threats against you or the friend of yours who told you what he had heard?—A. He said he was a friend of mine, and wanted to tell me a secret; I better get off the board; he said he didn't blame me for my politics; but I don't believe it is safe for you to serve there; in fact, I know it is not.

Q. Didn't you state to Mr. Hoffman that the man who told you after the election to get off the board was one of the men who made the threats against you?—A. There has been two or three speak to me.

Q. Answer that question; didn't you state to Mr. Hoffman that the man who came to you after the election in 1910 and told you you better get off the board, that you would be killed, or your property destroyed, was one of the men who made the threats; didn't you do that?—A. I don't know as I said it just that way, or possibly just the same as that; he himself said, "You had better get off the board."

Q. He also told you he was a friend?—A. He told me he was a friend.

Q. And came to advise you and tell you what he had heard—isn't that true?—A. As I remember; yes.

Q. Who was that man?—A. I can not call his name to-day; I think I have his name on my book at home.

Q. Don't you know the negroes out in your township?—A. No; I don't deal with them much; I don't suppose I know—

Q. Give me his description; describe that man.—A. He is a black man, medium sized, and I suppose about 40 or 50 years old.

Q. Any other—about how much will he weigh?—A. Oh, I am pretty poor on guessing; he is a medium-sized man; probably 130 or 140.

Q. Ever see him since that time?—A. No; I haven't seen him since.

Q. Don't know where he lives out there?—A. No; I think I can get his name.

Q. Will you get it?—A. I will if I can.

Q. And mail it to the stenographer?—A. If I have it on my book.

Q. And when you find it will you send it to the stenographer, and have it inserted in the record?—A. I will, if I can find it.

Q. If you can not find it will you notify the stenographer that you can not find it?—A. I can do that; yes.

Q. That it may be inserted in the record?—A. I can do that if I can not find it.

Q. Did you ever tell anybody else about your life and property being threatened?—A. Yes; I told the election board.

Q. Why didn't you go to the county attorney and inform him of that fact, and have those parties arrested?—A. Well, I didn't think it would be advisable to do it.

Q. Did he tell you who it was threatened you?—A. No; he said: "They have been holding a meeting in Springvale and Iowa Township."

Q. That was in 1910, before the election?—A. Yes; that was before 1910.

Q. I am speaking now about the man who came to you after the election.—A. I tell you a medium-sized man.

Q. Do I understand you he came to you after the election was over?—A. Yes.

Q. And told you they had held a meeting in Springvale Township, when did he tell you that meeting was held?—A. He didn't tell me.

Q. Did he tell you after the election?—A. Well, that time, himself, he didn't. He told me in the first place and in the second place—

Q. How many conversations did you have with him?—A. Two.

Q. When did you have this conversation?—A. In 1910.

Q. Where?—A. On my place, I live right on the road, as he was passing along the road.

Q. How long before the 1910 election?—A. I can not tell you.

Q. About how long?—A. Oh, perhaps a month or two.

Q. What did he tell you in that conversation, the first time?—A. He told me, "as a friend I will advise you not to sit on the election board."

Q. You had never seen him before?—A. Yes; I had seen the negro before, but I was not personally acquainted with him.

Q. Do you know where he lived in 1910?—A. No; I don't know whether he lived in Springvale or Iowa, there are lots of them acquainted with me, but I don't know him.

Q. How long after the election did you have the next conversation with him?—A. Quite a while, I don't remember the time.

Q. What did he tell you in that conversation?—A. In that conversation he told me, anyway, they had threatened my property and life.

Q. Did you ask him who?—A. No; I didn't ask him, he said "they," your life and property has been both threatened.

Q. He didn't say whether white people or black people?—A. He said the colored people was holding their meetings.

Q. Now, you have got it down to the colored people?—A. Well, the colored people is what I had reference to, the white people didn't tell me anything, I never had any conversation with any white man, no white man in the neighborhood ever warned me.

Q. You weren't intimidated in the 1910 election—told them you would be right there?—A. I did.

Q. And went ahead and carried out the law as you understood it?—A. Yes.

Q. Did as you were instructed, in 1910 or 1912, which was it?—A. 1910 we were speaking of, that the last election I conducted.

Q. You carried it out according to instructions?—A. Yes.

Q. You received those instructions from the county election board?—A. I received some instructions. I told them that I would be governed according to the laws of the State and the best of my knowledge.

Q. And your main object and intention was to keep all negroes from voting possible, wasn't it?—A. I thought the law so stated it.

Q. You submitted them to a severe and rigid test?—A. No; I didn't.

Q. Required them to write a very, very good hand?—A. No; I didn't. I never criticised their hand in any respect, if they themselves could read it.

Q. You let all that kind vote?—A. Yes; that could write a short section of the constitution and then could read it.

Q. You got off the election board when?—A. Last year.

Q. When?—A. 1912.

Q. What time in 1912?—A. Oh, awhile before election.

Q. How long after this negro came to you as a friend that you had never seen before except once, and told you you were going to be killed; how long after that?—A. Oh, probably a couple of months before I resigned off the board

Q. You said a moment ago he came to you a few months after the 1910 election, so you must have resigned in 1911, didn't you?—A. No, I think I resigned in 1912.

Q. What month in 1912?—A. I don't remember.

Q. How much time elapsed after this negro was to see you after the 1910 election before you resigned, how much time elapsed?—A. The last time, a couple of months, maybe.

Q. Will you explain how only two months' time elapsed from only about two months after the election in 1910 and two months before the election in 1912?—A. I can not remember those things exactly; the dates—I am slow remembering dates.

Q. But you do remember positively a negro whom you never saw before as a friend came to you before the election in 1910 and told you this?—A. One of them I had seen.

Q. I am after this one you had never seen before, this dear friend of yours. You say two or three persons came to you with threats. When did they come?—A. At various times.

Q. When in reference to the 1910 election?—A. Before election.

Q. Who were these people? Did you know them?—A. No, sir.

Q. Give me their names.—A. I can not remember; I didn't ask them their names. I seldom ask a negro his name.

Q. Who came to you before the 1910 election; this dear friend of yours?—A. He came to me twice.

Q. Before the election, which came to you first, your dear friend you had never seen before or these other two or three persons?—A. The one who called himself my friend came before the 1910 election and after the 1910 election.

Q. Did he come before these other people or after?—A. If I am not mistaken I think he was the first one.

Q. When did these other people first come to you?—A. I don't think but one came after that. They made that remark, that neither my property or life were safe.

Q. When was that?—A. A month or so before the 1912 election.

Q. The 1912 election or the 1910?—A. 1912.

Q. What was his name?—A. I can not call their names.

Q. Did you ever see him before?—A. Not that I remember, excepting this first one.

Q. This new man that we have got, that came just before the 1912 election?—A. I didn't learn his name.

Q. What did he say to you?—A. He says, "You better get off that election board." or something of that kind.

Q. He told you he was your friend?—A. No; I don't know as he told me he was a friend.

Q. What was it he said to you?—A. Well, I told you.

Q. He just said you better get off the election board?—A. I don't remember all the words. I remember what made the most impression on my mind at the time.

Q. Did he tell you why to get off the election board?—A. No.

Q. Just told you to get off the election board?—A. If I am not mistaken, he said "we" said it, I might not ever live to sit on another.

Q. He did not claim to be a friend?—A. No.

Q. You never saw him before?—A. I can not say that I never saw him.

Q. Did you get his name?—A. No.

Q. Did you ask him?—A. No.

Q. Did you ask him who made the threats?—A. No.

Q. Did you ask him what the threats were?—A. He already stated them.

Q. He just said you better get off the election board. Did he say who said that?—A. No.

Q. Did you report that to the county attorney?—A. No.

Q. You didn't take his name, either?—A. No.

Q. What about the third man, the next one; when did he first see you?—A. I don't remember exactly; it was between the elections.

Q. Where did you see him?—A. He was on the road.

Q. White man or black man?—A. A black man.

Q. Ever see him before?—A. Why, I may have seen him; I don't know.

Q. Ever see him since?—A. If I did I wouldn't know him, I don't suppose.

Q. What was it he said to you?—A. I don't remember now just the words.

Q. About what?—A. He said I was in danger being on the election board.

Q. Tell you who said so?—A. No.

Q. Tell you his name?—A. No.

Q. Did you ask him his name?—A. No; I told you.

Q. You didn't ask him who made these threats?—A. No; I didn't.

Q. You don't know whether anybody threatened you of your own knowledge outside these three men you don't know?—A. No; not any individual.

Q. The only conversation you had was with these three men, you don't know their names?—A. Yes.

Q. You never asked them their names at the time they had these conversations?—A. I got the first one's name.

Q. These other two, you didn't ask them their names?—A. I don't think I did.

Q. Yet they came to you after the first man whom you asked his name?—A. Yes.

Q. And you never asked either of these three men the names of any of the individuals in that township who were threatening you?—A. No; I didn't think it was necessary.

Q. Oh, you didn't pay any attention to the threats of these friends of yours, did you; you didn't pay any attention to these statements made by these three friends?—A. I paid attention myself; I didn't run around to the authorities and try to have them arrested.

Q. You didn't pay enough attention to ask who they were, that you might watch out for them when you saw them on the road?—A. No.

Q. You were not afraid a bit?—A. I can not say I was not a bit afraid, I was some little afraid.

Q. Very little?—A. Well, I was afraid enough to be cautious as much as I could.

Q. How cautious were you, what did you do? You didn't try to find out who it was threatening you so you might watch for them and keep from meeting them did you?—A. I made it a point—

Q. Answer my question.—A. I didn't try to find out what their names was, I was this cautious. I usually took my gun in the deal when I went.

Q. Always carried your gun?—A. Not always.

Q. Got one on you to-day?—A. I don't know whether that concerns you or not. I don't think I will need it.

Q. I want to know whether you were scared; yes or no.—A. I was scared.

Q. Did anybody else besides these three fellows tell you out there, come to you as friends, and tell you who threatened you?—A. Not that I remember of at the present time; lots of white people said to be cautious.

Q. Did these other two men talk to you before the 1910 election or afterwards?—A. Not that I remember of.

Q. Was it before or after?—A. That was talk—

Q. Answer my question; did these other two come to you before the 1910 election or after and tell you about these threats?—A. Which two?

Q. The last two.—A. Why, since the 1910 election, a month or two before the 1912 election.

Q. These last two just came to you before the 1912 election a month or two?—A. Yes, sir; as best I remember it now, a while before anyway.

Q. What were the facts; when did they come?—A. I tell you I don't know the exact time.

Q. Did they come to you at all?—A. They came along the road and spoke to me from the road; they didn't come on the premises, my house is right by the road.

Q. How long before the 1912 election did these two men speak to you; about how long before?—A. Oh, possibly a month or two, I don't remember the exact date.

Q. In what month did you resign as member of the county election board, or precinct board?—A. I don't remember exactly that date.

Q. Was it October?—A. I am not positive.

Q. Was it in September?—A. September or October, I think.

Q. What month did they come to you with reference— A. I think it was September, at that time, maybe earlier, a month or six weeks before the election.

Q. How long before you resigned was it these two men had this conversation with you in the road before the 1912 election?—A. Oh, a short time before I resigned.

Q. About how long?—A. I don't remember.



Q. Give me your best idea and recollection.—A. Probably two or three weeks—a month.

Q. Mr. Greenway, why is it you can not remember these things as particularly as you can the statements these parties made to you?—A. Because they made a deeper impression, probably, at the time they were spoken.

Q. You don't know where either of these three men are now?—A. No; I don't.

Q. You don't know whether either of them were present at the Springvale voting precinct and voted in 1912?—A. No; I do not.

Q. You have never seen any one of the three since that time you know of, do you?—A. No; there is not but one of the three I would know at all, unless he would speak to me so I would know him.

Q. You haven't seen any of the three?—A. Yes, sir; the first one I spoke of.

Q. When did you see him?—A. Sometime within the last year or so.

Q. Do you know where he lives now?—A. No; I didn't know where he lived then.

Q. Could you give me the name of anybody who might locate him, either one of the three?—A. I told you I would endeavor to do so.

Q. Can you tell me anybody else that I might locate them; find out where they are?—A. I don't know that I could.

Q. Have you any way of finding out the names of the last two?—A. I have heard the first one's name but I don't know that I would know the others' names if I heard them; I didn't know them; I did at that time put his name on my memorandum book.

Q. Do you know of anybody we could get to find out these other two's names, the last two negroes who talked with you?—A. No; I don't know that I could cite you to anybody who could; I don't know that I could get them myself.

Q. Do you know where they lived at the time they made the statement to you?—A. I don't.

Q. You don't know whether they lived in this county or not, do you?—A. I frequently saw the same negroes, I supposed was them, passing the road with the wagons, I knew the wagons.

Q. What kind of a team did they drive?—A. One of them drove a span of mules once.

Q. What color?—A. I don't remember the color.

Q. What was it the other drove?—A. I don't remember.

Q. Which way were they coming from when they met you and talked with you?—A. They were coming from Guthrie, I think, the first time.

Q. You never inquired of them where they lived?—A. No.

Q. Nor their names?—A. No.

Q. Were not inquisitive at all about those threats?—A. No.

Q. Just kind of a passing incident with you?—A. To some extent.

Redirect examination by Mr. HOFFMAN:

Q. Do you remember having gone to Miles Allen, the secretary of the election board in 1910, after having been threatened, and asking to get relieved at that time?—A. Yes; I think I did.

Q. You did do that, did you?—A. Yes.

Mr. WAGONER. Object to that as incompetent, irrelevant, and immaterial, no bearing upon this contest.

Q. And was that for the reason you had been threatened at that time?—A. Yes; that was my reason for asking and further, I went for interests of my own, for protection.

Cross-examination by Mr. WAGONER:

Q. And the only threats made to you was those delivered by dear friends of yours, who you have never seen before and have never seen since?—A. The one claimed to be a friend.

Q. That was the only threats made to you?—A. All I can recollect now.

Q. And it was upon those you went to Miles Allen, secretary of the county election board, to get relieved before 1910, wasn't it, on the statements made by those three men?—A. No; the statement by the one in particular, those other two that I referred to later on, went on to confirm the statement of the one made in the first place, and for that reason I thought best to get off the election board.

Q. You have just answered, Mr. Hoffman, you went to Miles Allen before the 1910 election to get off the election board?—A. I did.

Q. And that was based upon the communications from these negroes, wasn't it?—A. It was based upon the knowledge I got from the one negro and others who had been speaking around, one amongst another, but this one came to me as a friend; came before 1910.

Q. Then it was upon his statement you sought to get relieved, not upon these other two?—A. Yes; the first time, in 1910, but when these other two made the statements I determined to get off.

Q. They talked to you a few months after the 1910 election.—A. Yes; sometime.

Q. And you didn't resign until September or October 1912?—A. Yes; something like that.

Q. Didn't you testify only about two months—A. I said before the election.

Q. The election was in November?—A. Yes.

Q. You had the conversation with these other two men about two months after the election; that would make it January or February, 1911?—A. Oh, it was sometime after that; after the 1910 election.

Q. You didn't resign until September or October, 1912?—A. Sometime along then; yes.

JOSEPH WISBY, being duly sworn as a witness for the contestant, testifies as follows upon direct examination:

Examination by Mr. HOFFMAN:

Q. Please state your name.—A. Joseph Wisby.

Q. You are a resident of Guthrie?—A. Yes; resided here since April 24, 1890.

Q. You are a practicing attorney by profession?—A. Yes; and have been a voter here since the first election.

Q. Mr. Wisby, you were inspector of election, precinct two, ward three, city of Guthrie, at the last general election November 5, 1912?—A. Yes, sir.

Q. I will ask you to state whether or not any persons were allowed to vote in that precinct who were not qualified electors because of failure to register as required by law?—A. Yes; I think there were; I thought they were at the time and I think so yet.

Q. About how many?—A. I couldn't state accurately the number unless we had the records; I would judge the number who voted on affidavit—

Q. What is your best judgment?—A. Well, I would say from 10 to 25, probably.

Q. Did any negroes vote in that ward?—A. Oh, yes; yes, a number.

Q. About what proportion of those persons who voted, not qualified because not having registered, were negroes?—A. My best recollection is probably two-thirds of them were negroes. If we had the records to show who swore in their votes on account of nonregistration and those things I could tell that more accurately.

Q. Mr. Wisby, you have been active in politics, have you not, ever since you lived here?—A. Well, to a certain extent.

Q. Were a candidate at one time for delegate in the Territorial days, were you not?—A. Yes.

Q. Now, Mr. Wisby, in the last campaign you were over the county more or less and familiar with the political questions before the people at that time, were you not, and discussed them?—A. No; I was not out much in the campaign.

Q. You know what the general sentiment and feeling was over this county with regard to a relaxation of the educational qualification for voters, so that the large number of negroes resident in the city and county might vote on the capital question.

Mr. WAGONER. Objected to as being incompetent, irrelevant, and immaterial, calling for a conclusion of the witness, and hearsay.

Q. Do you know what that sentiment was?—A. Well, I think I do, in a general way.

Q. Well, what was it in a general way?—A. There was great pressure brought to bear to relax the enforcement of the grandfather clause, because of the capital question.

Mr. WAGONER. Objected to, and ask that it be stricken out, because it is incompetent, irrelevant, and immaterial, and hearsay testimony.

Q. About what is the negro vote in the city of Guthrie?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial, and calling for a conclusion of this witness.

A. I don't know that I can give a very correct statement in regard to that if you mean the legal votes since the enactment of the grandfather clause and the number of negroes of voting age; of course, it would be different in each case.

Q. Well, you have been familiar with the city vote here for the period of the last 20 years?—A. Well, I have generally had a fair idea of it; yes.

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial.

Q. Prior to the enactment of the grandfather clause what was the negro population of voting age—negroes—in the city?

Mr. WAGONER. Objected to as being incompetent, irrelevant, and immaterial, tending to prove no issue in this cause, and calling for a conclusion of the witness.

Q. Prior to statehood?—A. Well, I should think between 500 and 700 votes; 500 or 600 votes, probably.

Q. Has that number increased or diminished since statehood?

Mr. WAGONER. Objected to as being incompetent, irrelevant, immaterial, calling for a conclusion of the witness.

A. I think it has probably decreased in the last few years.

Q. Are you able to state what percentage of those negroes are qualified to vote under the grandfather clause, approximately?

Mr. WAGONER. Objected to as being incompetent, irrelevant, and immaterial, calling for a conclusion of the witness, a matter which could not under any circumstances be within his mind and knowledge.

A. Well, I am not confident that I could. I could have a general opinion in regard to it; of course, if the grandfather clause was strictly enforced, it would cut out a good many negroes in the city, and if not strictly enforced a great many more that qualified under it could vote.

Q. Has it ever been strictly enforced here?

Mr. WAGONER. Object to that as calling for a conclusion of the witness; he could not know unless present at every voting precinct and took part in the enforcement of the law; hearsay evidence.

A. In some wards, probably, it has been fairly enforced, and in some it has not. I think the 1910 election in the third ward it was not very strictly enforced.

Mr. WAGONER. Object to that as incompetent, irrelevant, and immaterial in this contest.

Q. How many wards are there?—A. Five wards.

Q. How many precincts?—A. Let's see; there are two precincts in the first ward and two in the second ward; third ward there are two precincts; I don't know how many—probably only one in the fourth ward, or two; I don't know for certain about that, and I don't know in the fifth; I think probably only one in the fifth.

Q. Are there any of the wards or precincts in the city in which the blacks predominate?—A. Yes; I think there is one ward anyway in which they largely predominate.

Q. Which one is that?—A. The fourth ward, precinct B; they largely predominate there.

Q. How about the fifth ward?—A. Well, they used to predominate there; I won't say whether they do now or not; I don't know just what the fifth includes.

No cross-examination by Judge Wagoner.

C. M. LE GRANDE, being duly sworn as a witness for the contestant, testified as follows:

Direct examination by Mr. HOFFMAN:

Q. State your name to the stenographer.—A. C. M. Le Grande.

Q. Where were you living, what precinct, at the last election on the 5th of November, 1912?—A. Springvale.

Q. In what, if any, official capacity did you act there at that time?—A. I acted as judge.

Q. Were there any negroes voted at that precinct?—A. Yes, sir.

Q. State whether or not what is known as the Boardman letter, Exhibit No. 1 and Exhibit No. 8, had been generally circulated in and around and through that precinct prior to election time.—A. I don't know as it was, I never saw it.

Q. Did you hear of it having been circulated through there?

Mr. WAGONER. Objected to as hearsay and incompetent.

A. No; I didn't hear anything.

Q. Were any educational tests or other qualifications imposed upon the negroes offering to vote there that day?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial, a test not being necessary.

A. No; there was not.

Q. About how many negroes voted there?

Mr. WAGONER. Objected to as calling for a conclusion of the witness and not the best evidence.

A. I can not tell how many did vote.

Q. About what proportion to the whites?—A. There was more negroes voted than there was whites, in my judgment.

Mr. WAGONER. Object to that question and ask that it be stricken from the record.

Q. Was anybody challenged for any cause there that day?—A. Nobody at all; no.

Q. Was there any talk or discussion among your officials there as to whether or not you should enforce the grandfather clause?

Mr. WAGONER. Objected to as incompetent, irrelevant, immaterial, and hearsay.

A. Yes; we had some talk about that.

Q. What was the nature of that conversation?

Mr. WAGONER. Objected to as hearsay evidence.

A. Well, the inspector and me and the clerk was talking, and we didn't think we had a right to put them to any test unless they were challenged by a challenger, and the inspector said we had no challenger in that precinct, and for that reason we didn't put any of them to the test.

Q. You had no challenger and nobody was tested?—A. Nobody was challenged at all.

Q. Well, as a matter of fact there are large numbers of those negroes voted who were not qualified to vote—could not read and write a section of the constitution?—A. Of course there might have been; of course I never seen them try.

Q. They all voted just as they came?—A. All voted that came; there wasn't anybody turned down.

Cross-examination by Mr. WAGONER:

Q. You officers out at your precinct then followed the law?—A. I don't know whether it was the law or not; that was the way we held it.

Q. The supreme court has held, in a decision by Judge Hayes, you have no right to refuse a man the right to vote unless they are challenged.—A. We didn't refuse any of them.

Q. You believed they were all legal voters?—A. They called for a ticket and got it, and there was nothing said.

Q. You are a law-abiding citizen?—A. Yes, sir; try to be.

Q. And took the oath out there to be judge of that election?—A. Yes, sir.

Q. And tried to keep that oath?—A. Yes, sir.

Q. You didn't connive with or enter into any collusion to keep any legal voter from voting or to let any illegal voter vote?—A. No.

Q. You didn't enter into a collusion with the Chamber of Commerce of Guthrie to throw down the bars and let everybody vote?—A. No.

Q. And you enforced the law as you understood it?—A. As I understood it.

Q. And acted fairly and honestly?—A. Yes.

Redirect examination by Mr. HOFFMAN:

Q. That is, you did nothing?—A. We just took their tickets and put them in.

Cross-examination by Mr. WAGONER:

Q. You are not a lawyer, are you?—A. Not much of a one; no.

J. E. HOPKINS, being duly sworn as a witness for the contestant, testified as follows:

Direct examination by Mr. HOFFMAN:

Q. Where do you live?—A. Crescent Township.

Q. What is your business?—A. Farmer.

Q. Did you have any position with the election board at the 1912 election?—A. Yes, sir.

Q. What position?—A. Chairman of the county election board.

Q. What official position did you occupy in connection with the election of 1910?—A. I was chairman of the county election board.

Q. Now, at the 1910 and 1912 elections did you have any conversation with the inspectors who served at these elections with reference to their duties and with reference as to whether or not they were intimidated by reason of any threats for Federal prosecution?—A. I did.

Mr. WAGONER. Objected to as incompetent, irrelevant, immaterial, calling for a conclusion, hearsay evidence.

Q. What was the nature of that conversation?—A. We had serious trouble both in 1910 and 1912.

Q. Just explain how and why.—A. To get members to serve on the board. In 1910 the John Embry letter came out. They came in here and resigned one after another and wouldn't serve on the board, and in 1912 the indictments in this county of Jeffries and Smith and the conviction of Guinn and Beal in Kingfisher County, they said they didn't want the pen to stare them in the face if they enforced the law.

Q. And state whether or not in spite of your importunities there were some number of inspectors resigned?—A. Oh, they did; yes, sir; all over the county.

Q. And did you have any trouble in bolstering up the courage of those who remained?

Mr. WAGONER. Objected to as being incompetent, irrelevant, and immaterial.

A. We had trouble in appointing boards, I know; in getting men who would serve.

Cross-examination by Mr. WAGONER:

Q. In 1912, Mr. Hopkins, you gave some instructions to the various precinct boards didn't you?—A. Yes, sir.

Q. Told them to follow the law?—A. Yes, sir.

Q. Told them if they followed the law they wouldn't be bothered, didn't you?—A. No, sir; I didn't tell them that.

Q. You didn't tell them if they followed the law they wouldn't be bothered?—A. No, sir; I did not.

Q. You did not?—A. No; because I know men who did follow the law were bothered and indicted.

Q. Who?—A. Duke Jeffries and Smith.

Q. They followed the law?—A. Yes, sir.

Q. They followed your instructions.—A. No, sir; they followed the law.

Q. At which time you told them they could test them satisfactory to their own minds.—A. No, sir; I didn't instruct them that.

Q. Didn't you give them any instructions in 1910?—A. No, sir; we sent them the law.

Q. Didn't the Democratic State committee instruct them in 1910?—A. No, sir; not to my knowledge.

Q. Didn't you give them instructions in 1910, the inspector was the sole judge and the test had to be made satisfactory to him?—A. No, sir; we gave them the law.

Q. What was the law?—A. We gave them the pamphlet.

Q. Now, you say Jeffries and Smith were arrested because they followed the law?—A. I think so.

Q. Do you know so?—A. I have every reason—

Q. Were you present?—A. No, sir; but from all the evidence I have got and heard from and talked with the parties, both interested and otherwise, I think they followed the law.

Q. What were they arrested for?—A. Because they followed the law.

Q. Didn't they refuse men to vote who—A. I think not.

Q. Smith is a Republican?—A. Yes, sir.

Q. And Jeffries a Democrat?—A. Yes.

Q. Simply because they violated the law?—A. No; I think not.

Q. What was it done for?—A. To scare the rest of these fellows out from enforcing the law.

Q. You think that?—A. It is proven, isn't it? They haven't done anything with Jeffries and Smith, have they?

Q. Can you say Smith and Jeffries, of your own personal knowledge, were ever indicted?—A. I can not swear there is such a place as New York City; I never was there.

Q. How can you swear positively, of your own knowledge, Smith and Jeffries was ever indicted?—A. I can swear to it positive, as well as I know anything.

Q. Hearsay—it's all hearsay with you, isn't it, that Jeffries and Smith were indicted?—A. It's hearsay with me; I know two times two is four, too.

Q. Now you can answer my question.—A. Certainly I can answer it; how do we know anything?

Q. We might think we know and couldn't testify.—A. We do know things.

Q. I am asking you if you were on the grand jury.—A. No, sir.

Q. Did you ever see the records in the Federal court building?—A. No, sir.

Q. Or the indictment?—A. No.

Q. Do you know of your own personal knowledge they were indicted?—A. Both of the parties told me so.

Q. Do you know of your own personal knowledge they were both indicted?—A. They both told me so.

Q. That's hearsay, isn't it?—A. I don't think so.

Q. Let's see—you are a particular friend of Mr. Davis, aren't you?—A. No, sir; I never met Mr. Davis until last fall.

Q. And interested in this contest?—A. No.

Q. Like to have Mr. Davis seated?—A. Yes, sir.

Q. You are a candidate for the post office at Crescent?—A. No, sir.

Q. Somebody has been storying on you.—A. Well, I am under oath.

Q. You live in Crescent, do you?—A. Yes, sir; been there since 1889.

Q. Let me ask you this: If we should want you at the time we take further testimony for Mr. McGuire you will come, will you?—A. Certainly.

Q. We needn't subpoena you—just simply a letter—A. Yes, sir; yes, sir.

Q. All right, Mr. Hopkins.

C. H. LEE, being sworn as a witness for the contestant, testified as follows:

Direct examination by Mr. HOFFMAN:

Q. Please state your name.—A. C. H. Lee.

Q. Where do you live, Mr. Lee?—A. Coyle, Okla.

Q. What is your business?—A. I haven't got anything now; I have formerly been in the hardware business.

Q. How long a time have you been in the hardware business?—A. Coyle, about 12 years; until a year ago.

Q. In this county?—A. Yes.

Q. What voting precinct?—A. North Cimarron.

Q. Have you held any official position in the county?—A. I was assessor for last year of this county.

Q. Were you present at the polling place at any time of the last general election, November 5, 1912?—A. I was inside two or three times; once when they were voting, when I voted myself; and I think I was in at dinner time, and once at supper time, and then I was out in front of it a good many times.

Q. Who was the inspector there that day?—A. I think his name is Stockton.

Q. Did he occupy his post and attend to his duties there?—A. A part of the time.

Q. Did he during the time you were there?—A. He was out across the street at his store several times.

Q. Any persons applying for ballots and voting during the time he was away?—A. Yes; they were taking tickets and going into the booth with them.

Q. Negroes?—A. Yes; and white men, too.

Q. Any negroes challenged there that day; any tests applied to any of them?—A. They said not—all the election board—they said they didn't challenge anybody.

Q. Do you know the general sentiment and feeling—A. Nobody but one man.

Q. White or black?—A. A white man.

Q. Know the general sentiment and feeling through that vicinity, that part of the county, with reference to allowing everybody to vote at that election so they could vote for Guthrie for the capital?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial, hearsay evidence, and calling for a conclusion of this witness.

A. Why, it was generally talked before the election that that would be done. I couldn't say any certain one who made that remark, but that was generally conceded.

Q. Did you ever see the Boardman letter?—A. No, sir.

Q. Or the Embry letter of the year preceding?—A. I think I saw that, but I am not positive. I heard of it.

Q. Did you ever see the so-called penitentiary warning circular?—A. No, sir; I never saw that.

Q. Do you know whether or not the knowledge of the Federal prosecution and the conviction of Guinn and Beall and the indictments for the enforcement of the so-called grandfather clause were generally known throughout this section prior to the election?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial, calling for a conclusion, hearsay testimony.

A. Yes, sir.

Cross-examination by Mr. WAGONER:

Q. This Mr. Stockton, who is inspector; what precinct is it, Mr. Lee?—A. North Cimarron.

Q. And this Mr. Stockton, who was inspector, was just out and in every once in a while?—A. Well, he was across the street at one time helping unload a safe from a dray into his store, and he went down past where I have an office once, delivering some groceries, had them in a little wagon, pulling down past there.

Q. But while he was gone the other members of the election board were in there?—A. I presume they were while he was delivering groceries; I was not so I could see inside.

Q. You didn't see any fraud committed while he was away from there—the other two members were not doing anything lax?—A. I didn't see any fraud that I know of.

Q. You say you had some negroes out in this precinct?—A. Yes, sir.

Q. You don't know who those negroes voted for?—A. Well, I heard quite a number of them say they voted the straight Republican ticket with the exception probably of about a dozen, and they said they voted the Socialist, and one man said he voted the Democratic ticket.

Q. There are some Democratic negroes in Oklahoma, aren't there?—A. I don't remember any.

Q. Don't you remember one Haskell appointed out there?—A. Yes; but I have my doubts about his being a Democrat; I knew him.

Q. Don't you know there are lots of Democratic negroes in the United States?—A. I never saw one.

Q. Had you been in Washington during the inauguration you would have seen thousands of them.—A. I was not there.

Q. There are lots of them.—A. I have my doubts about any one of them when they come to the polls to vote.

Q. You can't blame them much, can you, the way they have been Jim Crowed?—A. They wouldn't probably have been Jim Crowed, in my opinion, if they had voted the Democratic ticket.

Q. And the grandfather clause wouldn't have been enacted, in your opinion, if they had voted the Democratic ticket?—A. Probably not.

R. E. STOVALL, being first duly sworn as a witness for the contestant, testifies as follows:

Direct examination by Mr. HOFFMAN:

Q. What is your name?—A. R. E. Stovall.

Q. Where do you live, Mr. Stovall?—A. Crescent, Okla.

Q. What is your business?—A. Mercantile business at the present time.

Q. Were you living there and, if so, for how long a time prior thereto to the general election, 1912?—A. Twenty-two years.

Q. Were you familiar with the general sentiment, particularly through that section prior to the general election as to whether or not the bars were thrown down and all restrictions relaxed by the entire voting populace so they might vote for Guthrie for the capital.

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial, calling for a conclusion of the witness, and hearsay testimony.

A. I think so.

Q. What was that reason?

Mr. WAGONER. Objected to as above.

A. We were pretty anxious for Guthrie to get the capital and didn't want to restrict the vote very much.

Q. Were you an official at that election?—A. I was a counter.

Q. How about the qualification in that precinct, were any voters qualified?—

A. None that I knew of.

Q. No restrictions?—A. None that I know of.

Q. Every negro voted there?—A. Yes.

Q. No restrictions of any kind?—A. No, sir.

Q. They all voted for Guthrie for the capital, didn't they?—A. I rather think so. plenty of talk along that line, they tried to, anyway.

Cross-examination by Judge WAGONER:

Q. Mr. Stovall, you were one of the counters you say?—A. Yes.

Q. Your politics are what?—A. Democrat.

Q. Your inspector was a Democrat?—A. Yes, sir.

Q. And one of the other members of the board was a Democrat?—A. Yes, sir.

Q. And there was a general understanding up there between all of you citizens, was there, that the law should be violated, that the officials should not follow their oath, and permit illegal voters to vote, is that the way you did business in that precinct?—A. No; no understanding of anything of any kind; the fact is they didn't know what the law was, according to the testimony I heard a while ago.

Q. I am asking you about 1912, not what you heard since coming to Guthrie.—A. There was no understanding about that.

Q. It was the understanding the bars were to be thrown down and illegal voters were to be permitted to vote so they could vote for Guthrie for the capital?—A. The inspector said he didn't think it was the proper thing to be too strict; he didn't let anybody vote he knew was not entitled to vote.

Q. Isn't it a matter of fact he didn't let anybody vote who was absolutely an illegal voter?—A. I never heard anyone questioned.

Q. I am asking you if he let illegal voters vote there, where men were absolutely illegal voters?—A. I think so.

Q. That you base on the kind of a test you would give if you had been submitting them to a test, is it?—A. I think so.

Q. There are different degrees of that test, isn't there, not according to a man's own mind?—A. I don't know.

Q. Well, supposing you were an inspector of an election, and a man would come before you and you would submit him to the writing test; he didn't write a good hand, but yet he wrote—you could read it. Now, then, you could make up your mind that was not a sufficient handwriting to warrant him to vote and you could refuse him, couldn't you?—A. No; I think not.

Q. You could do it, couldn't you?—A. I am not positive on that.

Q. Do you know there were men voted up there in the Crescent precinct that were illegal voters under the law?—A. I think so.

Q. Do you know they were?—A. I rather think so.

Q. I am asking you if you know?—A. Well, I know there are some illegal voters in that part of the country, some negroes who can not read or write.

Q. Do you know they are still illegal voters, even if they can not read and write?—A. I think so.

Q. Do you know what the election law of Oklahoma is as to what it takes to constitute a legal voter?—A. I think I do.

Q. Don't you know a man is entitled to vote, even under the grandfather clause, providing any of his ancestors or grandfather voted prior to the 1st of January, 1866?—A. Yes, sir.

Q. Though he can not read and write?—A. I am not clear on that subject.

Q. That's in the law, is it not?—A. Something to that effect.

Q. Now, do you know anybody voted up there, even though they couldn't read and write, that their grandfather—or that they were not legal voters?—A. I think so.

Q. Name them to me.—A. I don't have anyone in view particularly.

Q. Can you name me one?—A. No; I don't know as I can particularly.

Q. Did you have a candidate on the ticket from your precinct or town; on the county ticket; Miss or Mrs. Doolittle by name?—A. Yes; I think so.

Q. For county superintendent?—A. Yes, sir.

Q. On the Democratic ticket?—A. Yes, sir.

Q. All you people desired to have her elected?—A. Personally I did, I don't know about the rest of them.

Q. Didn't you work hard for her, and didn't you want the bars thrown down to get as many votes as possible for her?—A. No, sir.

Q. You did not. You don't know then; you can not name me a single illegal vote that was cast in Crescent precinct in the last election, can you?—A. I wouldn't name any; no, sir.



C. H. LEE recalled on direct examination by Mr. Hoffman.

Q. Mr. Lee, as assessor of Logan County, did you personally canvass and assess the city of Guthrie?—A. Yes, sir.

Q. Did you form any judgment or estimate of the percentage of negro voters to that of white in the city of Guthrie?—A. Well, in going over the town, I know I thought to myself two or three times, there was possibly about one-third of them.

Cross-examination by Mr. WAGONER:

Q. Mr. Lee, did you personally canvass this town?—A. I assessed every piece of property in the town.

Q. Didn't you have a deputy?—A. Mr. Lewis here assessed the personal property and I assessed the real estate.

Q. Now, the assessing of the real estate is generally done in the office?—A. I didn't.

Q. Did you go around and see every property owner in the town?—A. I don't know as I saw every property owner in the town, but I saw every piece of property.

Q. If you didn't see all the property owners you couldn't tell much about this negro population could you?—A. There was generally enough of the family there, I could pretty nearly always tell whether the male population was black or white.

Q. Well, the head of the family might have been dead.—A. He might have. There might not have been any voters there.

M. G. THOMAS, being duly sworn as a witness for the contestant, testifies as follows:

Direct examination by Mr. HOFFMAN:

Q. State your name.—A. M. G. Thomas.

Q. Where do you live, Mr. Thomas?—A. Coyle.

Q. What is your business?—A. Druggist.

Q. How long have you lived there?—A. Four years.

Q. Living there at the time and prior to the last general election?—A. Yes, sir.

Q. Acquainted with the general feeling and sentiment throughout that section with regard to throwing off any restrictions among the voters in order that they might vote for Guthrie at that election for the capital?

Mr. WAGONER. Objected to as incompetent, irrelevant, immaterial, calling for a conclusion of the witness, hearsay evidence.

A. Well, it seemed to be quite a push around there amongst the people to get a majority to have Guthrie have the capital, of course, I can not name any personal ones, but you could hear on the streets the sentiment ran toward Guthrie.

Q. What was it and the general feeling and sentiment toward not restricting any person on educational or other qualification in voting that they might vote for Guthrie?—A. I never heard of anyone being turned down.

Q. Do you know of any negro voting at that precinct at the election that could not read and write?—A. Well, not taking any part in it, just from local observation, I can not possibly say, I saw several vote, in fact a good many, I can not say, because I never saw them write or read or try to or anything of that kind, although there was a good many of them that voted and none of them turned down that I know of.

Q. Were you an officer of that election?—A. No, sir.

Q. Were you around the polls?—A. My place of business is right across the street.

Q. Did you observe?—A. Yes; a little.

Q. Did you watch them vote?—A. Yes; I stood around there all day.

Q. Were you where you could see whether or not any test was applied?

Mr. WAGONER. Objected to as being incompetent, irrelevant, and immaterial; witness has shown he was not in the voting precinct, calling for a conclusion of the witness.

A. Yes, sir; I was right there where I could see as plain as I can now; I saw people, negroes and whites both go in and take the ballots and go vote.

Q. Was there any test of any kind applied?—A. No, sir; not that I could see, there might have been one but if so it was very slight, not enough into details to take notice.

Cross-examination by Mr. WAGONER :

Q. Now, you say your place of business was across the street?—A. Yes, sir.

Q. And you say you could stay in your place of business and see what was going on across the street?—A. A man don't necessarily have to stay in his place of business all the time.

Q. He is asking you about your general knowledge—what took place there?—A. I was out on the street that day; got in a fight; there wasn't very heavy business; I keep clerks and can run around a good deal.

Q. I am trying to find out what you did; of course a man can do a good many things; what did you do?—A. The first thing, I got in a fight and was around there and took observations of what was going on around the polls.

Q. You don't know that any negro voted not entitled to vote under the grandfather clause?—A. I don't personally know, but I don't know of any of them being turned down.

Q. Are you trying to leave the impression here there was illegal votes cast because there were none turned down?—A. I am trying to leave the impression there was not as close a test applied as there might have been.

Q. Does that signify there were illegal votes cast?—A. I didn't say so, did I?

Q. Do you say the bars were thrown down?—A. I didn't say so, did I?

Q. Did you try to get the bars thrown down?—A. No, sir; it was not any of my business.

Q. All you know about it, it was generally talked among the people, we ought to all vote for Guthrie?—A. Well, the general vote was for Guthrie.

Q. That don't signify there was anybody violated the law?—A. No, sir.

Q. You could have all been for Guthrie and yet the law been enforced, couldn't you?—A. If they would have enforced it.

Q. I am asking you if you couldn't have all been for Guthrie and the law been enforced; you can answer my question without an evasive answer.—A. It could have been enforced; yes, sir.

Q. Was it enforced?—A. I couldn't say.

Q. Was there any illegal votes cast of your knowledge?—A. I couldn't say that there was.

Q. You know what the law is don't you?—A. Some of it.

Q. You know a man don't have to be tested if the officers are satisfied he is a legal voter, don't you? You know they don't have to test them if they are satisfied they can read and write and are qualified?—A. The election board might not know themselves; if they wanted to frame the vote they wouldn't have to test him.

Q. What's your politics?—A. I am a Democrat.

Q. The inspector was a Democrat?—A. I think he is.

Q. Another member of the board was a Democrat?—A. I couldn't say.

Q. Do you believe those men willfully violated their oaths in the conduct of that election?—A. I can not say; I don't suppose they were any too good to.

Q. Don't you think they tried to carry it on under the law?—A. I can not say so.

Q. You don't know anything about it, do you?—A. You might think so.

Q. What?—A. That I don't.

Q. I am asking you?—A. I didn't say I didn't know anything about it.

Q. I am asking you whether they carried it on according to law?—A. I didn't say they did or not.

Q. I am asking you whether they did or not?—A. I said I couldn't say either way.

Q. But because the sentiment was for Guthrie the law has been violated, and now you are down here testifying for the contestant in this case seeking to put testimony in the record that will throw out every vote in that precinct?—A. No, sir; but we would like to have right, and I think that's right.

Q. Don't you know the question asked you by Mr. Davis's attorney is seeking to throw out every vote in Crescent precinct?—A. I hope so.

Q. That's what you want done?—A. It would please me very well.

J. P. MARTIN, being sworn as a witness for the contestant, testifies as follows:

Direct examination by Mr. HOFFMAN :

Q. What is your name?—A. J. P. Martin.

Q. Where do you live, Mr. Martin?—A. A half mile west of Coyl, Antelope.

Q. What is your occupation?—A. Farming.

Q. How long have you lived there?—A. Ever since '89.

Q. Were you an officer of the election at that precinct in that township at the last general election?—A. Yes, sir, Judge.

Q. Did you know prior to the election of the Federal prosecution of Guinn and Beall, election officers of a precinct in Kingfisher County, and of the indictment and prosecution of other election officials in 1910?

Mr. WAGONER. Objected to as being incompetent, irrelevant, and immaterial, calling for a conclusion of the witness, unless he was present as a member of the grand jury, or has seen the records of the Federal court, his testimony would be hearsay.

A. I read all about it.

Q. And was that knowledge generally disseminated among the officers there of your precinct and throughout that vicinity?

Mr. WAGONER. Objected to as hearsay, incompetent, irrelevant, and immaterial.

A. We were threatened a little bit on that question.

Q. How threatened?—A. That we didn't want to turn anyone down; if we did we would be prosecuted the same as those fellows was.

Q. And for that reason did you or did you not turn anyone down?—A. Well, I didn't.

Q. Was anyone turned down at that precinct, any negroes?—A. Yes, sir; about eight.

Q. For what reason?—A. They couldn't read and write.

Q. Were those negroes registered?—A. They didn't have to register there in that township.

Q. Your initials are J. P. Martin?—A. Yes, sir.

Mr. WAGONER. Comes now the contestee and objects to counsel for the contestant showing an affidavit to the witness who is now testifying, which affidavit seems to impeach the testimony of his own witness given under oath in this hearing.

Q. I show you here an affidavit which you made and forwarded Mr. Davis shortly after the first general election and call your attention only to that part of it wherein you say every negro who was registered was allowed to vote; what do you mean by that statement?—A. I don't think they had to register.

Q. What do you mean by saying every negro was allowed to vote, then, in this affidavit?

Mr. WAGONER. Comes now the contestee and objects to the contestant's attorney cross-examining his own witness and seeking to discredit his own witness's evidence.

Q. Do you remember whether there were any negroes rejected who offered to vote?—A. About eight.

Q. How many negroes voted there?—A. About 70 in South Antelope.

Q. Did any vote who were not qualified to vote?—A. Not that I know positively; if I had I would have objected to them.

Cross-examination by Mr. WAGONER:

Q. Mr. Martin, this piece of paper which Mr. Hoffman handed to you which purports to be an affidavit in typewriting and has your name on there, do you remember whether you read that all over?—A. I never read it at all.

Q. It was brought to you by somebody else?—A. I signed it in the News office, I think, in Coyle.

Q. It was prepared by somebody else?—A. Yes.

Q. And you didn't dictate it?—A. No.

Q. And if this affidavit recites that every negro registered was allowed to vote, then you don't intend to swear to that at this time?—A. I don't think they have to register.

Q. That is a country precinct?—A. Yes, sir.

Q. If the law provides only cities of the first class have to register, then the voters out there wouldn't have to be registered?—A. That's the way I understand it.

Q. In other words, you didn't dictate to anybody the contents of this affidavit, and if written in your presence—A. No, sir.

Q. It was prepared and brought to you and you signed it?—A. I think it was prepared in the Clicker office and I signed it.

Q. I believe you stated you enforced the law out there?—A. Why, we tried to.

Q. To the best of your ability?—A. To the best of our ability.

Q. You didn't allow anybody to vote out there that you knew to be an illegal voter?—A. Not that I knew.

Q. And you submitted them to tests, and those incompetent you turned down?—A. About 10.

Q. And those qualified, in your best judgment, you permitted them to vote?—A. Yes, sir.

Mr. HOFFMAN. We offer the affidavit and ask that it be made a part of the record.

Mr. WAGONER. Object to the affidavit for the reason counsel is seeking to impeach his own witness, it having been shown by the witness this was a prepared paper submitted to him, that he never read it, that his precinct is a country precinct, under the law they don't have to register, and that part of the affidavit which refers to registration would be immaterial, incompetent.

EXHIBIT A, GUTHRIE.

STATE OF OKLAHOMA, *County of Logan, ss:*

Before me, a notary public in and for said county and State, personally appeared J. P. Martin, who, being first duly sworn, states on oath that he was on November 5, 1912, judge of the election board of district No. 2, Antelope Township, above county and State, and that he acted in that capacity on that date; that here was an overwhelming sentiment for Guthrie; that he heard about the published letters from Federal authorities threatening Federal prosecution if the grandfather clause was enforced, and that he believes that to some extent it intimidated election officials in this county; that he knows that the grandfather clause has never been properly enforced in Logan County as intended by law; that the negroes who were tested were given the easiest section of the Constitution to read and write, it being the first section of the Constitution, which consists of two and one-half lines; that quite a number of negroes voted who would have been unable to vote if on account of the Federal intimidation the law had been enforced as was intended by law; that the grandfather clause was not enforced in the primary because he was waiting for a decision, and there was a number that come up and registered and voted blank tickets because the election board would not fill them out for the negroes; that every negro who was registered was allowed to vote.

J. P. MARTIN.

Subscribed and sworn to before me, a notary public in and for the said county and State, this 19th day of November, 1912.

[SEAL.]

THEO. LOWER, *Notary Public.*

My commission expires January 25, 1915.

J. A. MARTIN, being duly sworn as a witness for the contestant, testifies as follows:

Direct examination by Mr. HOFFMAN:

Q. What is your name?—A. J. A. Martin.

Q. Where do you live?—A. Coyle, Okla.

Q. Were you familiar with the general sentiment and feeling through your section of the country prior to the general election of 1912, with reference as to whether or not the grandfather clause should be enforced against the negro population of that precinct?—A. Yes, sir.

Q. What was that feeling, that it should be enforced or should not?

Mr. WAGONER. Objected to as incompetent, irrelevant, immaterial, calling for a conclusion of the witness, and hearsay testimony.

A. It should be enforced, that was the way we tried to do.

Q. Well, what was the feeling upon the capital question throughout that section?

Mr. WAGONER. Objected to as incompetent, irrelevant, immaterial, calling for a conclusion of the witness, and hearsay testimony.

Q. Was there not an overwhelming sentiment for Guthrie for the location of the capital?—A. There was, they seemed to be all for Guthrie.

Q. State also whether or not there was a feeling which went with that that the restriction upon the voters should be relaxed so everybody might have an opportunity to vote for Guthrie for the capital.

Mr. WAGONER. Objected to as being incompetent, immaterial, and irrelevant, calling for a conclusion of the witness, and hearsay testimony.

A. No, sir; there was not.

Q. Do you know whether or not there was a fear among the election officials at that precinct of prosecution in case they enforced the grandfather clause?—

A. There was some; yes.

Q. Do you know whether or not that feeling restrained them from enforcing the grandfather clause?

Mr. WAGONER. Objected to as being incompetent, irrelevant, and immaterial, the witness having stated they enforced the law.

A. Well, it didn't, not very much, I don't think.

Q. Do you know whether or not there were any threats or communications in the nature of threats published and circulated throughout that vicinity that persons who did enforce the so-called grandfather issue at that election would be prosecuted by the Federal authorities?

Mr. WAGONER. Objected to as incompetent, irrelevant, immaterial, calling for a conclusion of the witness, hearsay testimony.

A. For myself, I never seen any.

No cross-examination.

WILLIAM BROWN, being duly sworn as a witness for the contestant, testifies as follows:

Direct examination by Mr. HOFFMAN:

Q. State your name.—A. William Brown.

Q. Where do you live?—A. Crescent.

Q. Were you living there at the time of the November, 1912, election?—A. Yes, sir.

Q. And for how long a time prior thereto?—A. About 23 years.

Q. Do you know whether or not the so-called Boardman letter and other communications and letters of that nature—A. Yes, sir; I saw them.

Q. Circulated through your vicinity prior to the last general election?—A. Yes, sir; I saw one of them, it didn't come to me, however, but I saw it.

Q. State whether or not it was generally known and understood throughout that section that if election officials enforced the so-called grandfather law at that election they would be prosecuted by Federal authorities?—A. It was so stated in a general way.

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial, calling for a conclusion of the witness, hearsay evidence.

Q. What was the general feeling and sentiment throughout that section with reference to whether or not the election qualification should be relaxed in order that persons might vote for Guthrie here for the capital?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial, calling for a conclusion of the witness, hearsay evidence.

A. I can answer that question; the inspector in precinct 2 told me he was going to throw it down so they could all vote for Guthrie.

Mr. WAGONER. Objected to, and ask same be stricken from the record on the ground it is hearsay evidence.

Q. That was the general sentiment and feeling throughout that section that everybody wanted to vote for Guthrie, and hence they should remove the restrictions?—A. I think so.

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial, calling for a conclusion of the witness, hearsay.

Cross-examination by Mr. WAGONER:

Q. What is your business?—A. I have been in the general-merchandise business there almost 24 years—it will be the 1st day of this coming June.

Q. Who was your inspector in precinct 2 up there?—A. Mr. Hart.

Q. A law-abiding citizen, isn't he?—A. He is a nice gentleman.

Q. A good man?—A. Yes, sir.

Q. Tries to follow the law in his every day life?—A. I think so; he is my neighbor.

Q. Do you desire to state here, under oath, that Mr. Hart in the November election, 1912, committed the crime of perjury by failing to enforce the election laws as an officer of that election?—A. Really, I am not going to state that, because I was not there.

Q. You are a man of considerable experience, are you not; you have been upon election boards, haven't you?—A. Yes, sir.

Q. You know you have to take an oath to enforce the law?—A. Yes, sir.

Q. Now, then, presuming Mr. Hart took the oath—A. Yes, sir.

Q. To carry on the election in that precinct, do you want us to understand that Mr. Hart committed the crime of perjury?—A. I never said so.

Q. And let men vote out there who were illegal voters?—A. I never said so.

Q. Did Mr. Hart let any man vote who was not a legal voter?—A. I don't know; I wasn't on that board.

Q. All you know is it was kind of generally talked people wanted the bars let down so they could vote for Guthrie?—A. In a way; and Mr. Hart told me, prior, however, till he took the oath of office, that he was going to let them vote.

Q. You had a friend up there running on the county ticket; you people were all interested in electing, Miss Doolittle, I believe?—A. Yes.

Q. You wanted her to get all the votes she could?—A. Yes; she was a Democrat, and we were Democrats up there.

Q. That was one of the considerations that caused you to be kind of slack?—A. I was not on the board.

Q. The people—they talk back and forth?—A. Yes; the main object was to kind of throw the bars down so Guthrie might have the capital; we were only 15 miles from here.

Q. Do you know of any illegal votes cast?—A. Not of my own knowledge.

Q. Do you believe Mr. Hart, even through his interest in Guthrie, would sit there and violate his oath and permit a man to vote he believed to be illegal?—A. He is a nice gentleman.

Q. Do you believe he would do that?—A. I don't want to answer that question. There is another thing—

Q. You know, as a matter of fact, Mr. Hart wouldn't do that?—A. There is other things—

Q. Answer my question. You know Mr. Hart isn't that kind of a man?—A. He is a nice gentleman.

Q. You knew he wouldn't violate his oath to let an illegal voter vote up there if he knew it?—A. I wouldn't say so.

Q. He might have been a little lax, he might not have submitted them to as severe a test, but do you want to be understood as saying here to-day your neighbor townsman, Hart, would sit there and violate his oath and permit illegal votes to be cast in his precinct?—A. He was not present all the time.

Q. I am asking you about Mr. Hart.—A. Well, he is a nice gentleman.

Q. Do you believe Mr. Hart did sit there and permit any illegal vote to be cast when he knew it to be illegal?—A. I don't know.

Q. You don't know much about this, do you, Mr. Brown?—A. Not very much; no.

FRANK OLSMITH, being duly sworn as a witness for the contestant, testified as follows:

Direct examination by Mr. HOFFMAN:

Q. Please state your name.—A. Frank Olsmith.

Q. Mr. Olsmith, are you occupying any official position with the municipality here at this time?—A. No, sir; not at this time.

Q. You have at various times?—A. Yes, sir.

Q. Served as police judge and on the board and various other capacities have you not?—A. Yes.

Q. Mr. Olsmith, what is the percentage of negro voters in this city?—A. Well, I presume about possibly one-third of the vote.

Mr. WAGONER. Object to the question as being incompetent, irrelevant, and immaterial, the witness not having shown that he is qualified to answer, or knows of his own personal knowledge; he is testifying from hearsay and conclusion.

Q. In your various campaigns through the city you have become acquainted with the vote over the city pretty thoroughly, have you not?—A. Very generally; yes, sir.

Q. How long have you lived here?—A. Twenty-three years.

Q. During and prior to the last general election what was the sentiment and feeling, if you know, throughout the county as to being lax in the enforcement of any qualification in order that the people might vote for your town of Guthrie here for the State capital?—A. The general sentiment, so far as I heard it, was very much in favor of that proposition.

Mr. WAGONER. Object to the question and answer as incompetent, irrelevant, and immaterial, and tending to prove no issue in this contest, hearsay evidence, conclusion of the witness.

Cross-examination by Mr. WAGONER:

Q. Mr. Olsmith, you testified a moment ago about one-third of the vote of Guthrie was negro.—A. I testified my impression was it was about one-third.

Q. Mr. Olsmith, you would not have made that statement before the election would you?—A. Well, possibly I would and possibly I might not.

Q. You know one of the things the other section was using against you people was that you were a nigger town?—A. I know that most positively.

Q. And it would not have been proper for you to have admitted that before the election, would it?—A. No.

Q. You say you don't hold any official position now?—A. Not at this time; no, sir.

Q. Are you seeking to hold one?—A. Yes; I am seeking to hold an official position some time in the future.

Q. Would you kind of like to be the present postmaster's successor?—A. I would; very much, indeed.

#### STIPULATION.

It is stipulated and agreed between the contestant and contestee that the following paragraph in contestant's petition is admitted to be true—the population of said city of Guthrie was by the last Federal census 11,654; that the total of said city and county was by said census 31,740. Subject to revision if the contestant or contestee finds above figures not to be correct.

Mr. WAGONER. The contestee objects to the above on the ground it is incompetent, irrelevant, and immaterial and tends to prove no other allegation of their petition.

It is also admitted that there was a proposition submitted to the voters of the State at the last general election to remove the capital from Oklahoma City, its present location, to Guthrie, its former location.

Contestee objects to the above on the ground it is incompetent, irrelevant, and immaterial, and tends to prove no issue or establish the right of the contestant to a seat in Congress.

It is stipulated and agreed further between the parties hereto that approximately a year prior to the general election in 1912 the city of Guthrie voted bonds for the purpose of park improvements in the sum of \$100,000, and that the bonds had been sold prior to the time of the last general election.

Mr. WAGONER. The contestee objects to the above for the reason it is incompetent, irrelevant, and immaterial, and tends to prove no issue in this contest which would warrant the contestant to a seat in the American Congress.

HENRY PORTER, being sworn as a witness for the contestant, testifies as follows:

Direct examination by Mr. HOFFMAN:

Q. Where do you live, Mr. Porter?—A. Meridian, south of Meridian.

Q. What is your business?—A. Farmer.

Q. Were you living there at and prior to the last general election?—A. Yes, sir.

Q. How long a time have you lived there?—A. Twenty-one years.

Q. Are you acquainted with the voting population of that precinct?—A. Yes.

Q. Were you election inspector at that precinct or acting in any official capacity in the 1910 general election?—A. Yes, sir.

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial.

Q. Did you enforce the grandfather clause there at that time?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial.

A. Yes, sir.

Q. At 1912 were you there at the polling place at the time of the general election?—A. I was there.

Q. How many negroes voted in that precinct?—A. I don't know; I can not hardly state the exact amount.

Q. Was there a large number or a small number?—A. A large number.

Q. They are in the majority, are they not, in that precinct?—A. Yes, sir, yes; a large majority.

Q. Well, now, at the 1912 election was the so-called grandfather clause enforced?—A. No, sir.

Mr. WAGONER. Objected to for the reason the witness is not shown to be qualified to testify, it not being first shown he was an official.

Q. Were you where you could observe and see what was going on?—A. Yes, sir.

Q. Were the negroes who presented themselves there to vote at that time given any test as to whether or not they could read and write?

Mr. WAGONER. Objected to as being incompetent, irrelevant, and immaterial, it not being first shown that it was necessary to test them even under the grandfather clause.

A. A few of them was; not very many.

Q. Did any vote which, of your own personal knowledge, could not read and write?—A. I think so; yes.

Mr. WAGONER. Object to the question for the reason he thinks so, and ask that same be stricken.

Q. You know, don't you, whether or not?—A. Yes, sir.

Q. How about it; could they or could they not?—A. They could not intelligently.

Q. Were there many such persons who voted?—A. Oh, quite a few.

Q. State whether or not if the number of such persons who voted were thrown out and excluded, if you could have told who would have carried that precinct, whether Davis or McGuire?—A. Well, I expect McGuire would have carried the township.

Q. Would it have been doubtful?—A. It might have been; if they had been tested right down to the letter it would have been doubtful.

Q. And the illegal votes thrown out?—A. Yes.

Cross-examination by Mr. WAGONER:

Q. How do you know those voters were illegal?—A. I know it by personal knowledge.

Q. What is that knowledge—of what does it consist?—A. Well, I served as election inspector in 1910.

Q. You were not an inspector in 1912?—A. No, sir.

Q. You were not present on the inside of the voting precinct?—A. No; but I could see.

Q. Where were you?—A. Outside.

Q. How far away from the polls were you?—A. About 50 feet; maybe 60.

Q. What were you doing out there?—A. Oh, talking.

Q. Electioneering?—A. Some.

Q. You are a Democrat, aren't you?—A. Yes, sir.

Q. Interested in the Democratic ticket?—A. Oh, yes; some.

Q. Working for Mr. Davis, didn't you?—A. I did not personally.

Q. You were working for the whole ticket?—A. The whole ticket.

Q. You say there was quite a few illegal votes out there—how many?—A. Well, I couldn't tell you how many.

Q. About how many?—A. I judge 6 or 8 anyhow.

Q. Name me one?—A. I might name one. I don't know whether I could name more than that.

Q. Who?—A. Willie Reed.

Q. How old is Willie Reed?—A. I don't know.

Q. About how old is he?—A. Well, I judge he is between 22 and 26.

Q. You say he can not read and write?—A. I said so.

Q. How do you know it?—A. I tested him.

Q. When?—A. In 1910.

Q. Do you know that he couldn't read and write in 1912?—A. Well, I don't know.

Q. Couldn't he have learned to read and write in the two years?—A. Oh, yes; he might.

Q. You don't want to say under oath he couldn't read and write in 1912?—A. Well, I don't know. I noticed he couldn't a short time before election.

Q. How do you know?—A. I had dealings with him.

Q. What kind of dealings?—A. Dealings with one another—trading.

Q. That didn't signify he couldn't read and write, did it?—A. No.

Q. How do you know he couldn't read and write in November, 1912?—A. I know he couldn't.

Q. Well, how do you know it? Did you test him?—A. I didn't test him.

Q. Never seen him try to write, did you?—A. Yes, sir.

Q. When?—A. Not very long before election.

Q. How long before election?—A. I can not tell you.

Q. Where?—A. There around Meridian.



Q. Whereabouts? What was the nature of the transaction where he was trying to write and couldn't?—A. Around Meridian, there.

Q. What was the nature of the transaction when you saw him try to sign his name and couldn't?—A. I didn't say he couldn't sign his name.

Q. Well, what was he doing? What transaction was taking place that you know he couldn't read and write?—A. I have seen him try to write.

Q. Where?—A. Down around Meridian.

Q. When?—A. I can not name the day.

Q. Who was present?—A. I can not tell you.

Q. What was the nature of the transaction? Was he borrowing some money?—A. Not from me.

Q. Well, from anybody else? The time, now, you saw him when he couldn't write, what was the nature of the transaction?—A. He said he couldn't write a letter.

Q. Who was present?—A. Nobody but me.

Q. How did the conversation come up?—A. Well, he wanted me to write a letter for him.

Q. And he couldn't write it?—A. No.

Q. You are certain of that?—A. Well, he said he couldn't.

Q. That was in 1910, wasn't it?—A. Oh, no.

Q. When was it?—A. A short time before election.

Q. What election?—A. The 1912 election.

Q. Did you write the letter for him?—A. No, sir. I did not.

Q. Why not?—A. Well, I didn't want to.

Q. Did he get anybody else to write it?—A. Well, I don't know.

Q. Probably went and wrote it himself?—A. Well, I don't know; he might have.

Q. Even if Willie Reed could not read and write, do you still say he was not eligible to vote under the grandfather clause?—A. I don't know whether his ancestors voted before 1866 or not.

Q. So, then, you don't know but what he was entitled to vote?—A. No; I don't.

Q. Did he vote the last election?—A. Yes.

Q. Did you see him vote?—A. Yes.

Q. What time in the day did he vote?—A. Pretty near closing time.

Q. Who else voted of those six or eight?—A. I couldn't recall them; I can get it, though.

Q. You are well acquainted with the negro population?—A. Not very much; I don't deal with them.

Q. Well, Mr. Hoffman asked you a while ago if you were not pretty well acquainted with the people in that township.—A. I don't have much dealings with the negroes.

Q. Where do these six or eight who voted who were not entitled to vote live?—A. I can not tell you just where they live.

Q. How do you know they were not entitled to vote?—A. I know they didn't vote in 1910.

Q. You knew them in 1910?—A. Yes, sir.

Q. How does it come you did not know them in 1912?—A. I just knew them by their faces; I could not tell you their names.

Q. You can only name me Willie Reed, and there were only six or eight?—A. To my knowledge; I was not at the polls all day; I was back and forth in Bear Creek Township.

Q. You can not recall the names of the others?—A. No.

Q. Yet you know virtually every voter in the township?—A. I didn't say I did.

Q. You were on the election board in 1910?—A. Yes; but I don't know every man in the township.

Q. But you know those other men were not entitled to vote?—A. Yes. Because I tested them in 1910.

Q. Why can't you remember the names of these other men who voted?—A. I can not recall them now.

Q. Have you been trying to call them to mind since you have been here to-day? You have been here most all day?—A. Yes; pretty near.

Q. You have expected to testify as a witness in this case?—A. If they wanted me to testify.

Q. Have you tried to recall the names of those parties to your mind?—A. Yes, sir.

Q. The only one you remember is Willie Reed?—A. Yes, sir.

Q. And he is between 22 and 26 years of age?—A. I think so; he may be older. I don't know the exact age of him.

Q. You say you were on the outside so you could see what was going on in the inside?—A. Yes.

Q. And you know they didn't test them out there?—A. They didn't test them on the outside. They tested some of them and turned some down.

Q. You don't know but what the inspector was satisfied in regard to all those other men?—A. He might have been.

Q. Who was your inspector?—A. J. I. McDaniel.

Q. Is J. I. McDaniel a fair, square, straight man?—A. Yes, sir.

Q. A man who would try to do what he thought right?—A. Yes, sir.

Q. A man who has respect for his oath?—A. Yes, sir.

Q. You think he enforced the law out there as he understood it?—A. I think to the best of his knowledge.

Q. You don't believe he sat there and allowed anybody to vote he thought an illegal voter, do you?—A. Not intentionally.

Q. Are you a Democrat?—A. Yes, sir.

Q. Are you a candidate for any office?—A. Was I?

Q. Now.—A. Not now.

Q. Do you expect Mr. Davis to indorse you for any position if he gets to be Congressman?—A. No, sir.

Q. He has not promised to do that?—A. No.

Q. You haven't any post office out there?—A. No.

Q. I believe you stated a while ago on account of these illegal votes you couldn't tell who carried the precinct if they were thrown out, is that correct?—A. I said it was doubtful; I think I said it was doubtful.

Q. Now, why would it be doubtful?—A. It is overwhelmingly Republican.

Q. But it would be doubtful if all those 8 votes voted the Republican ticket, would it?—A. I said if the grandfather clause had been enforced.

Q. That wasn't the question Mr. Hoffman asked you. The question he asked you, by reason of these 8 illegal votes being cast there, could you tell whether Davis or McGuire would have carried the precinct?—A. Mr. Hoffman never asked me that question.

Q. What did he ask you?—A. I can not just remember, but he never asked me that question.

Q. You said it was doubtful which one would have carried it on account of these illegal votes?—A. I said it that way.

Q. Have you made an affidavit in this matter?—A. No, sir.

Q. Now, if there was 8 illegal votes out there, according to your testimony, is it doubtful as to who carried the township?—A. Why, the Republicans would carry it.

Q. Could you determine the amount of votes cast for Davis and McGuire if there was 8 illegal votes?—A. Oh, yes; you could.

Q. Do you know who those 8 men voted for?—A. No.

Q. Do you swear they voted for Bird McGuire?—A. No, sir.

Q. Do you swear they didn't vote for John Davis?—A. No.

Redirect examination by Mr. HOFFMAN:

Q. You said there were that many that you know of; you don't pretend to say there were no more, do you?—A. No; I don't know.

Cross-examination by Mr. WAGONER:

Q. You say there was that many illegal votes out there?—A. Yes, sir.

Q. Do you say there was 8 negroes voted in that precinct who couldn't read and write and were illegal voters under the grandfather clause?—A. I said I thought so.

Q. You just answered Mr. Hoffman there were more than that you thought?—A. I thought so.

Q. What are you testifying to now, what you know or what you think, which way are you testifying, are you telling us what you know or what you think?—A. I can not get out and test them.

Q. You are attempting to testify here there was illegal votes cast out in that precinct. I am asking you now what you are testifying to, what you know or what you think, which is it?—A. I told you I thought there were more than eight.

Q. Then you are testifying about what you think about it and not what you know about it, aren't you? Isn't that right? You can answer that question. You are testifying about what you think about it, aren't you? Answer my question.—A. I did answer it.

Q. No, you haven't. You are testifying about what you think about it, aren't you, and not what you personally know? Do you refuse to answer?

Mr. WAGONER. Let the record show the witnesses refuses to answer.

A. I will tell you what I am testifying to. I said if the grandfather clause had been enforced to the letter, and you had to put that test on them, and they would read and write a section of that constitution correctly there wouldn't have been more than eight votes.

Q. If they would read it perfect?—A. Read it perfect and write it perfect.

Q. Does the law say they have to do that?—A. It don't say they have to.

Q. I am asking you again, if what you are testifying to in regard to the eight illegal votes being cast out there is not what you think about it and the test you think ought to be put on them, instead of what you know as to what the election inspector did. Isn't that i?—A. What I said, if you are going to enforce the law to the letter.

Q. So you say your inspector didn't enforce the law?—A. I didn't say he didn't, he did it to the best of his knowledge.

Q. You were on the board in 1910?—A. I guess I was.

Q. You enforced it strictly?—A. Not so very.

Q. Was this man any more lax than you were?—A. I don't know—he might have been.

Q. Then upon what do you base your judgment there was eight illegal votes cast out there?—A. I said these men I turned down in 1910.

Q. Is that what you are basing it upon?—A. That's what I am basing it on.

Q. Who are they?—A. I can not name them just now.

Q. You don't know they can not read and write now, do you?—A. No.

Q. There is only one man you really do know and can name who was not entitled to vote?—A. I can name him.

Q. And you don't know but what his grandather was entitled to vote prior to 1866?—A. I don't know, but from the looks of him it don't look like he would be.

Q. Why?—A. Too dark a complexion.

Q. That don't always—A. Maybe it don't.

FRANK HINDMAN, being called and sworn as a witness for the contestant, testified as follows:

Direct examination by Mr. HOFFMAN:

Q. State your name.—A. Frank Hindman.

Q. Where do you live?—A. Guthrie, Okla.

Q. What is your business?—A. I am not engaged in any particular business at the present time; I am connected with the election board, and some other little matters; I have plenty to do.

Q. How long have you lived in Logan County?—A. Pretty near 24 years here; I came the day of the opening.

Q. Were you here at the last general election?—A. Yes, sir.

Q. Did you serve in any official capacity?—A. I was secretary of the county election board.

Q. Do you know whether or not the Boardman letter, Exhibits 1 and 8 in this record, and the warning circular, Exhibit 2, and the Embry letter in 1910 were circulated generally throughout this county?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial, it not having yet been shown that the contestee or any of his managers had anything to do with the circulation, publishing of the exhibits.

A. Well, I don't know a great deal about that; I have heard a good deal about them; I never received any myself.

Q. Did you see copies of it?—A. I think I have seen copies of it; yes, sir.

Q. Was it a matter of general knowledge those instruments were out?—A. It was a matter of general knowledge, I think.

Q. State whether or not it was a matter of general knowledge in this city and county there had been a prosecution and conviction of two election officials, Guinn and Beall, in Kingfisher County, and that other election officers in this county of the 1910 election had been prosecuted in the Federal courts.

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial, calling for a conclusion of the witness; hearsay, not having been shown he was a member of the grand jury or examined the records of the courts in which the supposed indictments were found and returned.

A. I will state in regard to looking up the records in the Guinn and Beall case I did examine the records and found they had been indicted; I was anxious about it, and others were anxious, and I was requested to look up the records, and I did examine them pretty thoroughly in that case; that is, the Kingfisher case. I didn't look up the records in the Logan County cases, but I have heard a good deal about them, and I believe most of the parties were indicted.

Mr. WAGONER. Object to all that he has heard as being hearsay.

Q. Did you talk over those matters with the election inspectors at the various precincts prior to the election?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial, calling for hearsay evidence.

A. Well, that matter was coming up constantly with the election boards.

Q. Do you know whether or not the election inspectors expressed any fears as to their personal safety if they were to enforce the so-called grandfather clause at the last general election?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial; hearsay conclusion of the witness as to their fear.

A. There was fear of prosecution.

Q. They were in fear of prosecution?—A. There was fear of prosecution, and several of them resigned, and some Republicans as well as Democrats.

Q. Now, at the last general election in this county, state whether or not there was a great effort put forth by the citizens of this city and vicinity to secure Guthrie as the permanent capital of the State.—A. Well, there was a capital campaign here, but it didn't reach the election boards that I know of; the election board took no part in it; I was not connected with that campaign at all; was not on any committee and didn't take any interest in it; that is, I felt a general interest.

Do you know whether or not the grandfather clause was enforced in this county and city at the last general election?

Mr. WAGONER. Objected to as being incompetent, irrelevant, and immaterial, hearsay evidence, it not being shown the witness was present at the various voting precincts and of his own knowledge knows.

A. I will just answer from personal knowledge I don't know; only from hearsay more than anything else.

Q. What is your information on that subject?

Mr. WAGONER. Objected to as being hearsay.

A. I have heard more to-day than ever before as to the actual enforcement of that law.

Q. Did these threats expressed by the various inspectors continue up until the day of election?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial, not having been shown yet there was any fears expressed other than that they wanted to resign.

A. I don't know what their fear was the day of election, but I do know some of them came to me, oh, a good while before election and resigned—declined to serve any longer—and we had to appoint new men.

Q. Do you know whether or not the new men and inspectors who did serve at that election were intimidated or under duress or feared to enforce the grandfather clause by reason of the previous conviction and prosecution of the election officials acting in a similar capacity?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial, calling for a conclusion of the witness; he would have no way of knowing except what they told him, and if they told him it would be hearsay evidence.

A. Yes; there was some hesitancy. In one instance—Woodland Township, this county—the inspector resigned; a new man was appointed, and after he was appointed he came to the office and wanted to resign.

Q. For what reason?

Mr. WAGONER. Objected to as hearsay.

A. The reason was he was afraid of prosecution, and told me there were some features, as he understood it, he couldn't enforce and didn't intend to, and I questioned pretty close, and he said there was a colored man lived on the farm that could read and write better than him, and he was informed he had to put the test to him, and he said he wouldn't do it; he knew most of the colored

people in his township and knew those who could read and those who couldn't, and he would never put the test if that was required of him, and I gave him a copy of the constitution and pointed out the grandfather clause and told him to read it and report some time in the future; we would have to have the matter settled before election, and he took it home and soon came back and said, "I will stick; I will serve."

Q. Do you know anything about any of the election officials in this city being drunk the day of election?—A. Only general rumor.

Q. Well what ward was that?—A. South first ward.

Q. What precinct?—A. Two.

Q. What was the officer's name?—A. Well, he is a good man; of course I just heard this; Woods is his name.

Q. Do you know whether or not he remained on duty?—A. Well. I was up there two or three times that day; I think I saw him on duty once; probably I didn't see him on duty the last time.

Q. Was he under the influence of liquor?—A. I don't know as to that; that was just the report; it may be correct and it may not be.

Q. In what capacity was he serving?—A. Inspector.

Q. Was there any inspector there at the time you went there last?—A. No.

Q. What time was that?—A. I don't know; they were running out of ballots up there and I had to look after it.

Q. Many negroes in that ward?—A. Yes.

Q. One of the heavy negro wards of the town?—A. Yes; one of the heavy.

Q. Lots of negroes in line to vote at the time you were there when there was no inspector?—A. I don't know of them being in line, but they were there all right. They were always there.

Cross-examination by Mr. WAGONER:

Q. You say Mr. Wood was drunk, so it was reported to you?—A. I don't know whether he was or not; that's what was reported to me.

Q. Mr. Wood was a Democrat?—A. Yes, sir.

Q. Do you think that precinct ought to be thrown out and not counted because one of the election officials got drunk?—A. I don't know about that; I am not passing on that opinion.

Q. If you had known it, you would have removed him?—A. I don't know whether I had authority or not.

Q. You say you don't know whether he was drunk or not?—A. I do not; I saw him in the forenoon and didn't see him after that; reports came to me that he was not on duty.

Q. You don't think Bird McGuire or any of his political managers got him drunk?—A. I don't think anything of the kind; I don't know; I never talked it before; I would rather not now.

Q. You don't think there was any collusion between Woods and any Republican here to get him drunk?—A. He was a strong Democrat, and I am satisfied there was no collusion whatever.

Q. This inspector in Woodland precinct, the new one, he came in; his reason for not wanting to serve on the board was because he understood under the law he had to test everybody?—A. Yes, sir; that was his first excuse.

Q. And he knew negroes there in the township who could read and write as well as he could?—A. Yes, sir.

Q. And he didn't want to submit them to any test?—A. That's what he said.

Q. He was a good man out there?—A. He is.

Q. You think he enforced the law out there?—A. As he understood it he enforced it.

Q. After he found he didn't have to submit those men to any test he knew could read and write, he went ahead and conducted the election?—A. Yes, sir.

Q. You believe he didn't let any man vote there he was satisfied couldn't read and write, do you?—A. I have some information to that effect.

Q. From your knowledge of the man you don't think he would permit a man to vote he knew didn't read and write?—A. No; his own construction of the law; he might let a man vote others thought should not vote; that element frequently occurred all through this election.

Q. Wasn't it the disposition of the county election board and of the Democratic organization and the Republican organization, based partly on Gov. Cruce's letter of the Attorney General's letter, there should be a fair and reasonable test on these negroes and a fair and reasonable construction of this grandfather clause?—A. I never heard anything else given; in many instances I cited men. I would say: Here is John Capers, and Perkins and others, pro-

fessors of schools, and said you don't have to put these men to a test. Now, I said, when you approach the other bridge you will have to cross it.

Q. Mr. Hindman, as a matter of fact, don't you think the election was held fairly and conducted about as near right as it would be possible for men who are inexperienced, as your inspectors and election officials are, to hold an election in this county las time—don't you think they tried to follow the law and did the best they knew how?—A. There is a difference of opinion.

Q. I am asking you as secretary of the election board and a man who has lived here 24 years, don't you think it was as honestly and fairly conducted as it is possible to conduct an election?—A. We tried to conduct it fairly and the result was we canvassed the vote as it came to the board, and there was no objection to it; all candidates, as far as I know, was satisfied with the action of the county board.

Q. And of the precinct boards in general?—A. In general, I have had some complaints; there was colored men voted who ought not to have voted. There was testimony here to-day they permitted them to vote under their own construction of the law; the challengers did figure some with some of them. I was consulted about that several times and I didn't have any advice to give.

Q. You are a man of what age?—A. I am over 60.

Q. You have had a good deal of experience in life?—A. Yes, sir.

Q. And have attended a great many elections?—A. I should think I have.

Q. And you know, as a matter of fact, even before we had the grandfather clause in Oklahoma and other places in which you have located, there was more or less dissatisfaction over the manner in which election officials carried on the elections?—A. Yes; there has been.

Q. And you haven't heard any more complaint here in Logan County over the manner these election officials carried on the election than in other elections in years past?—A. I will say as to that, this grandfather law, I wouldn't call it dissatisfaction, but there seems to be an uncertainty about it, and Democrats as well as Republicans have different ideas of it. I have heard Republicans say the law ought to be enforced whatever it is, and Democrats the same way, and it got in, there was convictions and indictments, and finally it got in the Supreme Court of the United States, and we all want that settled.

Q. Well, Mr. Hindman, you know in 1910 the grandfather-clause law had just been passed a short time before, and we didn't any of us know just how to construe it.—A. I was connected with the election board then; I have been secretary and assistant ever since it has been a board. I was secretary first and then resigned, and Mr. Allen was put on the board, then Mr. Hopkins, and McGuire, and Allen. I just did the business part of it. We had two rooms, and all these things, canvasses, I don't mix much in.

Q. In 1910 the law was new and uncertain, and the election officials didn't know how far they could go and probably some of them went farther than they had a right to, submitted them to an unreasonable test, but in 1912 we had the matter passed on by the Supreme Court of the State and had Gov. Cruce's letter and the attorney general's letter, which you saw, did you not?—A. Yes; I saw them.

Q. And their construction was that it was to be a fair and reasonable test, and when they knew men could read and write it was not necessary to submit them to any test.—A. I cited that to them myself.

Q. But in 1910 most of the inspectors tested them whether they could read and write or not?—A. I don't know as to that.

Q. That was the rumor?—A. Yes; I don't know whether that was true or not.

Q. And that brought about a great deal of agitation on the streets, which caused much of this trouble?—A. I suppose it did.

Q. As far as the others of the organization in Logan County was concerned, all they wanted was that the law be fairly and reasonably applied?—A. Yes; but there was a difference of opinion as to what that law was. It was claimed they had no right to put any test until the matter went through the Supreme Court of the United States and was finally determined. That made some conflict or contention.

J. G. LEWIS, being called as a witness for the contestant, he being the notary by stipulation, and there being no other notary present, it is agreed his statement may be taken as under oath, testifies as follows:

Direct examination by Mr. HOFFMAN:

Q. State your name.—A. J. G. Lewis.

Q. Mr. Lewis, you are the secretary of the Democratic central committee of Logan County, are you not?—A. Yes, sir.

Q. I will ask you to state if prior to the last general election you had any conversation with inspectors and officers of that election with reference to the enforcement of the so-called grandfather clause in this county?

Mr. WAGONER. Objected to as hearsay evidence.

A. Yes; I had some talk with some of the inspectors.

Q. And do you know whether or not those inspectors expressed any fears of being prosecuted provided they endeavored to enforce the grandfather clause at that election?

Mr. WAGONER. Objected to as being incompetent, irrelevant, and immaterial, and calling for a conclusion of the witness, as to whether they had fear, and hearsay evidence.

A. Yes; there was two or three of them that said they were afraid of prosecution by the Federal authorities.

Cross-examination by Mr. WAGONER:

Q. Well, did they have any fear, Mr. Lewis, of being prosecuted, if they followed the law?—A. I can not tell you; they just said they were afraid of prosecution by the Federal authorities, and they didn't know what to do about it, and I said go and follow the law.

Q. And they went ahead and followed the law?—A. I suppose they did. I was not there.

STIPULATION.

It is stipulated and agreed that the vote at the last general election in the city of Guthrie in 1910 was 1,766, and 1912 was 1,569, for Congressman.

Mr. Wagoner objects to the 1910 vote as being incompetent, irrelevant, immaterial, tending to prove no issue in this contest.

It is stipulated and agreed that the vote of the precincts outside of the city for the 1912 election are as follows for two candidates:

	Davis.	McGuire.		Davis.	McGuire.
Marshall.....	94	72	Cedar, 1.....	82	70
Orlando.....	75	87	Iron Mound.....	51	62
Seward.....	51	69	Springer.....	37	51
Bismark.....	65	48	Springvale.....	19	55
Oakview.....	77	64	South Cimarron.....	28	83
Guthrie township.....	47	96	Bear Creek.....	42	70
Spring Creek.....	42	32	Cedar No. 2.....	12	13
Woodsland.....	58	59	Antelope, 1.....	49	49
Mulhall.....	104	97	North Cimarron.....	74	82
Rosehill.....	50	52	Iowa.....	18	77
Crescent.....	148	144	Lawrie.....	55	64

It is agreed between the contestant and contestee that Frank Hindman, the secretary of the county election board, in whose custody and keeping the ballot boxes of Logan County, 1912 election, now are, and Dr. Hugh Scorr, the receiver of the land office at Guthrie, shall, in each other's company, open the ballot box of precinct 2, ward 1, in which Charlie Woods was inspector, and examine the tally sheet and certificate of returns, and if the same are regular neither party desires to proceed further; but if there is any irregularity, then a copy is to be made and signed by each of said parties and accepted as the original and attached to this record and made a part hereof and marked "Exhibit B, Guthrie."

To which counsel for the contestee objects for the reason it is incompetent, irrelevant, and immaterial.

FRANK HINDMAN, recalled, testified as follows:

Direct examination by Mr. HOFFMAN:

Q. Mr. Hindman, was the population in the city of Guthrie, from the year 1910 to the year 1912, on the increase or the decrease?

Mr. WAGONER. Objected to as calling for a conclusion of the witness, a matter not within his knowledge, and hearsay. If the witness has any record from which he can testify it would be competent.

A. Well, I believe it decreased; I think I can get the records, though, to back up what I say.

Q. What records can you get? Was there any census taken?—A. No; I have no means of doing it, I guess; I can't answer that right.

Q. What is your best judgment as to whether it increased or decreased?—A. My judgment is it decreased.

Mr. WAGONER. Objected to as calling for a conclusion of the witness.

Q. Your judgment is it decreased?—A. Yes; that's my judgment.

Q. What do you base it upon?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial, hearsay, calling for a conclusion of the witness.

Q. When was the capital moved away from Guthrie?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial.

A. About three years ago, I guess about. The loss of the capital was one thing that decreased the population here, and a good many people has went away, some to Oklahoma City and other places; I am satisfied there isn't as many people here.

No cross-examination by Mr. Wagoner.

J. G. LEWIS, being recalled for further examination, testifies as follows:

Examination by Mr. HOFFMAN:

Mr. Lewis, I want to ask you whether there was an increase or decrease of the population of Guthrie from the general election 1910 to the general election 1912?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial.

A. I would judge there was quite a decrease in the population of the city of Guthrie from the fact all the State officers were here at that time, and possibly, I expect, we have lost two or three hundred, three or four hundred people probably, something like that.

Q. You mean voters or families?—A. Not that many voters. I don't think.

Q. Then the nominal vote between the years 1910 and 1912, in your judgment, in the year 1912 should be less than 1910?—A. I think so; yes.

Cross-examination by Judge WAGONER:

Q. Mr. Lewis, you state the capital had been moved and many of the State officers gone away. There was a whole lot of people here—State officers—that didn't claim their residence here?—A. Yes.

Q. They didn't vote here, even though they lived here?—A. That population was here. There was quite a good many of those officers, clerks, and things that voted here.

Q. Well, Mr. Lewis, you don't think, do you, that your election inspectors in the city of Guthrie, who belonged to the same political party that you do and the same political party that Mr. Davis belongs to, allowed men to vote that didn't live here in the town at all, just simply came in from the outside and was here election day and made up a great big vote just on election day?—A. I don't believe the election officers would do that knowingly.

Q. They all had to register here?—A. Yes.

Q. If your election officers carried on this election here honestly and fairly as they should do under the law, then if there was more votes cast in 1912 than you think for, what cause do you give for it?—A. For the larger vote in 1912?

Q. Yes; in 1912 than there should be. Mr. Hoffman is trying to seek from you the answer to substantiate the fact that the 1912 vote was larger here than it ought to be due to the fact your population had decreased; if that is true, is that the fault of the inspectors in allowing illegal voters to vote who lived outside of town?—A. I couldn't tell you that; I don't know.

Q. You don't believe they would do that, do you?—A. I don't believe they would knowingly do that; I think the probabilities are they might have thrown the bars down here and let everybody vote who wanted to vote on account of the capital situation; I know it was talked generally over the county.

Q. And if the vote was larger in 1912 than 1910 it was because negroes voted in 1912 that was not entitled to?—A. Probably it was not all due to the negroes alone; lots of men might have gone and voted at this election on account of the capital proposition.

Q. That didn't come out in 1910?—A. That might be true.

Q. There is always a certain per cent—A. I think that might be possible.

Q. There is always a certain per cent of voters in every county and city that don't come out and vote at all unless there is some personal local proposition up.—A. You know that is true anywhere, in my experience.



Q. It might be that if the vote was larger in 1912 than 1910, it was due as much to that as anything else?—A. It could be possible and then it could be possible of course they didn't enforce the grandfather clause as much in 1912 as 1910.

Q. Not as strict?—A. Yes.

Q. And it could be possible negroes might have moved in here in 1912 that could vote under the grandfather clause because they could read and write, and others had moved out?—A. That could be of course; that is not very probable.

Q. You don't think there was any illegal acts on account of the election officials allowing men to vote they knew to be illegal and things of that kind?—A. That is the way they construe the law.

Q. I am not speaking now about the negroes. Do you think they allowed people to come in and vote on the capital proposition not registered and not entitled to vote?—A. No; I don't think they did that.

Mr. HOFFMAN. We want to offer in evidence an article appearing in the Guthrie Daily Star, under date Tuesday morning, October 29, 1912, the article headed "Must let negroes vote or go to jail, says the State supreme court."

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial.

Article offered in evidence marked "Exhibit C, Guthrie."

It is further stipulated and agreed by and between attorneys for the contestant and contestee that such articles as the contestant may wish to introduce in evidence, as appearing and being printed and circulated through the publication known as the Guthrie Daily Star, in Guthrie, now suspended, as appears from the files in the State Historical Society, may be offered in evidence after having been submitted to counsel of the contestee, the contestee reserving the right to object to all of them.

Adjournment taken until 7 p. m. of said day.

At 7 p. m. of said day, all parties being present as before, no further testimony is introduced.

#### EXHIBIT C, GUTHRIE.

[The Guthrie Daily Star, Tuesday morning, Oct. 29, 1912.]

MUST LET NEGROES VOTE OR GO TO JAIL SAYS THE STATE SUPREME COURT—GOV. CRUCE AND OTHER PROMINENT DEMOCRATS HAVE THROWN UP THEIR HANDS IN HORROR AT DECISION.

Despite the rantings and nonsensical babblings of Gov. Lee Cruce and Senator Robert L. Owen about the grandfather clause, the supreme court of the State—Democratic judges—the Democratic supreme court has handed down an opinion which makes it incumbent upon every election official in the State to allow the negro to vote without undue application of the reading and writing test. All Democrats had hoped that this decision would not be given, because without it the election officers in many places were ready to practice all kinds of methods to keep the negroes from voting. The decision is a real bomb in the camp of Democracy and shows what even a Democratic court thinks of the law itself. The Federal courts have already held it unconstitutional and the attorney general of the United States has promised vigorous prosecution wherever an attempt is made to unlawfully deprive a negro of his vote.

Gov. Cruce and other prominent Democrats have thrown up their hands in horror at this decision of the court. This, however, is not the law, and their rantings will not keep election officers out of the penitentiary if they do not follow the law.

This exposes the "grandfather" election crook to prosecution in both the State and Federal courts. Both Gov. Cruce and Senator Owen are making fiery campaign speeches for the radical enforcement of the "grandfather" law. Concerning the Wagoner County case, the court said:

"When any persons (meaning any person amenable to the 'grandfather' law) presented himself as a qualified voter and asked the privilege of voting, the precinct officers were authorized to require such person to read and write of the constitution. But, when such proposed voter read intelligently and wrote legibly the section of the constitution designated by the election officers, he demonstrated his qualifications to vote, and acts on the part of the election officers requiring him to write at great length many provisions of the constitution or detaining him for any great length of time under a pretense of examination, and thereby delay other persons from entering the polls, was without authority of law."

The case arose over the refusal of election officers at Vanns Lake, in Wagoner County, to allow negroes to vote. The court's opinion recites some interesting facts concerning the Democratic election methods in Oklahoma, saying:

"A large number of persons, variously estimated from 250 to 400, mostly negroes, congregated at the polling place. Some of them offered to qualify as voters, but were refused permission to do so, because the election officers were engaged at the time in examining other persons as to their qualifications.

"One person, who had been a teacher in the public schools and had taught thirty-odd years, was admitted to the booth and questioned concerning his qualifications to vote, and upon being required to read and write a section of the constitution he read seven or eight pages of the constitution and then was given a tablet and pencil to write. One of the officers read slowly to him from the constitution and the proposed voter wrote as he was dictated to until he had written some 21 pages. After he had been retained in the booth for 2 hours and 15 minutes he was held by the election officers not qualified, and was denied the privilege of voting."

Other persons no less well qualified were subjected to the same treatment. "Practically the entire day at this precinct," continues the court in its opinion, "was consumed by the election officers in the examination of eight persons." Other persons got no opportunity to vote. The same disregard of law was shown at another precinct, the court saying:

"At this precinct there were 40 persons present for the purpose to qualify themselves to vote. \* \* \* Of this number, 37 could read and write; but under the rule adopted by the board, requiring such qualified voters to memorize immediately any section of the constitution read to them and to write the same, none could qualify, and all were denied the privilege of voting.

"The conduct of the election officers at these precincts can find no justification in the law; and their protest that they acted in good faith is refuted by their conduct."

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[From Guthrie Daily Star, ninth year, Tuesday morning, July 23, 1912.]

DOES NOT MEAN THAT "GRANDAD" CLAUSE IS VALID—JUDGE CAMPBELL'S OPINION HAS ABSOLUTELY NO BEARING ON LEGALITY OF GRANDFATHER CLAUSE, SAYS ATTORNEY.

The Democratic press all over the State has been making a strenuous eleventh-hour grandstand play over the refusal of the Federal district court at Muskogee to take into consideration any of the allegations made against the registration officers who refused to register any negroes who would not stand the test of the notorious grandfather law.

That there was no consideration whatever of the merits of the case or of the constitutionality of the law by the court made no difference with the Democratic press. All they were after was a chance to brace up the election officials over the State who stood in fear of a Federal prison sentence under the ruling of the court in the Kingfisher cases a year ago. The following statement by County Attorney John Adams will prove interesting in this connection, as it gives the exact status of the matter:

GUTHRIE, July 22.

**The DAILY STAR:**

In Sunday's issue of the Star there appeared an article dated from Muskogee saying: "The State won to-day in the Federal court, which upheld the provisions of the amendment to the constitution known as the 'grandfather law,' in a sweeping decision by Judge Ralph E. Campbell, who upheld the contentions put forward by attorneys for the State that the educational test as provided in the grandfather clause applies to negroes on registering as well as in the general election."

Further on, in the same article, it is said: "Judge Campbell held that the Federal district court has no jurisdiction in original cases to issue a writ of mandamus."

A more elaborate article appeared in Sunday's Oklahoman. The article also states that Judge Campbell held that the court had no jurisdiction in an original case in mandamus, which was the suit before the court.

This case was an original case in mandamus to compel the registration officers to register colored voters who could not pass the grandfather test. But the court

held that in that sort of a suit the Federal district court has no jurisdiction. As all lawyers know, if the court had no jurisdiction in the case before it the court could not pass upon any other question.

These articles were sent out for political purposes, to give additional backbone to the registration officers during this, the last week of registration. The article is so worded that the layman might believe that Judge Campbell had held that the grandfather clause was constitutional. But he could not have held so in a case where he had no jurisdiction. Hence this decision is no reversal of Judge Cotteral's holding in the case of the United States *v.* J. J. Beal and Frank Quinn, in which Judge Cotteral held and instructed the jury as follows:

"In the opinion of the court, the State amendment which imposes the test of reading and writing any section of the State constitution as a condition to voting to persons not on or prior to January 1, 1866, entitled to vote under some form of government, or then residents in some foreign nation, or a lineal descendant of such person, is not valid."

In justice to the inspectors of this county and State, as well as the colored voters, I think the public ought to be informed of the fact that Judge Campbell's in no way affects the decision of Judge Cotteral in the Beal and Quinn cases, where the defendants were convicted for refusing colored voters the right to vote at the election in 1908, by a jury in the Federal court at Enid about a year ago and sentenced to one year and one day in the Federal penitentiary.

JOHN ADAMS, *County Attorney.*

#### OTHERS SAY SO, TOO.

Although they say they did not read the opinion of Judge Campbell in full, a number of Guthrie attorneys, among whom was United States Attorney Isaac D. Taylor, declared that the action of Judge Campbell has no bearing whatever on the constitutionality of the grandfather clause either from a civil or a criminal standpoint.

The question was merely one of a Federal court's right to take original jurisdiction in a mandamus action.

[From the Guthrie Daily Star, ninth year, No. 116, Wednesday morning, July 25, 1912.]

#### THAT GRANDFATHER LAW.

At the time the Democrats in the legislature were trying to pass the grandfather law it was openly and loudly declared on the floor of both houses by leading members of that party that they were "after the negro voters, and we are going to get them." And they surely did.

The only time when that law has been under any competent court for a review was during the trial of Beall and Guinn, at Enid, in testing the authority of those election officers to refuse to permit a negro to vote for a Congressman.

The findings of that court have never been reversed by anyone except some little Democratic politician such as was denounced by Bill Murray when that nefarious bill was up for consideration.

The recent case at Muskogee was not in any manner a trial of the merits of the law. It never got that far. The decision of Judge Campbell was to the effect that as the matter was presented to his court there was simply no jurisdiction.

That was all.

The same decision as sent Beall and Guinn to the Federal prison is yet in force, and the election officers who attempt to prevent negroes from voting under the so-called grandfather law will be liable to arrest and punishment just as were Beall and Guinn. And all the attempts of the desperate State election board to force the county and precinct election officers to violate the law and the Federal Constitution is simply an attempt to get them into serious trouble.

[From the Guthrie Daily Star, ninth year, No. 119, Saturday morning, July 27, 1912.]

#### UNITED STATES WILL PROSECUTE ALL THE GRANDDAD CASES.

A statement from the United States attorney's office, made late last evening, is to the effect that the officials of that office are ready and willing at all times

to prosecute all cases wherein negroes are denied the right to register or to vote because of the operation of the grandfather clause.

Any negro in the State who will report this to the U. S. attorney will be given immediate attention and Uncle Sam's attorneys will go right into the case and wage a vigorous prosecution just as was done in the Guinn and Beall case.

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[From the Guthrie Daily Star, ninth year, No. 120, Sunday morning, July 28, 1912.]

The "grandfather law" is simply a direct, positive, and flagrant violation of the Federal Constitution, and the election officers will not invite any Federal prison sentence by running up against the Constitution.

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[From the Guthrie Daily Star, ninth year, No. 158, Tuesday morning, Sept. 10, 1912.]

#### CHARGED WITH CONSPIRACY IN OKLAHOMA ELECTION.

OKLAHOMA CITY, *September 9.*

Hearing is to be given to-day before United States Commissioner Clapp at Okmulgee upon the conspiracy complaint filed against five Okmulgee County election inspectors, wherein it is alleged they conspired to prevent negroes from voting. The actions arise under the grandfather amendment to the Oklahoma Constitution, and are similar to those against Beall and Guinn tried a year ago in the Federal court for the western district of Oklahoma. Both men were convicted and the cases are now on appeal to the Supreme Court of the United States.

The prosecution is handled by the Federal district attorney for the eastern district, while the defense is to be made by the State through Attorney General West. The claim, as understood here, is that the election inspectors declined to register negroes. The constitutional requirement is that certain persons, those whose ancestors did not have the right to vote under some form of government prior to January 1, 1866, must take the educational test which the election inspector is authorized to administer, and, failing to meet this requirement, the registratoin certificate is withheld, which, of itself, denies the right to vote in the elections, both primary and general. It is not known here whether the negroes offered to take the prescribed test.

Prior to the primary election the negroes, in whose behalf the pending prosecutions were brought, filed a case with the Federal district court for the eastern district of Oklahoma, being a mandamus against the inspectors to require their registration. Judge Campbell, of the Federal court, sitting at Muskogee, dismissed the petition on the grounds that the court did not have original jurisdiction. In that proceeding constitutionality of the grandfather clause was attacked.

It is likely that the issues will be forced by the State through habeas corpus proceedings, providing the defendants are bound over from the commissioner's court. Should the grandfather clause be overthrown undisputed suffrage rights would be restored to approximately 30,000 negroes.

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[From the Guthrie Daily Star, ninth year, No. 199, Sunday morning, Oct. 27, 1912.]

#### SUPREME COURT PASSES ON GRANDFATHER CLAUSE.

Crooked election officials who by subterfuge may seek unlawfully to deprive voters subject to the "grandfather clause" from voting on November 5 will expose themselves to prosecution in the Oklahoma courts as well in the Federal courts. This was made plain for the first time in an unanimous opinion handed down by the State Supreme Court last week in a case from Wagoner County. The court said:

"The precinct officers were authorized to require such person to read and write a section of the constitution. But, when such proposed voter read intelligibly and wrote legibly the section of the constitution designated by the election officers he demonstrated his qualifications to vote, and acts on the

part of the election officers requiring him to write at great length many provisions of the constitution or detaining him for any great length of time under a pretense of examination and thereby delaying other persons from entering the polls, was without authority of law."

This opinion by the State Supreme Court has caused violent outbursts from Governor Cruse and Senator Owen, but it is the law, and any man who violates it may be sent to the penitentiary.

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[From the Guthrie Daily Star, ninth year, No. 200, Tuesday morning, Oct. 29, 1912.]

MUST LET NEGROES VOTE OR GO TO JAIL, SAYS THE STATE SUPREME COURT—GOV. CRUSE AND OTHER PROMINENT DEMOCRATS HAVE THROWN UP THEIR HANDS IN HORROR AT DECISION.

Despite the rantings and nonsensical babblings of Gov. Lee Cruse and Senator Robert L. Owen about the grandfather clause, the supreme court of this State—Democratic judges—the Democrat's supreme court, has handed down an opinion which makes it incumbent upon every election official in the State to allow the negro to vote without undue application of the reading and writing test. All Democrats had hoped that this decision would not be given, because without it the election officers in many places were ready to practice all kinds of methods to keep the negroes from voting. The decision is a real bomb in the camp of Democracy, and shows what even a Democratic court thinks of the law itself. The Federal courts have already held it unconstitutional, and the Attorney General of the United States has promised vigorous prosecution wherever an attempt is made to unlawfully deprive a negro of his vote.

Gov. Cruse and other prominent Democrats have thrown up their hands in horror at this decision of the court. This, however, is not the law, and their rantings will not keep election officers out of the penitentiary if they do not follow the law.

This exposes the "grandfather" election crooks to prosecution in both the State and Federal courts. Both Gov. Cruse and Senator Owen are making fiery campaign speeches for the radical enforcement of the "grandfather" law. Concerning the Wagoner County case, the court said:

"When any person (meaning any person amenable to the 'grandfather' law) presented himself as a qualified voter and asked the privilege of voting, the precinct officers were authorized to require such person to read and write of the Constitution. But when such proposed voter read intelligent and wrote legibly the section of the Constitution designated by the election officers he demonstrated his qualifications to vote, and acts on the part of the election officers requiring him to write at great length many provisions of the Constitution, or detaining him for any great length of time under a pretense of examination and thereby delay other persons from entering the polls, was without authority of law."

The case arose over the refusal of election officers at Vanns Lake, in Wagoner County to allow negroes to vote. The court's opinion recites some interesting facts concerning the Democratic election methods in Oklahoma, saying:

"A large number of persons, variously estimated from 250 to 400, mostly negroes, congregated at the polling place. Some of them offered to qualify as voters, but were refused permission to do so because the election officers were engaged at the time in examining other persons as to their qualifications.

"One person, who had been a teacher in the public schools and had taught thirty-odd years, was admitted to the booth and questioned concerning his qualifications to vote, and upon being required to read and write a section of the Constitution he read seven or eight pages of the Constitution, and then was given a tablet and pencil to write. One of the officers read slowly to him from the Constitution, and the proposed voter wrote as he was dictated to until he had written some 21 pages. After he had been retained in the booth for 2 hours and 15 minutes, he was held by the election officers not qualified, and was denied the privilege of voting."

Other persons no less well qualified were subjected to the same treatment. "Practically the entire day at this precinct," continues the court in its opinion, "was consumed by the election officers in the examination of eight persons." Other persons got no opportunity to vote. The same disregard of law was shown at another precinct, the court saying:

"At this precinct there were 40 persons present for the purpose to qualify themselves to vote. \* \* \* Of this number, 37 could read and write; but

under the rule adopted by the board, requiring such qualified voters to memorize immediately any section of the Constitution read to them and write the same, none could qualify, and all were denied the privilege of voting.

"The conduct of the election officers at these precincts can find no justification in the law, and their protests that they acted in good faith are refuted by their conduct."

[From Guthrie Daily Star, ninth year, No. 205, Sunday morning, Nov. 3, 1912.]

ELECTION OFFICIALS CAN NOT PLEAD GOOD FAITH—FEDERAL AND STATE COURT DECISIONS NULLIFY GRANDFATHER CLAUSE; ORDERS TO WATCH ISSUED BY WICKERSHAM.

CHANDLER, OKLA., *November 2.*

Good faith can not be pleaded by precinct election officers throughout Oklahoma in an attempt to enforce the State grandfather clause law, according to an opinion to-day from the United States district attorney's office of Oklahoma to Judge Fred A. Wagoner, deputy county attorney at Chandler.

This opinion is based on the decision of the Federal court at Enid when former United States District Attorney John Embry secured the conviction of Jack Quinn and J. J. Beal, Kingfisher County election officials, for keeping negroes from voting for Members of Congress through enforcing the grandfather clause. In this connection it is understood to-day that Judge Embry had been employed by the Department of Justice to assist in the prosecution of election-law violation cases in Oklahoma. The opinion from the United States attorney's office to-day is as follows:

DEPARTMENT OF JUSTICE,  
OFFICE OF THE UNITED STATES ATTORNEY,  
WESTERN DISTRICT OF OKLAHOMA,  
*Guthrie, October 31, 1912.*

MR. FRED A. WAGONER,  
*Deputy County Attorney, Chandler, Okla.*

DEAR SIR: I have your letter asking "whether at the coming election the precinct election officers can enforce the law commonly termed the 'grandfather law' and escape punishment therefor in the Federal courts on a showing of good faith in enforcing said law."

I presume your question has arisen on account of the apparent conflict between the decisions of the Supreme Court of the State of Oklahoma and the United States district courts for the eastern and western districts of Oklahoma on the constitutionality of the law, the State supreme court having held the law constitutional, while the two United States courts in the State have held it unconstitutional and void.

It must be borne in mind that this all involves purely State matters, and in considering the same these two phases of the law must be kept in mind. As to the purely States questions involved in the law, I do not express any opinion, the same not being within the jurisdiction of this office, and this opinion is directed solely to the Federal question involved; that is, the application of the grandfather law to negroes who, on account of race, color, and previous condition of servitude, are not permitted to vote without submitting to certain tests of reading and writing. Nor shall I argue the question of the constitutionality of the law, for the reason that after very extensive argument by some of the best legal talent of the State it has already in positive terms been declared unconstitutional by the two United States district courts in this State, which decisions are now the law of this State as far as the Federal questions therein are concerned, having been reversed or modified.

Knowing this, that the Federal courts having jurisdiction over the entire State have declared the law to be unconstitutional and of no force and effect, the question arises whether the precinct election officers can enforce it against negroes on account of their race and color, and then when prosecuted in a Federal court for doing so, defend the prosecution on a plea of good faith in enforcing the law. The question of good faith must be determined with reference to the decision of the courts on the subject and having jurisdiction thereof, so there can be no good faith in acting in direct conflict with the known decisions of the Federal courts, although in the absence of any such decisions such defense might be made.

In the case against Beali and Quinn, who were convicted in the Federal court at Enid in 1911 for violating section 19 of the Federal criminal code in enforcing the grandfather law at the general election in November, 1910, the defense of "good faith" was attempted, although without success, as the verdict of the jury disclosed. However, in that case, at the time the acts were committed which caused a prosecution—that is, in November, 1910—no Federal court had passed upon the law.

Furthermore, all precinct election officers are quasi judicial officers in a quasi judicial capacity, and being officers of inferior and restricted jurisdiction, are all bound by the decisions of the Federal court declaring the law unconstitutional when applying the same to negroes desiring to vote for Members of Congress and electors for President, and the defense of good faith will not protect them from prosecution for enforcing the law in direct conflict with Federal decisions.

Respectfully,

HOMER N. BOARDMAN,  
*United States Attorney.*

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CRUSE WARNS ELECTION JUDGES.

OKLAHOMA CITY, OKLA., *November 2.*

In addition to the above warning from the United States attorney's office concerning the grandfather clause. Gov. Cruse has issued the following statement, including also his speech at Arnett and other places:

"I believe in the enforcement of the grandfather clause, but I believe in a sensible enforcement. The negro in this State who can read and write has just as good a right to vote as you or I, and where the judges of election know that a negro is a qualified voter there is no more reason for applying the test than there is for making me swear that I am 21 years old."

WARNING FROM KANE ALSO.

Associate Justice M. J. Kane, of the State supreme court, in reviewing the evidence taken in an election case recently appealed from Wagoner County, where so much time was taken up in applying the test to a few negroes that a large number of voters were excluded, says:

"The conduct of the election officers in these precincts can find no justification in the laws, and their protests that they acted in good faith is refuted by their conduct."

The above warning simply means that the State officials higher up intend to shift all the blame and the penalty of the enforcement of the grandfather clause on the precinct election inspector, judges, and the clerks, just as they did in the Beall and Quinn convictions in the Federal court at Enid.

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WILL PROSECUTE ALL VIOLATION.

GUTHRIE, OKLA., *November 2.*

Attorney Wickersham, of President Taft's Cabinet, in a letter of instructions to United States Attorney Gregg, of the eastern Oklahoma district, says that all Federal election-law violations will be prosecuted. The letter of Wickersham was written in reply to one forwarded to him through United States Senator Gore from Judge Tow Owen, of Muskogee, in which Owen alleged that bloodshed and riot might follow attempt to make arrests on election day, and an opinion was sought from the Attorney General's office.

In Wickersham's letter he suggests to Mr. Gregg that it might be advisable to have representatives of his department or of the Department of Justice, which includes the United States marshal's offices, at the negro centers throughout Oklahoma, with a view of learning the treatment of negroes by election officers, and thus be prepared to make arrests immediately following election day and to commence prosecution.

A copy of the letter sent to Gregg has been sent to the United States attorney's office at Guthrie also.

[From the Guthrie Daily Star, ninth year, No. 206, Tuesday morning, Nov. 5, 1912.]

MUST NOT ENFORCE GRANDFATHER LAW.

[Special.]

CHANDLER, OKLA., *November 4.*

The enforcement of the grandfather law in good faith by the election inspectors of Oklahoma will not be tolerated, according to the opinion of District Attorney Homer N. Boardman, in a communication addressed to Deputy County Attorney Fred A. Wagoner, of Chandler.

This decision is based on the result of the trial at Enid, Okla., of Jack Quinn and J. J. Beall, election inspectors at Kingfisher, during the primaries. Quinn and Beall were both convicted for refusing negro voters under the grandfather law.

United States Senator Thomas P. Gore and Gov. Lee Cruse have been advising inspectors to enforce the educational test in the election Tuesday, and Gov. Cruse has gone so far as to advise election inspectors to arrest interfering Federal officials on election day.

ELEVENTH-HOUR SUGGESTIONS.

The reader of the Morning Star will have these words before him at his breakfast table and he can have a hasty and last glance at them before he goes to his election-day work. Therefore:

The Chandler Tribune, a semiofficial organ of the Democracy in an editorial in the last issue says: "All the suits so far (in the grandfather law) has resulted from an overenforcement of the law. A negro who can read and write has just as much right to vote under our constitution and laws as a white man, and election officers should see that the privilege be granted him." In addition the recent decision of the State supreme court will not permit any election officials to assume too much authority in the examination, either.

Word was received late Monday night that the Oklahoma City election officers are to let every negro vote who would vote for keeping the capital there, and no negro would be allowed to vote who would not stay with that city.

From the most reliable information from all over the State there is certainty that Guthrie will win in the capital removal contest if the voters will only think to check the proposition. That is all that will ever beat Guthrie, if she should be beaten. Voters who are posted and who have become interested are for Guthrie and by a good majority.

The confidential advices from Oklahoma City last night were to the effect that the capital gang down there were trying to line up the counters in some of the heavy voting precincts so that the vote would be all counted just as that city needs it at the last moment. But there are close watchers, and there will be no such work permitted by the regular election officers anywhere.

Locally, every taxpayer should go to the polls to-day and vote solidly for the capital change; any other vote will be directly against your interests.

Every Logan County voter should vote to continue the present national prosperity; to keep the factory men in this country busy instead of forcing the factories to close and the laborers to beg for work at greatly reduced wages or not work at any wages.

There never was a time in the life of the oldest voters in Logan County where there was so much at stake as just now; never a time when there was as great interests, affecting so many people, at stake as will be decided at the polls this 5th of November, A. D. 1912.

Consider well and do your full duty with a clear mind and conscience.

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Depositions taken at Kingfisher, Okla., on March 31, 1913, at the time and place and in accordance with the notice hereto attached in the matter of the contest of John J. Davis, contestant, against Bird S. McGuire, contestee, at the office of Miles W. Judge and before Miles W. Judge, notary public.

Present, Contestant John J. Davis in person and by his attorney, Roy Hoffman, and Bird S. McGuire, contestee, by his attorney, John H. Burford.

It is agreed that the stipulation heretofore entered into between attorneys for contestant and contestee with regard to signatures of witnesses and taking of



testimony is continued; that is, that the witnesses need not sign their testimony, and that the same may be taken by Lucy Adams in shorthand and afterwards transcribed by her, a copy of said testimony to be furnished the contestant and contestee.

*In re congressional contest of John J. Davis against Bird McGuire. Notice to take depositions.*

TO BURFORD & BURFORD and FRED A. WAGONER,  
*Attorneys for Bird McGuire:*

You are hereby notified that on the 31st day of March, 1913, beginning at 8 o'clock a. m., at the office of Miles W. Judge, in the city of Kingfisher, in the State of Oklahoma, we shall proceed, before Miles W. Judge, a notary public in and for Kingfisher County, State of Oklahoma, to take, on behalf of John J. Davis, contestor, the depositions of J. A. Smith, Tom Eaton, Al Flemming, T. B. Grimes, Y. Young, D. G. Woodsworth, all of Kingfisher, Okla., and sundry other witnesses, and will continue to take such depositions from day to day until the same shall be completed.

ROY HOFFMAN,  
COURTLAND M. FENQUAY,  
*Attorneys for John J. Davis.*

Service of the above notice is hereby acknowledged to have been made on the undersigned, Fred A. Wagoner, attorney for Bird S. McGuire, on this 25th day of March, 1913.

FRED A. WAGONER,  
*Attorney for Contestee, Bird S. McGuire.*

J. A. SMITH, being duly sworn as a witness for the contestant, testifies as follows:

Direct examination by Mr. HOFFMAN:

Q. What is your name?—A. J. A. Smith.

Q. Where do you live?—A. Kingfisher.

Q. How long have you lived here?—A. Twenty-two years.

Q. Were you here at the last general election for Congress in this district?—

A. Yes, sir.

Q. In what official capacity, if any, did you act at that time?—A. I was inspector of elections in the fourth ward.

Q. Did any negroes vote in your ward?—A. About five.

Q. Did you challenge any of them?—A. No, sir.

Q. Did you apply what is known as the test under what is commonly called the grandfather law of this State to any of those negroes?—A. No, sir.

Q. Did you prior to that election see or receive what is known in this record as the warning circular? I refer to the printed circular which is known in this record as Exhibit 2 and which I hand you herewith—A. I saw the warning circular and the Boardman letter also. The Boardman letter, I think, was published in the Daily Midget.

Q. You refer to the letter which I hand you which is known as Exhibit 1?—A. Yes, sir; I saw them.

Q. Do you know whether or not those instruments were circulated throughout this county?—A. Yes, sir; I know they were.

Q. Do you know by whom?—A. Not exactly, I don't.

Q. Mr. Smith, is this the county in which Guinn and Beall resided?—A. Yes, sir.

Q. I refer to certain election officials prosecuted in the Federal court of Enid, convicted, and sentenced to the penitentiary.—A. Yes, sir.

Q. Did you have knowledge of that fact prior to the time you served as inspector here?

Mr. BURFORD. Objected to as leading and suggestive.

A. Yes, sir.

Q. Do you know whether that was of general knowledge throughout this county prior to the 1912 general election?—A. Yes; I know it was.

Q. What effect, if any, did the conviction of these election officials and the circulation of this penitentiary warning circular and the Boardman letter have upon your mind?—A. Well, it had this effect, that if I had been in, even I didn't enforce it in my own ward, I didn't challenge any negro, but if I

had been in a ward where there was a hundred of them I wouldn't have challenged them there, taken the chances of being harassed around.

Q. Taken what chances?—A. Being prosecuted and harassed around.

Q. By the Federal authorities?—A. Yes; there was not enough in it.

Q. Do you know whether or not that feeling was general among the inspectors in the negro townships in this county?

Mr. BURFORD. Objected to as calling for a conclusion of the witness; no foundation laid.

Mr. HOFFMAN. Question withdrawn.

Q. Did you talk and mingle with the election officers and inspectors of this county prior to election?

Judge BURFORD. Objected to as leading and calling for a conclusion.

A. Yes, sir; I talked with men all over the country, possibly in two-thirds of the precincts in the county and in my own town; tried to get men to serve on the election board and couldn't do it in the various wards.

Judge BURFORD. Objected to as not responsive to the question.

Q. For what reason, if any, would they not serve upon the election boards?—A. They were afraid to.

Q. Why afraid?—A. They were afraid they would be prosecuted.

Q. By the Federal authorities, do you mean?—A. Yes, sir.

Q. Mr. Smith, how many negro precincts are there in this county; that is, in which there is a strong negro vote?—A. I can count them up.

Q. Please count them up and name them.

Mr. BURFORD. Objected to as not the best evidence.

A. Two precincts in Hennessey City and Hennessey Township; Lacey; Coronado; Center; Union; Columbia; Excelsior; Banner, one; Cimarron, one; Cimarron, two; Cooper; Potter; Reserve; Kingfisher, four precincts; Grant; Logan; Linn; that's all. I left out where there were two or three.

Q. Mr. Smith, have you been active in politics here during the 21 years you have lived here?—A. Reasonably active.

Q. In all the campaigns?—A. Yes.

Q. State whether or not you have canvassed the county—been over the county—frequently or otherwise.—A. Yes; I have canvassed the county.

Q. Do you know approximately the negro vote in this county?

Judge BURFORD. Objected to as not the best evidence.

A. Yes, sir; I can tell you about how many there are.

Q. About how many adult negroes are there resident of this county?—A. I have the census report.

Q. Did you take the census?—A. No, sir; but I got them taken just prior to statehood and I run over it and I remember how many there were.

Q. Where is that census report?—A. I think I have it. It shows the negro males in each and every township.

Q. Well, have you means outside the census report, of your own knowledge?—A. Yes, sir.

Q. What is the approximate, adult, negro population of this county—males?

Judge BURFORD. Question objected to by the contestee for the reason the United States took the census of the population of the county in 1910, which shows the adult male population, both white and colored of the county, and it's the best evidence.

Q. Has there been any official census of this county since the Federal census of 1910?—A. No, sir.

Q. Do you know, of your own knowledge, approximately the adult male negro population of this county at the 1912 election and subsequent to the 1910 census?

Judge BURFORD. Objected to for the reason it calls for a conclusion and no facts shown by the witness upon which to base the conclusion.

A. Yes, sir; I do.

Q. You may so state.

Judge BURFORD. Objected to as above.

A. About seven hundred.

Q. About what proportion, if you know, of that negro male adult population could read and write or qualify under the so-called grandfather clause, relating to qualifications of electors of our State, at the last 1912 general election?

Mr. BURFORD. Objected to as not the best evidence, and irrelevant, incompetent, immaterial; not the proper manner of determining whether or not the voters were able to read or write, and the witness having shown no knowledge

of the ability of the several colored voters to read and write, therefore incompetent to express an opinion upon the subject.

A. Well, I don't know just the number, but I know there are a good many that can not do it.

Q. Give your best judgment as to the proportion.

Judge BURFORD. Objected to for the reasons stated above.

A. Well, I say fully one-third of them.

Judge BURFORD. Contestee now moves to strike the answer of witness from the record for the reason he has shown no knowledge whatever on the subject which will justify the expression of his opinion on the subject.

Q. Are you a school-land lessee?—A. No, sir.

Q. State whether or not there was circulated in this county prior to the 1910 election the so-called Embry letter, being the letter of at that time United States Attorney John Embry, which is referred to in this record as Exhibit 7.

Judge BURFORD. Question objected to as incompetent, immaterial, irrelevant, not the best evidence, not the proper manner of proving the subject matter embraced in the question, and for the further reason the witness has shown no knowledge upon the subject on which to express any judgment or opinion.

Q. Answer the question.—A. Whether I saw this?

Q. Whether it was circulated prior to the 1910 election.—A. It was, and published in the Midget and Free Press.

Q. Where are those papers published?—A. In this county.

Judge BURFORD. Contestee moves to strike answer of witness from the record for the reason it discloses the matter was a public print and there is better evidence as to its circulation than the testimony of this witness.

Q. Was it before or after the publication and circulation of this letter that Guinn and Beall were prosecuted in the Federal courts?

Judge BURFORD. Objected to for the reason the prosecution is a matter of record and the best evidence as to when they were indicted or prosecuted.

A. It was after the circulation of this letter.

Q. That they were prosecuted?—A. Yes, sir.

Cross-examination by Judge BURFORD:

Q. Jim, what's your politics?—A. Democrat.

Q. You have been a pretty active, aggressive political worker, haven't you?—A. Yes, sir.

Q. For the Democratic Party?—A. Yes, sir.

Q. You were appointed on the election board as a representative of the Democratic Party, weren't you?—A. Yes, sir.

Q. And did represent the Democratic Party on the board as a member of the board?—A. Yes, sir.

Q. Who were the other two members?—A. You mean the judge—the other two members was James Holson and George Moore, the county superintendent.

Q. What was Moore?—A. A Republican.

Q. And Holson?—A. Democrat.

Q. Your board was composed of two Democrats and one Republican?—A. Yes, sir.

Q. How long were you a member of the precinct election board?—A. I was just appointed for the last election, but I have been frequently before.

Q. Who were you appointed by?—A. By the secretary and chairman of the county election board.

Q. The secretary and chairman were Democrats, weren't they?—A. Yes, sir.

Q. Under the practice in this county all the precinct election boards were composed of two Democrats and one Republican, were they not?—A. I don't know exactly, but I presume they were.

Q. You say there were 5 negro voters in your precinct?—A. Yes, sir.

Q. Did they all vote?—A. Yes; they all voted.

Q. You don't know how they voted?—A. No, sir.

Q. Did you receive their tickets?—A. Yes, sir.

Q. How long had you known them?—A. Well, I had known all of them, but one a good while.

Q. Personally acquainted with them?—A. Yes, sir.

Q. Knew their qualifications?—A. Well, I thought I did; but one of them I was not sure about.

Q. Wasn't sure about?—A. No, sir.

Q. You didn't receive any ballot and permit anybody to vote at that election you thought was disqualified, did you?—A. Well, I let one fellow vote I wasn't satisfied.

Q. You were not certain about it?—A. I wasn't very well satisfied, and even yet I am not.

Q. You don't know he was disqualified?—A. No; I didn't; and even now I don't.

Q. You wouldn't have let anybody vote, Jim, you knew were disqualified?—A. Well, I don't know; I might have let a negro that couldn't pass the test I thought the law required; I might have let him strain through.

Q. Don't you know if you accept a ballot from a disqualified voter, knowing him to be such, you were rendering yourself liable to a criminal punishment?—

A. Well, now, I knew the fact I was liable in the State law, but I would rather take chances of that than a prosecution of the Federal law, than being harassed about by the district attorney in the Federal court than the State law, for the reason I knew—

Q. I haven't asked you for any reasons.—A. I wanted to explain.

Q. I have a right to conduct one side of this examination. I haven't asked you for your reasons. Mr. Smith, you testified that you knew about these Beall and Quinn prosecutions.—A. Yes, sir; well acquainted with the men.

Q. Were you personally at court when they were prosecuted?—A. I was.

Q. Did you hear the proceedings?—A. Part of it; I was present one day.

Q. Were you a witness in the case?—A. I was not.

Q. You didn't hear the instructions of the court, did you, to the jury?—A. I think I did.

Q. You think you did?—A. Yes, sir.

Q. And you were advised then of the ground upon which they were convicted?—A. I was.

Q. Then, didn't you know, and don't you now know, the court advised the jury in that case that if they were honestly attempting to carry out the provisions of the grandfather clause, they couldn't be convicted in that case?—A. Yes, sir; I heard the instructions read.

Q. And furthermore, they couldn't be convicted unless they were willfully violating their duties under the grandfather law and discriminating against negroes who were otherwise qualified to vote.—A. Yes; I heard all the instructions read—whatever they were—I heard them all read.

Q. You said that you knew that the Boardman letter was circulated throughout this county, I believe?—A. Yes, sir.

Q. Where did you see it usually, then, here in Kingfisher?—A. I read it in the newspaper that circulated all over the county.

Q. You saw it in a newspaper which circulated in the county?—A. Yes, sir.

Q. That's what you referred to as its circulation?—A. Yes, sir.

Q. And also as to the Embry letter—is that what you referred to as circulating over the county?—A. Yes, sir.

Q. Was there any discussion amongst the members of the election boards—precinct election boards—at the time these negroes voted on election day as to whether or not you would permit them to vote or require them to take any test?—A. Not in my ward there was not.

Q. There was not any discussion there? Was there any persons indicted for violation of the election laws in this county subsequent to the election of 1912?—A. Was there any persons indicted?

Q. Yes.—A. After—

Q. After the election of 1912?—A. No, sir; I don't think so; not in the county; no, there was not.

Q. There has been no prosecution for violation of either the State or Federal laws in this county?—A. Yes; there has been some fellows arrested.

Q. Who were they?—A. Sloan and Beall, I think, two fellows from Union Township, were arrested and brought down here before the probate court, the day was set for trial, and they got afraid they were going to railroad them with the jury and the bondsmen surrendered him in court and the court ordered them, I think, to jail, and an appeal was taken from there to the criminal court of appeals and I think it hangs there yet.

Q. Taken there on habeas corpus, wasn't it?—A. I think so.

Q. Never was tried here?—A. I think not; but they were arrested, some of them, here.

Q. That was for violating the State laws?—A. Yes, sir; it was for violation of the laws, they claimed.

Q. Was that the same Beall convicted in the other case?—A. Yes, sir. Now, maybe I am wrong; I don't know whether that was Beall or not; I know Sloan was one of them—there were two of them—I guess I have the wrong fellow.

Q. You say there are about 700 negro voters in Kingfisher County?—A. Yes, sir.

Q. You know a good many of these persons don't you, Jim?—A. I know quite a number.

Q. You were in the mercantile business a good many years?—A. Yes, sir.

Q. They bought implements of you and gave you notes and mortgages?—A. Yes, sir.

Q. A good many of them can read and write?—A. A good many can.

Q. You know a good many of them can read and write from having done business with them.

Direct examination by Mr. HOFFMAN:

Q. You speak of the arrest of these officials of Union Township. Do you know what the reason was of their arrest—what charge was brought against them?

Judge BURFORD. Objected to as not the best evidence.

A. I don't know what the charge was; I don't know just how the charge read, but they were arrested and brought in here and placed under bond.

Q. Was that Union Township a township in which a large number of negroes reside or not?—A. Yes, sir; about 110 voters in that precinct.

Q. Negro voters—110 negro voters in that precinct?—A. Yes; 110 negro voters.

Q. You mean 110 qualified to vote or 110 male negroes?—A. That many adult negroes.

Q. Are they all qualified to vote?

Judge BURFORD. Objected to as not the best evidence.

A. No; I know they are not.

Q. Do you know whether or not they all did vote?—A. No; I don't know about that.

Q. Do you know whether or not the reason these election officials were arrested was they refused to let these negroes vote unless they submitted the negroes to the test provided by the so-called grandfather law?

Judge BURFORD. Objected to as it is a matter of public record and oral testimony is not competent to show what they were arrested for.

A. I never read the charge, I don't know what it was.

Q. The matter Judge Burford inquired of you awhile ago, you stated you desired to explain further and he did not permit you to do so, do you now desire to make further explanation?—A. Yes, sir.

Q. Make it.

Judge BURFORD. The witness answered the question fully that was submitted to him and started to give his personal reasons, which was objected to and further objected to at this time as incompetent, irrelevant, and immaterial, not a proper matter of proof.

Q. You may now make such further explanation as you desire.—A. Counsel asked me if I hadn't been a very active Democrat, and I said I had. I had been so active I made a few enemies, and especially in the Socialist Party, more so than the Republican Party, and I was quite confident I would be the first fellow they would like to light on if they could get hold of me to prosecute me; I would be one that they would try every way if they could get a chance to harass him around without costing them something out of their pockets and make it cost me something out of my pocket, and those same fellows went before the election inspectors of this city, three, in three different places, especially in the third ward, I was present when they did that, and tried to bulldoze the inspector and cursed him and threatened him with the pen right in my presence, and in the presence of Mr. Judge, and in the presence of Mr. Woodworth, and in the presence of a lady in there at the time.

Q. What for?—A. If they didn't allow these negroes to register and vote.

Q. Were the negroes who they wanted allowed to register and vote qualified or not?—A. They were not qualified.

Q. Do you know whether or not he did register them and vote them?—A. No; I do not.

Q. Well, when they made these threats to the inspector, what, if anything, did the inspector say there in your presence?—A. Well, he said, I can not tell exactly; they didn't only threaten him but me and Mr. Judge and Mr. Dave Woodworth.

Q. Who was that delivered these threats?—A. Nagle and Bill McCartney and James Wells was with them.

Q. What did they have to do with the election?—A. Nothing, they were not officers of the election.

Q. Do you know whether they represented the opposition party?—A. I know they represented the Socialist and Republican Party—were representatives of the Socialist and Republican Party.

Q. Had these persons prior to that time been active in politics?—A. They had and are yet.

Q. Do you know whether or not they represented they were speaking for their respective parties at that time?—A. No; I don't know that. But I would say I know they were representatives of the Republican and Socialist Parties.

Cross-examination by Judge BURFORD:

Q. Mr. Smith, in answer to Col. Hoffman's question, you speak of a conversation had between members of the election board and certain parties who were making threats, as you remark. Was that at the time of the registration of voters or at the time of the election?—That was at the registration of the voters.

Q. During the period voters were being registered to qualify them to vote?—A. Yes, sir.

Q. Under our law the inspector of the precinct is the registration officer?—A. Yes, sir.

Q. And you were one of these registration officers?—A. No, sir; the fellow resigned in my ward and I was appointed to take care of the election just prior to the election.

Q. You succeeded a prior inspector who had already done the registering?—A. Yes, sir.

Q. Now, Mr. Smith, these persons that voted at the election in your precinct were possessed of registration certificates, were they?—A. Yes; they were.

Q. And had been registered by your predecessor?—A. Yes, sir.

Q. Did you hear Nagle and McCartney and Wells talk to your predecessor about registering voters or some other inspector?—A. I heard him talk to the third ward inspector.

Q. Who was that third ward inspector?—A. A fellow by name of Bezanthon.

Q. Bezanthon?—A. Yes.

Q. And they were at his office to register when this conversation occurred?—A. Yes.

Q. And you were simply a spectator?—A. Yes; I was there.

Q. Nagle is the so-called Pat Nagle here?—A. He was the fellow.

Q. Been practicing law in this town 25 years?—A. Yes, sir.

Q. And has been in the past prominent in Democratic politics?—A. Yes.

Q. Held office as a Democrat?—A. Yes.

Q. Is now a Socialist?—A. Yes.

Q. And he was making his talk there in the interest of his followers in the Socialist Party?—A. Yes; and also the Republican Party. There was one with him.

Q. Who was with him—a Republican?—A. Jim Wells.

Q. McCartney is also a Socialist?—A. No; he is a Bull Mooser.

Q. Did Wells hold any position in the Republican Party, or just simply a private citizen?—A. Well, he was brought in there by Nagle and McCartney, him and another man, there was four of them, to witness the pulling off of the deal.

Q. To witness the conversation they had?—A. Yes; because one man told me that's what he came in for, to witness it.

Q. Did they come in with a colored applicant?—A. Brought in three.

Q. They were registered, were they?—A. No; they were not registered then.

Q. The inspector refused to register them?—A. Yes.

Q. And they departed?—A. They insisted very strongly, though, that he did.

Q. They didn't bulldoze that inspector?—A. No; not at that time. I think they would if Mr. Judge and myself hadn't been present.

Q. You had enough representatives of the Democratic Party, though, to overcome it?—A. We were sitting in there—the newspaper office—the editor of the Times, the Democratic paper.

Q. It was at the Times office that this conversation occurred?—A. Yes, sir.

Q. There were several of you that the bulldozing tactics didn't have any effect on?—A. I think it did have effect.

Q. It didn't have enough effect to cause him to register the voters?—A. No; he didn't register those fellows at that time.

Q. The negroes in Kingfisher are largely adherents of the Socialist Party, are they not?—A. No.

Q. A good many are.—A. No.

Q. Some of them are, aren't they?—A. A few. I will tell you how I know that to a certainty. I have had occasion to look at the registration certificates in the various wards and have looked them over.

Q. Since the 1912 election or before?—A. At that time and since. I don't think there was a single negro registered as a Socialist in the town; if so, he has escaped my notice.

Q. What registration are you referring to now?—A. The last one made in this city.

Q. Prior to 1912?—A. Made in 1912.

Q. Prior to the 1912 election?—A. Prior to that and at the 1912 election, both registrations, they were all registered as Republicans.

Q. You didn't register at the election, prior to the election?—A. Yes; about 10 days before they finished it.

Q. Kingfisher is a city of the first class?—A. Yes, sir.

Q. And the voters are registered here prior to the election?—A. Yes, sir.

Q. Who was it threatened this man Bezanthon with the penitentiary if he didn't register the negroes?—A. Nagle and Bill McCartney; well, and all of those who were in there. They said, "If you want anything, come out here and we will give you a Winchester fight; we will shoot it out with you."

Q. Who said that?—A. Nagle.

Q. You know Nagle wouldn't shoot; you didn't have any fear of Nagle having a Winchester fight; you just thought it was some of Pat's wild talk.—A. I didn't have any fear of him shooting me then, especially if I sat still like I am doing now; I never said a word; didn't take any part in the controversy.

Q. You didn't see any Winchester?—A. No; I didn't.

Q. Pat usually talks a little loud on such occasions?—A. Yes; he does.

Q. Never did get in any trouble with anybody?—A. Yes.

Q. When?—A. Well, I don't know just when.

Q. He never did have any serious trouble; never shot anybody—shot at anybody?—A. Not that I know of.

Q. Never been in any scrapes of that character?—A. Not that I know of.

Q. Pretty good lawyer?—A. Yes.

Q. Has he represented you in the past as your lawyer?—A. Yes, sir; yes, yes.

Q. Served you faithfully?—A. Yes.

T. B. GRIMES, being called and sworn as a witness for the contestant, testifies as follows:

Direct examination by Mr. HOFFMAN:

Q. What is your name?—A. T. B. Grimes.

Q. Where do you live?—A. First ward, Kingfisher.

Q. What is your full name?—A. Thomas B. Grimes.

Q. How long have you lived here, Mr. Grimes?—A. About 23 years in the county.

Q. You have participated in the politics of this county in the various elections?—A. Yes, sir.

Q. Did you serve in any official capacity at the last general election, in November, 1912?—A. Yes, sir.

Q. What?—A. Inspector.

Q. What ward?—A. First ward.

Q. State whether or not there is a large number of residents, adult male negroes in that ward.

Judge BURFORD. Objected to as not the best evidence.

A. Yes, sir.

Q. Do you know that of your own knowledge?—A. There is quite a few.

Q. Do you know whether or not those negroes are all qualified voters under the grandfather election law?

Judge BURFORD. Objected to as not the best evidence.

A. They are not.

Q. Do you know that of your own personal knowledge from commingling there with them?

Judge BURFORD. Objected to, the competence of witness not shown to testify.

A. Yes, sir.

Q. How long have you lived in that ward?—A. Three years.

Q. And in that vicinity?—A. Three years.

Q. You know these negroes do you yourself?—A. Yes, sir.

Q. And you know of your own knowledge they couldn't read and write?

Mr. BURFORD. Objected to as not the best evidence.

A. Part of them could.

Q. Had you heard of the prosecution and conviction of Beall and Guinn election officials in Union Township of this county by the Federal authorities at the 1910 election?—A. Yes, sir.

Q. Did you know of it at the time you served as inspector here at the last election?—A. I did.

Q. Did you or not, prior to the last general election, shortly prior thereto, receive through the United States mail a letter known as the Boardman letter, and which is referred to in this record as Exhibit 1?—A. I did.

Q. Did you or not prior to the 1912 election, and shortly prior thereto, receive through the United States mails, what is known in this record as the penitentiary warning circular, which is known as Exhibit 2?—A. I did.

Q. What effect did the prosecution by the Federal authorities of Guinn and Beall and the receipt of this penitentiary warning circular and the Boardman letter have upon your mind?—A. It made me feel kind of curious.

Q. What do you mean by that Mr. Grimes?—A. Well, it intimidated me and made me—I didn't want to get my head in a halter, I didn't want any penitentiary stripes on me.

Q. How did you feel about enforcing the law and applying the so-called test under the grandfather law to the negroes who offered themselves for voting there?—A. Well, I didn't apply the law like I would have if I hadn't known this and got these letters.

Q. For what reason?—A. Why it intimidated me and scared me.

Q. Did you reject any of them?—A. I did.

Q. How many?—A. I would have to count them; I don't know just how many I did; I could count them in a minute; I know them pretty well.

Q. All right.—A. Five or six.

Q. Did you permit any to vote who were not qualified?—A. Well, I think we did, in a way, that couldn't read and write intelligently.

Q. About how many of them?—A. I can not say, four or five.

Q. How many negroes presented themselves to vote in that ward?—A. I can not say just now how many did; there are several registered that didn't come and vote.

Q. Can you give approximately the number?—A. I don't believe I could.

Q. Now, was there any other reason for your not enforcing the law and applying the test to these negroes who offered to vote other than your fears of Federal prosecution by reason of the recent prosecution and conviction of Guinn and Beall and the receipt of the Boardman letter and the penitentiary warning circular?

Judge BURFORD. Objected to as incompetent, irrelevant, and immaterial, leading, suggestive, and not a proper basis for basing a conclusion upon.

A. There were.

Q. What was it?—A. There was a party here in town came to my place with these darkies who couldn't read and write a word and tried to force me to register them.

Q. Who was that?—A. Pat Nagle, Bill McCartney.

Q. What, if anything, did they say to you about it?—A. They came down and said they brought them down to register. I said, Well, if the boys can stand the test I will register them. I said these parties have been here four or five times and can not stand the test but I am willing to test them again. Mr. Nagle said, Come on, boys, go in the house and stand the test. They went in there and never waited for me to ask them a word, but he asked them the questions; and one of them, Mr. Cromley, he asked him if he could read and write and he told him no he couldn't sign his name. He says was your grandfather a white man; he said yes; he says will you swear to that; he says yes. Pat turned around to me and says, Now will you register him? I says, Has he two witnesses here to substantiate that, and Cromley said no and I said I am not a lawyer, but I think the law requires two witnesses and Pat turned to me and said, "Don't let these damn politics get you in trouble. I like you." and I says, "That's the reason I want to keep out; I am not registering these fellows; I don't want you to send me to the pen," and he went away with them and that evening Mr. Wells came back with a notice, three or four sheets, also with this Boardman letter, with it for me to register them and wanted me to



call Pat Nagle at 6 o'clock, where I would be with my books to register them that night. I never called him up to tell him where I would be because I advertised it in the paper that the books would be at my house.

Q. Of what political faith, if you know, is Wells?—A. He is a Republican.

Cross-examination by Judge BURFORD:

Q. Mr. Grimes, where did you live before living in the fourth ward?—A. I lived in Grant Township.

Q. In this county?—A. Yes, sir.

Q. You have only lived in the city of Kingfisher about three years?—A. Between three and four.

Q. Have you ever served as an election inspector before?—A. Yes, sir.

Q. How long have you served as inspector in the fourth ward?—A. Ever since the first election after I moved to town.

Q. You have always affiliated with the Democratic Party?—A. Yes, sir.

Q. Been active in politics as a worker in the party?—A. No, sir; I am not a politician.

Q. You have been active in working in the interest of the party?—A. I am a Democrat; yes, sir.

Q. That don't answer my question; haven't you taken an active part in the interest of your party?—A. Yes; in a way.

Q. You didn't let anybody vote—any person vote—at the election of 1912—the fall of 1912—in your ward who was not the possessor of a registration certificate, did you?—A. Yes, sir; one man.

Q. White or black?—A. He was a white man.

Q. Democrat or Republican?—A. He was a Republican.

Q. How did you come to let him vote?—A. I was in the election booth instructing an old gentleman who forgot his specks; he wanted me to come in and stamp his ballot for him; he couldn't see, and the clerk gave this man a ticket; the judge was just ready to put the ballot in the box and I said: "Hold on, this man is not registered;" so we talked it over and the clerk and the judge and me concluded if he would make an affidavit that he was out of town at the time the registration was taken we would allow him to vote; so he did—made this affidavit.

Q. Made an affidavit that he was away from home—out of town—at the period when the registration books were open for registration?—A. Yes, sir.

Q. You understood at that time that would qualify him to vote?—A. Yes, sir; that's what we thought, in a way; whether it's legal or not I don't know.

Q. The time you spoke about Nagle and McCartney coming to see you was at the period for registering voters, was it?—A. Yes, sir.

Q. And they were trying to get negroes registered as voters in your ward?—A. Yes, sir.

Q. You didn't register anyone, did you, whom you didn't either know to be a voter of your own personal knowledge, or who did either read or write in your presence?—A. Those that couldn't read and write or sign their names I absolutely refused to register.

Q. And never did register any of that class?—A. No, sir; except what made affidavit they had voted for Lincoln; I registered three of those.

Q. That made affidavit they had voted before 1866?—A. Yes, sir; I registered three of those.

Q. The one that you was having controversy with Nagle about claimed to be a descendant of a voter, didn't he?—A. Yes, sir. He wouldn't make the affidavit when I—

Q. So you didn't register him?—A. No, sir; I didn't register him.

Q. You say you were intimidated. What do you mean by being intimidated?—A. I didn't follow the law as closely as I would have if I hadn't got those letters and known that Guinn and Beall up here had been sentenced to the penitentiary. I didn't follow the law to the letter, as I would have.

Q. Still, on election day you didn't let anybody vote who didn't have the registration certificate?—A. No, sir; except one of these darkies who came and asked Mr. Houston if he couldn't vote, and Mr. Houston told him if he was not registered he could not vote; I don't think I spoke to him; I won't say positive.

Q. You spoke about receiving the letter from Boardman. You didn't get a letter from Boardman?—A. I got a letter, I don't know who it was from.

Q. You got a printed circular sent through the mail?—A. Yes, sir.

Q. That's what you meant when you said you got a letter from Boardman?—A. Yes, I suppose it was a letter, typewritten or printed.

Q. It was not even typewritten, just a printed circular, with the name printed on it?—A. I can not say; it was a long time ago. I paid no attention after I read it; whether it was printed or typewritten, I can not say.

Q. You understood those printed circulars were being distributed by a political organization, or some one, didn't you? You didn't understand it was being written to you by Mr. Boardman?—A. I didn't know.

Q. You didn't understand you were getting a personal letter from Mr. Boardman?—It was signed at the bottom.

Q. The signature was written or printed to it?—A. Printed, yes, or typewritten; I couldn't say which now.

Redirect Examination by Mr. HOFFMAN:

Q. This white man you mentioned who swore his vote in, did you afterwards discover he was not a qualified voter in that ward?—A. This party had been in town I know while the registration books were opened and after he voted, he says, "I tried to vote at Omega, out at my farm, and they told me I better come in here."

Q. Do you know anything about the efforts that were made to coerce and intimidate the election inspectors of the second ward?

Judge BURFORD. Object to the form of question as calling for conclusion and designating certain acts.

Q. From your own knowledge do you know anything about efforts made regarding registration in any other precinct?—A. I do.

Q. What?—A. First and second ward, I believe, Mr. Benson showed me those letters and also showed me the notice he got from Mr. Nagle.

Q. Was this the inspector?—A. Yes, sir.

Q. And the letters you speak of, what do you refer to?—A. These Boardman letters.

Q. How about the penitentiary warning slip?—A. It was in it; he showed it to me; also the second ward—Mr. Flemming showed me his letter; we talked it over.

Judge BURFORD. Objected to as hearsay, incompetent, irrelevant, immaterial; what these parties said or showed him can not be competent.

Q. Did you make any effort to get other people to serve with you on the board?

Judge BURFORD. Objected to as incompetent, irrelevant, immaterial; as a matter of law he couldn't have anyone else serve with him on the board.

Q. Who else served with you on the board?—A. Mr. Heustis and Mr. Redenour.

Q. Did you have any trouble in getting the others to serve with you?

Judge BURFORD. Objected to as incompetent, irrelevant, immaterial; not a proper subject to inquire into for the reason under the law he had nothing to do with getting others to serve with him; under the law that belongs to the county election board exclusively.

A. The county election board appointed the rest of the board.

Q. Did you have any instructions from the election board to get others to serve with you on the board?

Judge BURFORD. Objected to as not a proper subject of inquiry, because the county election board couldn't delegate their authority to anyone else to make selection.

A. I think so.

Q. Well, what was that?

Judge BURFORD. Objected to for the reason it calls for hearsay, and the duty to select the precinct election board belonged to the county election board, and anything they may have said to him and he to them would be purely hearsay and incompetent.

A. Our judge of election, we couldn't get him to set on the election, so I came up to see the county election board, and the secretary of the election board asked me who they could get, and I said Mr. Ridenour; I guess we could get him—

Judge BURFORD. Further answer is objected to for the reason it already discloses it is a conversation between the witness and the secretary of the county election board, which is hearsay and incompetent; the conversation of the secretary of the election board couldn't be binding on either party to this contest.

A. And the secretary said to go see him, and see if he would serve on the board; and I went to see him and reported back to the secretary, and he appointed him as judge.

Q. In the hunt of an officer to serve on the board under the instruction of the secretary, did you find any person who would not serve?

Judge BURFORD. Objected to for the reason calling for hearsay and incompetent, irrelevant testimony, not binding on either party to this contest.

A. Yes, sir.

Q. What reason, if any, did they assign for not serving?

Judge BURFORD. Objected to for the reason it is calling for incompetent and irrelevant and hearsay testimony.

A. The counters, it was very hard for me to get them, a full corps of counters.

Cross-examination by Judge BURFORD:

Q. The counters had nothing to do with receiving votes, did they?—A. No, sir.

Q. Now, Mr. Grimes, was the one person who swore in his vote at that time, that you have heretofore referred to, so far as you know, qualified to vote other than he didn't hold a registration certificate?—A. I think so; yes.

W. G. DIXON, being duly sworn as a witness for the contestant, testifies as follows:

Direct examination by Mr. HOFFMAN:

Q. State your name.—A. W. G. Dixon.

Q. Where do you live?—A. Third ward, Kingfisher.

Q. How long have you lived here?—A. I believe a little better than three years.

Q. Did you prior to the 1912 election know of the conviction of Guinn and Beall, former election officials of Union Township?—A. Yes, sir.

Q. Have you ever seen what is known as the Boardman letter, what purports to be a printed copy of a letter from United States Attorney Boardman?—A. Yes; I have.

Q. I hand it to you here, known as Exhibit 1 in this record; have you seen that?—A. Yes, sir.

Q. Prior to the election of 1912?—A. Yes, sir.

Q. I hand you Exhibit 2 and ask you if you had seen that prior to that time, known as the penitentiary warning circular?—A. Yes.

Q. You had?—A. Yes, sir.

Q. Were you called upon to serve as an election inspector at the 1912 election?—A. Yes; I was asked to serve on the board.

Q. Who asked you?—A. Well, I was approached by different ones in regard to it to know if I would serve.

Q. Did you serve?—A. No, sir.

Q. Why did you refuse?

Judge BURFORD. Objected to for the reason it is wholly immaterial, shown by the testimony of the witness he did not serve upon the board, and his action or conduct could have no effect upon the result of the validity or legality of this contest in this case.

Q. Why did you refuse to serve?—A. I refused to serve because I didn't want to take any chances of being prosecuted; couldn't afford it; pulled and hauled around over the State, probably, in the courts under prosecution, probably.

Q. State whether or not the knowledge you had at that time of the conviction of Guinn and Beall and the knowledge of this Boardman letter and the penitentiary warning circular was such as to produce that impression in your mind.

Judge BURFORD. Objected to as incompetent, irrelevant, wholly immaterial as to what his reasons were for not serving; having failed to serve, his actions or reasons could have no effect upon the validity or invalidity of the election in this case.

A. Yes, sir.

No cross-examination.

MILES W. JUDGE, being the notary public acting at the taking of these depositions, by agreement of counsel for contestant and contestee is duly sworn by Elmer Solomon, notary public in and for Kingfisher County, Okla., as a witness for the contestant.

Direct examination by Mr. HOFFMAN:

Q. What is your name?—A. Miles W. Judge.

Q. Where do you live?—A. Kingfisher, Okla.

Q. How long have you lived here?—A. Since April, 1892.

Q. In what official capacity, if any, did you serve at the last general election in this county?—A. Secretary of the county election board, Kingfisher County.

Q. Did you, prior to that election, know of the prosecution and conviction of Guinn and Beall, officials of Union Township, for their acts in the 1910 general election in that township?—A. Yes, sir. I was secretary of the county election board at the 1910 election.

Q. You were secretary in 1910 also?—A. Yes, sir.

Q. Did you, prior to the 1912 election, receive a copy of what is known as the Boardman letter, Exhibit 1 in this record, and of the penitentiary warning slip, Exhibit 2 in this case?

Judge BURFORD. Objected to as irrelevant, immaterial, incompetent.

A. I did not receive one personally through the mails, but I had them handed to me by the inspectors of the election.

Q. By the inspectors of the election in this county?—A. Yes, sir.

Q. Do you know they were generally sent out among the inspectors in this county prior to the election?—A. I heard from them from most every inspector in the county.

Q. That is, what purports to be the Boardman letter, Exhibit 1, and what is known as the penitentiary warning circular, Exhibit 2?—A. Yes, sir.

Q. Did you, prior to the 1910 election, receive a copy of what is known as the John Embry letter in this record?

Judge BURFORD. Objected to as incompetent, immaterial, irrelevant, not tending to prove or disprove any issue in this case.

A. I had several of the Embry letters brought to me by the inspectors the Monday before the election of 1910 that they had received through the mail.

Q. Do you know whether the Emery letter, the Boardman letter, and the penitentiary warning circular letter were circulated generally throughout this county?—A. Yes, sir; they were mailed at Kingfisher, all I have seen; the envelopes were mailed out of Kingfisher.

Q. Who mailed them?—A. I can not say positively, but—

Judge BURFORD. Objected to for the reason the witness has shown he don't know; not competent to give answer.

Q. Give your best judgment and your reasons for such.—A. My best judgment is they were mailed out by the Republican County Central Committee of Kingfisher County. My reason for saying that is this: I keep a copy of the precinct election officers of the county that is appointed by the county election board. W. W. Lewis, a colored attorney, who is assistant secretary of the Republican county central committee, came to my office and asked me if he could copy my election—

Judge BURFORD. Objected to for reason calling for a conversation of party not a party to the proceeding, and no authority to bind anyone by his declaration or statements, and not the best evidence.

Q. Go on with your answer.—A. Mr. Lewis came to my office and I allowed him to copy the election record of the precinct officers in the county. In copying the record he got one name, O. A. Stone, of the inspector in Union Township. I called his attention to it and told him it was O. A. Sloan. Afterwards I heard the secretary of the Republican county central committee, Mr. A. E. Bracken, direct Mr. Lewis to send the list to the officers of the Republican State central committee at Guthrie. I saw the envelope that contained the Embry letter and the penitentiary warning circular that was directed to Mr. Sloan, or supposed to be, and it was directed O. A. Stone, the same as I had called Mr. Lewis's attention to to change from O. A. Stone to O. A. Sloan.

Q. You refer to the Boardman letter, not the Embry letter?—A. Yes, sir; the Boardman letter.

Q. That is, the same error was committed in the addressed envelope to Sloan that the negro attorney had committed in copying the list?—A. Yes, sir.

Judge BURFORD. Move to strike the answer of the witness for the reason it is incompetent, irrelevant, immaterial, does not prove or disprove any issue in this case, and wholly relates to secondary matter and not the best evidence.

Q. Do you know William Bezanthon, of Kingfisher?—A. Yes; it is M. V. Bezanthon; it ought to have been. That is another error they made in copying it.

Q. State how the negro, in copying the list, got the name of Bezanson. Did he get it as it appeared upon an envelope, which I ask the stenographer to mark as an exhibit and which I hand you herewith, or did he get it correct?

Judge BURFORD. Objected to for the reason witness has not shown any knowledge of the matter inquired about, calling for an expression of opinion without

having given any facts to base the opinion upon, and being wholly irrelevant and immaterial.

(Envelope is marked "Exhibit 50, Kingfisher," for purpose of identification.)

A. He copied it from the election record. He took the "M. V." on the record for "Wm.," the abbreviation for William, and the envelope addressed to Mr. Bezanson was addressed "William."

Q. State whether or not you had any conversation with the inspectors prior to the election with reference to their duties and whether they should perform the same.

Judge BURFORD. Objected to as incompetent, irrelevant, and immaterial and not being proper manner of showing the facts counsel is desiring to prove, calling for a matter of hearsay testimony—secondary evidence, when primary proof could be procured.

A. All of the inspectors asked me in regard to enforcing the law at the time they received their supplies prior to the election. This Boardman letter was sent out on Monday prior to the election after the precinct officers had received their supplies.

Q. After they had received their supplies?—A. Yes, sir.

Q. Did you have any conversation with them after that time with reference to their duties?—A. Yes, sir.

Q. State whether or not they expressed themselves as being in any fear of Federal prosecution if they enforced the grandfather clause at that time.

Judge BURFORD. Objected to for the reason it is incompetent, immaterial, irrelevant, calling for secondary evidence, not the proper manner of proving the facts, as the primary evidence is obtainable if desired.

A. Every one of the inspectors I talked with did. After I saw the letters I went to several of the inspectors on Sunday prior to the election to see whether they would still continue to serve as inspectors and hold the election in face of them receiving the Boardman letter, and I had all I could do to prevail upon them to stay with the election and hold the election after receiving that letter.

Judge BURFORD. Move to strike out answer of the witness for the reason it states conclusions, does not give facts, relates to conversation had with the election inspectors when the testimony of the election inspectors is obtainable, and is the best evidence.

Q. State whether or not any of them resigned after receiving the Boardman letter and the penitentiary warning circular.—A. I can not say that any of them resigned after receiving the letters; some of them resigned prior to that on account of not wanting to serve in another election when they had to enforce the grandfather law.

Q. Was the 1910 general election the first election or not after the enactment of the so-called grandfather law?—A. To my best recollection I think it was; that is, general election.

Q. It was at that election Grinn and Beall in this county did the acts as election officials in enforcing the grandfather clause for which they were convicted and sentenced to the penitentiary; is that correct?—A. Yes, sir.

Q. You say these persons resigned because they didn't want to serve in another election and try to enforce that law?—A. Yes, sir.

Q. State whether or not they assigned a reason for it on account of the prosecution of former officials by the Federal authorities.

Judge BURFORD. Objected to for the reason it is incompetent, immaterial, irrelevant, leading, suggestive, calling for a conclusion for secondary testimony.

A. Some of them did and others said they didn't want to bother with it any more, we perhaps could find other men who could hold the election out there, that they had served their time.

Q. You were here and heard the testimony of Mr. Smith, were you not, as to the threats of McCartney and others?—A. Yes, sir.

Q. Were you present at that conversation?—A. I was present at the time Nagle and McCartney and Wells tried to have Mr. Bezanson, inspector in the third ward, register three negroes that said they couldn't read and write.

Q. What else was said there at that time?—A. Well, there was considerable said. Mr. Nagle brought the three negroes in and asked them all three if they could read and write, and two said no, and the third young fellow said he could. Mr. Bezanson handed him a copy of the constitution and asked him to read any section or part of section he wanted to and the young fellow sat down and looked at the book awhile, and Nagle got nervous and said, "Read, damn you; I ain't got all day to fool with you," and the negro threw the book down and said, "I can't read," and Nagle said, "Register him," and Bezanson said "No,"

and Nagle and McCartney insisted upon Bezanson registering the three negroes who couldn't read and write, and McCartney got very mad and told Mr. Bezanson he would send him to the penitentiary if he wouldn't register those three negroes. In going out the door they were swearing, and Mr. Nagle came back and said, "All you damn fellows who want a Winchester fight come out on the sidewalk."

Q. Did he say it in a jesting way, or like he meant it?—A. He was very mad.

Q. Do you know whether Nagle was one of the attorneys who assisted in the prosecution of Guinn and Beall?—A. I don't know that. I have heard him laughing about it and I have heard what he said about packing the jury, that he traced them from the time they were born till they were serving on the jury at Enid. I have heard him make laughing remarks about that.

Q. About packing the jury on the Guinn and Beall case?—A. That they hunted were summoned to Enid. He was laughing up at the courthouse about it one day.

Q. Did he make any claim about himself having assisted in the selection of a jury?—A. No, sir.

Q. Do you know anything about whether the grandfather law was enforced in this county at the last general election?

Judge BURFORD. Objected to as incompetent, immaterial, not a proper way to prove the qualifications of the voters, the question calls for the determination of the qualifications of every voter in the county in order to determine whether he was qualified or not, and this witness not shown to have any knowledge upon the subject.

A. I don't think it was enforced like it ought to have been.

Q. Is there any census or other authority available of the adult negro male residents of this county at and prior to the last general election?—A. Not that I know of.

Q. Nothing since the 1910 Federal census?—A. No.

Q. From your acquaintance upon the subject and in the county and your long residence here, are you able to state approximately the number of male negroes resident in this county prior to the last general 1912 election?

Judge BURFORD. Objected to as incompetent, immaterial, irrelevant, calling for a conclusion of the witness upon a matter upon which he has given no facts or data showing his competency to give a conclusion, and the further reason it calls for an opinion as to the number of voters in the county and couldn't be assumed or presumed that any one man would have a knowledge of the number, qualifications, or even color of all of the voters of the county.

A. My opinion would be there is between six and seven hundred negro voters in Kingfisher county.

Q. Were they all qualified under the grandfather clause?

Judge BURFORD. Objected to as incompetent, immaterial, not a proper manner of proving the qualifications of the voters. Under the law and the constitution of this State the election inspector is the sole judge of determining the qualifications of a voter and in cities where registration is had must be determined at the time of registration, and where no registration is had must be determined at the time of offering the vote, and no other tribunal, person, or authority has any power to determine that question except the election inspector.

A. No, sir; I know a number of them can not read and write.

Q. Do you know whether or not those negroes could?—A. I can not say.

Cross-examination by Judge BURFORD:

Q. Mr. Judge, what is your business?—A. Real estate, insurance.

Q. Ever been admitted to the bar?—A. No, sir.

Q. Not a lawyer?—A. No, sir.

Q. How long have you known Pat Nagle?—A. Since April, 1892.

Q. During that time he has been a practicing lawyer here in your midst, hasn't he?—A. Yes, sir.

Q. Held the office of United States marshal under the Cleveland administration?—A. Yes, sir.

Q. Has the reputation of being an honorable, law abiding citizen in this community, hasn't he?—A. Yes, sir; only when it comes to a political scrap.

Q. Has an established reputation of being a reputable member of the bar?—A. Yes, sir.

Q. You use the statement in your testimony he had claimed to you he had packed the jury. Do you mean to make that statement?—A. No, sir.

Q. Mr. Nagle, in his conversation that you speak of, never claimed to have had anything to do with the selection of the jurors, did he, that went into the jury box?—A. No; just one conversation I heard Mr. Nagle laughing about, that they hunted up the record of those jurymen from the time they were born up to the time they were summoned on that jury.

Q. You understood from that, didn't you, that he had taken the names of the jurors after the general panel had been selected and had traced up their history from that time up to the time they were selected as jurors to try the case?—A. Yes, sir.

Redirect examination by Mr. HOFFMAN:

Q. I will ask you, Mr. Judge, if you had any conversation with the secretary of the Republican campaign committee with reference to this Boardman letter prior to the election?—A. Yes, sir.

Q. What was that and when and where?

Judge BURFORD. Objected to as incompetent, irrelevant, immaterial, calling for hearsay, not the best evidence, no testimony that the person referred to with whom he had the conversation is not obtainable and is inaccessible.

A. On the evening of November 2, prior to the election, 1912, Mr. A. E. Bracken, the secretary of the Republican county central committee of Kingfisher County, had in his possession a copy of the Boardman letter and read the letter to me; that evening was the first time I had seen it or heard the letter read; immediately afterwards Mr. Lane, the chairman of the county election board, called me up from my office, and he had a Boardman letter, which also contained a circular, "Talk it over with your wife," that his son had received that day, as inspector of the second precinct in Hennessey City.

No further cross-examination.

J. J. RICE, being called and sworn as a witness on the part of the contestant, testifies as follows:

Direct examination by Mr. HOFFMAN:

Q. Where do you live, Mr. Rice?—A. I live down here in the Anheuser-Busch Building.

Q. How long have you lived here?—A. Eight years.

Q. Prior to the last general election did you know of the conviction of Guinn and Beall, formerly election officers in Union Township, in the 1910 election?—A. Yes, sir.

Q. I call your attention to Exhibits 1 and 2, known as the Boardman letter and the penitentiary warning circular, and ask you to state whether or not you received copies of that letter and that circular prior to the last general election?—A. Well, I can not say I ever read that.

Q. You can not say you ever read them or saw them?—A. No; I can't.

Q. Were you asked to serve as inspector at the last general election?—A. Yes, sir.

Q. Did you serve?—A. I did not.

Q. Why?

Judge BURFORD. Objected to as incompetent, irrelevant, immaterial; having failed to serve, his action or conduct would have no effect on the validity or invalidity of the election held, and his reasons for failing to serve are wholly immaterial.

A. Well, I had heard of the conviction of this Beal and Guinn and I had no inclination or time to get into trouble over any of them, and I understood what the State law required of you, and I understood also if you did what they required of you that you were liable to get into trouble, the same as these two men.

Q. That is, if you enforced the State law the Federal authorities would prosecute you?—A. Something of that kind; yes, sir.

Judge BURFORD. Objected to as to statement of fact not testified to by the witness.

Q. Is that what you wish to say is the reason you did not serve as inspector?—A. Yes, sir; that was the reason, the principal reason.

Cross-examination by Judge BURFORD:

Q. Did you ever serve as inspector?—A. No, sir.

Q. Didn't care to, anyway, did you?—A. Not very bad.

J. W. BARR being duly sworn as a witness for the contestant, testifies as follows:

Direct examination by Mr. HOFFMAN:

Q. State your name.—A. J. W. Barr.

Q. Where do you live, Mr. Barr?—A. Kingfisher.

Q. What business are you in?—A. Printer.

Q. You are connected with the Daily Midget?—A. Yes, sir.

Q. In what capacity?—A. As part owner.

Q. You are publisher of it?—A. Yes, sir.

Q. Have you in your possession a file of the Daily Midget under date of Wednesday, July 31, 1912?—A. Yes, sir.

Q. I call your attention to an article published under a Guthrie date line dated July 30, 1912, and ask the stenographer to mark same for the purpose of identification "Kingfisher Exhibit 51" and ask you to state if that article was published in the regular issue of your newspaper under that date named?—A. Yes, sir.

Q. Was it distributed and mailed throughout the county?—A. Yes, sir.

Q. To your list of subscribers?—A. Yes, sir.

Q. And given general circulation?—A. Yes, sir.

Mr. HOFFMAN. We offer the article in evidence and ask it to be marked "Kingfisher 51," and ask you to let the stenographer make a copy and attach.

A. Yes.

Judge BURFORD. We object as incompetent, immaterial, irrelevant, not tending to prove or disprove any issue in this cause, merely a newspaper article signed by nobody, nobody charged with its authorship and doesn't purport to be editorial matter of the paper.

Q. Do you know whether or not that was paid matter?—A. It was not paid matter. It was just a clipping; what we call a dispatch.

Q. Do you know who authorized the clipping and had it published?—A. I suppose some of us in the office did, I don't remember.

Cross-examination by Judge BURFORD:

Q. You simply published it as reading matter?—A. Yes, sir.

Q. Don't know the source from which it came or who authorized it?—A. Just clipped it out of a newspaper.

Q. Just an ordinary news item?—A. Yes, sir.

Q. No one directed you to publish it?—No, sir.

Q. What is the extent of your circulation—was at that time?—A. I expect about 1,000 at that time.

Q. Don't circulate throughout the country at all?—A. Just in Kingfisher County mostly.

Q. Do you have mail subscribers among the country people, or does some go to the little towns?—A. Among the country people, on the routes you know.

Q. How many subscribers did you have outside the city of Kingfisher and Hennessey and Okarche?—A. Oh, well; I expect something over 500.

Q. Five hundred amongst the farming people?—A. Yes, sir.

Q. It was a daily was it?—A. Yes, sir.

Q. Was it sent out daily?—A. Yes, sir.

D. G. WOODWORTH being duly sworn as a witness for the contestant, testifies as follows:

Direct examination by Mr. HOFFMAN:

Q. What is your name?—A. D. G. Woodworth.

Q. Where do you live?—A. Kingfisher.

Q. Were you present at a conversation between Nagle and Mr. Smith and Miles Judge and the inspector of precinct No. 3 in this city just prior to the last general election?—Well, I don't remember that.

Q. I call your attention to the time when Nagle and others were endeavoring to get some negroes registered.—A. Yes; before Mr. Bezanson, the registering officer.

Q. What was that conversation?—A. Mr. Bezanson was making his office at my office, the Kingfisher Times, and Mr. Nagle and Mr. McCartney came in with some colored men and requested to have them registered, and in making some questions—

Judge BURFORD. Objected to for the reason it is calling for a conversation occurring at a time prior to the election, and calls for hearsay, the declaration



not having been made by any party to this proceeding or by anyone who could bind either the contestant or the contestee, and relating to matter wholly immaterial, irrelevant, and incompetent—not the best evidence.

Q. Proceed with your answer.—A. These colored men applied to receive a registration certificate, and under the examination made by Mr. Nagle and Mr. McCartney, Mr. Bezanson refused to register them, and they were not—didn't give evidence of qualification under the constitution as he understood it.

Q. What, if anything, did Nagle say at that time with reference to what he would do if they didn't register them?

Judge BURFORD. Objected to for the reason Nagle's statements could not bind anyone in this proceeding: wholly irrelevant, immaterial, secondary, and not best evidence.

A. As Nagle and the colored men left the office Mr. Nagle told Mr. Bezanson he would yet put him in the pen, and used very abusive language. At the same time he—when he made that statement he had stepped out of the office, and he started to return in the office, and at that time there was a lady in asking to be registered as a voter in the school election, and I stepped in front of Mr. Nagle; I didn't desire to have a rough house in my office while a lady was present; and Mr. Nagle said—Mr. McCartney said at that time if we wanted to scrap it out to come out on the sidewalk, and Mr. Nagle said if we wanted to decide it with Winchesters we could be accommodated.

Q. What are McCartney's politics?—A. McCartney's?

Q. Yes.—A. Very much mixed. I think at the present time he is a Progressive Republican—that was before the Progressive Republicans had developed. He has been a Republican, Democrat, and everything.

Q. Did he hold any official position at that time?—A. McCartney held no official position that I know of at that time.

Q. Was he considered in any way with the Republican campaign at that time?—A. I always considered Nagle and McCartney were the campaign managers of the Republican Party at that time.

Q. What, if any, part did these same parties take in procuring the negroes to vote at the 1910 election?—A. Mr. Nagle published a number of—I can not get the word—I would say violent articles in the Kingfisher Midget, in which he made very drastic—

Judge BURFORD. Object to witness stating the contents he classes as violent, because they are published articles and contain the best evidence of their contents—this is not the best evidence.

Q. Go ahead.—A. With an evident intention of creating a reign of terror in the country.

Judge BURFORD. Objected to for the reason it purports to place construction on the articles when the articles can be obtained: his statement is not competent or material—not the best evidence.

Q. Go ahead with your answer.—A. And that, in connection with the demonstration that Nagle and McCartney made at my office, was a part of the same scheme to create a feeling of public uneasiness and terror in the county.

Judge BURFORD. Move to strike the last part of answer out, because it states a conclusion and not a fact, and is wholly incompetent, immaterial, and not proper testimony.

Q. I will ask you to state if it is not a fact Mr. Nagle did not in public speeches and over his printed signature in this newspaper make a public statement the negroes should all go and register and vote and advised them to take their shotguns to the polls, and if the officers didn't permit them to vote, if necessary to shoot down the sheriff and his deputies?

Judge BURFORD. Objected to as incompetent, immaterial, and irrelevant, calling for secondary and hearsay evidence, question referring to printed articles which if printed and published are the best evidence of their contents, calling for an expression of the witness of an opinion as to conclusions on the statements made rather than for the facts themselves.

A. My memory of those articles is that you have stated substantially the contents of the article.

Q. And did he not make those statements publicly on the streets here?

Judge BURFORD. Objected to for all the reasons stated above.

A. He did. I have another instance, a confirmation of that fact—the fact a man employed in my office as a printer refused to sit on the election board on account of the public feeling at that time; that was the 1910 election.

Judge BURFORD. Objected to, and counsel for the contestee moves to strike, for the reason it is incompetent, immaterial, irrelevant, secondary evidence, and tends to prove or disprove no material issue in this case.

Cross-examination by Judge BURFORD:

Q. Mr. Woodworth, you seem to have some prejudice against Mr. Nagle.—A. Only in his political activities; personally, I have no prejudice whatever and admire the man's intellect, and all that.

Q. What is your business?—A. The Kingfisher Times.

Q. A Democratic paper?—A. Yes; a Democratic paper.

Q. How long have you been publisher of that paper?—A. About four years.

Q. How long have you lived in Oklahoma?—A. Twenty-three years—since April, 1889.

Q. Have you lived in this county during all that time?—A. No, sir.

Q. Where did you live prior to moving here?—A. Logan County—I forget the exact date—15 years; since then, Kingfisher County.

Q. How?—A. I lived in Logan County probably 15 years.

Q. At what place?—A. On a farm north of Cashion, in Cedar Township.

Q. Have you always affiliated with the Democratic Party?—A. No, sir.

Q. How long have you affiliated with the Democratic Party?—A. I have affiliated with the Democratic Party since 1896; I was not born a Democrat.

Q. You have known Mr. Nagle by reputation since 1889, haven't you?—A. Yes, sir.

Q. He has been a practicing lawyer in this town during all that time?—A. I believe he has.

Q. He resides here now with his family?—A. He does.

Q. And bears amongst the people of this county the reputation of being an honorable and law-abiding citizen, doesn't he?—A. Well, as to honorable and law-abiding—as far as a lawyer is concerned, honorable, and as far as his present individual action is concerned, law-abiding.

Q. Mr. Nagle has held the office of United States marshal during that time under President Cleveland?—A. I believe he did.

Q. And so far as you are informed made a reputable officer?—A. I never heard anything to the contrary.

Q. He has been an active leader of the Democratic Party during a large portion of that time?—A. Well, yes; active leader; yes.

Q. Served in capacity as a member of the legislature as a member of that party, didn't he, at one time?—A. Not that I remember of; I am not certain of that; I think not.

Q. Mr. Nagle has in the last few years espoused the cause of the Socialist Party?—A. Yes; publicly; yes.

Q. And he has been making speeches and writing articles in the advocacy of the Socialist Party?—A. Yes, sir.

Q. And is in this community the organization leader of that party, isn't he?—A. Well, one of them.

Q. He has not at any time during that period affiliated with or advocated the principles of the Republican Party, has he?—A. Not publicly.

Q. Mr. McCartney, of whom you spoke, is a brother-in-law of Nagle's?—A. I understand he is.

Q. He has been living here since 1889, hasn't he?—A. Most of the time; yes.

Q. During that time he has affiliated with both the Democrat and Republican Parties, hasn't he?—A. Yes, sir.

Q. And at the present time is a so-called Bull Mooser?—A. I believe that's what they call him.

Q. Now, Mr. Woodworth, you made the statement in your testimony that you recognize Mr. Nagle and Mr. McCartney as leaders of the Republican organization.—A. I think my statement was I considered Nagle and McCartney as the campaign managers of the Republican organization; yes.

Q. Who was the chairman of the Republican campaign committee during that period?—A. 1910, Mr. Hogan.

Q. Who was secretary?—A. I think Mr. Bracker, of Kingfisher.

Q. Who was chairman, 1912, of the Republican campaign?—A. Search me; I have forgotten that.

Q. Who was secretary?—A. Mr. Bracker, I think.

Q. Now, you know, don't you, Mr. Woodworth, that your answer given there, taken on cold paper, is misleading?—A. My answer was given as near as I can conscientiously give it to state the inside facts.

Q. Don't you know that would be misleading, taking it simply on cold paper, by some person who knew nothing of the conditions?—A. I do not.

Q. Do you mean to convey to the congressional committee who will read that paper that Mr. Nagle and Mr. McCartney are the managers of the Republican Party in this county?—A. That was the impression I meant to convey; not the nominal managers, but the inside, actually pulls the strings; the managers.

Q. At the same time you know Mr. Nagle has never been actively connected with the Republican Party?—A. Not publicly.

Q. Don't you know personally he has never been a member of the Republican committee in this county?—A. I am not sure he has not been called in consultation.

Q. Has he been, with the Democratic Party, too?—A. I have never met him in consultation in Democratic councils.

Q. I wish now to put yourself on record with the committee correctly, who will read this testimony, that you will explain the relationship of Nagle and McCartney as to the Republican Party in the sense in which you have meant it, because I think its misleading the way you have given it.—A. All right. Now, my explanation would be that neither of these men are on any committees or nominally within the councils of that party, but my belief is in their private consultations and the planning of their campaigns, that Nagle, particularly, is often called in consultation and that his advice is often taken, is that complete—sufficient? That is my opinion, I only give that as my opinion.

Q. You only give it as your opinion?—A. Yes.

Q. Those articles that you speak of having been published in the Midget by Mr. Nagle, were signed articles by him, weren't they?—A. Yes; I think they were signed by P. S. Nagle.

Q. Relating to political matters?—A. Yes; relating to political matters.

Q. And were in advocacy of the Socialist organization, weren't they?—A. Those articles were in advocacy of the violent overriding of the grandfather law of the colored voters—not particularly Socialism.

Q. Has Mr. Nagle particularly championed the cause of the colored voters outside of their support or connection with the Socialist Party?—A. Mr. Nagle has taken a very strong position in opposition to the grandfather law outside of the Socialist Party on principle. Of course I don't blame him for that, understand, but the opposition of those articles was violent, and to a certain extent advocated outlawry; that is what marked their peculiar feature.

Q. They were all printed in a public journal?—A. Yes.

Q. During the time you have known Mr. Nagle, and known of him by reputation, he has never engaged in any outbreak of any character in violation of the law, has he?—A. Not personally; no.

Q. Or you never knew of him being engaged in any altercation with any one, other than by words?—A. I never saw them occur but I have heard of his getting into scraps with litigants and witnesses before the court.

Q. Only wordy scraps?—A. Wordy scraps. Yes. I didn't consider the statement Mr. Nagle made to me in my office here, I didn't consider that as his idea of terrifying me personally, but to create a general feeling through the community.

M. V. BEZANSON, being duly called and sworn as a witness for the contestant, testifies as follows:

Direct examination by Mr. HOFFMAN:

Q. Please state your name.—A. M. V. Bazanson.

Q. Your name is not, then, William Bezanson?—A. No, sir.

Q. Where do you live?—A. In Kingfisher.

Q. How long have you lived here?—A. Four years.

Q. Did you serve in any official capacity in the last general election in this county?—A. I was inspector in the third ward in the city.

Q. I will ask you if you received the envelope marked "Exhibit 50, Kingfisher," just prior to the last election?—A. Sure; yes, I did.

Q. I will ask you if the contents of that letter were the instruments which I hand you, which I will ask the stenographer to mark "Exhibits 52, Kingfisher," and "53 Kingfisher," respectively?—A. Yes, sir; I got them.

Mr. HOFFMAN. We offer in evidence exhibits "52 Kingfisher" and "53 Kingfisher."

Judge BURFORD. Object as incompetent, irrelevant, immaterial; no evidence that they came from any parties connected with this litigation contest.

(No cross-examination.)

JEFF MAYFIELD, being sworn as a witness for the contestant, testifies as follows:

Direct examination by Mr. HOFFMAN:

Q. What is your name?—A. Jeff Mayfield.

Q. Where do you live, Mr. Mayfield, and what is your occupation?—A. Farming; I live seven and a half miles northwest.

Q. Are you a school-land lessee?—A. Yes, sir.

Q. Just prior to the last general election in 1912 did you receive a letter similar to the one which I hand you herewith, known in this record as Exhibit 18, signed by Bird McGuire?—A. Well, sir, I got something similar to this. I won't say positive; something like that.

Q. Was it in an official franked envelope, such as Exhibit 19?

Judge BURFORD. Objected to for the reason the evidence is incompetent, immaterial, irrelevant, calls for a conclusion rather than a statement of fact, leading in its character, and doesn't tend to prove or disprove any fact in this case.

Q. Was it or not in such an envelope as that?—A. To the best of my judgment it was.

Cross-examination by Judge BURFORD:

Q. Did you see the envelope it was in?—A. Yes, sir; it came to me direct.

Q. It was sent to you. Where did you get it?—A. I got it on my mail route out there.

Q. Do you know now what was on that envelope?—A. No, sir. I won't say positive, but to the best of my knowledge it didn't have any stamp on there.

Q. You don't know whether it had or not?—A. No, sir; I won't swear positive whether it did or not. It has been some time since I got it.

J. M. SANDERS, being duly sworn as a witness for the contestant, testifies as follows:

Direct examination by Mr. HOFFMAN:

Q. State your name.—A. J. M. Sanders.

Q. Where do you live, Mr. Sanders?—A. Kingfisher Township.

Q. What is your business?—A. Farming.

Q. Were you in any official capacity connected with the last general election, 1912, in this county?—A. I was campaign manager for the Democratic party.

Q. Did you prior to the 1912 general election know of the conviction of Guinn and Beal, former election officers of Union Township in this county at the 1910 election?—A. I did.

Q. Have you been present here and heard the testimony in reference to the John Embry letter before the 1910 general election?—A. Yes, sir.

Q. And of the Boardman letter and the penitentiary warning circular?—A. Yes, sir.

Q. Now, were those instruments circulated in this county prior to the election? First I will take the penitentiary warning circular, Exhibit 2; were they circulated in this county prior to the 1912 general election?

Judge BURFORD. Objected to as hearsay, immaterial, incompetent, not tending to prove or disprove any issue in this case, not the best evidence.

A. They were circulated generally to the inspectors of the election in this county who lived in what might be termed negro precincts, where there was a large number of negro voters, and I saw at least half a dozen of the original letters just after they were opened with the affidavit and all contained in the hands of the inspectors that received them.

Q. You say they were addressed to the inspectors?—A. Yes; they were addressed to the inspectors.

Q. Do you know whether those inspectors were intimidated and failed to act by reason of this prosecution and the threats contained in this Boardman letter and the penitentiary warning circular?

Judge BURFORD. Objected to as immaterial, incompetent, calling for a conclusion of the witness and not for any fact, calling for hearsay and secondary evidence.

A. The inspectors were much alarmed, in fact, some of them consulted me as to whether or not they should go on and act or not, or whether they hadn't better resign.

Judge BURFORD. Counsel for the contestee moves to strike out the answer of the witness because it states a conclusion and not the facts, a conservation of secondary character, and not the best evidence.

(No cross-examination.)

FRED EHLER, being sworn as a witness for the contestant, testifies as follows:

Direct examination by ROY HOFFMAN:

Q. What is your name?—A. Fred Ehler.

Q. Where do you live?—A. Hennessey, Okla.

Q. How long have you lived there?—A. Twenty-one years.

Q. What business are you in?—A. General merchandise.

Q. Have you or not taken an active part in the politics of this county during the time you have lived here?—A. Yes, sir; I have, I think, somewhat.

Q. What precinct did you vote in at the last general election?—A. Second precinct of Hennessey, Okla.

Q. Are there many negroes in that precinct?—A. Not very many in that precinct; no, sir.

Q. Do you know whether or not the grandfather clause was enforced in that precinct at the last general election?

Judge BURFORD. Objected to as incompetent, immaterial, irrelevant, not proper manner of proving the fact as to whether the grandfather requirements were enforced, as the law makes the election inspector the sole judge of the qualifications and right of a voter to cast a vote under the provisions of that law, and unless the witness was an inspector he is not competent to determine the matter.

A. Well, only from hearsay is all that I know.

Q. Are you familiar with the circular and letter which I have referred to in this testimony as the Boardman letter and as the penitentiary warning circular?—A. Yes, sir.

Q. Do you know whether or not they were circulated generally through that vicinity?—A. Yes, sir.

Q. They were?—A. Yes, sir.

Q. And in the 1910 election and just prior thereto, do you know whether or not the John Embry letter was circulated generally throughout this county?—A. Yes, sir; it was.

Q. Are you familiar with the prosecution of Guinn and Beall, election officials in Union Township?—A. Yes, sir.

Q. For their acts done in the last general election, 1910?—A. Yes, sir.

Q. Did you attend the trial?—A. Yes, sir.

Q. Knew they were convicted and sentenced?—A. Yes, sir.

Judge BURFORD. Objected to as not the best evidence.

Q. Do you know whether that fact was generally disseminated through this county prior to the 1912 general election?—A. Yes, sir.

Q. Did you talk with any of the inspectors prior to the last election?—A. Yes, sir.

Q. Do you know whether the facts were within their knowledge of the conviction and sentence of Beall and Guinn, and the circulation of the Boardman letter and the penitentiary warning circular?—A. Yes, sir.

Judge BURFORD. Objected to as incompetent, immaterial, calling for hearsay, not the best evidence.

Q. State whether or not they expressed themselves as intimidated and fearing to act in an official capacity by reason of these facts.

Judge BURFORD. Objected to because grossly leading, suggestive, incompetent, immaterial, calling for a conclusion, not the best evidence.

A. Yes, sir; I know it did, because one of our inspectors went to Oklahoma City in regard to it; didn't know just what—

Judge BURFORD. Object to answer of witness any further because it now embraces a statement made by the inspector, not the best evidence, incompetent.

A. Went to Oklahoma City and consulted the governor in regard to the Boardman letter.

Judge BURFORD. Were you present?

A. I was present when he got the notice and I know he went to—

Judge BURFORD. Move to strike out answer of witness because it makes a statement which is hearsay, incompetent, not the best evidence.

Cross-examination by Judge BURFORD:

Q. You have always been affiliated with the Democratic Party?—A. Yes, sir.

Q. What active work you have done has been in the interest of the Democratic Party?—A. Yes, sir.

W. R. BLACKBURN, being duly sworn as a witness for the contestant, testifies as follows:

Direct examination by Mr. HOFFMAN:

Q. State your name.—A. W. R. Blackburn.

Q. Where do you live?—A. Hennessey, Okla.

Q. What business are you engaged in?—A. The real estate business.

Q. How long have you lived there, Mr. Blackburn?—A. In the neighborhood of 20 years.

Q. Have you been an active participant in the politics of this county during the time you have lived here?—A. I have.

Q. Do you know whether or not that which has been referred to in this record as the Boardman letter and the penitentiary warning circular were circulated throughout this county just prior to the last general 1912 election?—A. They were in my part of the county.

Q. Was it a subject of general knowledge?—A. It was.

Q. Do you know what influence this circulation had upon the minds of the election inspectors in that vicinity?

Judge BURFORD. Objected to for the reason it is calling for an answer which within the very nature of things couldn't be within the comprehension or knowledge of this witness, would be hearsay if he had any information on the subject. it is not the best evidence.

A. I have, because I was called on by the county election board to help procure election inspectors in Lacey Township, Kingfisher County, Okla.

Judge BURFORD. Move to strike out answer of witness because it clearly demonstrates the truth of the objection I heretofore made and shows it is incompetent to testify on the subject, relates to hearsay and secondary matter.

Q. What did you do in regard to procuring inspectors?—A. I drove out to Lacey Township and called on several different people and talked to several different people before I could get them to act as an inspector on account of the sentence of Beall and Guinn on account of the various stories afloat in regard to things.

Judge BURFORD. Move to strike out the answer of the witness because it is wholly incompetent, irrelevant and immaterial, calls for secondary matter, and states a conclusion.

Q. State whether or not their objections to serve as election inspectors was based upon the ground of fear of Federal prosecution?

Judge BURFORD. Question is objected to for the reason it is grossly leading, improper, immaterial, calls for a conclusion, and for secondary evidence.

A. It was.

Judge BURFORD. Move to strike out the answer of the witness because it already appears it is a conclusion of the witness, hearsay, and secondary evidence.

Cross-examination by Judge BURFORD:

Q. You have been an advocate of the principles of the Democratic party?—A. I have.

Q. And the active work you have taken in the interest of politics has been in the interest of the Democratic party?—A. It has.

Q. And the effort you were making to obtain the consent of some one to serve on the election board was made at the suggestion of the Democratic secretary of the county election board?—A. The chairman.

Q. Who is a Democrat?—A. Yes, sir.

Redirect examination by Mr. HOFFMAN:

Q. State whether or not one Nagle, a resident of this town, published over his signature in any of your papers there in your vicinity any threats or warning to the election officials that they must let the negroes vote?

Judge BURFORD. Objected to as incompetent, immaterial, irrelevant, Mr. Nagle not being a member of the parties to the contest, the contestants not being responsible for his articles or writings.

A. He did.

Q. What was the substance of those communications, if you know?

Judge BURFORD. Objected to as incompetent, immaterial, and not the best evidence, the articles themselves being obtainable and being the best evidence of their contents.

Q. Can you get me those articles up there, the files of your paper?—A. The paper was published here.

## EXHIBIT 50—KINGFISHER.

Mr. William Bezanson, Kingfisher. Oklahoma.

## EXHIBIT 51—KINGFISHER CITY.

## HARD TO GET ELECTION JUDGES.

GUTHRIE, OKLA., *July 30.*

Because of the continued agitation regarding the enforcement and nonenforcement of the so-called "grandfather clause" law of Oklahoma it is difficult to get election inspectors who are willing to stand between the "devil and the deep sea"—men who are of the best class in their respective localities. This is learned as a result of a communication with numerous county election boards throughout the State.

To start with, it was not easy to find men who found no hesitancy whatever in enforcing the law against negro voters, as invariably they were educated negro men known to practically all inspectors. Then, following the first enforcement of the law came numerous arrests under Federal laws of election officials who had enforced the law, and after the arrests came the conviction of J. J. Beall and Jack Quinn, of Kingfisher County, and their imprisonment in the Federal penitentiary.

This conviction made men think several times before taking an oath to enforce the "grandfather clause" and also look the Federal prisons in the face at the same time. There were many resignations followed, and in some instances, it is learned, there are vacancies still pending.

Then, when registration began several weeks ago, the agitation again started. Orders were to enforce the law, and an opinion from the Attorney General was given to that effect. On top of that came an interpretation of the Federal decision in the Beall-Quinn case, showing that no election officer could enforce the law without taking into consideration the Federal court decision which holds the law unconstitutional. Continued efforts to enforce the law have now brought from Washington the orders to prosecute wherever the conditions are the same as in the Beall-Quinn case, and again the election officers are up against it. The orders from Attorney General Wickersham came not only to the United States attorney's office here, but also at Muskogee, thus placing the Federal court that the law is unconstitutional in force on that side of the State, too.

The Beall-Quinn case is now pending on appeal in the United States circuit court of appeals, where it was recently argued.

A decision is expected in the near future, and thus an end will be put to the constantly renewed agitation.

I, Miles W. Judge, a notary public in and for Kingfisher County, State of Oklahoma, hereby certify that the above and foregoing is a literal, true, and correct copy of an article published in the Daily Midget, volume No. 4, No. 180, a daily newspaper of general circulation throughout Kingfisher County, and of date Wednesday, July 31, 1912.

Witness my hand and official seal this the 31st day of March, 1913.

[SEAL.]

MILES W. JUDGE, *Notary Public.*

My commission expires September 30, 1914.

## EXHIBIT No. 52—KINGFISHER.

DEPARTMENT OF JUSTICE,  
OFFICE OF THE UNITED STATES ATTORNEY,  
WESTERN DISTRICT OF OKLAHOMA,  
*Guthrie, October 31, 1912.*

MR. FRED A. WAGONER,  
*Deputy County Attorney, Chandler, Okla.*

DEAR SIR: I have your letter asking whether at the coming general election the precinct election officers can enforce the law commonly termed the grandfather law and escape punishment therefor in the Federal courts on a showing of good faith in enforcing said law. I presume your question has arisen on account of the apparent conflict between the decision of the Supreme Court of

the State of Oklahoma and the United States District Courts for the Eastern and Western Districts of Oklahoma on the constitutionality of the law, the State supreme court having held the law constitutional, while the two United States courts in the State have held it unconstitutional and void.

It must be borne in mind that this all involves purely State matters as well as Federal matters, and in considering the same these two phases of the law must be kept in mind. As to the purely State questions involved in the law, I do not express any opinion, the same not being within the jurisdiction of this office, and this opinion is directed solely to the Federal question involved: that is, the application of the grandfather law to negroes who, on account of race, color, and previous condition of servitude, are not permitted to vote without submitting to certain tests of reading and writing. Nor shall I argue the question of the constitutionality of the law, for the reason that, after very extensive argument by some of the best legal talent of the State, it has already been in positive terms declared unconstitutional by the two United States district courts in this State, which decisions are now the law of this State as far as the Federal questions therein involved are concerned, having never been reversed or modified.

Knowing this, that the Federal courts having jurisdiction over the entire State have declared the law to be unconstitutional and of no force and effect, the question arises whether the precinct election officers can enforce it against negroes on account of their race and color, and then when prosecuted in a Federal court for doing so, defend the prosecution on a plea of good faith in enforcing the law. The question of good faith must be determined with reference to the decision of the courts on the subject and having jurisdiction thereof, so there can be no good faith in acting in direct conflict with the known decisions of the courts, although in the absence of any such decisions such defense might be made. In the case against Beall and Quinn, who were convicted in the Federal court at Enid, in 1911, for violating section 19 of the Federal criminal code in enforcing the grandfather law at the general election in November, 1910, the defense of good faith was attempted, although without success, as the verdict of the jury disclosed. However, in that case at the time the acts were committed which caused a prosecution—that is, in November, 1910—no Federal court had passed upon the law.

Furthermore, all precinct election officers are quasi judicial officers in a quasi judicial capacity, and being officers of inferior and restricted jurisdiction, are all bound by the decisions of the Federal courts declaring the law unconstitutional when applying the same to negroes desiring to vote for Members of Congress and electors for President, and the defense of good faith will not protect them from prosecution for enforcing the law in direct conflict with the Federal decisions.

Respectfully,

HOMER N. BOARDMAN,  
*United States Attorney.*

EXHIBIT No. 53—KINGFISHER.

Talk it over with your wife, Mr. Election Official, and remember that you will go to the penitentiary if you violate the Federal election laws, and not Gov. Cruce nor his brother, Attorney A. C. Cruce. You will remember that the latter defended Beall and Quinn, who last year were convicted in the United States court at Enid and sentenced to the penitentiary for violating the Federal election law, and the State paid the attorneys in these cases about \$14,000 for defending these two men. This averages about \$7,000 per case. It is not likely that the people of this State, already overburdened with taxes, will be willing to continue to pay out \$7,000 every time an election official violates the Federal statutes. The people are not sufficiently anxious to enrich the governor's brother, Attorney A. C. Cruce. Besides, what's the use? Where conviction is sure there is nothing gained by paying out big sums of money for attorney fees; that is to say, there is nothing gained by anyone but the attorney.

Depositions taken before Mr. J. M. Grubbs, a notary public, at the town of Stillwater, county of Payne, State of Oklahoma.

The contestant, John J. Davis, appeared in person and by his attorney, and the contestee, Bird S. McGuire, appeared by his attorney, John H. Burford. All parties announcing ready, the following proceedings were had:



G. D. ABERCROMBIE, who being first duly sworn, testifies as follows :

Direct examination by Mr. HOFFMAN :

Q. Please state your name, occupation, and place of residence.—A. G. D. Abercrombie, secretary of county election board, Stillwater, Okla.

Q. Were you holding the position of secretary of the county election board at the time of the last general election, in 1912?—A. Yes, sir.

Q. Did you as secretary of said election board act with others in receiving the returns of the congressional election of this county?—A. Yes.

Q. Among others, did you receive the vote of precinct Mounds?—A. Yes.

Q. In what condition was that vote?—A. Mounds did not have any returns, what our law constitutes the returns, and the vote or the record we got was taken from one tally sheet.

Q. That was all you had?—A. Yes; that was all from Mounds.

Q. In making your report?

Mr. BURFORD. Counsel for contestee objects to the testimony of the witness, for the reason that the election returns themselves are the best evidence of the returns that were made at the county election board, and that it is secondary evidence, is not the best for the purpose of proving the matters that are a part of the records of the county election board; and counsel for the contestant now moves to strike the answer of the witness to the last question, for the reason that it purports from his answer that the returns named are a part of the records of the office of the county election board, and records themselves are the best evidence as to what returns were made that time.

Q. Who made the return of that election board of this county?—A. I did.

Q. In making that return, did you have anything whatever to base the vote of Congressman in that township except the tally sheet?—A. There was nothing.

Q. Where is that sheet?—A. In the ballot box at the courthouse.

Mr. HOFFMAN. We now call upon contestee to consent that an order of court may be made to open the ballot box of Mounds Township and attach to this record, or a certified copy of the same.

Mr. BURFORD. The contestee is not the custodian of the county election returns of Payne County, and no control and no action pending in any court having jurisdiction over said returns in which he could give any consent to any order opening the ballot box or election returns.

Q. Were there any returns, ballots, from Mounds Township—I mean, congressional?—A. There were supposed to be and delivered, marked—

Q. Do you know whether there were any returns?—A. No, sir; I do not.

Q. I will ask you if Clarkson precinct had any negro vote?

Mr. BURFORD. Objected to by contestee as irrelevant, immaterial, and incompetent.

A. I have been informed by the election officials it has.

Mr. BURFORD. Counsel for contestee moves to strike the answer of the witness because it purports from the answer that the witness has no knowledge of the fact, speaking from hearsay.

Q. I will hand you a list of the precincts of this county and ask you to name the ones from that list which of your own personal knowledge have negro voters in them.

Mr. BURFORD. Objected to as not the best evidence, the registration books of each voting precinct showing who are the registered voters, their ages, color, and complete description of each registered voter; the registration books the best evidence, a part of the records of the county election board and accessible, and the best evidence as to whether any negro voters in any precinct in the county.

A. Clayton precinct—1 negro voter in Clayton precinct; 2, Henry Township, Perkins Township, Stillwater City, wards 1 and 3. These are all that I know of my personal knowledge.

Q. I hand you an instrument, which is known in this record as Exhibit I, and another, known as Exhibit II, the first being otherwise known as the Bordman letter and the second as a copy of the penitentiary circular, and state if you know whether or not these instruments were delivered among the voters and election officials of the negro townships which you have just named.

Mr. BURFORD. Objected to as irrelevant, incompetent, and immaterial; not the best evidence.

A. I have seen these letters, it was shown to me here in Stillwater by the Republican committeeman of North Union Township, No. 1, and have—was asked in regard to the enforcement of the election laws by the inspectors of

Henry Township and Elmgrove Perkins Township and several others; they told me they had a couple of these Bordman letters.

Mr. BURFORD. Counsel for the contestee moves to strike from the record that portion of the answer of the witness wherein he states which of the inspectors told him they had a copy of the letter.

Q. As secretary of the election board did you name the inspectors of the various precincts?—A. I did, with the assistance of the other two members of the election board.

Q. State the difficulty you had in getting officials to serve as inspectors in the negro precincts.

Mr. BURFORD. Objected to as incompetent, irrelevant, and immaterial; not tending to establish or disprove any issue in this case.

A. We had to use a great deal of persuasion on some of them to get them to serve on account of being afraid to enforce the grandfather clause; they wanted the county election board or wanted me to tell them they could pass it or ask me how—

Mr. BURFORD. Wait a moment; objected to the former answer for the reason that not responsive to the question and is repeating statements of other parties which constitute hearsay; not the best evidence; parties to whom he referred being competent to testify in the case.

Q. Have you made any efforts to get the inspectors to testify here?—A. I have by phone; Mr. Hall told me he would be from Henry Township and I have asked two or three of the other inspectors in regard to the enforcement of the grandfather clause, telling them there was a contest and they would be called on to testify; and they closed up, would not say anything.

Q. Do you know whether or not they were afraid of criminal prosecution?

Mr. BURFORD. Objected to as calling for hearsay.

A. I don't know right now except in one case, that of Mr. Hall; I talked with him over the phone this morning and told him there was no danger of him being prosecuted if he had been intimidated in any way and would show it.

Cross-examination by Mr. BURFORD:

Q. What is your politics?—A. Democrat.

Q. The county election board, the time you referred to, was composed of two Democrats and one Republican?—A. Yes.

Q. And the precinct election board—you appointed several precinct boards in this county—were composed each of two Democrats and one Republican?—A. They were with one or two exceptions.

Q. And in those you had no Republican in?—A. There was a Republican appointed in every precinct in the county unless they changed their politics afterwards.

Q. What was the exception you referred to in your answer?—A. There were one or two cases, two Democrats appointed that I learned had gone to the Socialists and one Republican had gone to the Socialists afterwards.

Q. In the case you testified about, in relation to the returns from Mounds Township, what was the political make up of the election board in that township?—A. The inspector and the clerk were Democrats and the judge was a Republican.

Q. Who of the board made the return—made the precinct return from there to the county election board?—A. Was none made. The inspector returned the—

Q. Wait a moment; which member of the precinct election board made to the county election board a partial return?

Mr. HOFFMAN. Objected to the question for the reason the witness stated that no returns were made.

A. The inspector.

Q. What did you receive as secretary of the county election board from Mounds precinct?—A. The ballot box.

Q. Who opened the ballot box?—A. The chairman of the county election board.

Q. Who? Was there other members of the county election board present at the time?—A. The Republican member and myself.

Q. Who was the chairman of the county election board?—A. William Barker.

Q. Did you see the contents of the box at the time it was opened?—A. I saw it just after it was opened.

Q. Did you see what was in the box at the time it was opened?—A. I did.

Q. State what it contained. A. There were the envelopes containing—supposed to contain—the tally sheets, the voted ballots, and the stub books of ballots, and the envelopes supposed to contain the returns and the envelope

for the challenged ballots. That is all that I remember that was in, except pens and ink.

Q. When you stated that no returns were made you meant that there was no certificate in the ballot box signed by the counters showing the number of votes cast for each candidate?—A. Yes, sir.

Q. Was there any other omission as you now remember, except the certificate?—A. That is the only thing we looked for.

Q. Did you examine the tally sheet?—A. I looked it over, but—

Q. In making up the tabulation of the number of votes received for each candidate in Mounds precinct, what did you use?—A. Took the returns from the one tally sheet, the votes reported on this tally sheet.

Q. Did you discover any omission or discrepancy in that tally sheet as to the recording of the votes or the signatures of the election officers?—A. I don't remember of any.

Q. Did you make any inquiry of the election inspector for the certificate of the number of votes cast for all candidates in that precinct?—A. The election inspector had left town before we canvassed the returns from Mounds Township and we did not ask him for any certificate.

Q. You are familiar, are you not, with the requirements of the law in reference to the number of certificates to be made by the precinct election officers and the disposition to be made of them?—A. I am.

Q. That requires the inspector to retain one of the signed-up certificates, does it not?—A. Yes, sir.

Q. And you never made any inquiry of him for such certificate?—A. I have not.

Q. Were all of the envelopes contained in the ballot box opened by the county election board to ascertain their contents?—A. I think not; I am not sure.

Q. How long have you been a member of the county election board?—A. Almost three years.

Q. Did you ever participate in the canvass of the returns of any other election here in the county?—A. Yes, sir.

Q. Is it your experience, as a member of the county election board, that the precinct officers frequently place the certificates or the tally sheet, or even the mutilated ballots in the wrong envelopes in making their return to the county election board?—A. I have found them that way.

Q. Has it not been your experience that it is very difficult to have the precinct election boards comply strictly with the law, the requirements as to the manner of sealing up the various parts of the election returns and return to the county election board through mere lack of knowledge as to the manner of doing it?—A. In some instances it is hard to get them to make all of their returns in the different envelopes correctly.

Q. In your testimony in chief you referred to certain negro precincts in Payne County; you did not mean to testify that any precinct in this county is controlled by or even has a majority of negro voters, did you?—A. I did not mean more negroes than white.

Q. You meant to testify that there were certain precincts in the county that contains some negroes that have voted?—A. Yes.

Q. You had a complete election board in every precinct in the county for the 1912 election, did you, as far as you know?—A. Yes.

Q. And each precinct in the county made to the county election board a return of the ballot box with either a complete or partial return of as to the election?—A. They did.

Q. Your county election board made a canvass of the returns from each precinct in the county, made up your tabulation therefrom, and furnished to the State election board, did you not?—A. From what we received from the precinct boards; yes.

Q. There was no precinct omitted in making up your tabulation?—A. No; except on some State question that we submitted.

Q. You testified in chief you had been endeavoring to procure certain persons to appear and testify, by communicating with them by phone, had any subpoena been issued to these persons?—A. Not that I know of.

Redirect examination by Mr. HOFFMAN:

Q. Did Clayton, No. 2, of this county, have a full board?—A. Yes.

Q. Have any extras—A. There was a bill filed for more than the full board for services.

Q. What—you know nothing of what capacity the person who filed the account purported to act, of your own knowledge?

Mr. BURFORD. Objected to as immaterial.

A. The bill was for clerk.

Mr. BURFORD. Further objected to, as bill is best evidence.

Q. Have you that bill?—A. I have not, in my possession right now.

Q. Can you—will you get it?—A. It is on record.

Q. If you can I wish you would get it, I want to attach it to the record.  
[Witness excused to obtain bill.]

Mr. HOFFMAN. The counsel for the contestant here offers in evidence certified copy of the claim for services testified to by witness, Abercrombie, and ask that it be marked "Exhibit A" of Abercrombie's testimony, attached thereto, made a part thereof.

Mr. BURFORD. Objected to as incompetent, irrelevant, and immaterial, and not tending to prove that the claim for services was connected with the election board or participated in proceedings or was present at the time, and not being best evidence; members of election board would be proper parties to give evidence as to whether this person was present or participated. No objections to it being a copy of the bill. That is all.

(Witness excused.)

EXHIBIT A OF ABERCROMBIE'S TESTIMONY.

Bill of account, Payne County, State of Oklahoma, to A. B. Wolford, Dr.

For one day's service as clerk and one-half day for overtime. \$3.

Clayton Township, precinct No. 2.

Not allowed.

G. D. Abercrombie, secretary of election board.

STATE OF OKLAHOMA,

*Payne County, ss:*

I do solemnly swear that the above account is just and correct, and remains due and unpaid. So help me God.

A. B. WOLFORD.

Subscribed and sworn to before me this 6th day of November, 1912.

ALLEN ANDERSON, *Inspector.*

STATE OF OKLAHOMA,

*County of Payne, ss:*

I, E. M. Hamlin, county clerk of the aforesaid county, do hereby certify that the foregoing claim is a true and correct copy of the original claim now on file in the county clerk's office of this county.

Given under my hand and seal this 1st day of April, A. D. 1913.

[SEAL.]

E. M. HAMLIN,  
*County Clerk.*

R. L. OVERHOLD, being first duly sworn, testifies as follows:

Direct examination by Mr. HOFFMAN:

Q. State your name.—A. R. L. Overhold.

Q. Where do you reside?—A. Seven miles southeast of Stillwater.

Q. What voting precinct did you reside in the last general election?—A. Clayton No. 2.

Q. You voted in Clayton No. 2?—A. Yes, sir.

Q. Where was the election held?—A. High Prairie.

Q. Schoolhouse?—A. Yes, sir.

Q. Were there any negroes out there?—A. Yes, sir.

Q. How many?—A. Nine to my knowledge.

Q. You saw that many there?—A. Yes, sir.

Q. Was any electioneering done inside?—A. Yes.

Q. Who did it?—A. A man by the name of Saint.

Q. Where were those negroes at the time the election was going on?

Mr. BURFORD. Objected to the questioning, because calls for a conclusion, and the witness has not shown what electioneering is.

A. In the schoolhouse.

Q. Where the voting was held?—A. Yes, sir.

Q. How close to the booths?—A. About 20 feet.

Q. Less than 50 feet of the booths?—A. Yes, sir.

Q. Inside the building where the election was being held?

By Mr. BURFORD. Objected to as being leading and suggestive.

A. Yes.

Q. State the circumstances there of this instance.—A. How? You mean that were in the building?

Q. Yes; what you saw.—A. They were sitting in the northeast corner of the schoolhouse, and there was 3 or 4 seats, I should say, with two in a seat and one sitting on a desk, and the man Saint was electioneering there with them. At the time we were in there it was raining.

Q. Now was there any efforts toward enforcing the grandfather clause there that day?

Mr. BURFORD. Objected to as incompetent, irrelevant and immaterial. Also calling for a conclusion of the witness, never having shown what the grandfather clause is, or what was to enforce it.

A. Not that I seen.

Q. Did you see any of these negroes call for ballot and——

Mr. BURFORD. Objected to as leading and suggestive.

A. No, sir.

Q. Who constituted the board out there?

Mr. BURFORD. Objected to as not the best evidence.

Q. Change the form of the question; who were acting in the capacity of inspector, clerk, and judge there that day?

Mr. BURFORD. Objected to as not the best evidence; the election records of the county election board show who they were and what capacity they acted in.

A. Clate Nelson and Woolford.

Q. Both?—A. Yes; and both was assisting; and Anderson was receiving the ballots, and Harry Albright; that is all I believe, except the counters.

Q. You know which was clerk and which judge and inspector, do you, that were all acting?—A. Yes.

Q. Members of the board?—A. Yes.

Q. What was this extra clerk doing?—A. He was writing off the ballot; he give me my ballot.

Q. Now, how long have you been living in that precinct?—A. About 21 years.

Q. Are you acquainted with the population generally of that precinct?—A. Yes.

Q. And were there anyone there that day, there and voted, who were not residents of that precinct to your knowledge?—A. Not to my knowledge.

Q. Was anyone there that was a stranger to you?—A. Yes.

Q. About how many?—A. I should judge about 12.

Q. Who were they?—A. Mostly negroes; I knowed one negro is all.

Q. Now, did you ever talk with the inspector of that precinct in regard to enforcement of the so-called grandfather clause before the election?—A. No, sir.

Q. Did you ever hear any conversation upon that subject with anyone else?—A. No, sir.

Q. And you were there from what time, did you say?—A. About 8 until 3.

Q. In the afternoon?—A. Yes, sir.

Q. Was there any test administered the negroes there present?

Mr. BURFORD. Objected to as incompetent, irrelevant, and immaterial; calling for a conclusion and nothing to disclose that the witness knows.

A. Not that I saw.

Q. Was there any questions asked them when they applied for the ballots?—A. No, sir.

Cross-examination by Mr. BURFORD:

Q. Did you see anyone vote while you were there?—A. Yes, sir.

Q. How many?—A. Two; I know of several more, but I paid no attention; I was talking there.

Q. You was there about an hour or two?—A. I was there from 8 o'clock in the forenoon to 3 in the afternoon.

Q. Now, when these people went in the house the rain had come up?—A. Yes.

Q. And during the time you have named came in out of the rain from the outside?—A. Yes.

Q. Did not interfere with the board?—A. Yes.

Q. What do you mean by electioneering?—A. To draw votes.

Q. Was he a candidate?—A. No, sir; he was electioneering for the candidates.

Q. Was he trying to get people to vote that would not vote?—A. There was on the outside; I heard these colored fellows whether they were in the precinct or not.

Q. Whether they lived in the precinct or not?—A. Yes; and——

Q. The question that Mr. Davis asked you whether you saw anyone electioneering and you said you saw Mr. Saint; where was he living?—A. He lived southeast, I think, of this schoolhouse.

Q. Did you hear him make any effort to get people to vote?—A. Yes.

Q. And was he telling who to vote for?—A. Yes.

Q. What did you hear him say?—A. The only thing was about that he wanted to know who they were going to vote for commissioner and also sheriff.

Q. You heard him ask those questions?—A. Yes.

Q. That is all.

(Witness excused.)

D. F. HALL, who, being first duly sworn, testifies as follows:

Direct examination by Mr. HOFFMAN:

Q. What is your full name?—A. D. F. Hall.

Q. Where do you live?—A. In Henry Township.

Q. How long have you lived there?—A. About 14 years.

Q. Did you serve in any capacity at the last general election, in 1912?—A. I did.

Q. State what.—A. Inspector.

Q. Of what precinct?—A. Number one.

Q. What name?—A. Henry Township.

Q. Prior to that time, I will ask you to state if you received a copy of that, which is known as the Boardman letter?

Mr. BURFORD. Objected to as incompetent, irrelevant, immaterial, not tending to establish or disprove any cause in this case.

A. I would not say positive, I received so much stuff along about those times; I received something similar to that.

Q. Have you it now? You know where it is now?—A. No.

Q. Can you produce it here?—A. No. I burnt up all that stuff.

Q. Prior to election day, had you known of the conviction of Guinn and Bell, election officers of Kingfisher County?

Mr. BURFORD. Objected to as incompetent, irrelevant, and immaterial.

A. Yes.

Q. Had you known of any other prosecution of election officials in this State on the ground of having enforced the grandfather clause?

Mr. BURFORD. Objected to as incompetent, irrelevant, and immaterial.

A. Yes.

Q. Were there any negroes in that precinct?—A. Yes.

Q. Who applied to vote?—A. Yes.

Q. How many about?—A. I would judge that there was, I don't know exactly, in the neighborhood of 20.

Q. Did you apply the test of the grandfather clause to any negroes, of reading and writing?

Mr. BURFORD. Objected to as incompetent, irrelevant, and immaterial, calling for a conclusion and not proper cause as to what the witness did.

A. I could not say. I did not to all I know; I don't believe to any of them; I would not be positive.

Q. Do you know whether or not all were qualified to vote under the laws of this State?—A. Yes, I did; I made one of them read.

Q. Do you know whether or not the negroes who applied there were qualified to vote under the laws of this State?—A. I would not answer that question.

Q. I understood you to say a while ago you did not know whether they were qualified or not; is that correct?—A. No; I don't know they were qualified; those I challenged made affidavit.

Q. You challenged one?—A. Yes.

Q. And you did not challenge him on the educational ground?—A. No.

Q. Why did you not apply the test under the grandfather clause on who applied there?

Mr. BURFORD. Objected to as incompetent; calling for a conclusion; not the best evidence.

A. Well, sir, the reason was that I thought the Federal judge decided it was unconstitutional and not lawful.

Q. And for that reason you did not enforce it?—A. Yes, sir.

Q. State whether or not you were afraid of Federal prosecution if you did enforce it.—A. Yes.

Q. What caused that fear?—A. Because my understanding was that there had been some sentence that had incurred—

Q. Sentence where?—A. To the penitentiary

Q. For that reason you were afraid to enforce it?—A. Yes; my understanding is that the Federal court having said it was unconstitutional.

Q. Was there any disturbance among the negroes around the polls?—A. Some loud talking on the outside.

Q. Did you have to enforce order?—A. I believe I went to the door a time or two and told them to be quiet; they were bothering the counters.

Q. Was there any confusion on the count—the tally there?

Mr. BURFORD. Objected to.

A. Some little.

Q. Just state how that count proceeded.

Mr. BURFORD. Objected to by counsel, for the reason that the counters are required under the law to make the count without any assistance from the members of the election board, and this witness, being inspector, had no opportunity to participate in the counting.

Q. What did you observe in that count that day?—A. Now, not in the way I could answer; I know they had some bother, but what it was I don't know.

Cross-examination by Mr. BURFORD:

Q. How long have you lived down there?—A. Something like 14 years.

Q. These negroes you speak of were residents of that precinct, are they?—A. They said they were; I don't know a thing about it.

Q. Do you know any personally?—A. No, sir; I don't mix with the niggers a bit; we have none in our immediate vicinity. One nigger lived north; I don't remember his name no more. I don't allow niggers on my place.

Q. How far do these negroes that you refer to as having voted there reside from you, in the precinct?—A. Well; I don't know; I could not say as to where they lived; there were some McKonkeys, some Mr. Joneses, possibly 4 or 5 miles from me.

Q. What post office is in your voting precinct?—A. We have no post office in our voting precinct; we get our mail at Stillwater.

Q. Stillwater?—A. Yes; Henry Township comes in a mile of Stillwater here, right east of Stillwater.

Q. Does it run to the river?—A. No.

Q. There is a township between you and the river?—A. Yes.

Q. In what part of the township is the negro settlement.—A. Part southeast; that is, mostly.

Q. You did not permit anyone to vote who you know was disqualified?—A. Not that I know of; no, sir.

Q. Do you know now how many negroes voted that day?—A. Not exactly; no, sir; I judge somewhere around 20.

Q. Who is the clerk of the board?—A. Mr. Kees.

Q. What initials?—A. I can't call it. William, I believe; they call him Bill.

Q. Who is judge?—A. Frank French—F. R. French.

Q. Were they each men who had resided in the precinct quite a period?—A. Mr. French, but Mr. Kees had not been there only two or three years.

Q. You say you had heard some election inspectors had been convicted in the Federal court?—A. Yes; Mr. French is Republican judge, and we spoke about it and he said he was a little afraid.

Q. Had you been informed that the two parties who had been convicted under the Federal laws, in the Federal court, were convicted for having conspired to deprive colored voters who were qualified to vote under the grandfather clause?—A. I understood that was the charge—on account of enforcing the grandfather clause.

(Question repeated.)

Q. I understood that was the charge against them for enforcing the grandfather clause.

Q. That don't answer my question quite. Had you prior to the 1912 election ever been told by anyone that these men who were convicted were convicted on a charge which charged them with conspiring to prevent colored men from voting who were entitled to vote under the grandfather clause?—A. I understand that those men were sentenced for not letting niggers to vote—for enforcing the grandfather clause.

Q. I want to know whether anybody told you this or not—yes or no.—A. State the question.

Q. Had anybody informed you that the men who were convicted in the United States Circuit Court were convicted because of having conspired to keep

negroes from voting who could have qualified under the grandfather clause?—  
A. No, sir.

Q. You did not know then at that time that in the trial of that case Judge Cotteral instructed the jury that if these men had in good faith tried to enforce the State law they could not be convicted?—A. My understanding was that any man that tried to enforce the grandfather clause was going up against the Constitution of the United States, was unconstitutional, and that is why they were sentenced to the penitentiary.

Q. You did not know then that Judge Cotteral instructed the jury that if these men had tried to enforce the law they could not be convicted, but the testimony was that they would not let the negroes vote at all—just kept him out because he was a negro?—A. I never got it out of the Republican press that way.

Q. I am talking about the court proceedings themselves. That is all.  
(Witness excused.)

N. B. MORRIS, who being first duly sworn, testifies as follows:

Direct examination by Mr. HOFFMAN:

Q. State your name, age, and residence.—A. N. B. Morris, 55, Henry Township, Payne County, Okla.

Q. How long have you lived there?—A. About 17 years.

Q. Were you an election official in Henry Township in the last general election there?—A. I was a counter.

Q. Did you serve?—A. Yes, sir.

Q. In that day the negroes—how many negroes applied to vote in that precinct to your best judgment?—A. Around about 20 or 25.

Q. Those negroes come to the polls that day, all?—A. A part of them did, not all of them got there from the fact we had a rain in the afternoon and some started and did not get there.

Q. About how many voted there?—A. Between 15 or 20.

Q. Those negroes congregated around the polls there that day?

Mr. BURFORD. Objected to as leading and suggestive and not proper mode of proving the cause.

A. Yes.

Q. Were there any disturbances there that day made by them?

Mr. BURFORD. Objected to as incompetent, irrelevant and immaterial, calling for a conclusion and not proper mode of proving cause.

A. Loud talking.

Q. Did they have to be quieted by the officers?

Mr. BURFORD. Objected to as incompetent, irrelevant, immaterial; calling for a conclusion.

A. I asked for order and the inspector granted it.

Q. He quieted them?—A. Attempted to, at least.

Q. Now, in your counting there; tell us how you did that counting there that day.—A. In our individual count we took all the mixed things; I called the names. There was Democratic counters; we had a Democratic clerk and a Republican clerk. I did the calling, and the other man did investigate the ballots, and I would read and the counters would tally; but when we came to the State ticket or anything else he would lay them on a pile till we would get 5 or 10, and then we would make one call—five Democrats or five Republicans, or Socialists, whatever they might be. He would look them over, and when he got satisfied I would take and examine each ticket and then give the number.

Q. In calling you would call by group number?—A. Yes.

Q. Now, did you make any error in the entire tabulation?—A. We only found that more correct than any other.

Q. Did you have any errors?—A. Yes.

Q. How did you correct them?—A. The clerk could only correct from the tally sheet always.

Q. Would you move up or back?—A. Moved up or back.

Q. To make the other balance?—A. Yes.

Q. You just lumped it off.

Mr. BURFORD. Objected to, as counsel who is testifying has not been sworn.

Q. If I understand you, in order to determine the count, you would merely take the ballot without going over the tickets?—A. If the ballot was folded and strung, if I still had the ballot, I would recall it.

Q. You are not able to say whether you had a correct vote or not?—A. I am not.



Cross-examination by Mr. BURFORD:

Q. Did one of your tally clerks call the tally as they were put up?—A. Only both did. That was the ruling as we should do it.

Q. They did it in that way?—A. Yes.

Q. They corrected without going further?—A. Not always, and occasionally they missed; did not tally at the same time on the name.

Q. Just be one—A. Sometimes two or three.

Q. That would not be if calling all through?—A. The tally sheet, if you had it here to examine, the names were on the inside and between the lines and sometimes had to be written to fill in different things, and they got them mixed up.

Q. Would get things in the wrong place?—A. Yes; it seemed like, I think, that was the greatest fault of the error.

Q. You don't think there was any real error as to the number for each person?—A. No; only by the clerk.

Q. And that when you called a name each clerk tallied?—A. They tried to, but did not always do it.

Q. That was the custom?—A. That is where the disturbance came in and we were bothered by talking on the outside, the loud talking would give the bother, and we would fail to get the call or they might to get my call.

Q. This loud talking was not quarreling?—A. It was just loud talking and boisterous, but you take us farmers not used to that kind of a thing we get confused.

Q. You had no disturbance?—A. No quarreling that I know of.

Q. Now, you—what time did you begin counting, 10 o'clock?—A. Something near there we began to prepare the papers.

Q. During the time you were counting did you pay any attention to the judge and the inspector?—A. In a way. Our room was just larger than this and they had their table, and we were right here like, we were sitting with our backs against the wall so the light would shine and we would see over west, and still not notice what was going on.

Q. Who was the inspector?—A. Mr. Hall.

(Witness excused.)

I, J. M. Grubbs, notary public within and for the county of Payne, in the State of Oklahoma, do hereby certify that the above-named G. D. Abercrombie, R. L. Overhold, B. F. Hall, N. B. Morris, were by me first duly sworn to testify the truth, the whole truth, and nothing but the truth, in the case aforesaid, and that the depositions were taken by Sadie Mannheimer, a disinterested party, in shorthand and reduced by her to writing, and the same were taken on the 1st day of April, 1913, between the hours of 8 o'clock a. m. and 6 o'clock p. m. of the said day and at my office in the city of Stillwater, in Payne County, and State of Oklahoma, and that I am not attorney or a relative of either of said parties or otherwise interested in the event of this action.

Witness my hand and seal this 25th day of April, 1913.

[SEAL.]

J. M. GRUBBS,  
Notary Public.

My commission expires July 5, 1914.

Depositions taken before Mr. H. A. Rexroad, a notary public in the city of Pawnee, county of Pawnee, State of Oklahoma.

The contestant, John J. Davis, appeared in person and by attorney, and the contestee, Bird S. McGuire, appeared by his attorney, John H. Burford; all parties announcing ready, the following proceedings were had.

GEO. E. MERRITT, being first duly sworn, testifies as follows:

Direct examination by Mr. HOFFMAN:

Q. State your name, occupation, and place of residence.—A. Geo. E. Merritt; present county judge of Pawnee County; reside at Pawnee, Okla.

Q. How long have you lived here, Judge?—A. Five years.

Q. Do you know Bird S. McGuire, candidate, Republican, for Congress in the last general election?—A. Yes.

Q. Do you know where his residence is?

Mr. BURFORD. Objected to by counsel for the contestee for the reason the witness has not disclosed any foundation on which to base the residence on and for the conclusion.

(Question withdrawn.)

Q. Do you know what the population was at the last census?—A. A few over 2,000.

Q. Has it increased or diminished since that time?—A. I think diminished.

Q. Approximately the same?—A. Yes.

Q. Have you been a resident householder, living here constantly?—A. Yes; for the last five years.

Q. Have been in health and on the streets?

Mr. BURFORD. Objected to as leading and suggestive.

A. Yes.

Q. State whether you have noticed Bird McGuire in and around Pawnee—near what period.—A. I have at times.

Q. At any time about election?—A. After the election in 1910, I do not remember of seeing Mr. McGuire here until the Republican County convention held here a year ago, I think in this month, and from that time I don't remember of seeing him until after the campaign that opened for Congress in 1912.

Q. Did you remain in and about here all of the time?—A. I was here at all times.

Q. Had he had or occupied any house to your knowledge, here—residence house—during that period?—A. He had not.

Q. Had any household goods or belongings here to your knowledge?—A. Not unless it might have been for a few months in the early part of 1911.

Q. What if you know, did that consist of?—A. He owned the property that Mr. Bates now occupies, and I don't know whether it was from the beginning of 1911 that he sold that property.

Q. Did he occupy that as a residence during 1910 and 1911?—A. He might have the first part of 1910, but I don't—in fact I know—he did not the latter part of 1910 or 1911.

Q. Do you know where his home was during that time?—A. Nothing only from hearsay.

Q. The general report and rumor?—A. Yes; the general report.

Q. What is that?

Mr. BURFORD. Objected to for the reason residence consists of the actions and intentions of the parties whose residence is the subject, that of the vicinity and the general report of, does not establish or disprove the fact of residence.

A. The general report has been that his residence is in Kansas City, Mo.

Cross-examination by Mr. BURFORD:

Q. Judge, you have lived here for five years?—A. Yes; I want to correct that, about four-and-a-half.

Q. You stated in answer to a question by Col. Hoffman that Bird McGuire had not lived here since you have been here; don't you know he occupied the house up to until he sold to Mr. Bates?—A. I don't think I made that statement; I made it within the last two years. He has lived here since I was here.

Q. He did occupy the house he sold to Bates up to that time?—A. I think possibly his household goods were there up to that time, but he was not in Pawnee.

Q. During that time he was a member of Congress, was he not?—A. Yes, sir.

Q. You know as a matter of fact that during that time he was in Washington?—A. I judge he would be during—

Q. Do you not know from the general report and information coming to you he was in Washington a greater portion of the time?—A. From information he was in Washington during the session of Congress; yes.

Q. Do you know where his residence is?—A. Only from general report.

Q. You don't know where it is, do you?—A. No; I don't know where it is.

Q. You are a lawyer?—A. Yes, sir.

Q. You don't know whether he owns personal property and household effects in town, do you?—A. If he does I don't know of it.

Q. You don't know, do you?—A. No; I don't.

(Witness excused.)

DOC SCOTT, being first duly sworn, testified as follows:

Direct examination by Mr. HOFFMAN:

Q. What is your name?—A. Doc Scott.

Q. Where do you live?—A. Pawnee, Okla.

Q. What is your business?—A. Hotel business.

Q. You are the proprietor of the National Hotel?—A. Yes.

Q. Do you know Bird S. McGuire, Republican candidate for Congress in the last general election in this district?—A. Yes.

Q. Has he been a guest at your hotel?—A. He has been a guest here since—in the last five or six months.

Q. When did he first become a guest at your hotel; can you, with referring to your hotel register, state when he first registered here?—A. Yes.

Q. Is that your register there? You may examine it, if so.—A. I think the first time that he registered was October 4; he came in for dinner.

Q. Of last year?—A. 1912.

Q. Do you find him any more after that time?—A. Yes.

Q. Please state when.—A. The next time was for breakfast on October 18, and the next time he registered here for lodging on November 15, and the next time he registered was for lodging November 22, and in order to get the next time I will have to get the other register.

Q. When he came here on October 4 did he make any arrangements about getting a room?—A. Yes.

Q. What was said about him getting a room at the time?—A. As well as I remember it, he said he wanted to stay here; he had to move out from mother's, where he had a room, and would make his home with us.

Q. Did he want a room permanently?—A. He just wanted a room here, he said; he wanted a room to put his belongings in.

Q. Did he?—A. Yes.

Q. How long did he keep them there?—A. I think about a month or six weeks before he took them out.

Q. Was anything else there?—A. He had his clothes and his trunk and hunting outfit and stuff in there. I would not be positive about that time; six weeks or two months, the time he had it there before he went away.

Q. Has he anything there now?—A. There is nothing in the room.

Q. You got any goods or household effects?—A. He had his hunting case here.

Q. How large was it?—A. Same size as the trunk.

Q. That is all he had here at this time?—A. Yes; that is all.

Q. Has he any room held here now?—A. No, sir.

Q. Is that chest with handles in or nailed up; what shape is it in?—A. I think it had handles in it, and he told me he had pretty valuable guns in it, and told me to nail it up.

Q. Did you look in it?—A. No, sir.

Q. He said he had guns in it?—A. He said he had expensive guns in it, and to take care of it.

Cross-examination by Mr. BURFORD:

Q. Your first date given in the register is Friday, October 4?—A. Yes, sir.

Q. What year?—A. 1912.

Q. Was that the first time that Mr. McGuire had stopped with you?—A. Yes, sir.

Q. How long did he stay?—A. A little over a day and a half.

Q. Please turn to that date. Is he registered there?—A. Yes.

Q. In his own handwriting?—A. Yes.

Q. Read it.—A. Bird McGuire.

Q. Is that the time he brought some effects here and stayed and had them here about two months?—A. Yes.

Q. Now, your next date is October 18?—A. Yes.

Q. Is that in his handwriting?—A. Yes, sir.

Q. Read it.—A. Bird McGuire.

Q. That was during the period that he had his effects in the room?—A. Yes, sir.

Q. Your next date is November 15?—A. Yes; he is registered here on November 15.

Q. Read it.—A. Bird McGuire.

Q. Were his effects still here at that time?—A. Yes.

Q. Your next date is November 22?—A. Yes.

Q. Did he register on that date?—A. Yes, sir.

Q. Read it.—A. Bird McGuire.

Q. Did he have a room at that time?—A. He got a room that night.

Q. Was it the room he had his effects in?—A. Yes, sir.

Q. Did he have his effects there then?—A. Yes.

Q. Did he pay for that room the entire period?—A. No, sir.

Q. Just had it when he lodged in it?—A. Yes, sir.

Q. He has been with you since that ledger shows the date, you say?—A. Yes; he has been here these last trips—I think, two trips.

Q. Did he move his effects but the hunting outfit?—A. Yes.

Q. Where to?—A. I don't know.

Q. Did he take them himself, or did you?—A. He took them.

Q. He told you he had some others to put there in the room?—A. No, sir.

Q. Was you living here when he kept the house across the street?—A. No, sir.

(Witness excused.)

Dr. A. H. BAGBY, being first duly sworn, testifies as follows:

Direct examination by Mr. HOFFMAN:

Q. What is your name?—A. A. H. Bagby.

Q. Where do you live?—A. In Pawnee, Okla.

Q. What is your business?—A. County assessor.

Q. How long have you had that position?—A. I was the assessor last year and will be for this year and the next.

Q. As such county assessor, I will ask you to state if you assessed any personal property in this town belonging to Bird S. McGuire, Republican candidate for Congress at the last general election.—A. Not to him; no, sir. If it belonged to him, we failed to assess it last year.

Q. Or the year before?—A. By the assessment rolls there was not.

Q. Have you the book there?—A. No, sir.

Q. Do—have you assessed any personal property to him lately?—A. Yes.

Q. State how.—A. He met me and told me he wanted me to assess him.

Q. Before or since the election?—A. Since.

Q. State the conversation.—A. He said he guessed they put one over on him last year, and he wanted me to assess him, and said to be assessed in Pawnee County, year 1913; I told him all right, I was ready; we went to the Pawnee National Bank, and I assessed him.

Q. Have you a copy of that blank?—A. Yes.

Q. Let me see it, please.

Mr. HOFFMAN. I ask to make this Exhibit A of Mr. Bagby's testimony.

Q. Did you make this copy?—A. Yes, sir.

Q. Is it a true copy?—A. Yes, sir.

Q. Did you have any further conversation with him as to what personal property was assessed?—A. He told me to put down his household goods; and I said how much; and he said \$800; and I asked him, "What is at the National Hotel, Bird?" and he said "Yes."

Q. That is the National Hotel, kept by Mr. Scott, the witness who just preceded you on the stand?—A. Yes, sir; and I asked him if it was at the National Hotel.

Q. Refresh your memory, and give the exact date on which you had this conversation. [Handing witness Exhibit A.]—A. The date is on the copy, the 17th of March.

Q. Did you have the conversation on the day that you made out the assessment blank?—A. March 17, 1913.

Q. He said he had \$800 worth of goods at the National Hotel?

Mr. HOFFMAN. We offer in evidence the assessment list of 1913, and ask the copy marked "Exhibit A" be made a part of the evidence of witness Bagby.

Q. What books are those you have in your hand?—A. The assessment books that I am using in the town now.

Q. How long have you lived here?—A. I came here in the spring of 1894.

Q. The last two or three years have you been residing here?—A. Yes, sir.

Q. Continuously?—A. Yes, sir.

Q. What was the condition of your health? Were you able to be out all of that time?—A. Yes, sir.

Q. Have you been?—A. Yes, sir.

Q. On the streets of Pawnee?—A. Practically all of the time; yes, sir.

Q. Have you seen Mr. McGuire around here during the last two or three years?—A. At times; yes, sir.

Q. At any other times than election times and since the last general election—I mean when election was in progress?—A. Not that I remember of.

Q. Do you know where he lives?—A. No, sir; I don't.

Q. State whether or not his residence is a matter of general report in this town.—A. Yes.

Mr. BURFORD. Objected to as incompetent, irrelevant, and immaterial, not the subject matter of proving by oral testimony of the witness; calling for a fact, the basing of his residence as to report is not a proper matter of proof in that manner and oral testimony.

Q. Do you know what that general report is?—A. Yes.

Mr. BURFORD. I claim the right to cross-examine the witness.

# ASSESSMENT LIST 1913

*Exhibit A*  
*D. Bagby*

For Individuals, Companies and Partnerships, and Agents or Representatives of Manufacturers and Dealers; NOT to be used by Banks or other Corporations, or by Persons or Corporations operating or controlling oil or gas wells or mines.

List or Schedule of property in Pawnee City or Township, School District No. 1 Road District No. \_\_\_\_\_ County of Pawnee State of Oklahoma, owned or in the possession and under the control of \_\_\_\_\_ P. O. address Pawnee liable for taxation on the first day of January, A. D., 1913.

NAME B. S. McGee NUMBER OF POLLS. \_\_\_\_\_ AGE 47 Residence (Street-Number or Numbers of Land) Max Hotel

REAL ESTATE-(FARMS)										VALUATION FIXED BY ASSESSOR		
DESCRIPTION	NO ACRES	SEC	TWP	R.	VAL PER ACRE	VALUE LAND	VALUE IMP'TS	TOTAL VAL. LAND & IMP'TS	LAND	IMP'TS	TOTAL	

REAL ESTATE-(LOTS)							VALUATION FIXED BY ASSESSOR		
CITY, TOWN OR VILLAGE	DESCRIPTION	LOT	BLK.	VALUE LOTS	VALUE IMPROVEMENTS	TOTAL VALUE LOTS & IMP'TS	LOTS	IMPROVEMENTS	TOTAL VALUE

### PERSONAL PROPERTY.

(All personal property must be listed, extending the number and value. The amount exempt from taxation must be noted in the space provided below, giving amount of each item, and the total deducted from the total of personal property.)

KIND.	NO.	VALUE, DOLLARS	VAL FIXED BY ASSESSOR	KIND	NO.	VALUE, DOLLARS	VAL. FIXED BY ASSESSOR
1-Horses, No. Value \$				29-Abstract books			
Stallions, No. Value \$				30-Money on hand which includes coin, currency and deposits which the owner is entitled to withdraw in money on demand			
2-Mules & Asses No. Value \$				31-Credits and accounts			
Jacks, No. Value \$				32-Mortgages and notes			
3-Cattle				33-Judgments and tax sale certificates			
6 mo. old and under 2 yrs., No. Value \$				34-Stocks, bonds, shares, capital and investments in companies, corporations and associations not incorporated under the laws of this State			
2 yrs. old and under 3 yrs., No. Value \$				35-State and municipal bonds and warrants			
3 yrs. old and over and milk cows, No. Value \$				36-Average amount and value for preceding year of capital, goods and property employed in merchandising; average amount and value for preceding year of goods, wares, merchandise, implements, machinery and other property in the possession, control, or held for sale by any warehouse man, agent, factor or representative in any capacity of any manufacturer or dealer			
4-Sheep over 3 mo. old				37-Average amount and value for preceding year of capital employed in manufacturing, including machinery, material, appurtenances and manufactured goods			
5-Goats				38-Stock and fixtures of eating houses and hotels			
6-Swine over 3 mo. old				39-Billiard and pool tables			
7-Agricultural tools, implements and farm machinery				40-Elevators, warehouses, etc., on lands, the title to which is in a railroad company or other corporation			
8-Threshing separators				41-Improvements, except breaking and wells, and land the title to which is in the United States or this State			
9-Steam engines				42-Wagon scales, ferries and toll bridges			
10-Gasoline Engines				43-Dogs, male and female			
11-Wagons				44-Annuities, franchises and royalties			
12-Carriages and other vehicles				45-Nursery stock, growing or otherwise			
13-Bicycles				46-All other personal property not listed above			
14-Motor cycles				51-Total value of all personal property as listed		960	
15-Automobiles				54-Less exemption on Household furniture, \$100			
16-Grain and feed on hand-bushels:				Tools and implements; \$			
Wheat, No. Value \$				Livestock employed in support of family, \$			
Corn, No. Value \$				Total exemptions		100	
Oats, No. Value \$				55-Total value of all TAXABLE personal property		860	
Hay, Tons Value \$							
17-Cotton bales							
18-Household furniture and private libraries		800					
19-Watches		10					
20-Pianos							
21-Organs and other musical instruments							
22-Gold and silver plate							
23-Diamonds and jewelry		150					
24-Office furniture							
25-Furniture and fixtures of opera houses and amusement halls							
26-Typewriters							
27-Adding machines							
28-Law libraries							

Question No. 1—Was your gross income from salaries, fees, trade, profession and property upon which a gross receipt or excise tax has not been paid, any and all of them, for the year ending June thirtieth last preceeding, in excess of three thousand five hundred dollars? Answer no (Yes or No)

Question No. 2—Do you own land in this State subject to a graduated tax on land holdings of taxable value in excess of 640 acres of land of average taxable value (\$20.00 per acre is fixed by law as the average value of Oklahoma lands, 320 acres of land regardless of the value thereof, is exempt from said tax). Answer no (Yes or No)

Question No. 3—Do you hold land in excess of 640 acres under lease or rental contract? Answer no (Yes or No)

I, the undersigned affiant, do solemnly swear (or affirm) that I have have listed above and within, all the lands, town and city lots, personal property, money and credits, subject by law to taxation and owned, used, possessed or controlled by me; and by law required to be listed therein by me for myself or any other person or persons as guardian, husband, parent, trustee, executor, administrator, receiver, accounting officer, partner, factor, bailee, or agent, and that I have made true answers to the above and foregoing questions, according to the best of my knowledge, so help me God. (Signed) B. S. McGee Affiant.

Subscribed and sworn to in my presence this 17 day of Mar, 1913 D. Bagby Assessor.



Mr. HOFFMAN. Granted.

Mr. BURFORD. Counsel for the contestee requests the right to cross-examine as to his qualifications to testify as to the question of residence.

Q. How frequently have you heard the matter of his residence discussed?—

A. I could not begin to tell you how frequently and the number of times.

Q. The last three or four years—three years, I will say, you know that he has been here?—A. No, sir.

Q. When did he keep the house he sold to Bates?—A. Must have been since he went himself.

Q. Since keeping his belongings there?—A. As to whose belongings they were, whether his or his former wife's, I don't know; she went about three years ago herself and he was gone before that.

Q. Where does his former wife live, here?—A. I never knew; she lived here.

Q. This talk about his residence came up about election time?—A. And before; yes.

Q. And it was discussed generally here then because of the fact that his opponent claimed he did not live in this county?—A. No; I don't think so.

Q. You heard that?—A. Yes.

Q. The opponents were claiming that?—A. Yes.

Q. And that brought about the discussion?—A. You say it did?

Q. I am asking you.—A. At that time; it was discussed before that.

Q. You know that he always voted at the general elections here?—A. I can not say as to that.

Q. Do you know that he has not?—A. No, sir.

Q. Have you been voting here at the general elections?—A. Yes, sir.

Q. You have been out and around here?—A. I have been right in town every general election.

Q. Have you seen him here?—A. I don't remember that I have.

Q. Was it ever brought to your attention he did not vote?—A. No, sir.

Q. Has it been called to your attention that he has voted?—A. Yes; he has voted.

Q. Was he ever challenged?—A. Not that I know of.

Q. At the time that you speak of, as to this talk about his residence, it arose out of political matters, did it not?—A. Not in all cases.

Q. Largely that?—A. Well, I suppose it was largely that.

By Mr. HOFFMAN:

Q. What was that general report as to his residence?

Mr. BURFORD. Objected to as incompetent, irrelevant, and immaterial, not the proper subject of inquiry, not the proper mode of proving residence.

A. That Pawnee was not his residence any more.

Cross-examination:

Q. You have been assessor for two years past?—A. One year.

Q. Only one assessment you have made?—A. I made one and am making the second.

Q. And the first time you made your assessment you did not assess Mr. McGuire?—A. No personal property; I assessed some real estate, a farm here southeast of Pawnee.

Q. You did not have any personal interview with him with reference to the assessment that year, did you?—A. No.

Q. Did you call on him?—A. He was not here for me to call on him.

Q. Therefore you made no inquiry?—A. No, sir.

Q. He informed you that you missed him for that year?—A. Yes; he was not assessed last year.

Q. He wanted to be assessed for this year?—A. Yes, sir.

Q. In giving in the property did he make the list or did you make it?—A. About in preparing it you mean?

Q. Yes.—A. I put in part.

Q. You made the list yourself?—A. Yes, sir.

Q. He gave you the information?—A. Yes, sir.

Q. Where?—A. At the Pawnee National Bank.

Q. He gave you in as household goods?—A. Furniture and private library.

Q. Furniture and private library?—A. He did not say anything about—

Q. I am talking about what you put on the list.—A. I put what is there.

Q. You put the list according to the—A. He told me it was household goods.

Q. Did he put down the value?—A. He did; he said \$800.

Q. You put diamonds and jewelry; did he give you that also?—A. Yes, sir.

Q. You did not inspect anything he gave you?—A. No, sir.  
(Witness excused.)

J. E. McCUTCHEAN, who being first duly sworn, testifies as follows:

Direct examination by Mr. HOFFMAN:

Q. State your name.—A. J. E. McCutchan.

Q. Where do you live?—A. Pawnee, Okla.

Q. How long have you lived in Pawnee?—A. It will be five years in July.

Q. What business are you engaged in?—A. I am the editor of the Courier-Dispatch.

Q. During that time state whether or not, as a part of your newspaper work, you collected the comings and goings of persons in and out of town?—A. It was.

Q. Have you been in health and able to be about during that time?—A. I have.

Q. Do you know Bird S. McGuire?—A. Yes, sir.

Q. Have you see him in around about the town for the last two years other than the time when campaign was on?—A. I don't recall that I have.

Q. Is he a person of such prominence that his coming and going would be mentioned?—A. Yes.

Q. Do you know what his domicile has been during this time?—A. I do not.

Q. Do you know whether or not it has been in Pawnee?—A. No, sir.

Q. Well, have you reported him—his coming and going during the last two years?—A. Yes, sir.

Q. Where do you report his domicile in your newspaper?

Mr. BURFORD. Objected to; incompetent, irrelevant, and immaterial.

A. He was reported as coming from Kansas City, Mo.

Q. Do you know what general report is current, if such a report, as to his place of domicile?

(Objected to as incompetent, irrelevant, and immaterial, not the proper manner of proving the residence, of fact and law, and intent of parties can not be established by rumor ad current reports.)

Q. And if you know you may state.

(Questioned repeated.)

A. Yes, sir; the current report was that he was in Kansas City.

Cross-examination by Mr. BURFORD:

Q. Do you know whether he stayed in Kansas City or not?—A. No, sir.

Q. You are the editor of a newspaper, you say?—A. Yes, sir.

Q. What politics?—A. Democrat.

Q. You know Mr. McGuire?—A. Yes.

Q. He has been a Representative in Congress, elected by the Republican Party?—A. Yes, sir.

Q. You have opposed him in each race through your press?—A. Yes, sir.

Q. And are politically opposed to Mr. McGuire?—A. Yes, sir.

Q. You have, you say, reported him in your paper as being from Kansas City?—A. Yes.

Q. When did you make that report; what issues?—A. I can not just state what issue.

Q. Why did you report him from Kansas City?—A. Because of the fact that I knew he had married his present wife in Kansas City and they had not come here.

Q. Don't you know that at the time you reported him as from Kansas City he was attending a session of Congress?—A. No, sir; I don't know that.

Q. You know that he had been?—A. Yes.

Q. During the period Congress was in session, was it not?—A. It might have been part of the time and part of it not, because Congress, as I remember it, was no special session during last summer; did not sit until the 1st of March, and adjourned; the Congress before that, before the summer, and there was a period between the summer and December, he, doubtless, was not in Congress.

Q. The session lasted into the summer; I don't recall the date.—A. I don't recall the date exactly.

(Witness excused.)

B. F. MEANS, who being first duly sworn on oath, says:

Direct examination by Mr. HOFFMAN:

Q. What is your name?—A. B. F. Means.

Q. Where do you live?—A. Pawnee.

Q. What business are you engaged in?—A. Cotton.



Q. How long have you been here?—A. Practically 13 years.

Q. Are you acquainted with the people of this community?—A. Yes.

Q. You live in town?—A. Yes, sir.

Q. During the last two or three years have you been in and about the streets of this town?—A. Yes, sir.

Q. Continuously?—A. For the last two years; yes, sir.

Q. Do you know Bird McGuire, the candidate at the last general election for Congress?—A. Yes.

Q. Do you know where his residence is?—A. Only from common report.

Q. What is it?

Mr. BURFORD. Objected to as incompetent, irrelevant, and immaterial, not proper manner of proving residence, it not being proper to prove residence by common report.

A. The common report is that since his separation from his first wife and, in fact, before that, that he had gone to Kansas City, had married a wife in Kansas City, and remained there for a long time passed, for about three years.

Q. Have you ever seen him in and about the town during that period except during election time?—A. Well, I have not seen him here except during campaign times, except in the last two weeks.

Q. Since the general election?—A. Yes, sir.

Cross-examination by Mr. BURFORD:

Q. What is your politics?—A. Pretty badly mixed; I claim to be a Democrat.

Q. You affiliate with the Democratic Party, do you not?—A. Yes, sir.

Q. You have been opposed to McGuire politically?—A. For the last four years; I supported him prior to that time.

Q. What office are you applicant for or expect to be a candidate for under this present administration?—A. I am working for the Indian agency, Judge.

Q. You don't expect to get Mr. McGuire's support, do you?—A. Mr. McGuire said he would support me, but was afraid it would spoil my chances. However, he offered me the post office, and I did not want that.

Q. After he lost control of it?—A. Yes, sir.

Q. Has the contestant promised you his support for the Indian agency?—A. I tried to get his promise, and he said he would make no promises until seated.

Q. Have you made any effort to secure a renewal of the promise since the present visit?—A. Not until just lately.

Q. He is still—A. He don't talk much, but I believe he is still with me; in fact felt so all the time.

Q. That is all.

(Witness excused.)

J. L. BUCHANNAN, who, being first duly sworn, testifies as follows:

Direct examination by Mr. DAVIS:

Q. State your name.—A. J. L. Buchannan.

Q. Where do you reside?—A. Pawnee.

Q. How long have you been in Pawnee?—A. Since September, 1909.

Q. You are acquainted with Bird McGuire, the candidate for Congress in this district the last general election?—A. Yes, sir.

Q. How long have you known him?—A. Since I first came to this city.

Q. What is your business?—A. I was in the jewelry business the first two and a half years; I have been in the life-insurance business for the last year.

Q. Your business calls you out on the street frequently?—A. My last business does.

Q. Now, what do you know of the time that Mr. McGuire has been spending in the city of Pawnee for the last two years?—A. Well, I know that I would see him here for a few days at a time; a few times each year.

Q. About when were those times, as to being about campaign times?—A. Well, I should say they were the times he spent here.

Q. Now, up to October of last year do you know where he stopped—put up?—A. At the Globe Hotel.

Q. Where were you boarding at the time and prior thereto?—A. At the Globe Hotel.

Q. Now, what do you know about his leaving there and having a room reserved all of the time?—A. From my observation he came to the hotel when he came to Pawnee and registered as other guests did, was assigned a room, and checked out as other guests did when he left.

Q. When he was not there, was the room reserved?—A. The room was occupied, as others in the hotel.

Q. Do you know where he lives or did live prior to last general election, the last two years?

Mr. BURFORD. Objected to as incompetent, irrelevant, calling for a conclusion; not the proper manner of inquiry.

A. I don't know where he lives.

Q. Do you know where he lives, according to common rumor?

Mr. BURFORD. Objected to as incompetent, irrelevant, and immaterial, residence being a matter that can not be proven by common rumor.

A. The general rumor was that he lived in Kansas City.

Q. During the time that you have boarded at the Globe Hotel and when he stopped there when in the city of Pawnee, was any other member of his family with him at any time?—A. No, sir.

Q. Do you know whether or not there were other members of his family at that time? Was the report that he had married at that time or not?—A. I don't know just what time you have reference to.

Q. The last campaign.—A. Yes; he was married the last campaign.

Q. Year of 1912?—A. Yes, sir.

Q. His wife never came here with him?—A. I never seen her with him.

Q. You lived in Pawnee right along?—A. Yes, sir.

Q. Did you ever see him with her at any time?—A. No, sir.

Cross-examination by Mr. BURFORD:

Q. What is your politics?—A. Democrat.

Q. You opposed McGuire in the last general election?—A. Yes, sir.

Q. Voted for a Democrat?—A. Yes, sir.

Q. Had been adhering to the Democratic Party?—A. Yes, sir.

Q. Do you expect any office under the present administration?—A. No, sir.

Q. Don't want any?—A. Well, no.

(Witness excused.)

F. L. SHIPMAN, who, being first duly sworn, testifies as follows:

Direct examination by Mr. HOFFMAN:

Q. What is your name?—A. F. L. Shipman.

Q. Where do you live?—A. In Pawnee.

Q. What official position do you hold?—A. Street commissioner.

Q. How long have you held that position?—A. It has been about a year and 10 months.

Q. State whether or not it is a part of your duty to collect the poll tax.—A. Yes, sir.

Q. Do you know Bird McGuire?—A. Yes; I just know him when I see him; only met him once.

Q. Did you ever collect any poll tax from him?—A. No, sir.

(No cross-examination.

Witness excused.)

G. M. BERRY, who being first duly sworn, testifies as follows:

Direct examination by Mr. HOFFMAN:

Q. What is your name?—A. G. M. Berry.

Q. Where do you live?—A. Pawnee.

Q. How long have you lived in Pawnee?—A. I don't know; about 15 years.

Q. What is your business now; you are not holding an official position, are you?—A. No, sir.

Q. What is your business?—A. Banking business, but not active.

Q. What bank?—A. First National.

Q. What position have you in that bank?—A. Vice president.

Q. How long have you been in the banking business?—A. Since the opening of the strip.

Q. Since the settlement of this country?—A. Yes, sir.

Q. Do you know Bird McGuire, the candidate for Congress in the last general election?—A. Yes, sir.

Q. Do you know where he lives?—A. I do not.

Q. Have you been in and about this town for the last two years continuously?—A. Yes, sir.

Q. Do you know from common report and rumor in Pawnee the present residence and domicile of McGuire and that which has been for the last two years immediately prior thereto?—A. Just by common saying and rumor; I don't know personally.

Q. Has it been discussed largely?—A. Yes, sir.

Q. Are you able to say what has been the general report and where his residence has been for two years last past?—A. Yes, sir.

Q. What is it?

Mr. BURFORD. Objected to as incompetent and irrelevant and secondary evidence, the residence of a person being proof at law and of fact and of intent and act and can not be established by rumor or reputation.

A. Kansas City.

Q. Kansas City, Mo.?—A. Yes, sir.

Q. Do you know of his having any household goods here—personal property—in these last two years?—A. I do not.

Q. Are you secretary of the county election board?—A. No, sir.

(No cross-examination.)

Redirect examination by Mr. HOFFMAN:

Q. What official position did you hold in the county election board?—A. Secretary.

Q. As such secretary, have you in your possession the ballot boxes, records, papers, etc., of the last general election of this county?—A. I have.

Q. I will ask you to state if you have in your possession as such secretary—if you have the custody of certain affidavits that were used in the last general election in wards 1, 2, and 4 in the city of Cleveland, in this county?—A. I am not certain of one; I have some of the wards.

Q. Will you produce them; are those the instruments that you exhibit there?—A. I think they are; yes, these are the ones.

Q. Beginning with ward 1, what affidavits have you of ward 1? These are the instruments which you have here, are they?—A. Yes; they are the affidavits that were sent up.

Q. I will ask the stenographer to mark them consecutively from 1 to 20, inclusive, for the purpose of identification.

Mr. BURFORD. These are affidavits required of voters when challenged?

Mr. HOFFMAN. We understood that is the affidavit made for challenge of those not registered.

Mr. BURFORD. There is nothing on these showing the ground on which the challenge was made.

Mr. HOFFMAN. We had to make it up.

Cross-examination by Mr. BURFORD:

Q. Did you mark these, or did the stenographer?—A. The stenographer.

Mr. BURFORD. We object to any oral proof going into the record of any ward which is a part of the records of the county election board.

Mr. HOFFMAN. I have not offered them yet.

Q. You are the secretary of the county election board of Pawnee County?—A. Secretary; yes, sir.

Q. And as such have the custody of the election returns that were returned to the county election board by the several precinct election boards of this county of the general election held November, 1912?—A. Yes, sir.

Q. Where do you keep the returns and records and files belonging to the county election board?—A. Boxes and such stuff as that in boxes are in the room rented by the county, down in the next block across from the courthouse, in what is known as the Reid Building.

Q. The city of Pawnee is the county seat of this county?—A. Yes; I have the tally sheets at my office in the bank.

Q. And your office in the bank is here in Pawnee, in the county seat?—A. Yes; I mean by the tally sheet what we take the final returns of the precincts and wards from.

Q. The county election board has already made all the tabulations and returns required to be made from those sheets, have they not?—A. Yes, sir.

Redirect examination by Mr. HOFFMAN:

Q. Have you the poll book in your custody of 1, 2, and 4 of Cleveland?—A. The poll book?

Q. Yes.—A. I don't know what you mean; we have a record of the voters down there; we have those—

Q. Are those outside or inside the boxes?—A. No; the list of voters, each man's name and post office, is both on the blank and the tabulation return, and the other part of the blank is torn off, and those are in the boxes sealed up.

Q. Have you any outside of sealed boxes to show who voted in 1, 2, and 4 wards of Cleveland?—A. No; we have not.

Q. That is all at this time.

(Witness excused.)

AFFIDAVIT OF CHALLENGED VOTER.

STATE OF OKLAHOMA, *County of Pawnee:*

I do solemnly swear (or affirm) :

- (1) I am a male citizen of the United States.
- (2) I am a native of the United States.
- (3) I have for more than thirty (30) days last past resided in the precinct in which I am now offering to vote, and that I am now a bona fide resident of this precinct.
- (4) I have resided for more than six months, last past in the county in which I am now offering to vote.
- (5) I have resided for more than one year, last past, in the State of Oklahoma.
- (6) I am over the age of twenty-one (21) years.
- (7) I am not deprived of any right of citizenship by virtue of any conviction of a felony.
- (8) I am not now kept in any poorhouse or other asylum at public expense.
- (9) I am not now being kept in a public prison.
- (10) I am not a lunatic.
- (11) I am not an officer, or soldier in the Regular Army, or a marine in the Navy of the United States.
- (12) I know of no reason why I am not entitled to vote.
- (13) I am generally known by the name under which I now desire to vote, which is Henry Roeser.
- (14) I have not voted and will not vote in any other precinct in this election.
- (15) My occupation is oil producer.
- (16) My residence is Cleveland, Oklahoma.
- (17) During the last six months I have resided at Cleveland, Oklahoma and was out of the city and State on registration dates and not able to register.
- (18) I have removed from Hulsa, Okla., to Cleveland, Okla., of the following date: January, 1909.
- (19) That J. Werdner and J. B. Helmick have personal knowledge of my residence in the precinct thirty days and in the county six months and the State one year.

HENRY ROESER.

Subscribed and sworn to before me this 5th day of Nov., 1912.

WARD GUFFY, *Clerk.*

STATE OF OKLAHOMA, *County of Pawnee:*

I swear that I know, or am informed, and believe that Henry Roeser, now offering to vote, is not a legal voter in this precinct.

H. E. SLOAN.

Subscribed and sworn to before me this 5th day of Nov., 1912.

WARD GUFFY, *Clerk.*

STATE OF OKLAHOMA, *County of Pawnee:*

I do solemnly swear (or affirm) that I am a qualified elector of this precinct; that I have been a freeholder and householder in this precinct for one year next preceding this election; that ————, who now desires to vote, has resided in this State for one year immediately preceding this election; that he has resided in this county six months, and in this precinct thirty days at ————; that he is now a bona fide resident of this precinct and a legal voter therein. These facts I know of my own personal knowledge.

J. B. HELMICK.

Subscribed and sworn to before me this 5 day of Nov. 1912.

WARD GUFFY, *Clerk.*

AFFIDAVIT OF CHALLENGED VOTER.

STATE OF OKLAHOMA, *county of Pawnee:*

I do solemnly swear (or affirm) :

- (1) I am a male citizen of the United States.
- (2) I am a native of the United States.
- (3) I have for more than thirty (30) days last past resided in the precinct in which I am now offering to vote and that I am now a bona fide resident of this precinct.
- (4) I have resided for more than six months last past in the county in which I am now offering to vote.
- (5) I have resided for more than one year last past in the State of Oklahoma.
- (6) I am over the age of twenty-one (21) years.
- (7) I am not deprived of any right of citizenship by virtue of any conviction of a felony.
- (8) I am not now kept in any poorhouse or other asylum at public expense.
- (9) I am not now being kept in a public prison.
- (10) I am not a lunatic.
- (11) I am not an officer or soldier in the Regular Army or a marine in the Navy of the United States.
- (12) I know of no reason why I am not entitled to vote.
- (13) I am generally known by the name under which I now desire to vote, which is R. J. Long.
- (14) I have not voted and will not vote in any other precinct in this election.
- (15) My occupation is supply business.
- (16) My residence is Cleveland, Okla.
- (17) During the last six months I have resided at Cleveland, Okla.
- (18) I have removed from Tulsa, Okla., to Cleveland of the following dates, Sept., 1911.
- (19) That W. H. Thorn and A. Foley have personal knowledge of my residence in the precinct thirty days and in the county six months and the State one year.

Subscribed and sworn to before me this 5th day of November, 1912.

WARD GUFFY, *Clerk.*

STATE OF OKLAHOMA, *county of \_\_\_\_\_:*

I swear that I know, or am informed, and believe that \_\_\_\_\_, now offering to vote, is not a legal voter in this precinct.

W. H. THORN.

Subscribed and sworn to before me this \_\_\_\_\_ day of November, 1912.

A. F. FOLEY.

STATE OF OKLAHOMA, *county of \_\_\_\_\_:*

I do solemnly swear (or affirm) that I am a qualified elector of this precinct, that I have been a freeholder and householder in this precinct for one year next preceding this election; that R. J. Long, who now desires to vote, has resided in this State for one year immediately preceding this election; that he has resided in this county six months and in this precinct thirty days at \_\_\_\_\_; that he is now a bona fide resident of this precinct and a legal voter therein. These facts I know of my own personal knowledge.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 1912.

AFFIDAVIT OF CHALLENGED VOTER.

STATE OF OKLAHOMA, *County of Pawnee:*

I do solemnly swear (or affirm) :

- (1) I am a male citizen of the United States.
- (2) I am a native of the United States.
- (3) I have for more than thirty (30) days last past resided in the precinct in which I am now offering to vote, and that I am now a bona fide resident of this precinct.
- (4) I have resided for more than six months last past in the county in which I am now offering to vote.
- (5) I have resided for more than one year last past in the State of Oklahoma.
- (6) I am over the age of twenty-one (21) years.

(7) I am not deprived of any right of citizenship by virtue of any conviction of a felony.

(8) I am not now kept in any poorhouse or other asylum at public expense.

(9) I am not now being kept in a public prison.

(10) I am not a lunatic.

(11) I am not an officer or soldier in the Regular Army, or a marine in the Navy of the United States.

(12) I know of no reason why I am not entitled to vote.

(13) I am generally known by the name under which I now desire to vote, which is Earl H. Clay.

(14) I have not voted and will not vote in any other precinct in this election.

(15) My occupation is driller.

(16) My residence is Cleveland, Okla., first ward.

(17) During the last six months I have resided at Cleveland, Okla.

(18) I have removed from Osage to Cleveland; was out of town during July and neglected to register when the books were opened in October preceding election of the following dates on or about 1st November, 1911.

(19) That W. H. Boles and Stanley C. Edmister have personal knowledge of my residence in the precinct 30 days and in the county 6 months and the State 1 year.

EARL H. CLAY.

Subscribed and sworn to before me this 5th day of November, 1912.

WARD GUFFY, *Clerk of Election.*

STATE OF OKLAHOMA, *County of* \_\_\_\_\_:

I swear that I know, or am informed, and believe that Earl H. Clay, now offering to vote, is not a legal voter in this precinct.

A. E. SLOAN.

Subscribed and sworn to before me this 5th day of November, 1912.

WARD GUFFY, *Clerk of Election.*

STATE OF OKLAHOMA, *County of Pawnee:*

I do solemnly swear (or affirm) that I am a qualified elector of this precinct, that I have been a freeholder and householder in this precinct for one year next preceding this election; that Earl H. Clay, who now desires to vote, has resided in this State for one year immediately preceding this election; that he has resided in this county 6 months and in this precinct 30 days at Cleveland, Okla.; that he is now a bona fide resident of this precinct and a legal voter therein. These facts I know of my own personal knowledge.

W. H. BOLES.

Subscribed and sworn to before me this 5th day of November, 1912.

WARD GUFFY, *Clerk of Election.*

AFFIDAVIT OF CHALLENGED VOTER.

STATE OF OKLAHOMA, *County of Pawnee:*

I do solemnly swear (or affirm):

(1) I am a male citizen of the United States.

(2) I am a native of the United States.

(3) I have for more than thirty (30) days last past resided in the precinct in which I am now offering to vote and that I am now a bona fide resident of this precinct.

(4) I have resided for more than six months last past in the county in which I am now offering to vote.

(5) I have resided for more than one year last past in the State of Oklahoma.

(6) I am over the age of twenty-one (21) years.

(7) I am not deprived of any right of citizenship by virtue of any conviction of a felony.

(8) I am not now kept in any poorhouse or other asylum at public expense.

(9) I am not now being kept in a public prison.

(10) I am not a lunatic.

(11) I am not an officer or soldier in the Regular Army or a marine in the Navy of the United States.

(12) I know of no reason why I am not entitled to vote.

(13) I am generally known by the name under which I now desire to vote, which is A. N. Burcham.

(14) I have not voted and will not vote in any other precinct in this election.

(15) My occupation is teaming.

(16) My residence is Pawnee.

(17) During the last six months I have resided at Cleveland, Okla.

(18) I have removed from adjoining precinct to ward No. 4 on the following dates—about 1½ months ago.

(19) That J. W. Barr and C. A. Bailey have personal knowledge of my residence in the precinct thirty days and in the county six months and the State one year.

A. N. BURCHAM.

Subscribed and sworn to before me this 5th day of November, 1912.

CHAS. HOLTZMAN, *Judge*.

STATE OF OKLAHOMA, *County of* \_\_\_\_\_:

I swear that I know, or am informed, and believe that \_\_\_\_\_, now offering to vote, is not a legal voter in this precinct.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 191—.

STATE OF OKLAHOMA, *County of Pawnee*:

I do solemnly swear (or affirm) that I am a qualified elector of this precinct; that I have been a freeholder and householder in this precinct for one year next preceding this election; that A. N. Burcham, who now desires to vote, has resided in this State for one year immediately preceding this election; that he has resided in this county six months and in this precinct thirty days at Pawnee St.; that he is now a bona fide resident of this precinct and a legal voter therein. These facts I know of my own personal knowledge.

SAMUEL BOUMAN.

Subscribed and sworn to before me this 5th day of November, 1912.

CHAS. CLEAVFR, *Inspector*.

AFFIDAVIT OF CHALLENGED VOTER.

STATE OF OKLAHOMA, *County of Pawnee*:

I do solemnly swear (or affirm):

(1) I am a male citizen of the United States.

(2) I am a native of the United States.

(3) I have for more than thirty (30) day last past resided in the precinct in which I am now offering to vote and that I am now a bona fide resident of this precinct.

(4) I have resided for more than six months last past in the county in which I am now offering to vote.

(5) I have resided for more than one year last past in the State of Oklahoma.

(6) I am over the age of twenty-one (21) years.

(7) I am not deprived of any right of citizenship by virtue of any conviction of a felony.

(8) I am not now kept in any poorhouse or other asylum at public expense.

(9) I am not now being kept in a public prison.

(10) I am not a lunatic.

(11) I am not an officer or soldier in the Regular Army or a marine in the Navy of the United States.

(12) I know of no reason why I am not entitled to vote.

(13) I am generally known by the name under which I now desire to vote, which is C. A. Steinberger.

(14) I have not voted and will not vote in any other precinct in this election.

(15) My occupation is contracting.

(16) My residence is Broadway.

(17) During the last six months I have resided at Cleveland.

(18) I have removed from Tulsa, Okla., to Cleveland, on the following dates—April, 1911.

(19) That U. S. Rhodabarger and Miles Pulse have personal knowledge of my residence in the precinct thirty days and in the county six months and the State one year.

C. A. STEINBERGER.

Subscribed and sworn to before me this 5th day of November, 1912.

CHAS. HOLTZMAN,  
*Judge of Election*.

STATE OF OKLAHOMA, *County of* \_\_\_\_\_:

I swear that I know, or am informed, and believe that \_\_\_\_\_, now offering to vote, is not a legal voter in this precinct.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 191—.

H. L. GRIFFIN.

STATE OF OKLAHOMA, *County of Pawnee*:

I do solemnly swear (or affirm) that I am a qualified elector of this precinct; that I have been a freeholder and householder in this precinct for one year next preceding this election; that C. A. Steinberger, who now desires to vote, has resided in this State for one year immediately preceding this election; that he has resided in this county six months and in this precinct thirty days at Broadway; that he is now a bona fide resident of this precinct and a legal voter therein. These facts I know of my own personal knowledge.

Subscribed and sworn to before me this 5th day of November, 1912.

CHAS. CLEAVER,

*Inspector.*

CHAS. HOLTZMAN,

*Judge of Election.*

AFFIDAVIT OF CHALLENGED VOTER.

STATE OF OKLAHOMA, *County of Pawnee*:

I do solemnly swear (or affirm):

- (1) I am a male citizen of the United States.
- (2) I am a native of the United States.
- (3) I have for more than thirty (30) days last past resided in the precinct in which I am now offering to vote, and that I am now a bona fide resident of this precinct.
- (4) I have resided for more than six months last past in the county in which I am now offering to vote.
- (5) I have resided for more than one year last past in the State of Oklahoma.
- (6) I am over the age of twenty-one (21) years.
- (7) I am not deprived of any right of citizenship by virtue of any conviction of a felony.
- (8) I am not now kept in any poorhouse or other asylum at public expense.
- (9) I am not now being kept in a public prison.
- (10) I am not a lunatic.
- (11) I am not an officer, or soldier in the Regular Army, or a marine in the Navy of the United States.
- (12) I know of no reason why I am not entitled to vote.
- (13) I am generally known by the name under which I now desire to vote, which is H. L. Griffin.
- (14) I have not voted and will not vote in any other precinct in this election.
- (15) My occupation is laborer.
- (16) My residence is Wichita.
- (17) During the last six months I have resided at Cleveland, Okla.
- (18) I have lived at this place for years.
- (19) That A. W. Pertuch and Chas. Lamb have personal knowledge of my residence in the precinct thirty days and in the county six months and the State one year.

H. L. GRIFFIN.

Subscribed and sworn to before me this 5 day of November, 1912.

CHAS. CLEAVER, *Inspector.*

STATE OF OKLAHOMA, *County of* \_\_\_\_\_:

I swear that I know, or am informed, and believe that \_\_\_\_\_, now offering to vote is not a legal voter in this precinct.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 191—.

STATE OF OKLAHOMA, *County of Pawnee*:

I do solemnly swear (or affirm) that I am a qualified elector of this precinct, that I have been a freeholder and householder in this precinct for one year next



preceding this election; that H. L. Griffin, who now desires to vote, has resided in this State for one year immediately preceding this election; that he has resided in this county six months and in this precinct thirty days, at Wichita; that he is now a bona fide resident of this precinct and a legal voter therein. These facts I know of my own personal knowledge.

C. H. LAMB.

Subscribed and sworn to before me this 5 day of November, 1912.

CHAS. CLEAVER, *Inspector.*

AFFIDAVIT OF CHALLENGED VOTER.

STATE OF OKLAHOMA, *County of Pawnee:*

I do solemnly swear (or affirm) :

- (1) I am a male citizen of the United States.
- (2) I am a native of the United States.
- (3) I have for more than thirty (30) days last past resided in the precinct in which I am now offering to vote and that I am now a bona fide resident of this precinct.
- (4) I have resided for more than six months last past in the county in which I am now offering to vote.
- (5) I have resided for more than one year last past in the State of Oklahoma.
- (6) I am over the age of twenty-one (21) years.
- (7) I am not deprived of any right of citizenship by virtue of any conviction of a felony.
- (8) I am not now kept in any poorhouse or other asylum at public expense.
- (9) I am not now being kept in a public prison.
- (10) I am not a lunatic.
- (11) I am not an officer or soldier in the Regular Army, or a marine in the Navy of the United States.
- (12) I know of no reason why I am not entitled to vote.
- (13) I am generally known by the name under which I now desire to vote, which is J. R. Carr.
- (14) I have not voted and will not vote in any other precinct in this election.
- (15) My occupation is carpenter.
- (16) My residence is Pawnee.
- (17) During the last six months I have resided at Cleveland.
- (18) I have removed from Manford to Cleveland on the following date: February, 1911.
- (19) That Miles Puke and S. Fountain have personal knowledge of my residence in the precinct thirty days and in the county six months and the State one year.

J. R. CARR.

Subscribed and sworn to before me this 5 day of November, 1912.

CHAS. HOLTZMAN,  
*Judge of Election.*

STATE OF OKLAHOMA, *County of ———:*

I swear that I know, or am informed, and believe that ——— ———, now offering to vote is not a legal voter in this precinct.

—————

Subscribed and sworn to before me this ——— day of ———, 191—.

—————

STATE OF OKLAHOMA, *County of Pawnee:*

I do solemnly swear (or affirm) that I am a qualified elector of this precinct; that I have been a freeholder and householder in this precinct for one year next preceding this election; that J. R. Carr, who now desires to vote, has resided in this State for one year immediately preceding this election; that he has resided in this county six months and in this precinct thirty days, at Pawnee; that he is now a bona fide resident of this precinct and a legal voter therein. These facts I know of my own personal knowledge.

SAMUEL BOUMAN.

Subscribed and sworn to before me this 5 day of November, 1912.

CHAS. CLEAVER, *Inspector.*

## AFFIDAVIT OF CHALLENGED VOTER.

STATE OF OKLAHOMA, *county of Pawnee:*

I do solemnly swear (or affirm) :

- (1) I am a male citizen of the United States.
- (2) I am a native of the United States.
- (3) I have for more than thirty (30) days last past resided in the precinct in which I am now offering to vote, and that I am now a bona fide resident of this precinct.
- (4) I have resided for more than six months last past, in the county in which I am now offering to vote.
- (5) I have resided for more than one year, last past, in the State of Oklahoma.
- (6) I am over the age of twenty-one (21) years.
- (7) I am not deprived of any right of citizenship by virtue of any conviction of a felony.
- (8) I am not now kept in any poorhouse, or other asylum, at public expense.
- (9) I am not now being kept in a public prison.
- (10) I am not a lunatic.
- (11) I am not an officer, or soldier in the Regular Army, or a marine in the Navy of the United States.
- (12) I know of no reason why I am not entitled to vote.
- (13) I am generally known by the name under which I now desire to vote, which is T. P. Cowles.
- (14) I have not voted, and will not vote in any other precinct in this election.
- (15) My occupation is driller.
- (16) My residence is Broadway.
- (17) During the last six months I have resided in Pawnee County.
- (18) I have removed from Tulsa to Cleveland of the following date: May, 1912.
- (19) That I. D. Gould and Miles Pulse have personal knowledge of my residence in the precinct thirty days and in the county six months and the State one year.

T. P. COWLES.

Subscribed and sworn to before me this 5th day of November, 1912.

CHAS. CLEAVER.

STATE OF OKLAHOMA, *county of* ——— ———:

I swear that I know, or am informed, and believe that ——— ———, now offering to vote is not a legal voter in this precinct.

Subscribed and sworn to before me this 5th day of November, 1912.

CHAS. CLEAVER, *Inspector.*STATE OF OKLAHOMA, *county of Pawnee:*

I do solemnly swear (or affirm) that I am a qualified elector of this precinct; that I have been a freeholder and householder in this precinct for one year next preceding this election; that T. P. Cowles, who now desires to vote, has resided in this State for one year, immediately preceding this election; that he has resided in this county six months and in this precinct thirty days, at Cleveland; that he is now a bona fide resident of this precinct and a legal voter therein. These facts I know of my own personal knowledge.

I. D. GOULD.

Subscribed and sworn to before me this 5th day of November, 1912.

CHAS. CLEAVER, *Inspector.*

## AFFIDAVIT OF CHALLENGED VOTER.

STATE OF OKLAHOMA, *County of Pawnee, ss:*

I do solemnly swear (or affirm) :

- (1) I am a male citizen of the United States.
- (2) I am a native of the United States.
- (3) I have for more than thirty (30) days last past resided in the precinct in which I am now offering to vote and that I am a bona fide resident of this precinct.

(4) I have resided for more than six months, last past, in the county in which I am now offering to vote.

(5) I have resided for more than one year, last past, in the State of Oklahoma.

(6) I am over the age of twenty-one (21) years.

(7) I am not deprived of any right of citizenship by virtue of any conviction of a felony.

(8) I am not now kept in any poorhouse, or other asylum at public expense.

(9) I am not now being kept in a public prison.

(10) I am not a lunatic.

(11) I am not an officer or soldier in the Regular Army, or a marine in the Navy of the United States.

(12) I know of no reason why I am not entitled to vote.

(13) I am generally known under the name under which I now desire to vote, which is W. Webb.

(14) I have not voted and will not vote in any other precinct in this election.

(15) My occupation is restaurant keeper.

(16) My residence is east side of Broadway.

(17) During the last six months I have resided at \_\_\_\_\_.

(18) I have removed from Skeeder to Cleveland, Okla., of the following date: Aug. 10, 1912.

(19) That O. R. Brown and Geo. Collins have personal knowledge of my residence in the precinct thirty days and in the county six months and the State one year.

W. WEBB.

Subscribed and sworn to before me this 5th day of November, 1912.

[SEAL.]

A. W. LEE, *Notary Public.*

My commission expires Feb. 18, 1915.

STATE OF OKLAHOMA, *County of Pawnee:*

I swear that I know, or am informed, and believe that W. Webb, now offering to vote, is a legal voter in this precinct.

O. R. BROWN.

Subscribed and sworn to before me this 5th day of November, 1912.

[SEAL.]

A. W. LEE, *Notary Public.*

My commission expires Feb. 18, 1915.

STATE OF OKLAHOMA, *County of Pawnee, ss:*

I do solemnly swear (or affirm) that I am a qualified elector of this precinct; that I have been a freeholder and householder in this State for one year next preceding this election; that W. Webb, who now desires to vote has resided in this state for one year immediately preceding this election; that he has resided in this county six months, and in this precinct thirty days, at East Side Broadway; that he is now a bona fide resident of this precinct and a legal voter therein. These facts I know of my own personal knowledge.

GEO. COLLINS.

Subscribed and sworn to before me this 5th day of November, 1912.

[SEAL.]

A. W. LEE, *Notary Public.*

My commission expires Feb. 18, 1915.

AFFIDAVIT OF CHALLENGED VOTER.

STATE OF OKLAHOMA, *county of Pawnee:*

I do solemnly swear (or affirm):

(1) I am a male citizen of the United States.

(2) I am a native of the United States.

(3) I have for more than thirty (30) days last past resided in the precinct in which I am now offering to vote, and that I am now a bona fide resident of this precinct.

(4) I have resided for more than six months last past in the county in which I am now offering to vote.

(5) I have resided for more than one year last past in the State of Oklahoma.

(6) I am over the age of twenty-one (21) years.

(7) I am not deprived of any right of citizenship by virtue of any conviction of a felony.

(8) I am not now kept in any poorhouse or other asylum at public expense.

(9) I am not now being kept in a public prison.

(10) I am not a lunatic.

(11) I am not an officer or soldier in the Regular Army or a marine in the Navy of the United States.

(12) I know of no reason why I am not entitled to a vote.

(13) I am generally known by the name under which I now desire to vote, which is Harry Alden.

(14) I have not voted and will not vote in any other precinct in this election.

(15) My occupation is oil laborer.

(16) My residence is Cleveland.

(17) During the last six months I have resided at Cleveland, 2nd ward.

(18) I have removed from Robinson, Ill., to ——— of the following dates, July, 1910.

(19) That J. J. Ledford and R. L. Meigs have personal knowledge of my residence in the precinct thirty days and in the county six months and the State one year.

HARRY ALDEN.

Subscribed and sworn to before me this 5th day of November, 1912.

[SEAL.]

A. W. LEE, N. P.

My commission expires Feb. 18th, 1915.

STATE OF OKLAHOMA, *county of Pawnee, ss:*

I swear that I know or am informed and believe that Harry Alden, now offering to vote, is a legal voter in this precinct.

R. L. MEIGS.

Subscribed and sworn to before me this 5 day of November, 1912.

[SEAL.]

A. W. LEE, *Notary Public.*

My commission expires Feb. 18. 1915.

STATE OF OKLAHOMA, *county of Pawnee, ss:*

I do solemnly swear (or affirm) that I am a qualified elector of this precinct; that I have been a freeholder and householder in this precinct for one year next preceding this election; that ———, who now desires to vote, has resided in this State for one year immediately preceding this election; that he has resided in this county six months and in this precinct thirty days at the 2nd ward; that he is now a bona fide resident of this precinct and a legal voter therein. These facts I know of my own personal knowledge.

J. J. LEDFORD.

Subscribed and sworn to before me this 5th day of November, 1912.

[SEAL.]

A. W. LEE, *Notary Public.*

My commission expires Feb. 18th, 1915.

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AFFIDAVIT OF CHALLENGED VOTER.

STATE OF OKLAHOMA, *County of Pawnee:*

I do solemnly swear (or affirm)—

(1) I am a male citizen of the United States.

(2) I am a native of the United States.

(3) I have for more than thirty (30) days last past resided in the precinct in which I am now offering to vote and that I am now a bona fide resident of this precinct.

(4) I have resided for more than six months last past in the county in which I am now offering to vote.

(5) I have resided for more than one year last past in the State of Oklahoma.

(6) I am over the age of twenty-one (21) years.

(7) I am not deprived of any right of citizenship by virtue of any conviction of a felony.

(8) I am not now kept in any poorhouse or other asylum at public expense.

(9) I am not now being kept in a public prison.

(10) I am not a lunatic.

(11) I am not an officer or soldier in the Regular Army, or a marine in the Navy of the United States.

(12) I know of no reason why I am not entitled to a vote.

(13) I am generally known by the name under which I now desire to vote, which is Geo. W. Collins.

(14) I have not voted and will not vote in any other precinct in this election.

(15) My occupation is carpenter.

(16) My residence is Vine Street.

(17) During the last six months I have resided at second ward.

(18) I have removed from \_\_\_\_\_ to \_\_\_\_\_ of the following dates \_\_\_\_\_.

(19) That J. C. Byers and A. F. Greenfield have personal knowledge of my residence in the precinct thirty days and in the county six months and the State one year.

GEO. W. COLLINS.

Subscribed and sworn to before me this 5th day of November, 1912.

[SEAL.]

A. W. LEE, *Notary Public*.

My commission expires Feb. 18th, 1915.

STATE OF OKLAHOMA, *County of Pawnee*:

I swear that I know, or am informed and believe that Geo. W. Collins, now offering to vote, is a legal voter in this precinct.

J. C. BYERS.

Subscribed and sworn to before me this 5th day of November, 1912.

[SEAL.]

A. W. LEE, *Notary Public*.

My commission expires Feb. 18, 1915.

STATE OF OKLAHOMA, *County of Pawnee*:

I do solemnly swear (or affirm) that I am a qualified elector of this precinct; that I have been a freeholder and householder in this precinct for one year next preceding this election; that Geo. W. Collins, who now desires to vote has resided in this State for one year immediately preceding this election; that he has resided in this county six months, and in this precinct thirty days at second ward; that he is now a bona-fide resident of this precinct and a legal voter therein. These facts I know of my own personal knowledge.

A. F. GREENFIELD.

Subscribed and sworn to before me this 5th day of November, 1912.

[SEAL.]

A. W. LEE, *Notary Public*.

My commission expires Feb. 18th, 1915.

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AFFIDAVIT OF CHALLENGED VOTER.

STATE OF OKLAHOMA, *County of Pawnee*, ss:

I do solemnly swear (or affirm):

(1) I am a male citizen of the United States.

(2) I am a native of the United States.

(3) I have for more than thirty (30) days last past resided in the precinct in which I am now offering to vote and that I am now a bona fide resident of this precinct.

(4) I have resided for more than six months last past in the county in which I am now offering to vote.

(5) I have resided for more than one year last past in the State of Oklahoma.

(6) I am over the age of twenty-one (21) years.

(7) I am not deprived of any right of citizenship by virtue of any conviction of a felony.

- (8) I am not now kept in any poorhouse or other asylum at public expense.  
 (9) I am not now being kept in a public prison.  
 (10) I am not a lunatic.  
 (11) I am not an officer or soldier in the Regular Army or a marine in the Navy of the United States.  
 (12) I know of no reason why I am not entitled to a vote.  
 (13) I am generally known by the name under which I now desire to vote, which is Freede Peery.  
 (14) I have not voted and will not vote in any other precinct in this election.  
 (15) My occupation is furniture and undertaking.  
 (16) My residence is Thum Store, on Broadway.  
 (17) During the last six months I have resided at Pawnee County.  
 (18) I have removed from present address on the following date; July 17th, 1912.  
 (19) That Cas T. Wear and W. H. Thum have personal knowledge of my residence in the precinct thirty days and in the county six months and the State one year.

FRED E. PEERY.

Subscribed and sworn to before me this 5th day of November, 1912.

[SEAL.]

H. W. LEE, *Notary Public*.

My commission expires February 18, 1915.

STATE OF OKLAHOMA, *County of Pawnee, ss:*

I swear that I know or am informed and believe that Freede Peery, now offering to vote, is a legal voter in this precinct.

CAS T. WEAR.

Subscribed and sworn to before me this 5th day of November, 1912.

[SEAL.]

A. W. LEE, *Notary Public*.

My commission expires February 18, 1915.

STATE OF OKLAHOMA, *County of Pawnee, ss:*

I do solemnly swear (or affirm) that I am a qualified elector of this precinct; that I have been a freeholder and householder in this precinct for one year next preceding this election; that Freede Peery, who now desires to vote, has resided in this State for one year immediately preceding this election; that he has resided in this county six months and in this precinct thirty days at Cor. Broadway and Cherokee Street; that he is now a bona fide resident of this precinct and a legal voter therein. These facts I know of my own personal knowledge.

W. H. THUM.

Subscribed and sworn to before me this 5th day of November, 1912.

[SEAL.]

A. W. LEE, *Notary Public*.

My commission expires February 18, 1915.

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AFFIDAVIT OF CHALLENGED VOTER.

STATE OF OKLAHOMA, *County of Pawnee, ss:*

I do solemnly swear (or affirm) :

- (1) I am a male citizen of the United States.  
 (2) I am a native of the United States.  
 (3) I have for more than thirty (30) days last past resided in the precinct in which I am now offering to vote and that I am now a bona fide resident of this precinct.  
 (4) I have resided for more than six months last past in the county in which I am now offering to vote.  
 (5) I have resided for more than one year last past in the State of Oklahoma.  
 (6) I am over the age of twenty-one (21) years.  
 (7) I am not deprived of any right of citizenship by virtue of any conviction of a felony.  
 (8) I am not now kept in any poorhouse or other asylum at public expense.  
 (9) I am not now being kept in a public prison.  
 (10) I am not a lunatic.

(11) I am not an officer or soldier in the Regular Army or a marine in the Navy of the United States.

(12) I know of no reason why I am not entitled to a vote.

(13) I am generally known by the name under which I now desire to vote, which is J. Sigán.

(14) I have not voted and will not vote in any other precinct in this election.

(15) My occupation is real estate.

(16) My residence is east side Vine Street.

(17) During the last six months I have resided at same place.

(18) I have removed from my residence to that I now live the following date, 1908.

(19) That J. C. Byers and A. F. Greenfield have personal knowledge of my residence in the precinct thirty days and in the county six months and the State one year.

J. SIGAN.

Subscribed and sworn to before me this 5th day of November, 1912.

[SEAL.]

A. W. LEE, *Notary Public*.

My commission expires Feb. 18, 1915.

STATE OF OKLAHOMA, *County of Pawnee, ss:*

I swear that I know, or am informed and believe, that Jno, Sigán, now offering to vote, is a legal voter in this precinct.

J. C. BYERS.

Subscribed and sworn to before me this 5th day of November, 1912.

[SEAL.]

A. W. LEE, *Notary Public*.

My commission expires Feb. 18, 1915.

STATE OF OKLAHOMA, *County of Pawnee, ss:*

I do solemnly swear (or affirm) that I am a qualified elector of this precinct; that I have been a freeholder and householder in this precinct for one year next preceding this election; that John Sigán, who now desires to vote, has resided in this State for one year immediately preceding this election; that he has resided in this county six months and in this precinct thirty days at Cleveland, Okla.; that he is now a bona fide resident of this precinct and a legal voter therein. These facts I know of my own personal knowledge.

A. F. GREENFIELD.

Subscribed and sworn to before me this 5th day of November, 1912.

[SEAL.]

A. W. LEE, *Notary Public*.

My commission expires Feb. 18, 1915.

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AFFIDAVIT OF CHALLENGED VOTER.

STATE OF OKLAHOMA, *County of Pawnee:*

I do solemnly swear (or affirm)

(1) I am a male citizen of the United States.

(2) I am a native of the United States.

(3) I have for more than thirty (30) days last past resided in the precinct in which I am now offering to vote and that I am now a bona-fide resident of this precinct.

(4) I have resided for more than six months last past in the county in which I am now offering to vote.

(5) I have resided for more than one year last past in the State of Oklahoma.

(6) I am over the age of twenty-one (21) years.

(7) I am not deprived of any right of citizenship by virtue of any conviction of a felony.

(8) I am not now kept in any poorhouse or other asylum at public expense.

(9) I am not now being kept in a public prison.

(10) I am not a lunatic.

(11) I am not an officer or soldier in the Regular Army, or a marine in the Navy of the United States.

(12) I know of no reason why I am not entitled to a vote.

(13) I am generally known by the name under which I now desire to vote, which is F. A. Beatty.

(14) I have not voted and will not vote in any other precinct in this election.

(15) My occupation is clerk for Frank Reid Sup. Co.

(16) My residence is Vine Street.

(17) During the last six months I have resided at Vine Street.

(18) I have not moved for past 8 months.

(19) That J. A. Lash and A. M. Richards have personal knowledge of my residence in the precinct thirty days and in the county six months and the State one year.

F. A. BEATTY.

Subscribed and sworn to before me this 5th day of November, 1912.

[SEAL.]

A. W. LEE, *Notary Public*.

My commission expires Feb. 18th, 1915.

STATE OF OKLAHOMA, *County of Pawnee*:

I swear that I know, or am informed, and believe that F. A. Beatty, now offering to vote, is a legal voter in this precinct.

J. A. LASH.

Subscribed and sworn to before me this 5th day of November, 1912.

[SEAL.]

A. W. LEE, *Notary Public*.

My commission expires Feb. 18th, 1915.

STATE OF OKLAHOMA, *County of Pawnee*:

I do solemnly swear (or affirm) that I am a qualified elector of this precinct; that I have been a freeholder and householder in this precinct for one year next preceding this election; that ————, who now desires to vote, has resided in this State for one year immediately preceding this election; that he has resided in this county six months, and in this precinct thirty days at Vine Street; that he is now a bona-fide resident of this precinct and a legal voter therein. These facts I know of my own personal knowledge.

A. M. RICHARDS.

Subscribed and sworn to before me this 5th day of November, 1912.

[SEAL.]

A. W. LEE, *Notary Public*.

My commission expires Feb. 18th, 1915.

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AFFIDAVIT OF CHALLENGED VOTER.

STATE OF OKLAHOMA, *county of Pawnee*:

I do solemnly swear (or affirm) :

(1) I am a male citizen of the United States.

(2) I am a native of the United States.

(3) I have for more than thirty (30) days last past resided in the precinct in which I am now offering to vote, and that I am now a bona fide resident of this precinct.

(4) I have resided for more than six months last past in the county in which I am now offering to vote.

(5) I have resided for more than one year last past in the State of Oklahoma.

(6) I am over the age of twenty-one (21) years.

(7) I am not deprived of any right of citizenship by virtue of any conviction of a felony.

(8) I am not now kept in any poorhouse or other asylum at public expense.

(9) I am not now being kept in a public prison.

(10) I am not a lunatic.

(11) I am not an officer or soldier in the Regular Army or a marine in the Navy of the United States.

(12) I know of no reason why I am not entitled to a vote.

(13) I am generally known by the name under which I now desire to vote, which is S. E. Johnson.

(14) I have not voted and will not vote in any other precinct in this election.

(15) My occupation is tank builder.

(16) My residence is E. Cleveland.

(17) During the last six months I have resided at same.

(18) I have removed from Ohio to there, of the following dates, July 6 and Aug. 16, 1912.



(19) That Jack Lash and J. C. Byers have personal knowledge of my residence in the precinct thirty days and in the county six months and the State one year.

S. E. JOHNSON.

Subscribed and sworn to before me this 5th day of Nov., 1912.

[SEAL.]

A. W. LEE, *Notary Public.*

My commission expires Feb. 18, 1915.

STATE OF OKLAHOMA, *county of Pawnee:*

I swear that I know, or am informed, and believe that S. E. Johnson, now offering to vote, is not a legal voter in this precinct.

JACK LASH.

Subscribed and sworn to before me this 5th day of November, 1912.

[SEAL.]

A. W. LEE, *Notary Public.*

My commission expires Feb. 18, 1915.

STATE OF OKLAHOMA, *county of Pawnee:*

I do solemnly swear (or affirm) that I am a qualified elector of this precinct; that I have been a freeholder and householder in this precinct for one year next preceding this election; that S. E. Johnson, who now desires to vote, has resided in this State for one year immediately preceding this election; that he has resided in this county six months and in this precinct thirty days at E. Cleveland; that he is now a bona fide resident of this precinct and a legal voter therein. These facts I know of my own personal knowledge.

J. C. BYRNS.

Subscribed and sworn to before me this 5th day of Nov., 1912.

[SEAL.]

A. W. LEE, *Notary Public.*

My commission expires Feb. 18, 1915.

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AFFIDAVIT OF CHALLENGED VOTER.

STATE OF OKLAHOMA, *County of Pawnee.*

I do solemnly swear (or affirm).

(1) I am a male citizen of the United States.

(2) I am a native of the United States.

(3) I have for more than thirty (30) days last past resided in the precinct in which I am now offering to vote, and that I am now a bona fide resident of this precinct.

(4) I have resided for more than six months, last past, in the county in which I am now offering to vote.

(5) I have resided for more than one year last past, in the State of Oklahoma.

(6) I am over the age of twenty-one (21) years.

(7) I am not deprived of any right of citizenship by virtue of any conviction of a felony.

(8) I am not now kept in any poor house, or other asylum at public expense.

(9) I am not now being kept in a public prison.

(10) I am not a lunatic.

(11) I am not an officer, or soldier in the Regular Army, or a marine in the Navy of the United States.

(12) I know of no reason why I am not entitled to a vote.

(13) I am generally known by the name under which I now desire to vote, which is O. B. Jacobs.

(14) I have not voted and will not vote in any other precinct, in this election.

(15) My occupation is gas superintendent.

(16) My residence is No. 16 Osage St. cor. Roger's Ave.

(17) During the last six months I have resided at Osage & Rogers' Ave., Cleveland.

(18) I have removed from \_\_\_\_\_ to \_\_\_\_\_ of the following dates \_\_\_\_\_.

(19) That Chas. Cleaver and C. H. Lamb have personal knowledge of my residence in the precinct thirty days and in the county six months and the State one year.

[SEAL.]

O. B. JACOBS.

Subscribed and sworn to before me, this 5 day of November, 1912..

A. W. LEE, *Notary Public.*

My commission expires Feb. 18, 1915.

STATE OF OKLAHOMA, *County of Pawnee:*

I swear that I know, or am informed, and believe that O. B. Jacobs, now offering to vote is a legal voter in this precinct.

[SEAL.]

CHAS. CLEAVER.

Subscribed and sworn to before me this 5th day of November, 1912.

A. W. LEE, *Notary Public.*

My commission expires Feb. 18, 1915.

STATE OF OKLAHOMA, *County of Pawnee:*

I do solemnly swear (or affirm) that I am a qualified elector of this precinct; that I have been a freeholder and householder in this precinct for one year next preceding this election; that ————, who now desires to vote has resided in this State for one year immediately preceding this election; that he has resided in this county six months and in this precinct thirty days at ————; that he is now a bona fide resident of this precinct and a legal voter therein. These facts I know of my own personal knowledge.

[SEAL.]

C. H. LAMB.

Subscribed and sworn to before me this 5th day of November, 1912.

A. W. LEE, *Notary Public.*

My commission expires Feb. 18, 1915.

AFFIDAVIT OF CHALLENGED VOTER.

STATE OF OKLAHOMA, *County of Pawnee, ss:*

I do solemnly swear (or affirm) :

- (1) I am a male citizen of the United States.
- (2) I am a native of the United States.
- (3) I have for more than thirty (30) days last past resided in the precinct in which I am now offering to vote, and that I am now a bona fide resident of this precinct.
- (4) I have resided for more than six months, last past in the county in which I am now offering to vote.
- (5) I have resided for more than one year, last past, in the State of Oklahoma.
- (6) I am over the age of twenty-one (21) years.
- (7) I am not deprived of any right of citizenship by virtue of any conviction of a felony.
- (8) I am not now kept in any poor house, or other asylum at public expense.
- (9) I am not now being kept in a public prison.
- (10) I am not a lunatic.
- (11) I am not an officer, or soldier in the regular army, or a marine in the navy of the United States.
- (12) I know of no reason why I am not entitled to vote.
- (13) I am generally known by the name under which I now desire to vote, which is Howard Mather.
- (14) I have not voted, and will not vote in any other precinct, in this election.
- (15) My occupation is drug clerk.
- (16) My residence is Cleveland, second ward.
- (17) During the last six months I have resided at Cleveland, second ward.
- (18) I have removed from Kansas to Oklahoma of the following date, Dec. 1904.
- (19) That J. C. Byrns and A. F. Greenfield have personal knowledge of my residence in the precinct thirty days, and in the county six months and the State one year.

HOWARD MATHER.

Subscribed and sworn to before me this 5th day of November, 1912.

[SEAL.]

A. W. LEE, *Notary Public.*

My commission expires Feb. 18, 1915.

STATE OF OKLAHOMA, *County of Pawnee, ss:*

I swear that I know, or am informed, and believe that Howard Mather, now offering to vote is a legal voter in this precinct.

A. F. GREENFIELD.

Subscribed and sworn to before me this 5th day of November, 1912.

[SEAL.]

A. W. LEE, *Notary Public.*

My commission expires Feb. 18, 1915.

STATE OF OKLAHOMA, *County of Pawnee.*

I do solemnly swear (or affirm) that I am a qualified elector of this precinct, that I have been a freeholder and householder, in this precinct, for one year, next preceding this election; that Howard Mather who now desires to vote has resided in this State for one year, immediately preceding this election; that he has resided in this county six months, and in this precinct thirty days at Cleveland, that he is now a bona fide resident of this precinct and a legal voter therein. These facts I know of my own personal knowledge.

J. C. BYRNS.

Subscribed and sworn to before me this 5th day of November, 1912.

[SEAL.]

A. W. LEE, *Notary Public.*

My commission expires Feb. 18, 1915.

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AFFIDAVIT OF CHALLENGED VOTER.

STATE OF OKLAHOMA, *County of Pawnee:*

I do solemnly swear (or affirm)—

- (1) I am a male citizen of the United States.
- (2) I am a native of the United States.
- (3) I have for more than thirty (30) days last past resided in the precinct in which I am now offering to vote and that I am now a bona fide resident of this precinct.
- (4) I have resided for more than six months, last past, in the county in which I am now offering to vote.
- (5) I have resided for more than one year, last past, in the State of Oklahoma.
- (6) I am over the age of twenty-one (21) years.
- (7) I am not deprived of any right of citizenship by virtue of any conviction of a felony.
- (8) I am not now kept in any poor house, or other asylum at public expense.
- (9) I am not now being kept in a public prison.
- (10) I am not a lunatic.
- (11) I am not an officer or soldier in the Regular Army, or a marine in the Navy of the United States.
- (12) I know of no reason why I am not entitled to a vote.
- (13) I am generally known by the name under which I now desire to vote, which is Salmon Howe.
- (14) I have not voted and will not vote in any other precinct, in this election.
- (15) My occupation is gardener.
- (16) My residence is Rose Hill Street.
- (17) During the last six months I have resided at Rose Hill Street.
- (18) I have not moved in the past 2 years.
- (19) That J. C. Byers and A. F. Greenfield have personal knowledge of my residence in the precinct thirty days and in the county six months and the State one year.

J. C. BYERS.

Subscribed and sworn to before me, this 5th day of November, 1912.

[SEAL.]

A. W. LEE, *Notary Public.*

My commission expires February 18, 1915.

STATE OF OKLAHOMA, *County of Pawnee:*

I swear that I know, or am informed, and believe that Salmon Howe, now offering to vote, is a legal voter in this precinct.

A. F. GREENFIELD.

Subscribed and sworn to before me, this 5th day of November, 1912.

[SEAL.]

A. W. LEE, *Notary Public.*

My commission expires February 18, 1915.

STATE OF OKLAHOMA, *County of Pawnee:*

I do solemnly swear (or affirm) that I am a qualified elector of this precinct; that I have been a freeholder and householder, in this precinct, for one year, next preceding this election; that ————, who now desires to vote, has resided in this State for one year, immediately preceding this election; that he has resided in this county six months, and in this precinct thirty days at

—————; that he is now a bona fide resident of this precinct and a legal voter therein. These facts I know of my own personal knowledge.

SALMON HOWE.

Subscribed and sworn to before me, this 5th day of November, 1912.

[SEAL.]

A. W. LEE, *Notary Public.*

My commission expires February 18, 1915.

—————  
AFFIDAVIT OF CHALLENGED VOTER.

STATE OF OKLAHOMA, *County of* ———:

I do solemnly swear (or affirm)—

- (1) I am a male citizen of the United States.
- (2) I am a native of the United States.
- (3) I have for more than thirty (30) days, last past, resided in the precinct in which I am now offering to vote, and that I am now a bona fide resident of this precinct.
- (4) I have resided for more than six months, last past, in the county in which I am now offering to vote.
- (5) I have resided for more than one year, last past, in the State of Oklahoma.
- (6) I am over the age of twenty-one (21) years.
- (7) I am not deprived of any right of citizenship by virtue of any conviction of a felony.
- (8) I am not now kept in any poorhouse or other asylum at public expense.
- (9) I am not now being kept in a public prison.
- (10) I am not a lunatic.
- (11) I am not an officer or soldier in the Regular Army or a marine in the Navy of the United States.
- (12) I know of no reason why I am not entitled to vote.
- (13) I am generally known by the name under which I now desire to vote, which is W. D. Rhodabarger.
- (14) I have not voted and will not vote in any other precinct in this election.
- (15) My occupation, driller.
- (16) My residence is Rose Hill.
- (17) During the last six months I have resided at Cleveland, Okla.
- (18) I have removed from ——— to ——— of the following dates ———.
- (19) That U. S. Rhodabarger and J. J. Ledford have personal knowledge of my residence in the precinct 30 days, and in the county six months, and in the State one year.

Subscribed and sworn to before me this 5 day of Nov., 1912.

[SEAL.]

A. W. LEE, *Notary Public.*

My commission expires Feb. 18, 1915.

STATE OF OKLAHOMA, *County of Pawnee:*

I swear that I know or am informed and believe that W. D. Rhodabarger, now offering to vote, is not a legal voter in this precinct.

J. J. LEDFORD.

Subscribed and sworn to before me this 5 day of Nov., 1912.

[SEAL.]

A. W. LEE, *Notary Public.*

My commission expires Feb. 18, 1915.

STATE OF OKLAHOMA, *County of Pawnee:*

I do solemnly swear (or affirm) that I am a qualified elector of this precinct; that I have been a freeholder and householder in this precinct for one year next preceding this election; that W. D. Rhodabarger, who now desires to vote, has resided in this State for one year immediately preceding this election; that he has resided in this county six months and in this precinct thirty days at ward 2; that he is now a bona fide resident of this precinct and a legal voter therein. These facts I know of my own personal knowledge.

U. S. RHODABARGER.

Subscribed and sworn to before me this 5th day of November, 1912.

[SEAL.]

A. W. LEE, *Notary Public.*

My commission expires Feb. 18, 1915.

## AFFIDAVIT OF CHALLENGED VOTER.

STATE OF OKLAHOMA, *County of Pawnee*:

I do solemnly swear (or affirm) :

(1) I am a male citizen of the United States.

(2) I am a native of the United States.

(3) I have for more than thirty (30) days last past resided in the precinct in which I am now offering to vote, and that I am now a bona fide resident of this precinct.

(4) I have resided for more than six months last past in the county in which I am now offering to vote.

(5) I have resided for more than one year last past in the State of Oklahoma.

(6) I am over the age of twenty-one (21) years.

(7) I am not deprived of any right of citizenship by virtue of any conviction of a felony.

(8) I am not now kept in any poorhouse or other asylum at public expense.

(9) I am not now being kept in a public prison.

(10) I am not a lunatic.

(11) I am not an officer or soldier in the Regular Army or a marine in the Navy of the United States.

(12) I know of no reason why I am not entitled to vote.

(13) I am generally known by the name under which I now desire to vote, which is A. T. Armstrong.

(14) I have not voted and will not vote in any other precinct in this election.

(15) My occupation, chiropractor.

(16) My residence is Cleveland.

(17) During the last six months I have resided at Cleveland, 2nd ward.

(18) I have removed from Waynoka, Okla., to Cleveland, on the following date, September 30, 1911.

(19) That J. C. Byers and C. H. Rollins have personal knowledge of my residence in the precinct 30 days and in the county six months and in the State one year.

A. T. ARMSTRONG.

Subscribed and sworn to before me this 5th day of Nov., 1912.

[SEAL.]

A. W. LEE,

*Notary Public.*

My commission expires Feb. 18, 1915.

STATE OF OKLAHOMA, *County of Pawnee*:

I swear that I know, or am informed and believe, that A. T. Armstrong, now offering to vote, is not a legal voter in this precinct.

J. C. BYERS.

Subscribed and sworn to before me this 5th day of Nov., 1912.

[SEAL.]

A. W. LEE,

*Notary Public.*

My commission expires February 18, 1915.

STATE OF OKLAHOMA, *County of Pawnee*:

I do solemnly swear (or affirm) that I am a qualified elector of this precinct; that I have been a freeholder and householder in this precinct for one year next preceding this election; that ————, who now desires to vote, has resided in this State for one year immediately preceding this election; that he has resided in this county six months and in this precinct thirty days at ————; that he is now a bona-fide resident of this precinct and a legal voter therein. These facts I know of my own personal knowledge.

C. A. ROLLINS.

Subscribed and sworn to before me this 5th day of November, 1912.

[SEAL.]

A. W. LEE, *Notary Public.*

My commission expires Feb. 18, 1915.

J. M. HAYES, who, being first duly sworn, testifies as follows:

Direct examination by Mr. HOFFMAN:

Q. What is your name?—A. J. M. Hayes.

Q. Where do you live?—A. Cleveland, Okla.

Q. What is your business?—A. I am an attorney.

Q. How long have you lived in Cleveland?—A. Two years.

Q. Were you living there at the time of the last general election?—A. I was.

Q. And during the period of registration prior to that time?—A. Yes, sir.

Q. Is Cleveland a city of the first class?—A. It is.

Q. What kind of a registration, if any, was conducted in wards 1, 2, and 4 of the city of Cleveland?

Mr. BURFORD. Objected to as incompetent, irrelevant, and immaterial, there being no issue made in the contest specifications filed against the contestee of any investigation of the registration in this congressional district.

A. The inspectors for the first, second, and fourth wards turned the registration books over the day they received them to W. H. Staples, the city clerk, and Mr. Staples registered the voters in those three wards.

Q. Do you know whether Staples was authorized by any person as inspector?

Mr. BURFORD. Objected to as not the manner of showing proof as to his qualifications, it is a matter of law.

A. He was not.

Q. Do you know the inspectors of these three wards did not handle the books during the registration period?—A. I do.

Q. The affidavits that have been referred to here, from 1 to 20, inclusive, in the testimony of Mr. Berry, do you know those persons who signed those affidavits?—A. Most all of them.

Q. Do you know under what circumstances, if at all, those were used on election day?—A. Nearly all.

Q. State how.

Mr. BURFORD. Objected to as incompetent, irrelevant, and immaterial, not the proper manner of showing proof, and secondary evidence, and for the reason the law requires a record to be made and the record is in possession of the county election board of this county and is the best evidence.

A. My attention was called to the fact that parties were voting in the second ward that had not been registered; I went down to the second ward and asked Mr. James Poff, the inspector, if he was permitting voters to vote that were not registered. At that time I think a man by the name of Rhodaberger and a man by the name of Armstrong was there and Representative Edminster, and they were trying to vote and did under these affidavits they signed—

Mr. BURFORD. Counsel objects to the statement of witness and moves to strike out the statement of the witness as to who voted at that time for the reason the law requires a record to be kept by the inspectors, judges, and clerk of election board of the persons who vote and that the record is the best evidence and can be obtained from the county election board.

A. I then went to the first ward and found they were doing the same thing there, and Inspector Sloan made them stop that kind of work. I went over to the fourth ward, and the inspector, Charles Cleaver, informed me that—

Mr. BURFORD. Object to the statement of the witness as to what the inspector told him, the record being the best evidence.

A. They were voting the same method in his precinct, and I gave him advice that he must not do that. In each one of the wards I went to the Republicans; each were making use of the affidavits.

Mr. BURFORD. Object to statement as to what Republicans said, as same would be best evidence; incompetent, irrelevant, and immaterial.

A. They were also attempting to do the same thing in the third ward, but S. R. Hull, the inspector, refused to do so.

Q. Do you know these 20 affidavits were used by persons voting in them, 1, 2, and 4 that day?

Mr. BURFORD. Objected to as incompetent, irrelevant, and immaterial—not the best evidence; that if the affidavits were used in voting the name of the persons in the affidavits would appear on the poll book and the record kept by the election board and is the best evidence as to whether a person whose name is on the same voted or not, and said records are in the possession of the county election board.

A. I am positive I do.

Q. Did they or not?—A. They did.

Mr. BURFORD. Move to strike the answer from the record as secondary evidence, not the best evidence; the record of all persons who voted at the precinct, in possession of the county election board at this time, which is the best evidence.

Cross-examination by Mr. BURFORD:

Mr. HOFFMAN. We offer the affidavits in evidence and ask that they be made a part of this evidence.

Mr. BURFORD. The introduction of the affidavits referred to in evidence is objected to for the reason they have not been sufficiently identified and not having been shown the persons whose names appear in said affidavits as voters appear upon the poll and voting list of voters who voted at said precincts at the time, said list being in the possession of the county election board and method for making such proof.

J. E. McCUTCHAN, recalled.

By Mr. HOFFMAN:

Q. Mr. McCutchan, what ward is the Globe Hotel in?—A. Second.

Q. And the National Hotel?—A. Third.

That is all.

I, H. A. Rexroad, notary public within and for the county of Pawnee, in the State of Oklahoma, do hereby certify that the above-named George E. Merritt, Doc. Scott, J. F. McCutchan, G. M. Berry, J. M. Hayes, J. L. Buchanan, B. F. Means, F. L. Shipman, and A. H. Bagby were by me first duly sworn to testify the truth, the whole truth, and nothing but the truth, in the case aforesaid, and that the depositions were taken by Sadie Mannheimer, a disinterested party, in shorthand, and reduced by her to writing, and the same were taken on the 1st day of April, 1913, between the hours of 8 o'clock a. m. and 6 o'clock p. m. of the said day, and at the National Hotel parlors in the city of Pawnee, State of Oklahoma, Pawnee County, and that I am not attorney or a relative of either of said parties, or otherwise interested in the event of this action.

[SEAL.]

H. A. REXROAD,  
*Notary Public.*

My commission expires January 10, 1917.

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SUBPŒNA.

In the House of Representatives of the United States of America. In the matter of the contest of the election of the Hon. Bird S. McGuire, from the first congressional district of the State of Oklahoma, to a seat in the House of Representatives of the United States of America. John J. Davis, contestant.

The President of the United States of America to Mrs. Francis McCord, 905 East 47th Street, Kansas City, Missouri, greeting:—

You are hereby commanded, all excuses and delays set aside, that you be and appear before William F. Woodruff, notary public in and for Jackson County, Missouri, at his office, room 603 Rialto Building, Kansas City, Missouri, on the ninth day of April, nineteen hundred and thirteen, at the hour of nine o'clock a. m., then and there to testify and the truth of your knowledge to speak of and concerning the aforesaid contested election on the part of contestant, John J. Davis, and this you shall in no wise omit under legal penalty.

Witness my hand and seal at my office in Kansas City, Missouri, this eighth day of April, nineteen hundred and thirteen.

[SEAL.]

WILLIAM F. WOODRUFF,  
*Notary Public in and for Jackson County, Missouri.*

My commission expires January 10, 1914.

STATE OF MISSOURI, *county of Jackson, ss:*

Wesley E. Matthaei, being first duly sworn, says: That he executed the within writ by leaving a copy thereof at the usual place of abode of the within named Mrs. Francis McCord, on the eighth day of April, 1913.

WESLEY E. MATTHAEI.

Subscribed and sworn to before me this eighth day of April, 1913.

[SEAL.]

WILLIAM F. WOODRUFF,  
*Notary Public in and for Jackson County, Missouri.*

My commission expires January 10, 1914.

## SUBPŒNA.

In the House of Representatives of the United States of America. In the matter of the contest of the election of the Hon. Bird S. McGuire from the first congressional district of the State of Oklahoma to a seat in the House of Representatives of the United States of America. John J. Davis, contestant.

The President of the United States of America to Mrs. Joseph T. Ridgway, 803 East 47th Street, Kansas City, Missouri, greeting:

You are hereby commanded, all excuses and delays set aside, that you be and appear before William F. Woodruff, notary public in and for Jackson County, Missouri, at his office, room 603 Rialto Building, Kansas City, Missouri, on the ninth day of April, nineteen hundred and thirteen, at the hour of nine o'clock a. m., then and there to testify and the truth of your knowledge to speak of and concerning the aforesaid contested election on the part of contestant, John J. Davis, and this you shall in no wise omit under legal penalty.

Witness my hand and seal at my office in Kansas City, Missouri, this eighth day of April, nineteen hundred and thirteen.

[SEAL.]

WILLIAM F. WOODRUFF,  
*Notary Public in and for Jackson County, Missouri.*

My commission expires January 10th, 1914.

STATE OF MISSOURI, *County of Jackson, ss:*

Wesley E. Matthaei, being first duly sworn, says that he executed the within writ by delivering a copy thereof to the within-named Mrs. Joseph T. Ridgway on the eighth day of April, 1913.

WESLEY E. MATTHAEI.

Subscribed and sworn to before me this eighth day of April, 1913.

[SEAL.]

WILLIAM F. WOODRUFF,  
*Notary Public in and for Jackson County, Missouri.*

My commission expires January 10th, 1914.

## SUBPŒNA.

In the House of Representatives of the United States of America. In the matter of the contest of the election of the Hon. Bird S. McGuire from the first congressional district of the State of Oklahoma to a seat in the House of Representatives of the United States of America. John J. Davis, contestant.

The President of the United States of America to Joseph T. Ridgway, 803 East 47th Street, Kansas City, Missouri, greeting:

You are hereby commanded, all excuses and delays set aside, that you be and appear before William F. Woodruff, notary public in and for Jackson County, Missouri, at his office, room 603 Rialto Building, Kansas City, Missouri, on the ninth day of April, nineteen hundred and thirteen, at the hour of nine o'clock a. m., then and there to testify and the truth of your knowledge to speak of and concerning the aforesaid contested election on the part of contestant, John J. Davis, and this you shall in no wise omit under legal penalty.

Witness my hand and seal at my office in Kansas City, Missouri, this eighth day of April, nineteen hundred and thirteen.

[SEAL.]

WILLIAM F. WOODRUFF,  
*Notary Public in and for Jackson County, Missouri.*

My commission expires January 10th, 1914.

STATE OF MISSOURI, *County of Jackson, ss:*

Wesley E. Matthaei, being first duly sworn, says that he executed the within writ by leaving a copy thereof at the usual place of abode of the within-named Joseph T. Ridgway on the eighth day of April, 1913.

WESLEY E. MATTHAEI.

Subscribed and sworn to before me this eighth day of April, 1913.

[SEAL.]

WILLIAM F. WOODRUFF,  
*Notary Public in and for Jackson County, Missouri.*

My commission expires January 10th, 1914.



In the House of Representatives of the United States of America. In the matter of the contest of John J. Davis against Bird S. McQuire for Representative in Congress from the first district of Oklahoma. No. —.

Depositions taken before William F. Woodruff, notary public in and for the county of Jackson, State of Missouri, at suite 603-7 Rialto Building, Ninth and Grand Avenue, Kansas City, Jackson County, Mo., on the 9th day of April, A. D. 1913, pursuant to the verbal notice and agreement between attorneys for contestant and contestee.

The contestant appears by his attorney, Roy Hoffman, Esq.; the contestee appears by his attorney, Fred A. Wagoner, Esq.

Whereupon the following proceedings were had:

It is agreed that the depositions in this case may be taken in shorthand by Charles H. Wolf and reduced to writing by him; and that the agreement heretofore in effect as to the witnesses signing shall remain in force, and the signatures of the witnesses to the depositions herein are dispensed with; the stenographer to be sworn by the notary to take the testimony of the witnesses correctly in shorthand notes and reduce the same to writing and make a true transcript thereof, copy of the depositions to be furnished contestee; and that the depositions when taken shall be forwarded to attorneys for contestant at Chandler, Okla., to be incorporated in the record in their proper place.

Whereupon the stenographer, Charles H. Wolf, was duly sworn by the notary to take the depositions correctly in shorthand, and make a true and correct transcript of the same.

Mr. HOFFMAN, Counsel for contestant here wishes to show that the tax records of the city and county show that an automobile, under city tag No. 2792, was listed and assessed against Mrs. B. S. McGuire for the year 1912; that the license thereon was taken out in 1911; and that the tax for the year 1912 has not been paid; and that the said application for license was not signed; and that the card hereto attached, marked "Exhibit A," Kansas City, is a true copy of the application for automobile license on file in the license inspector's office.

Mr. WAGONER, Counsel for contestee will admit that the records show the above facts, but objects to the introduction of the evidence for the reason that it is incompetent, irrelevant, and immaterial, and does not in any manner prove or attempt to prove the residence of Bird S. McGuire as being in Kansas City, Mo. The above may go into the record, as proven, subject to the above objection.

Mrs. JULIETTE B. M'CORD, of lawful age, being produced, sworn, and examined on the part of the contestant, upon her oath deposeth and saith:

Direct examination by Mr. HOFFMAN:

Q. What is your name, please?—A. Mrs. Juliette B. McCord.

Q. Where do you live, Mrs. McCord?—A. 905 East Forty-seventh Street.

Q. How long have you lived there?—A. I have lived at my present residence about a year and a half.

Q. Have you been a resident of the city for a longer time than that?—A. I have been a resident of the city about six years, I should say.

Q. Six years?—A. Yes, sir.

Q. Did you know the wife of Congressman Bird S. McGuire previous to her marriage to him?—A. I did.

Q. What was her name prior to her marriage to him?—A. Ruby Matchette.

Q. Has she any middle initial?—A. I really don't know.

Q. She was married to Mr. McGuire about the 1st of January, 1910, was she not—1911?—A. It was during the winter. I don't remember the year.

Q. Do you know where she lived after she married him?—A. No, sir; in Washington, didn't she?

Q. I am asking if you know?—A. She left directly the night of her marriage and went to Washington.

Q. Has she lived here since that time?—A. She hasn't lived here. She visited at her mother's.

Q. When did those visits occur?—A. I really don't know all of them. There have been two that I can recall—one the following summer after she was married.

Q. How long a time did she stay at that time?—A. I really don't know. Not through the entire summer, however.

Q. Was you here?—A. Yes: I was here.

Q. Was Mr. McGuire here at that time?—A. Mr. McGuire has never been here to my knowledge longer than two or three days at a time.

Q. During this summer of 1911, when Mrs. McGuire was here, was he out here at that time?—A. He was here once or twice, but never longer than two or three days at a time.

Q. Where did they stay while she was here?—A. Mrs. Ridgeway's.

Q. That was her mother?—A. Yes.

Q. Do you know whether or not they had household goods here?—A. I am very sure they did not.

Q. Were you ever a visitor or guest at their place?—A. Yes.

Q. Why are you sure they did not?—A. Because I know Mrs. Ridgeway's home has always been complete as it is ever since I have known them. I am quite sure Mr. or Mrs. McGuire never brought household goods in or out, except their luggage they had for traveling.

Q. During the summer of 1911 do you know how much time she spent here?—A. No; I don't recall, Mr. Hoffman.

Q. Did she remain here up until the beginning of the congressional session in Washington, the first Tuesday in December; did she remain here until the beginning of the congressional session?—A. I really don't know that. I know one summer she was here they paid a visit in Oklahoma. She was here for a time, and then I think she joined Mr. McGuire in Oklahoma for a visit.

Q. Do you know how long she visited down there?—A. I really don't; but I should think 10 days, anyway—two weeks.

Q. Is that the only visit you ever know of her having paid to Oklahoma?—A. The only one I know anything about.

Q. You have been her intimate personal friend, have you not, Mrs. McCord?—A. No; I have not been her intimate friend.

Q. You have not?—A. She has been a neighbor and previous to her marriage to Mr. McGuire, during the time she was Mrs. Matchette, I saw her just about as one would see her neighbors, occasionally; but I couldn't call it intimate friendship ever; it was a very agreeable one.

Q. Do you know what proportion of the time during 1912 she stayed in Kansas City?—A. No; I do not.

Q. Did you see her during that year?—A. Now, I don't know; that is the last year—

Q. The last year?—A. That is, the last year up to this January, isn't it?

Q. Yes.—A. That would be last summer?

Q. Yes.—A. Mrs. McGuire was here, I think, six or eight weeks.

Q. Did you see Mr. McGuire here with her during that time?—A. I think he was here when they came through and again when he came for her, and when he came for Mrs. McGuire they invited me to go to dinner with them to the Hotel Baltimore and Mrs. McGuire told me she had a great deal of trouble getting him to remain over in order that he might go to dinner with us. She seemed to think she was under obligations to us on account of being at our house. She said that Mr. McGuire was very busy; he said, yes he was.

Q. That was on account of the congressional campaign on?—A. I don't know why he felt that way; I didn't ask him.

Q. Has Mrs. McGuire her own automobile here?—A. She has not.

Q. Has she had one?—A. She had one the summer previous to her marriage— or was it after? They had a small Studebaker. I understand now she has some sort of an electric that is in Washington and that was not with her. She has not brought it up from Washington.

Cross-examination by Mr. WAGONER:

Q. Do you know what year it was she had this Studebaker automobile here?—A. Either 1910 or 1911—1910, I think.

Q. 1910—do you remember what time of the year it was?—A. During the summer.

Q. Do you know what she did with that machine?—A. What did she do with it?

Q. I mean, did she dispose of it, or is it still here yet?—A. No; I think they sold it.

Q. Do you know about what time of the year it was that they disposed of it?—A. No; I don't.

Q. Now, then, do you remember whether they had the machine at that time, in 1912—did they have this Studebaker machine in 1912?—A. I don't think so.

Q. Between January 1 and the 15th of February?—A. No, sir; I think they had disposed of it at that time.

Q. They had?—A. I think so. You must realize at that time I had moved from the immediate neighborhood, a block east, and I didn't remember.

Q. But as you remember now, she had this machine probably in January and February, 1911?—A. I wouldn't say that, because I am not positive about it. The first knowledge I had Mrs. McGuire had sold that machine was last summer, when she told me she had an electric, and she said she had sold the Studebaker car. That is all I know about it.

Q. Do you know whether this car was bought before or after her marriage to Mr. McGuire?—A. She owned the car before her marriage to Mr. McGuire.

Q. Owned the car before?—A. Yes.

Q. That is the only personal property that you know of either of them having here?—A. Yes.

Q. Outside of the luggage they would bring in and take away with them?—A. Yes.

Q. You say her father and mother lives here?—A. Yes, sir.

Q. How long have they lived here, to your knowledge?—A. I really don't know. When I moved here, they were living in the neighborhood I am living in. I don't know how long before they lived there.

Q. You have known them several years?—A. I have known them about five years.

Q. Can you recall the time of the year it was in 1912 when you took dinner with Mr. and Mrs. McGuire at the Baltimore?—A. No, I can't.

Q. Do you know where they were going to when they left here—whether to Washington or Oklahoma?—A. No, sir; I don't know that. My impression is, they were going to Washington.

Q. Washington?—A. Yes, sir.

Q. Probably just a short time before the first of Congress in December?—A. I don't know that, but I remember it was after the election had been determined.

Q. In 1912?—A. Yes, sir.

Mr. WAGONER. I believe that is all.

Mr. HOFFMAN. That is all.

(Signature waived—see stipulation.)

Subscribed and sworn to before me on the day between the hours and at the place aforesaid.

\_\_\_\_\_,  
Notary Public, within and for the County of Jackson, State of Missouri.

My commission expires \_\_\_\_\_.

M. A. O'DONNELL, of lawful age, being produced, sworn, and examined on the part of the contestant, upon his oath deposeth and saith:

Direct examination by Mr. HOFFMAN:

Q. What is your name, please?—A. M. A. O'Donnell.

Q. Where do you live, Mr. O'Donnell?—A. Kansas City, Mo., 3821 Central Street.

Q. Are you holding any official office at this time?—A. Yes, sir.

Q. What is it?—A. City tax attorney.

Q. City tax attorney?—A. Yes, sir.

Q. As such official, have you had any communication with Mrs. Bird S. McGuire; formerly Mrs. Ruby Matchette, of this city?

Mr. WAGONER. Objected to as being incompetent, irrelevant, and immaterial, tending to prove no issues in this contest.

Mr. HOFFMAN. Answer.

A. I did; yes, sir.

Q. What is the nature of it?—A. It was in response to a notice of delinquent taxes. I received a letter from Mrs. B. S. McGuire from Washington.

Q. Have you that letter now?—A. I have not.

Q. Delinquent taxes for what year?—A. 1912.

Q. Personal or other?—A. Personal.

Q. Do you know what the tax was on?—A. I don't know.

Q. You don't know?—A. I don't know. Never asked about it. I think it was on an estimate.

Q. On a what?—A. On an estimate made by the assessor.

Q. That is, you mean by that, property taken from some place and put on at the will of the assessor?—A. Yes, sir.

Q. Without being listed by the person?—A. Yes, sir.

Q. Have you that letter from Mrs. McGuire?—A. No, sir; I have not.

Q. Have you made search for it?—A. Yes, sir.

Q. Do you know where it is?—A. No, sir; I do not know where it is.

Q. Unable to find it?—A. Unable to find it.

Q. What was the contents of that letter?

Mr. WAGONER. Objected to as being incompetent, irrelevant, and immaterial, tending to prove no issues in this contest.

The WITNESS. Mrs. McGuire protested against the payment of the tax on the ground that she was not a resident of Kansas City, and was therefore not taxable.

Mr. HOFFMAN. Did the letter state where she was a resident?

A. I am not so sure about that, but I think it stated her residence was in Washington.

Mr. WAGONER. I object to the above answer, and ask the same be stricken out from the record, as being incompetent, irrelevant, and immaterial; does not bind the contestee, Bird S. McGuire.

Mr. HOFFMAN (to Mr. Wagoner). Cross-examine.

Cross-examination by Mr. WAGONER:

Q. You stated a moment ago that this was for a delinquent tax of 1912; was that city tax or State tax?—A. City tax.

Q. You don't know upon what property it was or anything of the kind?—A. No; I don't.

Q. You just took it off the records?—A. You see, I don't make the assessments myself. I took the books after the assessment was made.

Q. You took this off the books—so much taxes?—A. Yes, sir.

Q. She protested against the payment of them on the ground that she was not a resident of Kansas City?—A. Yes, sir.

Mr. WAGONER. That is all.

(Signature waived—see stipulation.)

Subscribed and sworn to before me on the day, between the hours, and at the place aforesaid.

\_\_\_\_\_  
Notary Public within and for the County of Jackson, State of Missouri.

My commission expires \_\_\_\_\_.

STATE OF MISSOURI, *County of Jackson, ss:*

*Fees and charges for taking said depositions.*

NOTARY'S FEES.

Administering three oaths, at 5 cents	-----	\$0.15
Issuing three subpoenas, at 25 cents	-----	.75
Signing and certifying depositions	-----	.35
Postage, sealing, and mailing	-----	.25

STENOGRAPHER'S FEES.

33 folios of testimony and certificate, at 15 cents	-----	4.95
2 carbon copies (see stipulation), at 15 cents and 10 cents, respectively, 25 cents per page, 11 pages, at 25 cents	-----	2.75
		9.20

The above fees and charges have been paid by Mr. Roy Hoffman, attorney for contestant.

[SEAL.]

WILLIAM F. WOODRUFF,  
Notary Public within and for the County of Jackson, State of Missouri.

My commission expires January 10, 1914.

EXHIBIT A, APRIL 9, 1913.

Expiration.	Name,	No. 404
July 4 1911	McGuire, Mrs. B. S.	
Jan. 4, 1912.	Address,	803 E. 47th.
July 4, 1912.	Vehicle,	1 Auto.—E. M. F., 30 H. P.
Jan. 4, 1913.	Time, 6 months.	License..... \$2.50 Tag fee..... 1.00 <hr/> 3.50
Tag No. 2792	Date,	7-24-11
	License No. —.	

STATE OF MISSOURI, *County of Jackson, ss:*

I, William F. Woodruff, a notary public in and for the County of Jackson, State of Missouri, do hereby certify that, pursuant to the stipulations and agreements between the respective counsel hereto, personally appeared before me, at Suite 603-7, Rialto Building, 9th and Grand Avenue, Kansas City, Jackson County, Missouri, on the 9th day of April, A. D. 1913, Mrs. Juliette B. McCord and M. A. O'Donnell, who were by me respectively sworn to testify the whole truth of their knowledge touching the matter in controversy aforesaid; that they were examined, and their examination reduced to writing, and their said depositions are now herewith returned.

I do further certify that Exhibit A is a true, correct copy of the original on file in the office of the city license inspector of Kansas City, and was made out from such original by a clerk in the office of said city license inspector of Kansas City, Missouri.

Given under my hand and official seal, at my office in Kansas City, Jackson County, Missouri, this 14th day of April, A. D. 1913.

[SEAL.]

WILLIAM F. WOODRUFF,

*Notary Public within and for the County of Jackson, State of Missouri.*

My commission expires January 10th, 1914.

CERTIFICATE.

STATE OF OKLAHOMA, *Oklahoma County, ss:*

I, A. J. McCarthy, notary public within and for the county of Oklahoma and State of Oklahoma, do hereby certify that the person named in the deposition hereto attached, Ed C. Rixse, was by me first duly sworn to testify the truth, the whole truth, and nothing but the truth in the case aforesaid, and that the deposition by him subscribed was taken in shorthand and transcribed by a disinterested and proper person and subscribed by the witness in my presence, and the same was taken on the 15th day of April, 1913, between the hours of 8 a. m. and 6 p. m. of the same day at the office of Mont F. Highley in Oklahoma City, State of Oklahoma, pursuant to verbal agreement between counsel for the contestant and contestee; and that I am not an attorney for or a relative of any of the parties hereto or otherwise interested in the event of such action.

[SEAL.]

A. J. MCCARTHY, *Notary Public.*

My com. exp. Feb. 5th, 1914.

Before the House of Representatives, the Congress of the United States of America. In re contest of John J. Davis, of Chandler, Okla., against Bird S. McGuire, of Pawnee, Okla., for the seat in the House of Representatives of the Congress of the United States as Representative of the first congressional district, State of Oklahoma. Contest No. —.

Depositions taken before A. J. McCarthy, notary Public, Oklahoma City, Oklahoma County, Okla., pursuant to verbal agreement between the counsel for contestant and contestee, in the contest case of John J. Davis against

Bird S. McGuire for the seat in Congress in the first congressional district for the State of Oklahoma.

Depositions taken between the hours of 8 a. m. and 6 p. m.

Contestant represented by his attorney, Roy V. Hoffman, and contestee represented by his attorney, Fred A. Wagoner.

The following proceedings were had:

Mr. A. J. McCARTHY. Mr. Rixse, do you swear that the testimony you are about to give in this case is the truth and nothing but the truth, so help me God.

A. Yes, sir.

By Mr. HOFFMAN:

Q. Please state your name, occupation, and place of residence.—A. Ed C. Rixse; I live in Oklahoma City, and superintendent of the mechanical department of the Times Journal.

Q. Mr. Rixse, I hand you here that which appears in this record identified as "Kingfisher 53," a printed blank, and also that which appears in the printed record "Kingfisher 52," a printed blank, purporting to be a letter by Homer M. Boardman, United States attorney, and ask you to state if you know where these instruments were printed.—A. No, sir.

(Contestee's attorney objects to the above question for the reason that it is incompetent, irrelevant, and immaterial.)

Q. Then you say you don't know where these instruments were printed?—A. No, sir.

Q. To your own personal knowledge, do you know whether or not these instruments were printed by the Times-Journal in Oklahoma City?—A. I think they were printed by the Times-Journal office. I wouldn't be positive.

Mr. WAGONER. I object to the above answer and ask that it be stricken from the record for the reason that the witness does not know of his own knowledge where these papers were printed.

Q. Why do you answer that you think that these papers were printed there?—A. On account of the number and label.

Q. They each bear the label of the Times-Journal job department?—A. Yes, sir.

Q. I will ask you to state if there are any records or indices in your office by which you could identify who placed this job with you, or to whom it was delivered, or who paid for it or furnished you copy?—A. I have none.

Q. Do you know of your own recollection anything about it?—A. No, sir; not of my own recollection.

Q. Do you not keep any record of jobs of this character?—A. No, sir.

Q. Is it not a custom of your office to keep a duplicate or the envelope in which matters of this character come to your office to be printed?—A. Usually is; yes, sir; except political work.

Q. Do you not keep any record or copy of political work?—A. Very seldom; when we do they are sometimes misplaced or something, and we never find them.

Q. Haven't you a file or index to indicate if you have any record of these two jobs?—A. I have.

Q. Are you able to find it?—A. I am not.

Q. Do you say there is no such record in your office?—A. No, sir; not now.

Mr. WAGONER. I object for the reason that the witness does not know of his own knowledge anything about it.

Q. Is there any record on file in your office by which you could furnish a copy or know who received it?—A. There is not.

Q. Have you any recollection of the subject?—A. No, sir; I have no specific recollection of taking in those two jobs.

Q. Have you any recollection whatever, either specific or otherwise?—A. Not of my own recollection. The foreman might have taken this in. I don't know; I wouldn't be positive.

Q. Who is the foreman?—A. Mr. Lieber.

Q. Where is Mr. Lieber?—A. He is somewhere around town.

Q. Is he an employee of the firm?—A. Yes, sir; a member of the firm.

Q. Have you made an examination of the employees or persons employed to find out anything about these two jobs?—A. Yes, sir.

Q. Not able to find any?—A. No, sir.

Q. What is your method of collecting for work done in the job department.

Mr. WAGONER. I object to the above question as being incompetent, irrelevant, and immaterial.

Q. Does it go on the books?—A. It does.

Q. If it was paid for would it go on the books?—A. No, sir; that would be a cash item.

Q. Then, if it was a cash item would it go on the books?—A. No, sir; it would go on the cash items.

Q. Would the cash items show by whom it was paid?—A. No, sir.

Q. I will ask you if you have any index or anything by which you could trace this job?—A. There is no way to find out. These circulars might have been labeled but we have no way to trace this job.

Q. Does your explanation disclose that you labeled circulars during the campaign period?—A. Yes, sir.

Q. Did you do any work for the Republican State campaign committee?—A. We did.

Q. Did you do any work for the Republican congressional campaign committee?—A. No, sir; not as I know of.

Q. Do you know whether or not this work was caused to be done by the Republican State campaign committee?—A. I do not.

Q. Does Elmer Brown have anything to do with the work in the office?—A. No, sir.

Q. What position does Cortez Brown hold with this firm?—A. Treasurer.

Q. Does he handle any of these jobs?—A. No, sir; he has them charged on the books.

By Mr. WAGONER:

Q. Do you know whether your company did any work for the Democratic State central campaign committee during the last election?—A. No, sir.

Q. Do you know whether you did any for the Democratic central committee for the first congressional district?—A. Did not.

Q. You printed circulars for the Republican county central committee for Oklahoma, did you not?—A. Yes, sir.

Q. And that would be charged on your books as circulars?—A. Yes, sir.

Q. And the work you did for the Democratic county committee were circulars?—A. Yes, sir.

Q. And that would be entered on your books as circulars?—A. Yes, sir.

By Mr. HOFFMAN:

Q. I will ask you to state whether or not the Republican campaign committee of the first congressional district had any work done in your office of any kind or character?—A. Not that I know of.

Q. Did Mr. McGuire leave an order with your firm for anything during the last campaign?—A. No, sir.

Q. The politics of the Oklahoma Times-Journal is Democratic is it not?—A. No, sir. Part of them Republicans and part of them Democrats.

Q. What is the name of the newspaper that your plant gets out?—A. It doesn't get out any paper. It was sold and is now called "The Times."

Q. No newspaper issued from that office and was not during the last campaign?—A. No, sir.

Q. Isn't the majority of the stock of the plant owned by Elmer Brown, former owner of the plant?—A. He doesn't own the majority of the stock.

Q. You say there are Democratic stockholders?—A. Yes, sir.

Q. Who are they?—A. Mr. Lieber.

Q. How much stock does he own?—A. He owns about one-sixth.

Mr. WAGONER. I object to the above answer as being incompetent, irrelevant, and immaterial, tending to prove no issue in this contest.

Q. Your plant did the printing for the Republican central campaign committee, did it not, during the last campaign?—A. Some of it.

Mr. WAGONER. I object to the above answer for the reason that it is incompetent, irrelevant, and immaterial.

Mr. HOFFMAN. Well, didn't you do the bulk of it?

Mr. WAGONER. I object to the above answer for the same reasons.

Mr. HOFFMAN. Do you know how many of these warning circulars and the Boardman letter were printed at your job office?—A. No, sir.

By Mr. WAGONER:

Q. If these circulars mentioned by Mr. Hoffman were printed in your office, do you or do you not know who had the work done?—A. I do not.

Q. You can not say whether the Democratic State committee or the Republican State committee had it done?—A. No, sir; but I think it was given out by the Republican county central committee of this county.

Q. As I understand, your firm or plant is a successor to the Oklahoma Times-Journal, and does job work for anyone that wants work done?—A. Yes, sir.

Q. You publish no paper?—A. No, sir.

Q. Not interested in politics—simply in business for the money there is in it?—A. There isn't much money in it.

By Mr. HOFFMAN:

Q. Your opinion is, then, that it was ordered either by the Republican State central committee or the Republican county committee; is that right?—A. I don't know; it might have been by the Republican central committee of this district.

Q. Then you don't know?—A. No, sir.

Mr. WAGONER. I object to that as being incompetent, irrelevant, and immaterial, calling for a conclusion of the witness.

ED. C. RIXSE.

Certified this 17th day of April, 1913.

[SEAL.]

A. J. MCCARTHY, *Notary Public*.

My commission expires February 5, 1914.

I, Augusta Ellis, do hereby certify that I am the person who took the evidence in the above-styled contest proceeding before Mr. A. J. McCarthy, at his office in the State National Bank Building, Oklahoma City, State of Oklahoma; that such proceedings were had between the hours of 8 a. m. and 6 p. m. on the 15th day of April, 1913, and that the foregoing is a true and correct transcript of such proceedings.

AUGUSTA ELLIS.

STATE OF OKLAHOMA, *Oklahoma County*, ss:

Personally appeared before me, a notary public in and for Oklahoma County, State of Oklahoma, Augusta Ellis, who, after being by me duly sworn, states that the contents of certificate over her signature, above, is true and correct to the best of her knowledge and belief.

In witness whereof I have hereunto set my hand and affixed my notarial seal this the 17th day of April, 1913.

[SEAL.]

A. J. MCCARTHY, *Notary Public*.

My commission expires February 5, 1914.

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DEPOSITION OF CORLAND LITTLE.

In the House of Representatives of the United States of America. In the matter of the contest of John J. Davis against Bird S. McGuire for Representative in the Sixty-third Congress from the first district of Oklahoma.

Pursuant to stipulation heretofore made, and the contestant being present in person and by his attorney, Courtland M. Feuquay, contestee being present by his attorney, Fred A. Wagoner, the following depositions were taken and proceedings had before Anna Mayer, notary public in and for Lincoln County, State of Oklahoma, at the office of Hoffman & Foster.

It is agreed that the depositions in this case may be taken in shorthand by Belle Henry, who, being duly sworn to take and transcribe the testimony, and that any agreement heretofore in effect as to witness signing shall remain in full force and effect. Notice of time, persons, and place of taking depositions is hereby waived.

Whereupon CORLAND LITTLE, of lawful age, being produced by the contestant, was duly sworn and examined on behalf of the contestant, upon his oath deposes and says:

Examination by COURTLAND M. FEUQUAY:

Q. State your name, age, and place of residence.—A. Corland Little; age, 21; Payson, Okla.

Q. What is your occupation?—A. Rural letter carrier.

Q. What business were you engaged in during the months of October and November, 1912?—A. A part of the time of each of these months I was stenographer in the Republican headquarters in Chandler.



Q. In what county?—A. Lincoln County.

Q. Were these headquarters the campaign headquarters for the Republican organization during the campaign of 1912?—A. Yes, sir.

Q. Who was the person in charge of the headquarters?—A. L. B. Nichols was chief.

Q. What were your duties as stenographer?—A. I had charge of the correspondence and receiving the mail and answering a part of it; answering the telephone calls.

Q. Was it, or was it not, your duty to be in the office at all times while you were employed?—A. Yes, sir.

Q. I will hand you Exhibit A and A-1 of the testimony of Corland Little and ask you if you ever remember of sending a similar letter? (Contestant offers Exhibit A and A-1 in evidence.)

Mr. WAGONER. Objected to as being incompetent, irrelevant, and immaterial, a letter purporting to be the same as this exhibit having been heretofore offered and introduced in evidence in chief in this cause. Objected for the further reason that this is not rebuttal testimony.

Q. I will ask you to state, Mr. Little, where you saw a copy of the letter similar to Exhibit A?

Mr. WAGONER. Objected to for the reason that it is not rebuttal testimony, attempting at this time to introduce evidence in chief for the purpose of establishing this cause.

Mr. FEUQUAY (to the witness). You may answer.

A. In the Republican headquarters.

Q. While you were secretary or stenographer for the county Republican organization of Lincoln County during the campaign of 1912 did you, or did you not, see a copy of the so-called warning circular, threatening prosecution by Federal authorities if the grandfather clause was enforced?

Mr. WAGONER. Objected to for the reason that it is incompetent, irrelevant, and immaterial, not rebuttal testimony in the case, but is testimony in chief for the purpose of establishing this cause, it having never been denied by the contestee but what there was such a circular or warning sign in existence.

A. I saw a similar letter.

Q. Where did you see this warning circular or letter?

Mr. WAGONER. Objected to as being incompetent, irrelevant, and immaterial, not rebuttal testimony.

Q. Was it your duty as stenographer for the Republican campaign committee for Lincoln County to send out campaign literature and do the mailing connected with the office?—A. Yes, sir.

Q. I will ask you if you ever sent any of these warning circulars to any of the election inspectors in Lincoln County prior to the general election held in November, 1912?—A. I am not sure about sending them to the election inspectors.

Q. Did you ever send any of these warning circulars to any person in Lincoln County?—A. I did.

Mr. WAGONER. Objected to as being incompetent, irrelevant, and immaterial, not rebuttal testimony, and tending to prove no issue in this contest.

Q. Were these persons election officers?—A. I think they were serving on the election board.

Q. Do you recall at this time who gave you instructions to mail out these warning circulars?

Mr. WAGONER. Objected to as being incompetent, irrelevant, and immaterial, not rebuttal testimony, seeking, as we think, to impeach one of their own witnesses, one L. B. Nichols, who was examined by them.

A. Mr. Nichols.

Q. Were you ever present at any meeting of the Republican county central committee where this circular was displayed?—A. Yes, sir.

Q. What was done with it at that time?

Mr. WAGONER. Object to that as being incompetent, irrelevant, and immaterial, not rebuttal testimony, the displaying of a circular and discussing their campaign; and further, that it is improper for this witness, who was employed in the headquarters, to tell what was discussed.

A. Plans were discussed there for more perfect organization.

Q. I meant to confine my question as to what was done with the circulars.—

A. A number of them were placed in envelopes and distributed.

Mr. WAGONER. Object to answer and ask that it be stricken out, as it is not responsive to the question. His question was: What was done with these circulars in that meeting?

Q. To whom were these envelopes containing the warning circulars given?—  
A. The precinct committeemen.

Q. Were all the precinct committeemen, or practically all of them, from Lincoln County present at that time?—A. Most all of them.

Q. What instructions, if any, were given to those committeemen with regard to the warning circular?—A. I do not remember hearing any instructions given.

Q. Do you remember of hearing any discussion of the warning circular during the meeting at that time?

Mr. WAGONER. Objected to as being incompetent, irrelevant, and immaterial, and not rebuttal testimony, and at this time counsel for contestee calls the committee's attention especially to this line of examination, and that it is not rebuttal testimony under any circumstances, and ask that the same be disregarded and that the rules of evidence be applied in the conversation.

Mr. FEUQUAY. I hand you Exhibits A and A-1 of your testimony and ask if that letter, if you can recall, was sent out by you during the campaign in 1912?

Mr. WAGONER. Objected to for the same reason as above—incompetent, irrelevant, and immaterial, and not rebuttal testimony.

A. I remember a similar letter, but I won't say that it was that letter.

Q. Was that similar letter which you remember sent out by you under the Republican campaign headquarters in the Republican campaign committee's official envelope?—A. They were.

Q. To whom did they send them, Mr. Little?—A. I am not sure, but I believe it was to the Republican members of the election board.

Q. Do you recall at this time whether any were sent to the Democratic members of the election board?—A. I do not.

Q. Can you recall at this time by whose instructions these letters were sent out?

Mr. WAGONER. Objected to as being incompetent, irrelevant, and immaterial, not rebuttal testimony. Further, for the reason that they are seeking to impeach the testimony of their own witness. And further, that the record absolutely shows that L. B. Nichols and the Republican county central committee have nothing whatever to do with the Bird S. McGuire campaign for Congress, and are in no wise responsible for any acts of said committee, said facts all having been heretofore established by the contestants on witness in chief.

A. I do not remember any special instructions, but I received all the instructions I got from Mr. Nichols; I presume he gave them to me.

Q. He didn't send out any campaign material from the Republican headquarters during the campaign of 1912, and you acted as official stenographer except by Mr. Nichols, did you?—A. No, sir.

Q. State whether or not in the official envelope of the Republican campaign committee, which contained the Boardman letter, there was, or was not, a copy of the warning circular previously referred to in this testimony?—A. There was.

Q. You were present during the greater part of the time the Republican headquarters in Chandler for Lincoln County, Okla., during the campaign for 1912, were you not?—A. Yes, sir.

Q. State whether or not you ever saw in the Republican headquarters in Chandler, for Lincoln County, any campaign material for Bird S. McGuire, the Republican candidate for Congress at that time?—A. I can not say positive.

Q. Do you know whether or not you distributed campaign material for all of the Republican candidates for both county, State, and Federal offices during the campaign of 1912, from the Republican headquarters?—A. No personal literature.

Q. Were the first letters, similar to Exhibits A and A-1 of your testimony which came into the Republican headquarters, printed or typewritten?—A. It seems to me that they were typewritten.

Q. I will call your attention to Exhibits A and A-1 of your testimony, which is a mimeograph copy of that letter, and ask you if you know who made the mimeograph copy of that letter?—A. I do not.

Q. Do you know from where the so-called warning circulars were sent to the Republican headquarters for Chandler, in Lincoln County?—A. I do.

Q. State where they came from.—A. From the State Republican headquarters at Guthrie.

Mr. WAGONER. Contestee objects to all of the last questions which he has not heretofore objected to for the reason that they are incompetent, irrelevant, and immaterial, not rebuttal testimony, only in attempt to establish their case in chief.

Cross-examination by Mr. WAGONER:

Q. You say that you were employed by the Republican county central committee of Lincoln County, Okla., during the months of October and November, 1912, and by reason of such employment you worked in the Republican headquarters?—A. I did.

Q. You were present at various times when the committee and the candidates and other members of the party were in there discussing their plans, were you?—A. Yes, sir.

Q. You mentioned a meeting being there, some time before the election, of the precinct committeeman?—A. Saturday before the election.

Q. I believe that you stated in examination in chief that at that time the Boardman letter was exhibited and circulated there?—A. Not just that.

Q. What did you do?—A. That warning circular and the letter similar to this were there.

Q. What did they do with them that day?—A. They were distributed.

Q. Who distributed them?—A. I don't think that they were all distributed at once. They were on the desk.

Q. Are you certain that the warning circular was distributed that day?—A. Yes, sir.

Q. How certain are you of that?—A. To the best of my memory, I believe they were there.

Q. To refresh your memory, was it not a fact that they were not distributed that day?—A. I am not certain.

Q. How many of the warning circulars did the committee have in the headquarters at any one time?—A. I do not remember, exactly.

Q. When did they receive them?—A. I am not certain.

Q. About what size paper was that warning circular on?—A. Seems to me, the best I remember, it was on sheet probably about 6 by 8.

Q. Is it not a fact it was a very small piece of paper, about the size of a postal card?—A. I think it was larger than that.

Q. How many times did they receive these circulars at the headquarters?—A. Only once, that I remember.

Q. Do you not remember that they received a very small package and put away and not sent out?—A. They were put in a drawer, but were later taken out.

Q. Did you see them taken?—A. No, sir.

Q. How did you know they were taken out?—A. I saw them outside.

Q. When was it you sent out those warning circulars?—A. I don't remember sending them out any number of times.

Q. About when did you send out the first ones?—A. It was only a few days before the election.

Q. How many days before?—A. Three or four.

Q. How did you send them out?—A. The most of them were taken from the office by those who came in.

Q. When did you send any of them out through the mail?—A. I don't remember exactly.

Q. Did you send any through the mail?—A. Yes, sir.

A. How many?—A. I don't remember exactly.

Q. About how many?—A. About 25.

Q. Do you think you sent as many as 25?—A. I am not positive.

Q. Is it not a fact that you did not receive as many as 25 in the first package, and the only package that you did receive?—A. I did not see the package when it came in. It seems to me, after they were undone, there were quite a little bunch of them.

Q. Did you hear Mr. Nichols say that they decided not to send any of them out; that they were too strong to send out?—A. I do not remember.

Q. Were they printed or typewritten?—A. Printed.

Q. What kind of type?—A. They were different sizes. The best I remember there were some two or three words written in large letters.

Q. Are those the ones you sent out?—A. Yes, sir.

Q. You did not send any other kind?—A. I do not remember.

Q. You have examined what they have marked here as Exhibit A, and Exhibit A-1. When was the first time that you saw that particular exhibit [shows exhibit]?—A. Only a few days before the election.

Q. Have you had this in your possession all of the time since that time?—A. No, sir; I first saw this one to-day. I do not remember whether this is exactly like the one I mailed out or not.

Q. This was shown you here to-day, since you came here to testify?—A. Yes, sir.

Q. Who showed it to you?—A. Mr. Feuquay.

Q. Did you ever see any mimeograph or typewritten paper like that in the headquarters?—A. Similar to that.

Q. Did you send any of those out?—A. Yes, sir.

Q. When?—A. Before the election.

Q. How long before?—A. Three or four days.

Q. Did you mail them through the mail?—A. I do not remember mailing those.

Q. When was it you received the printed circular which this purports to be a copy of in the headquarters?—A. The printed?

Q. Yes, sir.—A. I do not remember of ever receiving a printed copy.

Q. Did you have any printed circulars of this?—A. I don't remember.

Q. Did not get any of them from anywhere?—A. Did not.

Q. If the election was on Tuesday, tell me what day of the week it was that you received these in the headquarters?—A. I can't tell exactly.

Q. Well, was it as much as a week before?—A. No, sir.

Q. When was it?—A. I remember of mailing out warning circulars some time before.

Q. Do you not remember about this particular one?—A. Not exactly.

Q. But you say that you did not send any of these typewritten ones through the mail?—A. I will not say that I didn't.

Q. What do you say now?—A. I do not remember of sending any exactly like this.

Q. Did you send out any letter through the mail that was purported to be written to Fred A. Wagoner, deputy county attorney of Lincoln County, Okla.?—A. It seems to me that I sent some mimeograph.

Q. Of those letters that were addressed to me.—A. I am not sure about it being addressed to you.

Q. This letter which you have, Exhibit A and Exhibit A-1, being on two sheets of paper, and being the same letter which purports on its face to be a mimeograph copy, whether this is an exact copy of the one you sent or not, did you send any letter similar to this through the mail prior to the election which was received from one Boardman, United States district attorney, addressed to Fred A. Wagoner, deputy county attorney, at Chandler, Okla.?—A. I don't remember sending any with those names.

Q. Were you not sending out circular letters, or circulars of various kinds, daily from this office?—A. Yes, sir; frequently.

Q. Various printed matter?—A. Yes, sir.

Q. You say you won't say that you mailed any letter out that was received or written by Mr. Boardman, United States district attorney, and addressed to me?—A. I won't say that I sent a letter by that name.

Q. I now hand you again Exhibit A and A-1, and ask you to state whether or not you sent that letter, or one similar to it, through the mail out from the Republican headquarters of Lincoln County, Okla., prior to the 1912 general election?—A. I sent a similar letter; I am not sure that it was exactly this letter, nor with those names.

Q. You have been asked on examination to identify that letter. You have stated on examination that this is a similar letter. I want to find out whether you are certain that that letter, or one similar to it, was sent out by you through the mails out of the Republican headquarters?—A. No; I don't think I did.

Q. Is it not a fact that that letter which purports to be a letter from Mr. Boardman, United States district attorney, and addressed to Fred A. Wagoner, deputy county attorney, was not received in Republican headquarters in time prior to the election, in time to be mailed out to anybody?—A. I don't remember.

Q. What is your best recollection when you first saw that letter, or a similar one to it?—A. I am not sure it was only a very short time before the election.

Q. A short time before the election, about how long before?—A. The best I remember is three or four days.

Q. That would be Thursday or Friday before the election?—A. Possibly.

Q. Refresh your memory and see if you can't remember just when it did come in there?—A. I can't tell now, it has been so long. I paid a very little attention.

Q. You notice the date of the letter, do you not?—A. Yes, sir.

Q. How many days would that be before the November election?—A. About six days.

Q. Now, when did that letter reach the headquarters?—A. It could have reached October 31.

Q. As I remember your testimony in chief you testified that this Exhibit A was handed to you together with warning circulars and were mailed by you to different people in Chandler?—A. No; I did not say that.

Q. What did you say?—A. I said there was a letter similar.

Q. Where did it come from?—A. I don't remember.

Q. Was it dictated to you?—A. No, sir.

Q. Did you write the letter with which the warning circulars were inclosed?—A. No, sir.

Q. Was it printed or typewritten?—A. I am not sure, but I believe it was typewritten.

Q. Do you know who gave it to you? How you come to get it there, and whose name it was signed to it?—A. I am not sure, I believe it was Mr. Nichols, or a facsimile of Mr. Nichols. I do not remember exactly what it was.

Q. Do you remember who attached the rubber stamp to these letters?—A. No, sir.

Q. How long before did that letter go out?—A. Just a few days.

Q. Who were those letters addressed to?—A. The best I remember they were addressed to the precinct election officers.

Q. Precinct election officers or precinct committeemen; which was it?—A. I am not sure.

Q. I believe you stated in your examination in chief that you did not send any to inspectors; did you?—A. I said that I did not know that they were inspectors.

Q. This meeting that was had in the Republican headquarters on Saturday before the election was open, was it?—A. Yes, sir.

Q. Everybody could come in?—A. Yes, sir.

Q. You were in there?—A. A part of the time.

Q. You were a Democrat?—A. I had never voted any, being too young.

Q. I mean from principle. Outside from voting, you believed in the Democratic Party.—A. Yes, sir.

Q. Mr. Rawdon, the Republican candidate for superintendent of schools, was the man who secured this position, wasn't he?—A. Yes, sir.

Q. Recommended you?—A. Yes, sir.

Q. And they had confidence in you?—A. Yes, sir.

Q. This day when these parties were in there, they discussed with you?—A. Yes, sir.

Q. There were members of the election board there?—A. Yes, sir.

Q. Did you understand that there were Democrats who were members of the election board there also?—A. No, sir.

Q. Did not understand that?—A. No, sir.

Q. You say you are certain that you mailed out some of these warning circulars through the mail?—A. Yes, sir.

Q. About what per cent of that package that you received did you mail out?—A. Only a small number of them.

Q. You do not remember to whom you sent them?—A. Just a list of names I got there in the office.

Q. Mr. Nichols did tell you at one time not to send out any more of them?—A. I do not think so.

Q. You sent only a few of them?—A. Yes, sir.

Q. You do not know where the rest of them went?—A. Not all of them; some of them were given to the committeemen.

Q. Do you know that they were put in a drawer there; that they were not wanted to be sent out?—A. They were there at the time.

Q. Did you send out stuff for Mr. Nichols there?—A. Yes, sir.

Q. Mr. Davis alleges in his petition that these warning circulars were sent to the election officers and by reason thereof that those fellows were intimidated and coerced and prevented from enforcing the law. Do you say that Mr. Nichols never said anything to you about circulars coming into the office?—A. I do not remember of any conversation of that kind.

Q. Do not remember of him saying that he did not want any more of them sent out?—A. No, sir.

Q. They had meetings sometimes when you were not there?—A. Yes, sir.

Q. Do you know Courtland Feuquay?—A. Yes, sir.

Q. A good friend of yours?—A. Not very intimate.

Q. Had you known him very long prior to the campaign?—A. Yes, sir.

Q. He came to visit you?—A. He was there once. I believe.

Q. You know William Cordell?—A. Yes, sir.

Q. He was down there to see you?—A. I do not believe he was ever in there.

Q. You know Roy Bradshaw?—A. Yes, sir.

Q. You know Earl Bray, a young Democrat, was there, wasn't he?—A. It seems to me he was there a little while one day.

Q. Mr. Little, wasn't one or more of these fellows making such frequent visits to the Republican headquarters that you were asked by the secretary of the Republican headquarters not to allow them to come there?—A. Not exactly that.

Q. State what he did say.—A. He was at the courthouse; I think he saw some of them coming that way; he called over the telephone while two or three boys were in there. I do not remember whether they were Democrats or not. They were schoolboys. They came in to see about football, was what they came for. He says, "Look out for those young Democrats in there." That was about all.

Q. Wasn't Feuquay down there more than once and at the same time he was assistant manager for John J. Davis's campaign?—A. I don't remember; he might have been there.

Q. Did you show him the warning circular?—A. No, sir.

Q. When did Mr. Davis, or his attorney, Mr. Feuquay, find out that you had mailed out these circulars?—A. I don't know.

Q. How did they find it out what you had done?—A. I don't know. The first I knew was when they subpoenaed me to come.

Q. How did they subpoena you?—A. Mr. Davis brought it to me.

Q. Talked with you at that time?—A. A little while.

Q. Asked you what you knew?—A. I don't believe he did.

Q. Did he ask you what you knew before he had you come up here?—A. No; he did not ask me what I knew.

Q. He told you what he wanted to prove by you?—A. Not exactly.

Q. What did he say?—A. He said, "You worked for the Republican headquarters during the campaign?" I told him, "Yes, sir."

Q. Now, what was sent out during the Republican campaign?—A. A number of letters and circulars.

Q. What kind of circulars?—A. Various kinds.

Q. Did you write any of them?—A. Some of them.

Q. Did you write this Exhibit A and Exhibit A-1?—A. I don't remember this particular one exactly.

Q. How did you know, then, that that Exhibit A and A-1 or one similar to it was sent out?—A. I read a similar letter.

Q. Did you read that one, or one similar to it?—A. Yes, sir.

Q. Will you tell me wherein the difference is between the Exhibits A and A-1 and the one that you sent out?—A. I do not remember distinctly enough to tell.

Q. How do you know that they were any different?—A. I won't say that there was any difference.

Q. Did you ever read a letter written by Mr. Boardman, the United States district attorney?—A. I read a similar letter to this one. I won't say that Mr. Boardman wrote it.

Q. Who did write it?—A. I don't know.

Q. Wasn't Mr. Nichols's name signed to every circular letter that went out of the Republican headquarters of this county which you mailed out?—A. I do not remember any letter that I sent without his signature.

Q. Then how can you say that you sent out this letter?—A. I did not say it.

Q. I don't think that you did send out that letter or one similar to it through the mail?—A. I think I sent a letter similar.

Q. When?—A. I do not know exactly.

Q. Now, Mr. Little, for your information we will say that this letter is an exact copy of the Boardman letter; that the Exhibit A and Exhibit A-1 is an exact copy of the one that was in the Republican headquarters; then, did you send it out through the mail?—A. If it was like the one in the headquarters, I did.

Q. And you think you sent out about four or five days before the election?—A. Three or four.

Q. Now, which is it, three or four? If it is three days it would be on Saturday before the election. Did you send it on Saturday before the election?—A. I don't remember.

Q. Don't you know that you didn't; that that was the day that the meeting was being held?—A. Yes, sir.

Q. You did not send any of those letters that day?—A. I do not remember.

Q. Do you say that you did?—A. No, sir.

Q. Did you send any of them Friday?—A. I do not remember.

Q. Did you send any Thursday before the election?—A. I don't remember.

Q. Did you send any Wednesday or Tuesday or Monday?—A. I don't remember.

Q. As a matter of fact are you not confused as to the exact letters you did send out, and is it not possible for you to remember the letters and matters that were sent out, due to the great number and different kinds that were handled during the campaign?—A. It is impossible to remember the exact letter or exact time.

Q. If you didn't send any of these out Saturday, the day that the committee met there, you must have sent them prior to that time, as Monday was the day before the election Tuesday, and mail would not reach the voters on the rural routes. Don't you know that you did not send them out Monday?—A. I do not remember.

Q. Don't you know that you did not send them Monday?—A. No, sir.

Q. What do you say; did you send them Monday?—A. I don't think so.

Q. Do you remember any of the towns which you sent those to through the mails?—A. I don't say I sent this one.

Q. I am talking about that one, if it is an exact copy of the one that you had in the Republican headquarters.—A. I do not remember.

Q. What do you mean by a similar letter, or in meaning of language?—A. I don't remember exactly the meaning of the language; but there were letters in regard to the grandfather clause, and such as that.

Q. How many different letters in regard to the grandfather clause were sent out?—A. There were quite a bit; I do not remember exactly.

Q. Those letters were over Mr. Nichols's signature?—A. I do not remember.

Q. Who wrote them?—A. I wrote some; some were printed.

Q. Where people would desire information you would answer them back?—A. Not exactly.

Q. I am speaking now about the grandfather-clause letter.—A. I did not say that they were letters; there were various literature.

Q. What kind of literature was sent out from the Republican headquarters about the grandfather clause through the mail?—A. They had several different circulars and different wordings; I do not remember just what were sent.

Q. How did you know this one was sent?—A. I don't know.

Q. And you don't say that that one was sent either?—A. No, sir.

Q. Nor one like it?—A. Not exactly like it.

Q. Did you see any other letter in the headquarters that was similar to that one?—A. I saw several letters; some were similar.

Q. To that one there?—A. I do not know.

Q. Whose name was signed to them?—A. I do not remember.

Q. Who were they addressed to?—A. I do not remember that. Various people.

Q. Mr. Little, was there any other letters in the Republican headquarters that were typewritten copies or mimeograph copies made or that were sent out other than what was known as the Boardman letter?—A. Yes, sir.

Q. Who wrote it?—A. I wrote some of them.

Q. I meant of the grandfather clause.—A. I do not remember of writing any letter.

Q. Did you have in the office there any letter that was received from anybody else that was brought in there to send out?—A. I do not remember whether there were any others or not.

Q. I will ask you if it is not a fact that you never mailed out a letter like that one or a similar letter to that during the last campaign out of the Republican headquarters?—A. I will not say that I did not. I mailed a great many at a time. Some of them I never read.

Q. Were you at the headquarters on Sunday before the election?—A. It seems to me that I was there a little while in the morning.

Q. You did not mail out anything that day, did you?—A. There was one Sunday that he asked me to come back and work awhile. I do not remember mailing out any that day.

Q. Was L. B. Nichols in the headquarters on Monday before the election?—A. I could not say for sure.

Q. Is it not a fact that if that letter ever was in the Republican headquarters in Lincoln County, or one like it, that it was never there before Saturday noon before the election?—A. I am not sure and can not say.

Q. Don't you know that it didn't reach there if it reached there at all?—A. No, sir.

Q. Do you say that you never mailed a one of the letters of which Exhibit A and Exhibit A-1 is a copy out of the Republican headquarters at Chandler?—A. I do not remember of mailing any of them exactly like it.

Mr. WAGONER. That is all.

(Witness is excused.)

EXHIBIT A OF THE TESTIMONY OF CORLAND LITTLE.

DEPARTMENT OF JUSTICE,  
OFFICE OF THE UNITED STATES ATTORNEY,  
WESTERN DISTRICT OF OKLAHOMA,  
*Guthrie, Okla., October 31, 1912.*

Mr. FRED A. WAGONER.

*Deputy County Attorney, Chandler, Okla.*

DEAR SIR: I have your letter asking whether at the coming general election the precinct election officers can enforce the law commonly termed the grandfather law, and escape punishment therefor in the Federal courts on a showing of good faith in enforcing the said law. I presume your question has arisen on account of the apparent conflict between the decision of the supreme court of the State of Okla. and the United States district court for the eastern and western districts of Okla. on the constitutionality of the law, the State supreme court having held the law constitutional, while the two United States courts in the State have held it unconstitutional and void.

It must be borne in mind that this all involves purely State matters as well as Federal matters, and in considering the same these two phases of the law must be kept in mind. As to the purely State questions involved in the law I do not express any opinion, the same not being within the jurisdiction of this office, and this opinion is directed solely to the Federal question involved; that is, the application of the grandfather law to negroes who, on account of race, color, and previous condition of servitude, are not permitted to vote without submitting to certain tests of reading and writing. Nor shall I argue the question of the constitutionality of the law for the reason that after very extensive argument by some of the best legal talent of the State it has already been in positive terms declared unconstitutional by two United States district courts in this State, which decisions are now the law of this State as far as the Federal questions therein involved are concerned, having never been reversed or modified.

Knowing this, that the Federal courts having jurisdiction over the entire State have declared the law to be unconstitutional and of no force and effect, the question arises whether the precinct election officers can enforce it against negroes on account of their race and color and then, when prosecuted in a Federal court for doing so, defend the prosecution on a plea of good faith in enforcing the law. The question of good faith must be determined with reference to the decision of the courts on the subject and having jurisdiction thereof, so there can be no good faith in acting in direct conflict with the decisions of the courts, although in the absence of any such decisions such defense might be made. In the case against Beall and Quinn, who were convicted in the Federal court at Enid, in 1911, for violating section 19 of the Federal Criminal Code



in enforcing the grandfather law at the general election in November, 1910, the defense in good faith was attempted, although without success, as the verdict of the jury disclosed. However, in that case at the time the acts were committed which caused a prosecution, that is, in November, 1910, no Federal court had passed upon the law.

EXHIBIT A-1 OF THE TESTIMONY OF CORLAND LITTLE.

Furthermore, all precinct election officers are quasi judicial officers in quasi judicial capacity, and being officers of inferior and restricted jurisdiction are all bound by the decisions of the Federal courts declaring the law unconstitutional when applying the same to negroes desiring to vote for Members of Congress and electors for President, and the defense of good faith will not protect them from prosecution for enforcing the law in direct conflict with the Federal decision.

Respectfully,

HOMER H. BOARDMAN,  
*United States Attorney.*

STATE OF OKLAHOMA, *County of Lincoln, ss:*

I, BELLE HENRY, do hereby certify that I was duly sworn by Anna Mayer, notary public in and for Lincoln County, Oklahoma, to take and transcribe truly the evidence introduced in the contest case of John J. Davis against Bird S. McGuire for a seat in the Sixty-third Congress of the United States; that the witness was by the notary public first duly sworn to testify the truth, the whole truth, and nothing but the truth, in the case aforesaid, and that it was agreed by and between the parties that I should take the testimony in shorthand and afterwards transcribe the evidence taken into longhand.

And further that the signature of the witness was waived by both parties.

That the attached copy in longhand of the evidence is a true and correct copy of all the evidence, objections, and exhibits introduced on the 28th day of July, 1913. That said copy is a true and correct transcript of all the proceedings.

Dated this 2nd day of August, 1913.

BELLE HENRY.

CERTIFICATE OF NOTARY PUBLIC.

STATE OF OKLAHOMA, *County of Lincoln, ss:*

I, Anna Mayer, notary public in and for the county of Lincoln, State of Oklahoma, do hereby certify that I duly swore Belle Henry as stenographer to take and transcribe the evidence, and that the foregoing transcript is a true and correct copy of the evidence as taken by her and transferred under her sworn statement to me.

[SEAL.]

ANNA MAYER, *Notary Public.*

My commission expires Oct. 6th, 1915.

STENOGRAPHER'S FEES.

Taking depositions-----	\$1. 00
22 pages of testimony, at 15 cents per page-----	3. 30
2 carbon copies, at 10 cents and 5 cents, respectively—15 cents per page—	
22 pages, at 15 cents-----	3. 30
	<hr/>
	7. 60

TESTIMONY FOR CONTESTEE.

STATE OF OKLAHOMA, *County of Logan, ss:*

I, Marie E. Terrell, a notary public in and for the county of Logan and State of Oklahoma, hereby certify that the depositions attached hereto are the original depositions taken in the election-contest case of John J. Davis *v.* Bird S. McGuire, for a seat in the Sixty-third Congress.

That said depositions were taken pursuant to stipulations entered into between the counsel for contestant and contestee, and were taken in shorthand and afterwards transcribed and typewritten by the stenographer taking the same, and accepted by the parties to said contest as true and correct, without the witness reading or signing same, pursuant to said stipulations, which are incorporated into the record.

That said depositions are put together in four separate packages and numbered from 1 to 4, No. 1 including Logan County, No. 2 Lincoln County, No. 3 Kingfisher County, and No. 4 Pawnee County.

And I hereby certify and seal the same as true and correct, and transmit the same by express to the Clerk of the House of Representatives of the United States, Washington, D. C.

Witness my hand and notarial seal this 26th day of August, 1913.

[SEAL.]

MARIE E. TERRELL, *Notary Public.*

My commission expires November 27, 1916.

NOTICE TO TAKE TESTIMONY.

*To Roy Hoffman and Courtland Feuquay, attorneys for John J. Davis:*

You are hereby notified that on Wednesday, the 2d day of July, 1913, beginning at 9 o'clock a. m., at the law office of Burford & Burford, in the city of Guthrie, in the county of Logan and State of Oklahoma, we shall proceed before M. E. Terrell, a notary public in and for Logan County, State of Oklahoma, to take, on behalf of Bird S. McGuire, contestee, the depositions of Fred L. Wenner, Wm. Humphrey, Will Mitchell, John Capers, and divers other witnesses, and will continue to take such depositions from day to day until the same shall be completed.

BURFORD & BURFORD,  
*Attorneys for Bird S. McGuire.*

We hereby acknowledge service of the foregoing notice on the undersigned attorneys for John J. Davis this 1st day of July, 1913.

ROY HOFFMAN,  
COURTLAND M. FEUQUAY,  
*Attorneys for John J. Davis.*

Pursuant to notice heretofore given, the taking of depositions on behalf of the contestee was proceeded with at this time before Marie E. Terrell, a notary public, at the time and place designated in said notice.

The contestant, John J. Davis, appeared in person and by Courtland Feuquay, his attorney; and the contestee, Bird S. McGuire, appeared by Burford & Burford and Fred A. Wagoner, his attorneys.

The following-named witnesses were called and sworn, and testified as follows, under the stipulation heretofore entered into between the parties to this contest:

L. C. Crute, A. C. Crossley, A. Bailey, J. F. Ayers, Albert Briscow, L. D. Smith, C. R. Young, John A. Rankin, F. A. Bonner, A. J. Cress, Cliff Timpey, Neil Humphrey, W. M. Humphrey, Governor Moore, W. H. Hornaday, F. S. Barde, John Capers, Fred L. Wenner, Frank Wolf, and Charles S. Olson.

L. C. CRUTE testified as follows:

Direct examination by JOHN H. BURFORD:

Q. You may state your name.—A. L. C. Crute.

Q. Where do you live?—A. Live at Seward.

Q. What is your age?—A. Seventy-three years old.

Q. How long have you been a resident of Seward Township?—A. About five years.

Q. Were you at the Crescent voting precinct at the November election, 1912?—A. Yes, sir.

Q. You may state whether you voted at that election?—A. I did.

Q. Who was the inspector of election at that precinct?—A. Duke Jeffrey.

Q. And who were the judges?—A. Duke Jeffrey, I think, was the judge—he was one of the judges, and Houston was a judge.

Q. And who was the clerk?—A. I don't know all the clerks' names; I know them when I see them; I don't know all the names.

Q. You may state whether there was any disturbance at that voting precinct on that day?—A. No; there was no disturbance; they was trying to get up a disturbance, but the advice to them was not to have any disturbance—not have any trouble.

Q. Do you know about how many colored voters there are in that precinct?—A. Not exactly how many; I know all that came to the polls that day.

Q. You may state whether any colored persons voted at the polls that day.—A. Yes; there was nine voted, as near as I can remember.

Q. State whether or not any offered to vote and were refused; and if so, how many?—A. There was 19 offered to vote and they didn't stand the test, and there was 33 that wouldn't try at all. There was a great many of them that wouldn't come to the polls on account of the rigid examination for two years prior to that time.

Q. You may state what you know about Richard Allen voting, a colored man?—A. Richard Allen, he voted.

Q. Was you in the voting booth when he was in?—A. Yes; him and I went in together.

Q. What did he say when he went in?—A. He didn't say nothing to me; I went in and asked for a ticket.

Q. What kind of a ticket did he ask for?—A. Democrat ticket.

Q. Did they give it to him?—A. Yes, sir.

Q. Did they apply any test to him?—A. No, sir.

Q. Let him vote without a test?—A. Yes, sir.

Q. Was there anything to indicate that that election board was intimidated in any way and were afraid to enforce the grandfather test—was there anything to indicate that they were afraid to enforce the law?—A. I don't know in that respect right on the day of the election; the indications was before the day, just prior to the day of the election.

Q. Did you see anything there on election day that indicated that they were not enforcing the grandfather clause?—A. Not when they were enforcing the grandfather clause; it was uneducated white people that voted there.

Q. It didn't apply to the white people?—A. Stone was a white man and he can't read nor write, and they let him vote.

Q. These 11 persons that offered to vote and they applied the test to, did they fail?—A. You got that wrong.

Q. How many?—A. There was 19.

Q. Nineteen that they applied the test to and failed. How long were they engaged in taking the test ordinarily, each one?—A. One of them, Cleveland Brainard, I suppose they have him in there three-quarters of an hour, and he came out wet with perspiration as could be, and he lit for home, and he didn't stay there to tell no one, and he told myself and another man who was to keep tab on all that voted and all that tried to vote and couldn't vote, and when they would come out we would rush right to them to know how they voted; he had been there so long some of them thought he had slipped out and gone home, but he hadn't. The very best educated men we had there couldn't stand the test at all. We had graduates there and they couldn't stand it.

Q. Did you hear any of those persons, that come out, say what kind of a test that was applied to them?—A. They said when you started to writing they would kind of stop them, they would ask them whether their parents were white people. Some of them were as black as the ace of spades; and voted in any election prior to 1866.

Q. And what was the reason these educated negroes, that were graduates, were not permitted to vote?—A. They would pick out sections of the Constitution for them to write. If they could read and write they would pick out the longest sections there was in it and require them to write that section, and then require them to explain it.

Q. If they could write it they would require them to explain it?—A. Yes, sir.

Q. If they failed to explain it, would they deny them the right to vote?—A. They said they would pass on them; and said they couldn't vote. Tillman was a graduate. They said he didn't make his periods right, they claimed. They would pass on it and tell him he couldn't vote.

Q. The ones that were permitted to vote, you say, were of the older negroes that were not so well educated?—A. Of course, the first colored people that had an opportunity to enter school directly after the Civil Rebellion, who had been there all the time, they was permitted to vote, and had no education; but the later colored people, who had good chances to the schools and better educated, they couldn't stand the test at all.

Q. They did apply the test to all they let vote, didn't they?—A. All but Richard Allen; they didn't apply no test to him.

Q. All but the one who voted the Democratic ticket?—A. Yes, sir.

Cross-examination by COURTLAND FEUQUAY:

Q. Mr. Crute, you say you were present in the voting precinct when a negro, by the name of Richard Allen, came in to vote?—A. Yes; him and I went in together.

Q. What did you hear him tell the election inspector?—A. He asked him for a Democratic ticket.

Q. What election was that?—A. November, 1912.

Q. You voted that day, did you, Mr. Crute?—A. Yes, sir.

Q. You got one of the tickets that was handed out to you by the election inspector?—A. I had two tickets; they gave me two tickets.

Q. The ticket which you voted for Congressman, was there a Democratic ticket or a separate Republican ticket, or were they both on the same sheet of paper?—A. Separate papers was on the amendments, some of the amendments were permitted, and made out to be voted upon separate from the tickets.

Q. All the officers to be voted on were on the same ticket; Republican and Democratic and Socialist were on the same ticket?—A. Yes; they was.

Q. Same sheet of paper?—A. Yes, sir.

Q. Was there any difference in the ticket which you were handed and the one that was handed to this Richard Allen?—A. I don't know; after they hand the ticket to him, he went in his booth, and I went in mine. Of course, I couldn't see the difference in the tickets; he asked for a Democratic ticket.

Q. Were you a member of the election board at this voting precinct?—A. No, sir.

Q. Were you a candidate for office at that time?—A. No, sir.

Q. You are aware of the law that requires persons not voting to be at least 50 feet away from the voting precinct?—A. I was 50 feet away; the judges had a line struck out, had a rope up; nobody was allowed to go in there but three men to go in at a time to vote.

Q. All you know about the enforcement of the grandfather clause in that precinct was what you heard from the persons who came out of the precinct—what you could see from 50 feet away?—A. Yes, sir.

Q. You said in your direct examination that you were there to keep tab?—A. We was to find out as many colored people voting as possible; we was instructed that way by the leaders of the Republican campaign.

Q. The leaders of the Republican campaign committee instructed you to be there as long as the polls were open and see that every negro voted that could be voted?—A. Yes; myself and another man.

Q. That was your duty as placed upon you by the Republican campaign committee of Logan County?—A. Yes, sir.

Q. As soon as these negroes would come out, you would rush out to him and ask him what would happen to him while he was in there?—A. Yes, sir.

Q. And all you know about what they were required to read was what they told you?—A. Yes, sir.

Q. How long did you say you lived in this precinct?—A. About five years.

Q. You are pretty well acquainted with all the negroes that live in that precinct?—A. No, sir; not well acquainted with all of them, because every year there is more or less, from 8 to 10 families of negroes, comes in there from

Texas and other places. Right at Seward now on the Dick Smith farm he has got three families just come in there this year. Those people I am not well acquainted with them; no families but the older families; I am well acquainted with all of them, pretty well.

Q. How long have you known this Richard Allen?—A. Richard Allen, he was there a year—10 years before I got there; his father is there and all his people lives there; his brothers is there.

Q. He is well known in that precinct and is living there, and has lived there practically ever since the country was opened?—A. I believe he has been there; yes, been there 11 years, his folks all moved from Texas 11 years ago.

Q. You know him very well?—A. Just as a member of the church.

Q. Do you know of your own personal knowledge whether Richard Allen has ever been tested before by that inspector?—A. No, sir; I do not.

Q. Do you know whether he could pass the grandfather test they applied to him?—A. No, I don't; he couldn't pass the grandfather test under one thing, his father or grandfather couldn't.

Q. With reference to his ability to read and write, you say he couldn't pass the grandfather test?—A. I couldn't say that, so far as educational abilities are concerned I couldn't tell.

Q. You don't know whether he could read or write enough to satisfy a reasonable inspector that he was capable of passing the test as required by the so-called grandfather clause?—A. I suppose he ought to have some education because his brother Lee is a superintendent in the Sunday school and he is clerk in the church and is a good scribe, and from his age—of course, Richard is the older—he ought to have a right smart good education, because he had an opportunity to the schools.

Q. Then the inspector might have known that he could read and write and let him vote for that reason?—A. I don't know; I expect he ought to know all the colored people.

Redirect examination by JUDGE BURFORD:

Q. The inspector of that election was a Democrat, wasn't he?—A. Yes, sir.

Q. And one of the judges was a Democrat?—A. Yes, sir.

Q. The inspector, you call him a judge?—A. No; the inspector is the one who takes the tickets. I would call him the clerk. Houston is a Republican, he is the one who took the tickets.

Q. He took the tickets?—A. Yes, sir; he would do something on them and put them in the ballot box, number them I suppose.

Q. The tickets was made in a tablet form and he writes on the stub where he tears the ticket off, the clerk does that?—A. Yes, sir; he is the man you hand the tickets to, the man who writes that stub and hands you the tickets out; he comes out of the booth and you hand him the tickets and he fills them in a uniform way and he numbers on that ticket, puts a number of some kind, whatever your numbers are, I guess he put that in, he does something to them like that.

Q. But two members of the board were democrats, were they?—A. Yes, sir.

Q. What were their names, the two Democrats?—A. I don't know the third man's, I forget his name now; I just can't remember his name.

Q. There were several of these negroes that they refused to let vote whom you knew to be educated negroes and could read and write, weren't there?—A. Oh, yes; Tillman is a graduate, he sign his name I. Tillman, he is a graduate of the university in Mississippi, and Hollingsworth, I don't know whether he is a graduate, but he is considered the best scholar down there.

Q. Isn't it a fact that they applied an arbitrary and unusual test to them so as to keep them from voting; wasn't that what they were doing?—A. Jeffreys said after the primary election, he said there were several in town, it was reported that way, the 11 that voted wouldn't have the opportunity to vote at the November election, so I learned since; I believe Mr. Capers would be able to tell you.

Q. There were more of them voted at the primary than there was at the regular election?—A. Two more.

Q. Is this Jeffreys one of the men that had been prior to that time arrested with—A. Him and Mr. Smith.

Q. Charged with unfairly executing the law?—A. Yes, sir.

Q. You spoke of Dick Smith having three negroes, negro families on his farm; he is a Democrat, is he?—A. Yes; he is a Democrat; he is a conservative Democrat, he is better than any Republican.

Q. Pretty active politician, isn't he?—A. Yes; his reputation is such among the colored people, and he is the only money lender there is around there.

Q. He loans money to negroes, does he?—A. Yes; these negroes that he got there, he couldn't have got them but he lifted the mortgages from their land and they stay on his place.

Q. And the general talk is that Dick can handle the bunch in any way he wants to?—A. He handled them against me and everybody else on that day of the election, because I had the thing my way until he got there that morning.

Q. Now, you testified, in answer to Mr. Feuquay's question, that you had been permitted by the Republican committee to keep tab on these votes and to see that every one got to vote that was entitled to vote. Did you have any instructions to try to procure people to vote who were not entitled to vote?—A. Oh, no; the secretary of the county central committee was John Capers, and I had instructions from John to see that every one would come out there and those who could stand the test they was to vote.

Q. And that was as far as your instructions went, was to get them to the polls and see that they took the test?—A. I will say this before we get away from that point, because I might not think of it any more; they also said that we wasn't to allow the colored people—there was a disposition on the part of the people a month before the election—that if they attempted to keep them from voting the instructions was to see that they didn't have any trouble on the ground; and so, of course, we were very strict about that, and we didn't want them involved in a lawsuit that would send them to the penitentiary.

Q. Was that generally understood among the colored people that they were not to create any disturbance?—A. Yes, sir; we held meetings at night; our instructions was not to bring any pistols or guns on the ground and not have any trouble.

Q. And they generally acceded to that and submitted to it?—A. Yes, sir.

Q. Everything was peaceable and quiet on election day?—A. Yes, sir; it was a heap quieter than in 1910.

Recross-examination by COURTLAND FEUQUAY.

Q. Mr. Crute, did Mr. Jeffreys ever make any statement to you publicly about what he intended to do about enforcing the grandfather clause?—A. I don't know; I don't think I worked for Jeffreys; working for him now, and he never did. He has always concealed this; I knew he was a leader among the colored people there, but he would have as little to say in that respect; less than any Democrat I ever saw. Him and I don't talk about that. There is no way he can convince me to get me to do his way. Of course Jeffreys will do anything to get you to act for him. I am a person that is steadfast in their political ideas and political views. I say little to him.

Q. Jeffreys never said anything to you about the enforcement of the grandfather clause?—A. Yes; he said that in 1910 or in 1911.

Q. In 1912 did he make any statement that the negroes who voted in the primary would not be allowed to vote in the general election in November?—A. He wouldn't say nothing to me at all.

Q. Then when you testified in your direct examination that you had heard such statements it was a mere rumor?—A. I said I had heard him say so; he said so to others.

Q. They told you he said so to them?—A. Yes, sir.

Q. Who is this John Capers you speak of?—A. He is the secretary of the county central committee, the clerk of the county central committee.

Q. Had charge of the campaign in this county?—A. Yes, sir.

Q. Is Mr. Capers a colored man?—A. Yes, sir.

Q. And was the secretary of the Republican county committee?—A. Yes, sir.

Q. And had charge of the campaign, Republican campaign, in this county?—A. Didn't have charge of it; a man by the name of Wolf, a white man, had charge of the campaign, but Capers was the clerk of the county central committee.

Q. You went to Mr. Capers for your instructions?—A. Of course I did.

A. C. CROSSLEY, sworn and examined, testified as follows:

Direct examination by JOHN H. BURFORD:

Q. State your name.—A. A. C. Crossley.

Q. Where do you live?—A. In Seward.

Q. What voting precinct are you a resident of?—A. Seward.

Q. How long have you lived in Seward Township?—A. 21 years.

Q. What is your age?—A. I am 68 years old.

Q. What is your business?—A. I am carrying the mail now for Uncle Sam.

Q. On a rural route?—A. No, sir; just mail messenger for the post office depot.

Q. At Seward?—A. Yes, sir.

Q. Were you at the voting precinct at the general election, 1912, in Seward Township?—A. Yes, sir.

Q. What portion of the day were you there?—A. I was there all day.

Q. Did you occupy any special relations to the election managers?—A. I was one of the tellers.

Q. You mean one of the counters?—A. Yes, sir.

Q. And you as such official participated in the counting of the ballots that day?—A. Yes, sir.

Q. How were you located in the election room with reference to being able to see what went on in the election rooms that day?—A. I was in a building something like this, about as long as this, about 50 feet; the election officers was at the front and we was back in the back part.

Q. Was you close enough to see or hear what was being transacted by the election officers?—A. We couldn't hear anything back there.

Q. Couldn't see what was being done?—A. I sat with my back to the election board most of the time.

Q. You may state whether or not there was any disturbance at that election precinct that day.—A. I seen none whatever.

Q. Was there anything come up to your knowledge during the day or prior to the election which would have a tendency to put any election officer in fear or to intimidate him in any way?—A. No, sir; I did not.

Q. Was there any threats of prosecuting any person?—A. I heard none.

Q. Prior to the election?—A. I didn't hear any.

Q. Who selected you as a counter?—A. I got my notice from the clerk, Houston.

Q. Clerk of the election board?—A. Yes, sir.

Q. He a Republican or Democrat?—A. Republican.

Q. And who was the judge?—A. John Dunbar.

Q. Democrat?—A. Yes, sir.

Q. And who was the inspector?—A. D. W. Jeffreys.

Q. Was Jeffreys the one who had been arrested two years previous to that with unlawfully enforcing the grandfather clause?—A. Yes, sir.

Q. He still continued in his job?—A. Yes, sir.

Q. Holds it yet, does he?—A. Yes, sir.

Q. Do you know whether any negroes voted that day or not?—A. I don't know positive but two; that is, Crute and Allen.

Q. You saw them vote. did you?—A. I saw them go in the booth; I didn't see any of the rest; there was a good many in, but how many voted I couldn't say.

Q. Do you know whether the election board was requiring the colored men to take the test that day?—A. I know they was; yes, sir.

Q. Do you know whether any were rejected or not?—A. I do not. I don't know whether there was any rejected that came in and offered to vote or not.

Q. Are you fairly well acquainted in that precinct?—A. Tolerably well; yes, sir.

Q. Do you know the colored people generally fairly well?—A. No; not all of them I don't, because there is new ones coming in all the time, and some going out, so I am not acquainted with all of them; I used to be acquainted with all that lived in that township.

Q. You were around about the town of Crescent daily prior to the election for quite a period?—A. Yes, sir.

Q. You may state whether the colored people come there to trade.—A. Yes, sir.

Q. Hold their church there?—A. Yes, sir.

Q. Held their public meetings there?—A. Yes, sir.

Q. You may state whether previous to the election there were any efforts made or any talk of a character to indicate any trouble on election day.—A. There was none that I heard at all; I didn't hear any; they all appeared to be very quiet; take their medicine easy.

Q. You know from general information since that, don't you, that there were a good many negro people that didn't vote?—A. Yes; I have heard since that

there wasn't more than—from what I heard, I don't suppose there was 1 out of 15 that voted.

Q. Have you heard that from the negroes themselves?—A. Yes, sir; Ike Hollingsworth and several of them around there, and Tillman, and a good many others around.

Q. You were pretty well acquainted with Tillman; you know he can read and write?—A. Yes, sir.

Q. Has a good education, hasn't he?—A. Yes, sir.

Q. Hollingsworth—can he read and write?—A. I don't know anything about Hollingsworth.

Cross-examination by COURTLAND FEUQUAY:

Q. Mr. Crossley, you stated in your direct examination that you knew that there were a lot of negroes that didn't vote?—A. From what they told me afterwards, they didn't.

Q. All you know is hearsay?—A. Yes, sir.

Q. Do you know of any white man who lived in that precinct who didn't vote?—A. No, sir.

Q. Every white man who lives in that precinct came out and voted that day, did they?—A. I suppose they did, they said they did, that is all I know about it.

Q. I believe you said you were at one end of the room, with your back to the election inspectors and officials?—A. Yes, sir.

Q. You knew nothing about the grandfather test that was applied, if any was applied?—A. I don't know anything about what they done, or anything of that kind; I sat with my back to the election board.

Q. You know from general rumor that the test was applied?—A. From what I have heard, it was.

A. BAILEY, sworn and examined, testified as follows:

Direct examination by JOHN H. BURFORD:

Q. State your name.—A. A. Bailey.

Q. Where do you live?—A. South Cimarron.

Q. South Cimarron Township?—A. Yes, sir.

Q. How long have you lived there?—A. Twenty-one years.

Q. How old are you?—A. Seventy-eight.

Q. Where were you born?—A. In Tennessee. Harmon County, Tenn., 'twixt Saulsberry and Bollivar.

Q. What race do you belong to?—A. Colored.

Q. Were you at the election precinct in South Cimarron Township in November, 1912?—A. Yes, sir.

Q. On the day of the election?—A. Yes, sir.

Q. Did you vote?—A. No, sir.

Q. Why didn't you vote?—A. I can't read; I went up and I told them I can't read and write, had no chance, but I just went there and asked them to vote for Bird McGuire, and he said no, I couldn't do that. I just walked on out.

Q. How long was you at the precinct that day?—A. I went on out, I didn't stay there.

Q. How long was you around there on election day?—A. I couldn't exactly tell you, but I wasn't there long. I couldn't exactly tell you.

Q. Was you the owner of a Winchester rifle at that time?—A. Yes, sir; I owned one.

Q. Where was it?—A. At home.

Q. How far was your home from the voting place?—A. Exactly 3 miles.

Q. Did you have that Winchester in your hands election day?—A. No, sir.

Q. Mr. Bailey, in the testimony taken by the contestant, Mr. Davis, Mr. Miles Allen, of Meridian, testified that he had heard that you had bought a Winchester prior to the election and declared it was your purpose to enforce your right to vote at that election. Did you make any statement of that kind to anybody?—A. No, sir. Mr. Allen's knowed me 21 years; he would say that himself.

Q. Did you make any threat or statement to anyone that you were going to cast your vote at that election?—A. No, sir; I did not.

Q. Did you claim to be able to read and write?—A. I claimed I couldn't read and write, just walked right in the booth and told them.

Q. And they refused to let you vote?—A. Yes, sir.



Q. Do you know whether they refused to let any other persons vote or not?—

A. I don't know; I just went in and walked right out.

Q. Did you attend any meeting of negroes in this precinct or over at Meridian or any other place in which you or any of the other negroes discussed the question of attempting to enforce the right to vote by force?—A. No, sir.

Q. Never took any part in any meeting of that kind?—A. No, sir.

Q. Did you hear of any of that kind?—A. No, sir; I didn't.

Q. Did you have any gun or weapon of any kind on the day of the election?—

A. No, sir.

Q. Did you see any that day in the possession of anyone else?—A. No, sir; I didn't; nothing like that amongst white or black.

Q. Do you know about how many negroes there are in your voting precinct?—

A. I couldn't tell you.

Q. That is what you call a black township, isn't it?—A. Yes, sir; it is.

Q. Colored people own most of the land out there?—A. I don't know how much they own, but they are there.

Q. Colored people occupy the farms out there in that township mostly?—

A. A good many of them do.

Cross-examination by COURTLAND FEUQUAY:

Q. When you went in to the voting precinct, what did you say to the inspector?—A. I just went in and told him. He asked me if I wanted to stand the test; I said there wasn't any test to stand. I can't read or write. I said I want to vote for Mr. McGuire. He said no.

Q. You didn't ask him to vote for anybody else?—A. That is who I asked to vote for.

Q. You wanted to vote for Mr. McGuire?—A. Yes, sir.

Q. Who told you to ask to vote for Mr. McGuire?—A. I have always voted for him.

Q. Anybody instruct you?—A. All the white people thought he was a good man; I thought so, too.

Q. You talk to anybody previous to the election about it?—A. No, sir; I don't allow nobody to dictate to me.

Q. Had anybody talked to you about the campaign?—A. No, sir.

Q. Had anybody talked to you about voting for them in this campaign?—

A. No, sir.

Q. Mr. McGuire or any of his representatives hadn't talked to you about voting for him—asked you to go and vote?—A. No, sir; not particularly.

Q. Did they say anything to you at all about going and voting?—A. Well, they would say, "You going out for election?" and I said, "Probably I would go out if it was a good man I go and cast my vote."

Q. What was the reason, Bailey, you went in to this inspector and called for a vote for Bird McGuire?—A. I don't know; he asked me to stand the test; I told him I couldn't read and write. I always did vote for the Congressman, and asked him could I vote for Mr. Bird McGuire.

Q. Why didn't you ask him for a Republican ticket when you went in?—

A. That was the Republican ticket, wasn't it?

Q. You thought there was only one man on the Republican ticket?—A. That was my choice.

Q. Had anybody told you that you would be allowed to vote for Congressman whether you could read or write or not?—A. No, sir; I always did.

Q. Didn't somebody come down and tell you to vote for Congressman and to demand to vote for Congressman McGuire?—A. No, sir; they never told me.

Q. Why did you go there and ask for a ticket so you could vote for Bird McGuire and no one else?

(Objection by Judge Burford.)

A. Just like I know a good man. I am satisfied with him, my mind is already made up.

Q. You had a Winchester at that time, at the time of the general election in November, 1912?—A. Yes; I had it before that.

Q. When did you buy that Winchester?—A. I could not tell you the exact time, but I know it was before any election.

Q. Who did you buy it from?—A. I don't know the white gentleman, but it was right down to the corner, I just know the house, but I don't know his name.

Q. Where, in Guthrie or Meridan?—A. In Guthrie.

Q. When did you buy any cartridges for that Winchester?—A. I kept cartridges with me.

Q. You bought some about election time in November, 1912, didn't you?—A. I buy them anyhow. The coyotes was killing my chickens.

Q. How many coyotes did you kill with this Winchester?—A. I don't know how many I killed, but I shot one or two.

Q. Did you claim a bounty on that coyote you did kill, from the county commissioners?—A. No, sir.

Q. Did you know that if you brought the coyote to the county commissioners they would pay you a bounty for it?—A. No, sir; I didn't know it until up to late.

Q. You kept that Winchester just for killing coyotes alone?—A. Yes, sir.

Q. And you only shot two coyotes and bought cartridges all the time?—A. Yes, sir; I kept them scared off.

Redirect examination by JOHN H. BURFORD:

Q. Mr. Bailey, did you have a homestead entry in Cimarron Township?—A. Yes, sir.

Q. Live on your own land?—A. Yes, sir.

J. F. AYERS, sworn and examined, testified as follows:

Direct examination by JOHN H. BURFORD:

Q. State your name.—A. J. F. Ayres.

Q. Where do you reside?—A. Iowa Township.

Q. How old are you?—A. Forty-two.

Q. How long have you lived in Iowa Township?—A. About 14 years.

Q. Where were you born?—A. State of Mississippi, Benton County.

Q. You belong to the colored race?—A. I do.

Q. Can you read and write?—A. I can.

Q. You may state whether or not you was at the election precinct in Iowa Township in Novmeber, 1912, on the day of the election.—A. I was there.

Q. You may state if you can give an estimate about how many colored persons there are in Iowa Township, or were at that time, who were of an age to entitle them to vote if the grandfather clause was not applied.—A. I can't tell positively, but I should think there were near 200.

Q. The inhabitants of that township was largely of the colored race, were they not?—A. Yes, sir.

Q. Is the town of Langston in Iowa Township?—A. No, sir.

Q. That is in South Cimarron; it isn't in Iowa?—A. No, sir.

Q. You may state whether or not in the original settlement of Iowa Township the lands there were largely taken by colored people.—A. Yes, sir.

Q. Have you a homestead entry?—A. No, sir; I own a school quarter.

Q. You are a lessee on school land?—A. Yes, sir.

Q. Are you reasonably well acquainted with the colored people in Iowa Township?—A. Yes, sir.

Q. You are in the habit of attending public meetings with them?—A. I am.

Q. Have you ever held any office?—A. I hold an office now.

Q. What office are you holding now?—A. I was appointed justice of the peace.

Q. Have you ever held an office on the township board at any time?—A. No, sir.

Q. Or on the school board?—A. No, sir.

Q. From your acquaintance with the colored people, male persons who are of an age to vote, can you give an estimate of about what proportion of them can read and write?—A. In Iowa Township I would think about two-thirds.

Q. Two-thirds of them can read and write?—A. Yes, sir.

Q. Did you vote at the election—November, 1912?—A. I did.

Q. Did you take the grandfather test?—A. No; I didn't take the test.

Q. Who was the inspector at that election?—A. Mr. John Bivert.

Q. How long have you known John?—A. About 14 years; ever since I have been in the township.

Q. He could read and write?—A. Yes, sir.

Q. You may state whether the grandfather test was applied to any of the others there that day.—A. It was; sure.

Q. Was it made the general rule to require the colored voters to take the test?—A. Yes, sir; those that they doubted as to whether they could read or write they put the test to them; the others that they knew could they didn't.

Q. Those that Mr. Bivert knew personally could read and write didn't apply the test to?—A. Yes, sir; even of those he seemed to have a doubt; some that could read and write couldn't read and write fluently.

Q. Was you there practically all day?—A. I was.

Q. How many colored people applied to vote that day that were rejected?—A. I couldn't say as to that; I know there was about five I know of, but as to how many more I couldn't tell you.

Q. What proportion of the colored voters in that precinct failed to apply to vote that day?—A. I couldn't say for sure; nearly half; quite a good many.

Q. Probably half of the colored voters didn't offer to vote at all?—A. Very nearly. I expect.

Q. From your conversation with them and knowledge of the conditions there, you may state what was the reason they didn't offer to vote.—A. I was a committeeman from Iowa Township at that time, and am yet and our instructions to them was that those we knew couldn't there was no use for them to come there, because we knew they wouldn't let them vote.

Q. Did you give out that kind of instructions to the people in your precinct?—A. Those I knew it was useless for them; I told them I didn't think they ought to come.

Q. You may state whether or not there was any threats or offers to do any injury to any person by any of the negroes if they didn't get to vote.—A. No, sir; not to my knowledge.

Q. Did you hear of any threats to intimidate or influence the election board or the negro people out there?—A. No, sir; none at all.

Q. Isn't it a fact, Ayers, that the negroes, since the election in 1910, had made up their minds to submit to this election law until it was passed on by the courts?—A. Yes, sir.

Q. And those that knew they couldn't take the test have generally stayed away from the polls and made no effort to vote?—A. Yes, sir.

Q. Has there been any tendency to show any hostility to the precinct election boards on that account?—A. None whatever.

Q. The election board was Democratic, were they?—A. The majority: yes.

Q. Did you hear any talk in your precinct, or have any instructions as the Republican committeeman, to the effect that on the capitol question being voted on and Guthrie being a candidate for the capital, they would be loose in the application of the law and let people vote on that account?—A. No, sir; I did not. I have heard that said, but I never heard anything about it.

Q. Did you have any conversation with or instructions from Mr. Wenner, who was acting as secretary for the county election board and also secretary of the chamber of commerce here in relation to that matter?—A. No, sir; none whatever.

Q. What do you know about a negro organization to support the Democratic ticket during that election?—A. I don't know anything about it.

Q. In the county?—A. No; I don't know any colored organization to vote the Democratic ticket.

Q. Have you been a subscriber to S. Douglas Russell's paper?—A. Once, when I was at Langston.

Q. You haven't taken it since he has been at Yale?—A. No, sir.

Q. Do you read it any?—A. No, sir; not since I subscribed for it.

Q. Have you been reading any negro paper that has been advising the negroes to unite with the Democratic Party and support the Democratic Party?—A. No, sir; I only take two papers, and they are both Republican papers?

#### Cross-examination by COURTLAND FEUQUAY:

Q. Mr. Ayers, were you a candidate for any office at the general election in November, 1912, in Iowa Township?—A. No, sir.

Q. You were not an election official of Iowa Township precinct election board in 1912?—A. No, sir.

Q. You stayed, as required by law, 50 feet away from the voting place while you were at the election in 1912?—A. Yes, sir.

Q. Then all you know about that was what other people told you?—A. Yes; when they come out.

Q. Who did you get your instructions from as to the central committeeman from Iowa Township?—A. Mr. Capers.

Q. Capers was in charge of the campaign in this county?—A. He was the secretary, I think.

Q. What race does Mr. Capers belong to?—A. Colored race.

Q. Did he give you instructions as to how to instruct negro voters of Iowa Township regarding the grandfather clause?—A. His instructions was that those—he said it would be useless for those who could not read and write to attempt to vote.

Q. And you went to Iowa Township and gave that instruction?—A. Yes, sir.

Q. Why did you think it was necessary to instruct the negroes not to attempt to create a disturbance?—A. It wasn't anything about a disturbance; they thought it would be useless to attempt to vote.

ALBERT BRISCOW, sworn and examined, testified as follows:

Direct examination by JOHN H. BURFORD:

Q. State your name.—A. Albert Briscow.

Q. What is your age?—A. Forty-five.

Q. Where do you reside?—A. In Iowa Township.

Q. How long have you lived in Iowa Township?—A. Twenty-one years.

Q. Are you generally acquainted with the male persons of voting age in that township?—A. Yes, sir.

Q. Did you occupy any official position at the last election, November, 1912?—A. I was a member of the election board.

Q. What position did you occupy on the board?—A. Clerk.

Q. Were you the Republican or Democratic member?—A. Republican.

Q. You are of the white race?—A. Yes, sir.

Q. Did you act as a member of the election board all day?—A. Yes, sir.

Q. You may state, if you can, approximately give about the number of male persons of the colored race of voting age in your township?—A. That would be guesswork: well, probably 100.

Q. About what is the proportion of colored to the white voters?—A. About three to one, I think.

Q. The colored in the majority?—A. Yes, sir.

Q. Mr. Briscow, who was the inspector of your precinct?—A. John Bivert.

Q. Democratic member?—A. Yes, sir.

Q. Who was the judge?—A. Waldron.

Q. Democrat?—A. Yes, sir.

Q. What particular duty did you perform in relation to receiving and depositing the ballots?—A. I gave them the ballots, took down their names; put their names down on the ballots, gave them the ballots as they come to me.

Q. Who received the ballots from the voter?—A. Waldron, I believe, received them.

Q. State whether or not there was any test required of the colored voters at that election in your precinct.—A. There was. Mr. Bivert required them to write a section of the constitution, I believe.

Q. Have you any recollection now as to how many failed to pass the test who took the test at that time?—A. No, sir; there was no big number of them; probably one in four or five.

Q. Were any colored persons permitted to vote without having taken the test?—A. Yes, sir.

Q. You may state why that was done.—A. It was some he knew personally, and knew that they were qualified.

Q. Was there any person permitted to vote by the inspector at that election who were not qualified under the provisions of the grandfather clause to vote?—A. No, sir.

Q. Were there any persons in attendance upon the election who did not offer to vote, to your knowledge?—A. Not to my knowledge.

Q. You may state from your knowledge and information as to the approximate number of male persons of voting age in your precinct, about what proportion of them voted at that election.—A. I hardly know what to say on that. I think I would say four-fifths.

Q. Four-fifths voted?—A. Yes, sir.

Q. You don't remember the total number that did vote?—A. No; I don't remember.

Q. From your acquaintance with the negroes in your voting precinct, you may state whether or not, as a general rule, those of voting age are able to read and write.—A. The majority of them are.

Q. Was there any disturbance at that voting precinct on the day of the election of any character?—A. No, sir.

Q. Had you, prior to the election, heard of any threats or warnings of disturbance amongst the colored voters if they were not permitted to vote?—A. No, sir.

Q. How long have you known John Bivert?—A. About 20 years.

Q. Well acquainted with him?—A. Only tolerable.

Q. Was there any conversation amongst members of the board in your hearing about any fear of enforcement of the grandfather clause?—A. No, sir; there was not.

Q. Was there any discussion amongst you about a letter that was written, or purported to have been written, by United States Attorney Boardman and circulated amongst voters about the holding of the Federal court on the question of the rights of colored people to vote?—A. I don't remember of it at all.

Q. You may state whether or not there was no appearance or evidence of fear of any member of the board being intimidated at the election in the performance of his duty.—A. No, sir; there was not.

Cross-examination by COURTLAND FEUQUAY:

Q. Mr. Briscow, you were the clerk of the election board in Iowa Township in 1912?—A. Yes, sir.

Q. Your duty was to hand out the ballots?—A. Yes, sir.

Q. Do you remember how many people voted in that election on that day?—No; I don't remember the number. I knew it at the time, but I don't remember.

Q. Nearly 100, wasn't it?—A. Might have been.

Q. What kind of a day was it in regard to the weather?—A. It was cloudy, rainy.

Q. Wasn't it raining all morning?—A. Rained considerable, I think, that morning.

Q. Most of the votes were cast after dinner, weren't they?—A. I don't remember whether the greater portion were or not.

Q. You wrote and gave out all these 100 ballots?—A. Yes, sir.

Q. What place were you in reference to where the inspector and judge were located?—A. I was in the room tolerably near them.

Q. In the room tolerably near?—A. In the same room; yes, sir.

Q. Your business of handing out the ballots as clerk allowed you plenty of time to listen to and hear the tests that were given by Mr. Bivert, inspector?—A. Yes.

Q. Do you know what section of the constitution Mr. Bivert gave as a test in any of these cases?—A. He had no certain section; he just opened the book, I think, at wherever it happened.

Q. You say he passed a great number whom you thought he knew could read and write without giving them the grandfather test?—A. There were some he knew he didn't have take the test.

Q. Did he tell you at that time?—A. Yes, sir; I never gave any of them a ballot unless he told me.

Q. Did he tell you that they could read and write, each one you gave a ballot to?—A. Yes, sir.

Q. You say there was about one in five that couldn't pass the test that was given?—A. Probably that; something like that.

Q. How long did it take Mr. Bivert to give these people a test?—A. He would let some of them, I think, write there for an hour, it seemed like, close at it.

Q. All the tests long tests?—A. Some of them only required a short test. Others seemed like it required a long test.

Q. You don't remember the conversation that happened that morning between Bivert and Mr. Waldron concerning the report of the grandfather clause?—A. No, sir.

Q. I believe you said you didn't hear of the Boardman letter at that time?—A. No, sir.

Q. Isn't it a fact that Mr. Bivert had that morning in your presence and in that of Mr. Waldron a copy of the Daily Oklahoman with that letter in it, and isn't it a further fact that he discussed the proposition, and that you and Mr. Waldron and he declared that Mr. Bivert enforce the law in order not to have any charge of conspiracy placed against them?—A. I don't remember of it.

L. D. SMITH, sworn and examined, testified as follows:

Direct examination by JOHN M. BURFORD:

Q. State your name.—A. L. D. Smith.

Q. Your residence.—A. Iowa Township.

Q. Your age.—A. Forty-seven.

Q. How long have you lived in Iowa Township?—A. About 14 years

Q. Are you reasonably well acquainted with the residents of that township?—A. Yes, sir.

Q. What is your business, Mr. Smith?—A. Farmer.

Q. Were you at the voting precinct on the day of the election in November, 1912?—A. Yes, sir.

Q. Was you occupying any position with reference to the election board?—A. Yes, sir.

Q. What was it?—A. Teller.

Q. One of the counters?—A. Yes, sir.

Q. As a Republican or Democratic member?—A. Republican.

Q. What kind of a room were you voting in?—A. School building.

Q. Ordinary country schoolhouse?—A. Yes, sir.

Q. More than one room?—A. Just one room.

Q. About what size?—A. It is about as large as this room, almost.

Q. And what position did the counters occupy in the room with relation to the inspector, judge, and clerk?—A. The rostrum is on the north side—little west—lengthwise of the room, and the clerk at the desk on the rostrum, and the inspector, I think, was on the right side of him, and the judge at the tally box.

Q. Where were the counters?—A. The counters were on the east side of the building.

Q. How far from the inspector and members of the board?—A. Not more than half-way the length of this room.

Q. You may state whether the election board were within the view and observation of the counter?—A. Yes, sir; they were.

Q. What was the fact as to whether the colored voters were subject to the grandfather test?—A. Yes, sir; they were given the test; not all of them; but those that could read and write; they knew could read and write, were good scholars, they let them pass. Some of them they had taken the test before, and they gave it to them over again.

Q. Some that the inspector had required to take the test at the primary and passed it, he didn't require them to take it over at the general election?—A. Some of them he didn't require them to, and some he did.

Q. State whether or not any were rejected?—A. Yes, sir.

Q. You know about how many?—A. No; I don't remember. There was quite a number.

Q. Had you been a member of the election board before?—A. Yes, sir.

Q. Can you state about how much the average vote of your precinct was short at that election?—A. No; I don't remember what short it was. It was considerable short, though.

Q. And that was from the white or the colored vote?—A. I think it was from the colored vote.

Q. You may state whether or not you know, as a matter of information or of knowledge, that a number of the colored people, who had been voting, didn't vote at that election?—A. Yes; there was some colored people didn't vote at that election.

Q. Was there any disturbance there?—A. No.

Q. Did you see any indications of fear on the part of the board or any discussion of any?—A. No, sir.

Q. Was there any talk about the members of the board being arrested for a violation of the law?—A. Not that I know of.

Q. Not within your hearing?—A. No, sir.

Q. What was Mr. Bivert's appearance there in conducting the election? Was there anything to indicate that he wasn't frightened and uninfluenced in his action?—A. No; he was all right.

Q. What was your judgment about it?—A. That he was afraid?

Q. Yes.—A. He wasn't; I didn't hear anything that would indicate that.

Q. Had you heard previous to the election any talk or reports or otherwise that there would be any trouble made if negroes did not get to vote?—A. You mean in the 1912 election?

Q. Yes.—A. No, sir.

Q. I will ask you if it isn't a fact, from your general knowledge, that after the November election that the colored people rather settled down and accepted the results with a view of abiding by the enforcement through the court and their determination of the matter as to whether it was legal?—A. Yes, sir; they made some disturbance at first; some big talk.

Q. In 1910?—A. Yes, sir.

Q. Nothing of that kind in 1912?—A. No, sir.

Q. Did you, as Republican member of the board, receive any instructions or information from the Republican organization as to the conduct of your duties as a member of the board?—A. No, sir.

Q. Any of them talk to you about how you should act in the premises?—A. No, sir.

Q. Did you hear of any general rumor or the circulation of any report as to any enforcement or nonenforcement of the law?—A. There was, to enforce the law, certainly; the grandfather clause.

Q. Was there any talk in your presence by members of your board about the capital question being at issue in Logan County, and that the board should be liberal in the enforcement of the law and let people vote that might not be entitled to vote for the purpose of increasing the vote on the capital question?—A. No, sir.

Q. Did that issue enter into the action or influence the members of the board any in their action in determining the right of persons to vote?—A. I should say not; I don't think it did.

Q. Did you have any communication or instructions, either written or oral, from any member of the chamber of commerce or anyone conducting the campaign for the capital location about letting people vote?—A. No, sir.

Cross-examination by COURTLAND FEUQUAY:

Q. You were at the polls all the day long at the November election, 1912?—A. Yes, sir.

Q. What time did you arrive in the morning?—A. About 8 o'clock.

Q. Polls already open when you got there?—A. I don't remember whether they were or not; I think they were.

Q. When did you begin to count?—A. I couldn't tell you that; I don't remember just the hour.

Q. Did you begin counting before the vote was all cast?—A. Yes; went on counting before the vote was cast.

Q. When you commenced to count, how many feet from where the ballots were being handed out and received were you?—A. I don't know; there is three rows of seats on each side, or three on the east side at any rate, and they come up to the desk, and we were about here, probably 15 or 20 feet.

Q. What position were you in reference to where the voting was taking place or votes were received?—A. Where they were put into the box?

Q. Yes.—A. Oh, probably 10 or 15 feet.

Q. Were you looking directly at the box or was your back to it?—A. No; we were all facing the north.

Q. Facing the box?—A. The box was on our left hand and we faced it.

Q. You could see it from where you were sitting; see it all the time?—A. I could if I had looked at it.

Q. You were in a position to see it?—A. Yes, sir.

Q. What was your duty in counting?—A. As clerk.

Q. You took down the tally?—A. Yes, sir.

Q. After you started to tally, did you have any time to look up from what you were doing on your tally sheet and notice what the inspector and the other three officials were doing?—A. Yes; plenty of it.

Q. You don't remember what time you started counting?—A. No, sir; not the exact hour.

Q. You certainly had plenty of time to watch the inspector and see what he was doing?—A. If I had wanted to watch him. We would run out of ballots and would wait for votes to come in.

Q. When you ran out of ballots, there wasn't anyone there voting, was there?—A. I should think so. They didn't go to the box all the time; we would catch up with what they had out; if there was a lot in the box they would wait a while.

Q. What kind of a day was it in Iowa Township when the election was held?—A. Rather a rainy day.

Q. Rained about noon, didn't it?—A. Yes, sir.

Q. Most of the votes were cast in the afternoon?—A. The biggest part of them were.

Q. And the fact was that most of the voters didn't come—were kept away by the rain?—A. No, sir; I have no right to say what kept those voters away; I should judge, though, it was the rain.

Q. What was your duties as a teller or as a counter in this election, with reference to the actual casting of the ballots?

Judge BURFORD. We object to that as immaterial and not tending to sustain or disprove any issue in this case.

A. Toward casting the ballot?

Q. Yes; casting ballots.—A. I just tallied the ballots as they came out after they were voted.

Q. You had no authority to give anyone a ballot or to refuse anyone a ballot or take the ballots in charge after they had been deposited by the proper officer inside the ballot box, did you?—A. Yes, sir.

Q. You were not appointed by the county election board, were you, Mr. Smith?—A. No, sir; I was appointed by the township election board.

Q. By the Republican member of the township election board?—A. They all three meet and jointly appoint two Republicans and two Democrats.

Judge BURFORD. The question is objected to as calling for a question of law rather than a question of fact; the law fixes the appointment of the counters and provides that the precinct election boards shall appoint the counters on the recommendation of the committeemen of the political parties.

Q. And you would have no authority whatever as to whether anybody was allowed to vote or wasn't allowed to vote at the election in November, 1912?—A. No, sir.

Q. Have you ever seen the letter from the United States district attorney, Mr. Boardman, written to Mr. Fred A. Wagoner, assistant county attorney of Lincoln County, in reference to the enforcement of the grandfather clause in the November, 1912, election?—A. I remember something about a letter of that kind, but I don't know anything what it contained now at all; I couldn't tell you anything about it.

Q. Do you remember when you first saw it, Mr. Smith?—A. No, sir; I couldn't state that.

Q. Do you remember who had it, Mr. Smith, when you first saw it?—A. No, sir; I couldn't even state that. I have a remembrance of something of a letter of that kind, but I don't know anything about it at all. It might have been at the election.

Q. Was it at the election that day?—A. It might have been there that I seen it the first time.

Q. Did Mr. Bivert have a copy of the letter at that election that day?—A. I am not sure; I don't remember.

Q. You don't remember exactly when you first saw it?—A. No, sir.

Q. Did you ever see the so-called penitentiary warning circular that was sent out with the Boardman letter?—A. No, sir; not that I know of.

Q. To refresh your memory, I will state that that penitentiary warning circular warned all the election officials that they would probably be punished by the Federal Government if they violated the Federal election law, and was headed in large black type, "Talk this over with your wife." Did you remember ever having seen such a warning?—A. I don't remember of having seen it.

Q. Iowa Township is composed mostly of colored voters, isn't it?—A. Majority colored.

Q. It is a part of what commissioner's district in this county?

Judge BURFORD. Object to the question as immaterial.

A. I can tell you who our commissioner is.

Q. Who is your commissioner at the present time?—A. L. M. Oliver.

Q. Where does he live?—A. Meridian.

Q. Who did he succeed?—A. Favors.

Q. Mr. Favors is a person of the colored race, is he not?—A. Yes, sir.

Q. What was his name?—A. S. T. Favors.

Q. Is a colored person, is he not?—A. Yes, sir.

Q. How many times had he held county commissioner's position before the last election?—A. Two times.

Q. State if you know, as a Republican of that district, why Mr. Favors didn't run the third time.

Judge BURFORD. Object to the question as wholly immaterial.

A. It don't matter whether it is or not; I have no way of knowing any more than you have.

Redirect examination by JOHN H. BURFORD:

Q. Mr. Favors is a member of the Iowa Tribe of Indians, isn't he?—A. No, sir.

Q. Do you know?—A. I think not; I never heard of it.



Q. Didn't you always understand that Favors was a member of the Iowa Tribe of Indians?—A. No, sir.

Q. And classed as an Iowa?—A. No, sir.

Q. He isn't a full-blood African, is he?—A. No, sir.

Q. Has straight hair, hasn't he?—A. Yes, sir; pretty straight.

Q. Looks more like an Indian than a negro, don't he?—A. Well, I don't know as to that; he isn't dark at all.

Q. He has none of the characteristic features of the negro, has he, as to nose, mouth, etc.?—A. You have got me; I don't know whether he has or not.

Q. You have seen him frequently?—A. Yes; I am well acquainted with him.

Q. You know the characteristic feature of the African race?—A. I supposed he was a negro.

Q. He has nothing to indicate it except color, has he?—A. No; I don't think he has.

Q. And he isn't black, is he?—A. No.

Q. You don't know what his race is?—A. No.

Recross-examination by COURTLAND FEUQUAY:

Q. You have never considered him a white person, have you, Mr. Smith?—A. No, sir.

Q. With whom does Mr. Favors associate in Iowa Township, the white race or the colored race?—A. With the colored.

Redirect examination by JOHN H. BURFORD:

Q. Mr. Favors is a farmer, isn't he?—A. Yes, sir.

Q. Owns over 1,000 acres of land, doesn't he?—A. I don't know just how much; he owns quite a bit of land there.

Q. He has it well improved?—A. Yes, sir.

Q. Kept a store for a time, didn't he?—A. Yes, sir.

Q. Ran a cotton gin, didn't he?—A. Yes, sir.

Q. He lives in a neighborhood that is largely inhabited by colored people, don't he?—A. Yes, sir.

Q. When he is in business he traded with the white people as well as the colored?—A. Yes, sir.

Q. And he employs a good deal of help, don't he?—A. Yes, sir.

Q. Employs some white help on his farms, doesn't he?—A. I don't know of any white help.

Q. You said he associated with colored people. Mr. Favors is a man of more than ordinary business capacity and intelligence, isn't he?—A. Yes, sir.

Q. A man of good financial credit and good business standing?—A. Yes, sir.

Q. And associates with any class of people who come in contact with him in a business or social way?—A. That is too strong for me. In a social way I think not.

Q. Did you ever know of Mr. Favors refusing to associate with any person?—A. No, sir.

Q. I will ask you again if he doesn't associate with any person he comes in contact with in a business or social way?—A. In a business way, yes; he associates with them, but I never heard of his associating with the whites in anything but a business way.

Q. Was you ever about the board of county commissioners while he was on the board?—A. Never was.

Q. You never saw him associating with John O'Neil and Ed Oberholzer on the board?—A. Yes; I have seen him.

C. R. YOUNG, sworn and examined, testified as follows:

Direct examination by JOHN H. BURFORD:

Q. State your name to the stenographer.—A. I sign it C. R. Young.

Q. What is your age?—A. Seventy-four the 7th day of June.

Q. Where do you reside?—A. In Meridian.

Q. In what township in Logan County?—A. Bear Creek.

Q. How long have you lived in Bear Creek Township?—A. That puzzles me a little; in the neighborhood of 20 years.

Q. What has been your business?—A. Farming.

Q. Are you reasonably well acquainted with the inhabitants of Bear Creek Township precinct—persons who vote there?—A. Just tolerably now; there was a time when I knew every voter in the township, but they have changed around so I don't know them now.

Q. Where was your voting place at the November election, 1912?—A. Meridian.

Q. How long have you been living in Meridian?—A. Since the first week in March.

Q. 1913?—A. Yes, sir.

Q. How far was your farm from Meridian?—A. One mile.

Q. Which direction?—A. South.

Q. During the time that you resided on your farm you were how frequently in Meridian?—A. Every week, probably; once a week, probably.

Q. You may state, if you know, about what proportion of the male inhabitants of voting age of Bear Creek Township are colored?—A. I think 50 would cover all of them—45 to 50.

Q. 45 to 50 all told?—A. Yes, sir.

Q. And about what number of white voters?—A. 75 to 100. They have been shifting around for the last two or three years; can't hardly keep track of them.

Q. Have you been reasonably well acquainted with the colored persons of voting age in that township?—A. Tolerably well.

Q. Have you occupied any official position during the time you have resided there?—A. I am a committeeman from that township.

Q. Have you occupied any position in relation to the township affairs?—A. No.

Q. Ever been on the township board or school board?—A. No; nothing of that kind.

Q. From your acquaintance with the colored people of voting age can you say about what proportion of them can read and write?—A. I would say if there is 50, there would be 40 of them that could read and write.

Q. Were you at the voting precinct at the November election, 1912?—A. I was there part of the day.

Q. What part of the day were you there, Mr. Young?—A. I was there from—well, probably half past 9 until after 12.

Q. During that time was the election being carried on—voting taking place?—A. Yes, sir; I voted between that time.

Q. What class of voters were there during the time you were there—white or colored, or both?—A. Both.

Q. Were there very many or only a few?—A. There wasn't so many in the forenoon as the afternoon; it was raining pretty much all the forenoon.

Q. You may state whether you observed any disturbance there during the afternoon which indicated any disturbance or any objection to the proceedings of the board?—A. Nothing in reference to the board that I saw.

Q. Was there anyone on the outside taking any unduly active part in the election?—A. I don't know, but there was a couple of men there that was throwing things a little strong.

Q. Who?—A. Miles Allen and Ed Cassali; they was personally in the township and inside of the 50-foot limit.

Q. They were Democrats?—A. Yes, sir.

Q. What were they particularly interested about?—A. One of the township officers.

Q. Which township officer was it?—A. On the Republican ticket.

Q. They were working for or against the candidate on the Republican ticket?—A. Working against him; right in the building where the election was.

Q. And were they making any—A. That is the building where the election was; upstairs; and they were right at the foot of the stairs—below.

Q. They were downstairs in the same building?—A. In the same building.

Q. What candidate was Mr. Allen advocating the election of at that time; for trustee?—A. Mr. Wilson.

Q. And who was the Republican candidate against him?—A. Cliff Timpey.

Q. And Allen and Cassali were both working for Wilson?—A. They had some papers there they were showing; come pretty near having a fight there that day over it.

Q. With each other?—No.

Q. With others?—A. Yes, sir.

Q. Was there any colored persons mixing in that disturbance?—A. No, sir; they were standing off laughing at them.

Q. Do you know Miles Allen pretty well?—A. I think I do.

Q. You know him long?—A. For 20 years.

Q. What has been his business there?—A. He is engaged in the mercantile business; him and his son, or his wife and son; I don't know which it is.

Q. Previous to the election of 1912 did you hear any talk amongst the colored people of that township, either in Meridian or about Meridian or in Bear Creek Township, of colored men from any other township in or about Meridian making any threats or talking against any member of the election board who might enforce the grandfather clause in that election?—A. I didn't hear anything against them at all; never heard a threat against any of them.

Q. Was there any loud talk amongst the negroes of your acquaintance, Mr. Young, about what they would do or might do if they were not permitted to vote?—A. Didn't hear anything—any loud talk; not even any talk about it. They had concluded to take their medicine.

Q. You say you were connected with the Republican organization?—A. Committeeman; attended the last primary as committeeman.

Q. You attended the meetings of the Republican county committee, did you?—A. Yes, sir.

Q. Was there any instructions or directions given by anyone connected with the organization to attempt to influence or get negroes to vote who couldn't pass the grandfather test?—A. Not from the county central committee; I never had any. All I received from Frank Wolf and Capers was to keep things quiet.

Q. Did you have any instructions or directions from anyone connected with the capital promotion-location scheme to try to secure people to vote who might not otherwise be entitled to vote on account of the capital question?—A. Received lots of literature to that effect to get everybody to vote that could.

Q. That were entitled to vote?—A. That were entitled to vote; yes, sir.

Q. You don't mean to say you got any literature requesting to go to vote other than for that question?—A. No; that was all.

Q. Nothing of a character requesting you to get people to vote who were not entitled to it?—A. Nothing at all.

Q. Wasn't it a fact that in that election in the capital question there was no party question; the Democrats and Republicans were interested alike?—A. They were all working for Guthrie.

Q. In this county?—A. Yes, sir.

Q. And those connected with the promotion of that question were largely more democratic than Republican, weren't they?—A. Fully as many, I think.

Q. Did you see any colored people denied the right to vote on that day who had attempted or tried to take the test?—A. I didn't see any being denied while I was there.

Q. Do you know of any since that that didn't come to vote that day?—A. I haven't heard of any that offered to vote without voting.

Q. Did you see any of them taking the test?—A. No; no test while I was there in the room.

Q. You could only see the ones who were voting?—A. Yes; there was one taking the test while I was up there.

Q. You say this was in a second-story room?—A. School house; two story.

Q. And the people, you say, couldn't see what was being done above?—A. No, sir.

Q. So your knowledge only goes to the time you were in the room?—A. In the room where they voted.

Q. Who was the Republican member of that precinct board?—A. Mr. Rankin was the clerk.

Q. Who was elected, Timpey or Wilson?—A. Timpey.

Q. What is the normal, ordinary political vote of the township; about what proportion?—A. The Republicans are in the majority there considerably.

Q. About how much; do you know?—A. Generally run about 35 to 40, I think.

Q. As committeeman, did you make any estimate of whether there was a full vote at that election, or whether it was a short vote?—A. I did not.

Q. You don't know now whether the full vote was out in that election?—A. I couldn't say.

Cross-examination by COURTLAND FEUQUAY:

Q. Uncle Chauncy, what regiment did you belong to in the Civil War?—A. Sixth Indiana Cavalry.

Q. You don't like Miles Allen, do you, very well, Uncle Chauncy?—A. I like him as well as he does me.

Q. Isn't it a fact that you and Timpey and Miles Allen had some trouble with Miles Allen before the election last fall?—A. No; we didn't have any trouble with him.

Q. Didn't you have some discussion over the change on the voting place?—A. Timpey was the candidate; I wasn't.

Q. If I understand correctly, you and Timpey, the Republican candidate for trustee of Bear Creek Township, wanted the precinct election place changed?—A. We did.

Q. And Miles Allen opposed that change?—A. Yes; he opposed it.

Q. And you had some little feeling over it at that time?—A. Well, no more than we have had for the last 15 years.

Q. You have never liked Miles Allen?—A. Never liked him, and he didn't like me. There is where it come in first.

Q. Did you have any ropes to keep you away from the foot of the stairway?—A. Yes, sir.

Q. Miles Allen and this other fellow, Joe Cassali, were inside the ropes?—A. They were inside the door. The ropes or wire led up on each side of the door. They were inside of the door.

Q. Then, there, inside of the door, was a stairway?—A. Yes, sir.

Q. I believe you said you were acquainted with the political complexion of Bear Creek Township, that there were more Republicans than Democrats. How many Progressives do you think there are in that township?—A. I counted them all Republicans at that time.

Q. You didn't divide the Republicans and the Progressives and the Democrats, and you counted them all Republicans?—A. I counted them all Republicans who were Progressives, because we have no organization of that kind out there.

Q. Have you any idea how many supporters Roosevelt had in Bear Creek Township?—A. No; I do not.

Q. You were in favor of Roosevelt yourself, weren't you?—A. I was at one time.

Q. Didn't like Mr. Taft very much, did you?—A. Never did.

Q. You said you used to be very familiar with the political complexion of the voters of Bear Creek Township, but you haven't been there for the last year, I believe?—A. I was committeeman from there several years and turned it over to another man, who paid more attention to it, and then they put me back again.

Q. Mrs. Allen hasn't been well all the time?—A. Part of the time; and I am not as well posted as I should have been.

Q. Uncle Chauncy, you made a statement a while ago that the negroes generally had concluded to take their medicine. You just gather that?—A. From conferences with them.

Q. You talked to a good many?—A. I talked to a good many of them before the election—primary and general election.

Q. You stayed at the house most of the time, didn't you, with your wife, and if there had been any rumors you wouldn't have heard them, would you?—A. Well, I had some of them working for me, and they would have put me on to it if there had been.

Q. Didn't all the negroes out there who applied for a ballot vote in the general election in 1912?—A. I couldn't say.

Q. Haven't heard that since the election?—A. No; I haven't.

Q. You don't know?—A. I told you; that question you can put to the clerk. Probably he can answer it, because I didn't stay there all day.

Q. What was this literature that was sent out by the Guthrie campaign committee; what did it contain with reference to getting out as large a vote as possible? Do you remember what it contained?—A. In reference to the capital?

Q. Yes.—A. That didn't come from the committee; it come from another committee, campaign committee.

Q. I said from the Guthrie campaign committee, meaning the Guthrie capital campaign committee.—A. Yes.

Q. Do you remember what it said with reference to getting out the vote?—A. It urged me to get out all I possibly could, mostly for the capital; didn't have any reference to either party.

Q. It was nonpolitical?—A. Yes, sir.

JOHN A. RANKIN, sworn and examined, testified as follows:

Direct examination by JUDGE BURFORD:

Q. State your name.—A. John A. Rankin.

Q. Where do you reside, Mr. Rankin?—A. Bear Creek Township.

Q. What is your age?—A. Fifty-eight.

Q. How long have you lived in Bear Creek Township?—A. About five years and a half.

Q. What official position, if any, have you held there?—A. I was township trustee for about 18 months and I was a member of the election board last year.

Q. What position did you occupy on the election board at the last general election?—A. Clerk.

Q. You were the Republican member of the board, was you?—A. Yes, sir.

Q. Who was the inspector?—A. The inspector was Dave Johnson—D. S. Johnson.

Q. Who was the judge?—A. Jack Simpson; I am not just quite sure of his initials.

Q. Prior to the election, Mr. Rankin, did you hear any discussion or talk in your township about any member of the election board being in danger of a prosecution if he obeyed the law and enforced the law according to its terms?—A. No, sir; I did not.

Q. Did you learn or know of any member of the board being in fear of arrest for enforcing the law according to the decision of the court of Oklahoma under the instructions of the Attorney General?—A. I did not.

Q. Prior to that election, was there any discussion amongst the members of the board as to the manner of conducting the election with reference to the colored vote?—A. No; not among the members of the board. There was some little discussion outside, in a general way.

Q. Was there any plan agreed upon by the members of the board after they had organized for that election, as to the manner in which they would put the test, or whether they would or would not put the test?—A. No, sir; there was none.

Q. Do you know whether there was any such talk or agreement among the Democratic members of the board?—A. No; I do not.

Q. Now, you may state whether, in conducting the election, the test was put to any of the colored voters.—A. That is, at the general election?

Q. Yes.—A. Just let me explain a little. My duties as clerk kept me pretty busy, and the details of the primary election and the general election are just a little confused. But the protests against several voters were pretty numerous at the primary election, and I am confident there was one or two at the general election. But there wasn't as many questionable voters applied at the general election as there was at the primary election.

Q. Do you know whether there was any person permitted to vote at the general election, any colored persons, who were not entitled to vote under the law?—A. I think not. The primary election was very closely contested, and there was a little bit of feeling developed, and some of us thought there might be a little unpleasantness at the general election, but one or two parties who we were a little doubtful of at the primary election did not appear at the general election.

Q. Didn't offer to vote?—A. Didn't offer to vote.

Q. Do you know about how many colored male persons of voting age did not offer to vote at that election?—A. I do not, definitely.

Q. Approximately?—A. May I be allowed to explain a little?

Q. Yes.—A. In counting up the election afterwards, and talking with three or four, we were joshing J. J. Houston about some of his friends not supporting him at the primary, and his reply that they were not good Republicans, they didn't vote at the election, and there were a few Republicans that didn't vote at all. He explained it on account of the weather.

Q. Colored persons?—A. Yes; there were two or three colored, I think, and one or two white.

Q. Mr. Rankin, you say that you had no information as to any anticipated trouble by the colored people in that township about the enforcement of the grandfather clause?—A. None whatever.

Cross-examination by Mr. FEUQUAY:

Q. Mr. Rankin, you said your duties as clerk did not make you any judge about what the inspector was doing?—A. In a general way, I had the run of everything. Of course, I couldn't say.

Q. You remember that Johnson didn't give a test in the November election of 1912?—A. I think one or two was given; I am pretty confident one test was given.

Q. There was nobody turned down, was there?—A. No; I think not.

Q. Everybody voted that applied?—A. No; there was two or three came into the booth and didn't apply.

Q. Did you receive one of the letters supposed to be written by Boardman, United States district attorney, to Fred A. Wagoner, assistant county attorney of Lincoln County, about the enforcement of the grandfather clause in the general election of 1912?—A. I think I did some time previous; a short time previous.

Q. What time did you receive it? Previous to the election or afterwards?—A. I think it was just a few days previous to the election.

Q. Do you remember where it came from?—A. I do not.

Q. Was there one of the so-called warning slips threatening Federal penitentiary and asking the election officer to talk it over with his wife in the same envelope or not?—A. No; I never heard of that until after the election.

Q. After you got this letter did you talk to any one about it?—A. I don't think I got it just perhaps the day before the election, or possibly 48 hours before.

Q. Do you remember whether there was any return card on the corner of the envelope or not?—A. I do not; I have a very indistinct recollection of it.

Q. You didn't look to see where the postmark indicated it was mailed from?—A. I did not.

Q. Did you take it and show it to anyone else?—A. No; I did not.

Q. Did you talk it over with any of the other Republicans of Bear Creek Township or Meridian?—A. No; I was away from home a few days just previous to the election; my recollection is that I got that in Saturday's mail, and I was away Sunday and I was away part of Monday, and I didn't see anyone; I was out of the township and I didn't see any of our Republicans.

Q. When you went to election on the morning of the November election, 1912, did you say anything about this letter to the other members of the board?—A. No; we were busy getting things ready.

Q. Did you say anything about it to the members of your family?—A. I think possibly I showed the letter to my wife when I got it.

Q. Did she make any remarks at that time?

Judge BURFORD. Objected to as not within the province of counsel to inquire into the communications between husband and wife.

Q. Did you tell your wife anything about your opinion of the letter?

Judge BURFORD. Objected to as within the same rule; communications between husband and wife never permitted to be disclosed in court.

(Question withdrawn.)

Q. You didn't say anything to anyone outside of your family about this letter?—A. I have no recollection of any conversation.

Q. In regard to the voting place in Meridian, when you got to the voting place did you have any discussion with anybody in the precinct voting place about this letter?—A. I think not.

Q. Do you know whether this letter was received by the other election officials of Bear Creek Township?—A. I do not.

Q. They didn't say anything about it to you?—A. No, sir.

Q. During the election that day did you or the judge make any attempt to assist the inspector in enforcing the law?—A. It would have to be an offense of some kind that would call almost for some ——— to require or to ask any such aid; it wasn't necessary for us to make any.

Q. Wasn't it the general feeling among the election board of the precinct that they would leave the enforcement of the grandfather clause solely to the inspector in order to avoid the charge of conspiracy by Federal officers?—A. No, sir; I wasn't cognizant of any understanding of anything of that kind.

Q. Did you know of the prosecution of Jeffreys in this county for violations of the election law by the Federal courts?—A. I just heard of it incidentally through the papers; I didn't know the man.

Q. You had heard also of prosecutions of Beal & Guinn in Kingfisher County, hadn't you?—A. I think I saw some reference to it in the paper.

Q. You knew also about some election officials in Okmulgee County being arraigned in the eastern district?—A. I don't just remember now; I might have saw it.

Q. You read the newspaper every deay, didn't you

Q. You read about these cases in the newspapers, didn't you?—A. I remember the two first cases you spoke of; I don't have any particular recollection of the others.

Q. You read at that time, didn't you, that they were arrested on the charge of conspiracy to keep negroes from voting by all the election officials?—A. No; I can't say that I remember of that conspiracy. I have a general idea of their being prosecuted for preventing the negroes from voting; that is all I remember.

Q. Knowing of the prosecution of Beal and Guinn and also of the prosecution of Jeffreys and of the election officials in Okmulgee County, what effect, if any, did the Boardman letter have upon you?—A. Didn't have any effect whatever. We didn't consider that it touched our towanship.

Q. In what way did you consider it didn't touch your township?—A. We had a very severe test in the previous election and in the previous primary.

Q. You are positive that the inspector in the previous primary gave a very severe test to all the negroes in Bear Creek Township?—A. I couldn't say all of the negroes in Bear Creek Township, because we didn't begin to challenge all of them, but lists of names Mr. Miles Allen referred to—submitted lists of names. For instance, one list was submitted to us by Mr. Allen, but signed by a man by the name of Nidy. One of those men was a neighbor of mine, an old man; two others had worked for me. This old man had been challenged in the two previous elections, and was challenged again in this primary; one of the young men was challenged in the one previous election and in this primary, and I let them go through the test, but I said to the judge then, Jack Simpson, that I thought that was useless.

Q. That was at the primary election in 1912?—A. Primary election in 1912.

Q. And at the general election in November, after you received the Boardman letter, you made no attempt to help enforce the grandfather clause in that township?—A. I wasn't asked to.

Q. Were you asked to make an attempt to enforce the grandfather clause in the primary election in August?—A. Yes, sir.

Q. Who asked you?—A. The judge himself; that is, the inspector; I can't just give you the words in which he asked, but he came up to us and asked for a list, and we gave him the list. The list was filed with me, or handed to me, and I was asked to keep it until the parties came up, and I told him that I had this list, and told who had filed it with me; and he says, "You just keep it, then, until these parties come, and you let me know when they appear;" and I did; and when the parties appeared I told them that a protest had been filed, and Simpson and the judge heard the conversation. At least in two cases I remember he called Johnson's attention to the parties particularly.

Q. Isn't it a fact that at that time Johnson was intimidated and made afraid on account of the fact of the prosecution by the Federal officials of the State election officers, and wasn't making any attempt to properly enforce the grandfather clause in that primary election?—A. It was not a fact.

Q. Isn't it a further fact that he made no attempt at all to enforce the grandfather clause in the general election of 1912?—A. No; I wouldn't say that, because there were a very few, none whatever, of these questionable voters appeared at the general election.

Q. Who gave you this list you were furnished in the primary?—A. Miles Allen.

Q. And who was it signed it?—A. A man by the name of Nidy.

Q. When did Mr. Allen give you the list that day?—A. It was after dinner, I think; I am not just positive.

Q. Along in the afternoon?—A. I think it was right after dinner.

Q. Where was the inspectors, the judge, at that time?—A. I think he was back with the counters, probably.

Q. Both the inspector and the judge?—A. I don't remember just the position, but I think that was where Johnson was at the time this list was filed with me.

Q. Why did Mr. Miles Allen give you the list instead of the inspector or the judge?—A. I can only give you my idea of it. Do you want my idea of it?

Q. Answer the question.—A. Mr. Allen had filed a good many protests and was doing a few things that his son-in-law, Mr. Johnson, who was the inspector, didn't like. I think that Mr. Johnson or Mr. Allen thought that I was about as friendly to him as Mr. Johnson was.

Q. The reason Mr. Johnson wasn't friendly to him was because he wasn't enforcing the grandfather clause, wasn't it?—A. No, sir; Mr. Johnson was a Democrat, and so far as I could see he endeavored to do his duty at all of the elections that I have any acquaintance with since I have been a resident of that township, and he had the reputation of doing his duty.

Q. And you wish to state in the record, under oath, that the Boardman letter, the prosecution of Beal and Guinn in Kingfisher County, the prosecution of the State election officials of Okmulgee County, and the prosecution of Jeffreys in this county did not have any effect upon you in any way?—A. Yes; I wish to say that publicly.

Redirect examination by Judge BURFORD:

Q. You were a member of the election board in 1910?—A. No, sir.

Q. You was a member of the election board at the primary election in August, 1912?—A. Yes, sir.

Q. And the same persons constituted the election board at that time at the primary election who constituted it in November, 1912?—A. Yes, sir.

Q. At the primary election, 1912, there was quite a spirited contest and the election board was called upon to pass upon the qualifications of all doubtful voters, were they not?—A. So far as I know.

Q. And at that time the grandfather test was applied rather strictly?—A. Yes, sir.

Q. And a portion of the number were excluded from voting?—A. Yes, sir.

Q. Others, it was found, were qualified, and they were permitted to vote?—A. Yes, sir.

Q. At the regular election in 1912, November, those who had passed the test at the primary election successfully were permitted to vote without being put to the test again?—A. Yes, sir.

Q. And those who had failed to pass the test at that time you say didn't apply to vote?—A. No, sir.

Q. Do you remember the circumstances of Mr. Johnson rather importuning with his father-in-law not to disturb the proceedings of the election, and asking him to retire from the election room?—A. Yes, sir; that was at the primary election. He went to Mr. Allen and asked him to retire; and I heard Mr. Allen himself protest against his being asked to leave the room.

Q. That was because Mr. Johnson thought he was disturbing the proceedings, wasn't it—interfering with the proceedings?—A. The reason Mr. Johnson gave to me—that I heard Mr. Johnson give—was that he thought he gave opportunity for objections.

Q. Mr. Rankin, I will ask you if it wasn't the understanding that the election officers, so far as your information goes from the instructions given out by the attorney general of the State and the opinion rendered by the supreme court of the State in reference to the enforcement of the grandfather law, that if election officers honestly and in good faith attempted to administer that law that they would not be liable to any prosecution, but only in the event that they placed unusual and arbitrary restrictions upon the rights of the persons to vote and put them to unnecessary tests?—A. That was my understanding.

Q. I will ask you if that was not the general feeling of the people at that time, so far as you knew?—A. Yes, sir.

Q. I will ask you further if it wasn't a matter of common rumor that the prosecution of the inspector in Seward Township precinct, in this county, grew out of the fact that he attempted to prevent any negroes from voting rather than an attempt to permit them to vote under the provisions of the grandfather clause?—A. That seemed to be.

Recross-examination by Mr. FEUQUAY:

Q. Mr. Rankin, you seem to know more about these cases when counsel is talking to you than at first memory.

Judge BURFORD. Objected to as an unfair reflection upon the witness as having answered freely all questions put him by counsel for the other side.

Q. Do you now, at this time, remember that you read in any newspaper about the trial of Beal and Guinn, of Kingfisher County?—A. I couldn't say about having a clear recollection of that particular case. We took several papers; we took three or four agricultural papers, and we took two or three secular papers—three, I believe. We didn't have much time for reading; we read them mostly at the table at noon. I glanced over them and my boy glanced over them, and if there was anything of special interest every one of us talked of it. I remember that case in this county; I have a recollection of that case; I don't have so clear



a recollection of the other case, but I think that I must have seen it in the press at the time, just as I think perhaps I saw the other cases in Okmulgee.

Q. You don't remember anything about what the statements were in the newspaper about the trial?—A. No; I do not.

F. A. BONNER, sworn and examined, testified as follows:

Direct examination by Judge BURFORD:

Q. State your name.—F. A. Bonner.

Q. Where do you reside?—A. Crescent.

Q. What is your age?—A. Fifty-six.

Q. How long have you lived in Crescent?—A. Seven and a half-years.

Q. What is your business?—A. Real estate.

Q. Are you pretty generally acquainted in that township?—A. Pretty well acquainted; yes, sir.

Q. You may state whether or not you was at one of the voting precincts in Crescent Township at the regular election, November, 1912.—A. I was.

Q. Which precinct were you in?—A. Precinct No. 1. I was one of the two judges, Republican. I acted in the election as clerk of the election.

Q. Who was the inspector of that precinct?—A. H. B. Smith.

Q. And who was the judge?—A. John W. Fleming.

Q. You were the clerk?—A. Yes, sir.

Q. You were the Republican member?—A. Yes, sir.

Q. The other two were both Democrats?—A. Yes, sir.

Q. You may state about how many colored persons of voting age, male persons, there are in that precinct.—A. I would have to give you a guess; approximately there was 25, possibly 30.

Q. Do they reside in the town or in the country?—A. They are in the town and the country.

Q. What has been H. B. Smith's business in Crescent?—A. H. B. Smith; well, he is a capitalist; he is a man of money means; we call him a capitalist.

Q. Mr. Smith has held the position of president of the board of trustees there, hasn't he, for some time?—A. He did; has been for quite a while; held for four or five years, perhaps.

Q. Ever hold office of justice of the peace?—A. No, sir; only temporary, not as a regular.

Q. Has he held any o'her office in the township that you know of?—A. No, sir; not that I know of.

Q. You may state whether or not in his capacity as capitalist he has been in the habit of making temporary and small loans, and even loans of some considerable extent, to the colored people.—A. Yes, sir.

Q. Had a very good business with them?—A. Yes, sir.

Q. And from your knowledge of Mr. Smith and his business, you say that he is well acquainted with the colored men in that precinct?—A. Yes, sir.

Q. I will ask you whether or not a great many of them have given notes to Mr. Smith?—A. They have.

Q. And chattel mortgages and business of that kind?—A. Yes, sir; they have.

Q. Was there any disturbance at your precinct election made that day?—A. No, sir; there never has been.

Q. Were you on the election board at the primary prior to the November election?—A. Yes, sir.

Q. Was there any effort at that time to enforce the grandfather clause by putting the test to the colored voters?—A. Yes, sir.

Q. How extensive?—A. There never was any question about it at all.

Q. At the November election, 1912, you may state whether the test was applied to any of the voters at that time.—A. It was.

Q. Do you remember about how many?—A. To all who applied to vote, with the exception of a very few that Mr. Smith and the other two of us, myself and Mr. Fleming, was willing to pass; we knew them perfectly well and that they were well qualified.

Q. All others you put the test to?—A. Yes, sir.

Q. And were any unable to pass the test and rejected?—A. Yes: there were several rejected. I will say, too, that there was a number who didn't apply to vote.

Q. Was there any talk amongst the members of your board about being prosecuted for enforcing the law?—A. No, sir.

Q. Had you heard of any disposition on the part of the inspector or any member of the board to feel intimidated or be in fear of a prosecution if they enforced the law?—A. No, sir; not the least.

Q. Do you know Emmett Stobaugh?—A. I do.

Q. What position does he occupy?—A. Mr. Stobaugh was counter.

Q. Now, will you describe the arrangement of your election room, as to where the voting booths were and where the election board were located, with reference to the counters, while performing their duty?—A. The election was held in one of my buildings. The building is 14 by 32 feet, with an "L" 10 by 12 or 14 feet, and we had wires put up running to the west from the sidewalk. The building faces the east. We had the wires stretched up and leading to a back room to this "L" room; it ran along the building and then crossed to the door in the back part of the building. Into this small room—it is a photograph gallery—and in this smaller room there were not tables, but it is just built up high next to the windows, and made a very convenient place for placing the books and papers to test the colored people; and we used that room for a test room, so it was light and convenient to the tables. I have drawn here a picture; that is a rough picture of the building and the room. We enter that one room, and there the test was given. Mr. H. B. Smith took charge of that particular work, assisted by myself and the other judges in whatever way we could assist. I gave no one a ticket until Mr. Smith informed me that the party was entitled to a vote. As they passed out of this test room they went to the left into the voting room, like that, with the booth off to the west, and my place was up on the place where the judge occupied, with the ballot box in between I and the other judge. I was next to the door when they come in from this room where they prepared their vote. I could see in there from where I was, over a part of the room, and I could see persons who were working there, with Mr. Smith with them. They would give the ballot and they would be passing to the booths, and passed on out of the door in that same room. The counters were in the front room. There was a large door, or a large space—usually kept a curtain over that door—but at this time they had no curtain there; but the counters were in the front room in such a way that they couldn't see. The voter, after he had voted, would pass on through a door to nearly the center of the building, to the north.

Q. Does the diagram I hand you show an approximately correct diagram of the several departments or divisions in that room, with the location of the election judges, counters, and booths?—A. It does.

Q. I will ask you to mark on that the test room that you have described.

(Witness indicates the room described on the diagram.)

Q. Had Mr. Stobaugh, in the discharge of his duties as counter in that election, any opportunity to make observation of persons applying for tickets who were required to take the test?—A. The persons coming in for a ticket didn't come in view of where Mr. Stobaugh was until he came after a ticket directly where I was sitting.

Q. After he had taken the test and passed in?—A. Yes, sir.

Judge BURFORD. I will ask that this diagram be marked "Exhibit A" to Mr. Bonner's testimony and placed in his deposition.

(Exhibit so marked.)

Cross-examination by Mr. FEUQUAY:

Q. Mr. Bonner, did you receive a letter purported to be written by Homer N. Boardman, United States district attorney, to Fred A. Wagoner, assistant county attorney of Lincoln County, about the enforcement of the grandfather law at the November election, 1912?—A. I don't remember; I don't think I did.

Q. Did you ever see that letter?—A. No, sir; not my recollection.

Q. Did you receive or see what is commonly called the penitentiary warning circular which accompanied that letter, threatening Federal prosecution, imprisonment, and asking the election officials to talk it over with their wives?—A. Never saw it.

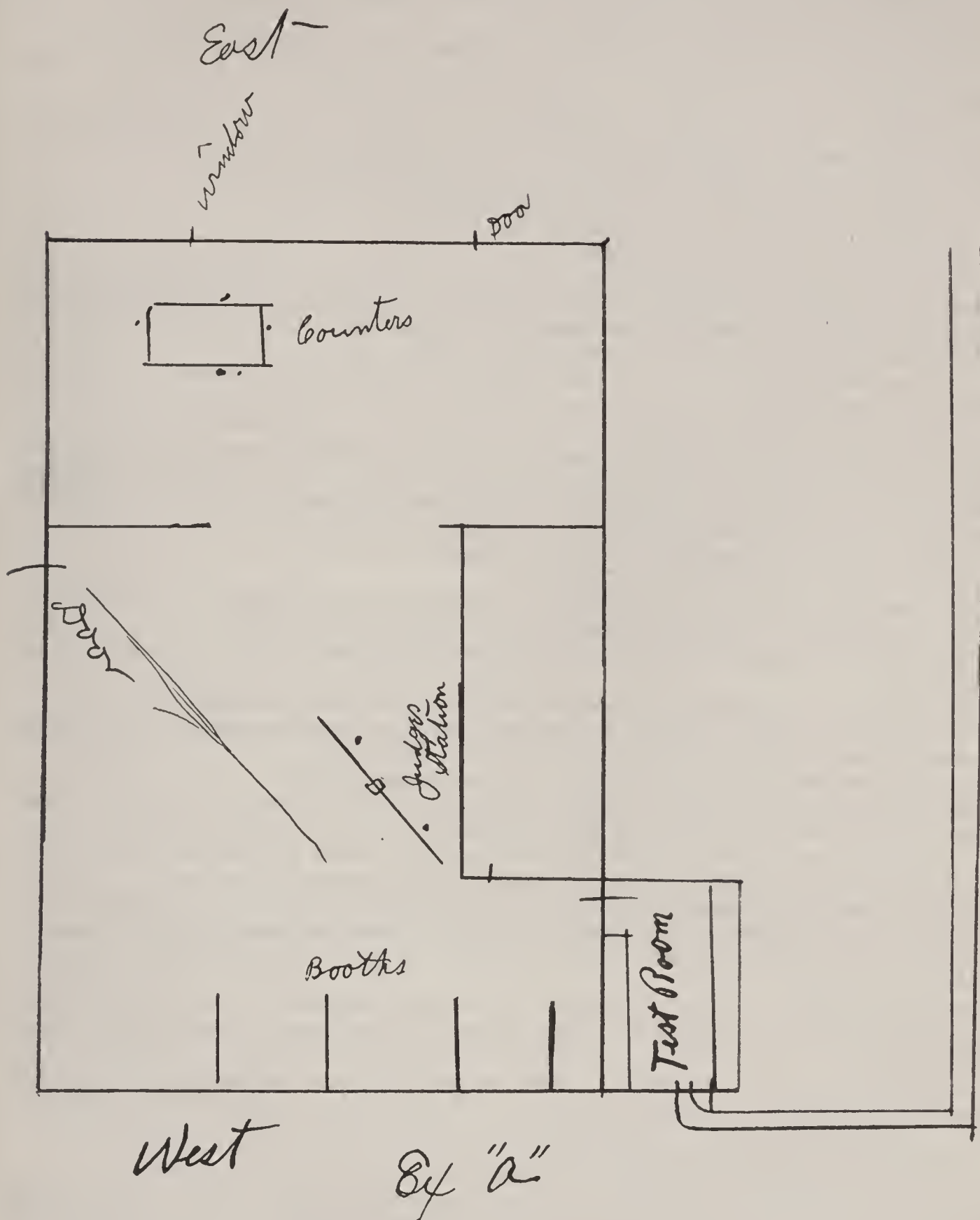
Q. You are certain that you did either see the letter of the warning circular at any time before the election?—A. I am sure; I know that I did not see the last named, and the other possibly not, but I don't remember of it.

Q. Did any one tell you of it?—A. No, sir; no conversation about it at all.

Q. You didn't have any talk with either the inspector or the judge?—A. No, sir.

Q. You knew, didn't you, about the prosecution of Mr. Jeffreys in this county, and election officials in Okmulgee County, and against Beal and Guinn, of

Kingfisher County?—A. The names are familiar to me. I remember of reading of the prosecution of some parties, but where they were I don't remember; I don't remember their names. I don't know whether they were the names you mention or not.



A. J. CRESS, sworn and examined, testified as follows:

Direct examination by Judge BURFORD:

Q. State your name.—A. A. J. Cress.

Q. Where do you live?—A. I live in Crescent.

Q. How long have you lived there?—A. Something over 23 years.

Q. Wasn't quite a sooner?—A. Not quite.

Q. What is your business?—A. I have no permanent business; I work at the cotton gin in the fall sometimes, as manager, first one thing and then another around the cotton gin.

Q. What is your age?—A. My age is 60 years.

Q. Are you pretty well acquainted in and about Crescent?—A. Yes; I think so.

Q. Do you know the colored voting population of the town pretty well?—A. I don't know all of them now; I used to know all of them, but I don't any more.

Q. What precinct do you vote in?—A. No. 2.

Q. Mr. Bonner was in No. 1?—A. Yes, sir.

Q. Did you attend the election in November, 1912?—A. Yes, sir.

Q. At your precinct?—A. Yes, sir.

Q. Was you connected with the election board?—A. I was.

Q. What was your connection with the election board?—A. I was one of the counters.

Q. Where was the election precinct No. 2 held; in what building?—A. In block 2; I couldn't describe the building; I don't know.

Q. What was it, store building?—A. Yes; an old store building.

Q. About what size?—A. About 24 by 36. I should judge.

Q. Was there any partitions in it?—A. None.

Q. Just one room?—A. Yes, sir.

Q. You may state whether or not the proceedings of the election board—whether they took place within the observation of the counters where they were located.—A. Yes; I should think they were about 20 feet; something like that; may be more. I expect they were more than 20.

Q. State whether or not any colored people voted at your precinct that day.—A. There was a few.

Q. Was there any disturbance of any character?—A. There was none.

Q. Were any of the colored men challenged?—A. They attempted to challenge one colored gentleman, and before they could pick up the constitution—whatever they wanted him to read—he picked up some other papers and commenced to read readily, and they told him that was good enough.

Q. Who was the inspector?—A. A. A. Hart.

Q. He was a Democrat?—A. Yes, sir.

Q. And this colored voter exhibited an ability to read readily?—A. Yes, sir.

Q. And upon that they permitted him to vote?—A. Yes, sir.

Q. Was the test put to any other colored person that day?—A. I don't think so.

Q. Was you a member of the board at the primary in August?—A. I was.

Q. You may state whether or not there was any enforcement of the grandfather proposition at that time.—A. Yes, sir; there was.

Q. Rather strict, or otherwise?—A. It was pretty strict.

Q. Did the election board become familiar with the qualifications of those who voted at the primary?—A. Yes; I think so.

Q. And at the regular election those who had passed the test in the primary in August they permitted to vote without further test?—A. Yes, sir.

Q. Do you know whether any colored voters who failed to pass the test in August failed to apply in November?—A. They didn't attempt to vote at all.

Q. In other words, those who had failed to pass the test didn't apply to vote?—A. No, sir.

Q. Did you hear any talk amongst the colored people out there about making any demonstration or threats if they were not permitted to vote?—A. I don't think I did.

Q. Did you see any evidence or hear any talk of any member of the election board being afraid to enforce the law?—A. I think not; no, sir. I don't think so.

Cross-examination by Mr. FEUQUAY:

Q. Mr. Cress, you were a counter in this election of 1912?—A. Yes, sir.

Q. What position, in reference to where the inspector and judges were sitting, were you?—A. I think we had a table about as long again as this desk here, and I was at this corner here, sitting kind of in this direction toward the judges.

Q. What were your duties as counter, Mr. Cress?—A. My duty?

Q. Yes.—A. I took the ballots out of the box and put them on the string.

Q. Put them on the string?—A. Yes.

Q. When did you go to the polls in the morning?—A. About 7 o'clock.

Q. Stayed all day?—A. Yes, sir.

Q. When did you begin counting?—A. Ten o'clock.

Q. Counted steadily from 10 o'clock until the ballots were all in?—A. Yes, sir.

Q. And while you were counting from 10 o'clock until the polls closed you stayed there and took care of the ballots and watched them while they were being properly counted?—A. Yes, sir.

Q. And watched them to see that they were put on the string?—A. I put them there myself.

Q. You were appointed by the other members of the election board?—A. Yes, sir.

Q. Had you held the same position in the August primary?—A. Yes, sir.

Q. You are very well acquainted with all the men out there in the precinct, aren't you?—A. I don't want to say I am well acquainted with everybody; no, sir; I am not.

Q. You know all the colored voters out in that precinct?—A. No, sir; I do not.

Q. In the August primary who applied to vote of the colored voters?—A. I couldn't say.

Q. You don't know who applied to vote in the August primary?—A. No; I don't remember who the parties was.

Q. Who was this fellow who applied to vote and picked up some paper and began to read?—A. I think his name was Johnson.

Q. They didn't give him any test to see whether he could write?—A. No, sir.

Q. And that was the only test given on election day?—A. So far as I know; I don't know that they give him a test in writing; they didn't say so.

Q. Did you see any other test given that day?—A. No, sir; I didn't see any.

Q. Did you know all the colored voters that voted that day?—A. No; I wouldn't want to say that I did; no, sir.

Q. Some of the colored people who voted that day you didn't know?—A. They might have been.

Q. You don't remember seeing every colored voter that voted that day?—A. No, sir.

Q. You had the same duties as counter in the primary election?—A. Yes, sir.

Q. And you started about what time?—A. About 10 o'clock.

Q. Then on that day you didn't see everybody that applied to vote—every colored voter?—A. No, sir.

Q. And you didn't know all of them that did vote?—A. No, sir; I don't think I did; no, sir; I won't say I did.

Q. Then did you know and could you remember all of them that were turned down in the primary election?—A. No, sir.

Q. You wouldn't recognize them if you would see some of them afterwards, would you?—A. Well, I might know the people if I were shown the parties; but I don't know now.

Q. Then you don't know of your own personal knowledge that some of those fellows who were turned down applied to the election board in 1912 and were allowed to vote without the test?—A. No, sir; I don't think they did; that is what I understand.

Q. Of your own personal knowledge?—A. No, sir; I don't know that.

Q. Mr. Cress, did you see or hear about a letter purported to be written by Homer N. Boardman, United States district attorney, concerning the enforcement of the grandfather clause in the November, 1912, election?—A. No; don't know anything about it.

Q. Didn't hear anything about it?—A. No, sir.

Q. Ever see it?—A. No, sir.

Q. Ever see it since the election?—A. I don't know but what I have since the election, in the last three or four months.

Q. Wasn't it before?—A. No, sir.

Q. You didn't hear anything about it 10 days after the election?—A. No, sir.

Q. You didn't hear the inspector or judge discussing the letter at all?—A. No, sir.

CLIFF TIMPEY, sworn and examined, testified as follows:

Direct examination by Judge BURFORD:

Q. State your name.—A. Cliff Timpey.

Q. What is your age?—A. I am 45 years old.

Q. Where do you reside?—A. I reside in Bear Creek Township.

Q. What is your business?—A. Farmer.

Q. How long have you lived in Bear Creek Township?—A. About 23 years; 22 or 23. I come here in the fall after the opening in the spring.

Q. What official position do you occupy at the present time, if any?—A. I am township trustee of Bear Creek Township.

Q. How long have you held that position?—A. I have held it for seven years. I was elected the fall of 1907.

Q. Was you a candidate for nomination at the primary election in August, 1912?—A. Yes, sir.

Q. Was you at the polling place in your precinct on that day?—A. Yes, sir.

Q. From your official duties as township trustee and your long residence in that township, have you become reasonably well acquainted with all the persons of voting age—male persons of voting age in that township?—A. Yes, sir.

Q. About how many colored male persons of voting age are there in that township, Mr. Timpey?—A. I think there is something—I never polled them last fall, but I have polled them; I think there is something like 60.

Q. About how many of them voted at the primary election in August?—A. I couldn't say exactly; I know of several.

Q. Did any apply at the primary election in August who were denied the right to vote on account of their qualifications under the grandfather clause?—A. I couldn't say how many was turned down.

Q. Were you present at the general election in November?—A. Yes, sir.

Q. You was a candidate for election at that time?—A. Yes, sir.

Q. Was you paying pretty close attention to who voted and how they voted at that time?—A. Yes; tolerably.

Q. You may state whether the grandfather test was applied to any colored voters at that election at that precinct, if you know.—A. Well, I believe there was one or two. I forget who they were, but I think that man Johnson was one of them. They wouldn't let him vote. I know there was several come out of there kicking that didn't get to vote.

Q. Do you know of any colored men who had been previously voting that didn't vote at that election?—A. No; I believe not.

Q. You think all the voters in the township were there and voted that day?—A. Yes; that had been voting.

Q. I mean colored persons who had been refused under the grandfather clause or who were not qualified. Did you know of any?—A. No; I think some of them had been turned down.

Q. From your acquaintance with the male colored persons of voting age, what do you know about their being able to read and write?—A. The majority of them in that township knows how to read and write. I don't think there is over 12 or 15 persons that can't; I don't think there is that many.

Q. Are you acquainted with Mr. Johnson pretty well?—A. David Johnson; yes, sir.

Q. What is his business?—A. He is a hardware man.

Q. He has had a hardware store in Crescent for a number of years?—A. Hardware store in where?

Q. In Meridian.—A. Yes, sir.

Q. And has been doing business with those colored people constantly?—A. Yes, sir.

Q. Knows them and knows their qualifications?—A. Yes, sir.

Q. Do you know of any persons voting at that election who can't read and write?—A. No, sir.

Q. Did you know Mose Graham?—A. Yes, sir.

Q. What is his business?—A. He is a farmer.

Q. Colored man?—A. Yes, sir.

Q. Did he ever do any work on the highways while you was trustee?—A. Yes, sir.

Q. State whether he presented any written claims for his services.—A. He did.

Q. Whether he had his name signed to it.—A. Yes, sir.

Q. You state from your knowledge and observation that Mose Graham can read and write?—A. He has presented several claims to the board there with his signature to the voucher, and the clerk—he is the one who swears him to that voucher. I never personally seen Mose sign his name.

Q. None of them signed by mark?—A. Never. I couldn't swear to a certainty that Mose signed it, but the clerk brought the bills in, and he is the man who is supposed to attend to that.

Q. You know Miles Allen, don't you?—A. Yes; I am acquainted with him.

Q. Miles was taking a very active part, both political and personal, in trying to defeat you for election, wasn't he?—A. That was about all he was there for that I know of.

Q. He took some interest in the election of Congressman?—A. I might have been a little off.

Q. Miles furnished a list of questionable voters to the election board. Did you see that list—you have seen it?—A. I have seen it, but don't recollect it.

Q. Did you at the time know the persons who were named on that list?—

A. Yes, sir.

Q. Were they voters in that township?—A. I think they were.

Q. Did you hear of any rumors or threats to do any person any injury if the colored men didn't get to vote out in that precinct?—A. I didn't hear any threats whatever.

Q. Did you hear of any negroes making threats that they would vote—enforce their right to vote?—A. No, sir.

Q. These colored men were mostly supporters of yours, weren't they?—A. Some of them, and some wasn't.

Q. You conversed with them about their right to vote?—A. Yes; some.

Q. Did you ever learn of them ever being advised to vote who were not qualified under the law?—A. Well, I think Mr. Allen had told some of them that they could all vote; they had made arrangements for all, I think, to vote if they voted against me.

Q. Some of them did vote against you, didn't they?—A. Yes; I think there was about 20.

Q. Did you have a colored Democratic organization—club—in that township?—A. No, sir.

Q. Hadn't progressed that far?—A. No, sir.

Cross-examination by Mr. FEUQUAY:

Q. Mr. Timpey, your occupation is that of farming, isn't it?—A. Yes, sir.

Q. You don't know whether these men can read and write sufficiently—these colored people in that precinct can read and write sufficiently to pass the grandfather-clause test, do you? It is just your opinion?—A. No; I was inspector two years, and, of course, some of them moved in and some moved out; but I don't suppose there is over—I don't think there is 15 persons in the township who can't read and write; I don't believe there is hardly that much.

Q. What time were you inspector?—A. I was inspector in 1910 and 1911, I believe it was; I was inspector while I was trustee.

Q. While the grandfather clause was in effect?—A. No; I was inspector before the grandfather clause.

Q. So you never tested any of these negroes to see whether they could read and write?—A. No, sir.

Q. And all you know is by the business dealings you have had, and as a farmer and trustee of the township?—A. Yes, sir.

Q. You don't know whether the grandfather clause was enforced at either the primary election or the general election except from what they told you when they came out; you couldn't see inside and wasn't inside?—A. No; I supposed they took an oath to enforce it, and I supposed they did enforce it.

Q. Now, this Mose Graham—you don't know whether he can read, do you?—A. Just as I told the judge; I never seen him write his name.

Q. Do you know that he can write?—A. Not personally.

Q. Mr. Timpey, did you see the purported Boardman letter about the enforcement of the grandfather clause in the November election, 1912?—A. No, sir.

Q. Did you hear anything about it?—A. I heard talk around about it; I never seen it or seen anybody that did see it.

Q. You don't know that the inspector and judge got that letter in your precinct?—A. No, sir.

Q. Did you hear any talk about it election day?—A. No, sir.

Q. You knew about the prosecutions of Jeffreys in this county?—A. Yes; I had read that in the papers.

Q. And also about the prosecutions in Kingfisher County and Okmulgee?—A. Yes, sir.

Q. Do you know if that was discussed at the polls?—A. If it was, I don't recall it.

NEIL HUMPHREY, sworn and examined, testified as follows:

Direct examination by Judge Burford:

Q. State your name.—A. Neil Humphrey.

Q. Your age.—A. Thirty-three.

Q. Your residence.—A. Live here in Guthrie, but I vote in Iowa Township.

Q. How long have you been a voter in Iowa Township?—A. About the last seven years, I believe—six years.

Q. Why do you vote in Iowa Township?—A. Because my farm is there and I expect to go back there and live.

Q. That is your legal residence?—A. Yes, sir.

Q. What official position do you now occupy?—A. Clerk of the district court.

Q. And prior to that what was your position?—A. County superintendent of public instruction.

Q. How long did you hold that position?—A. Two terms and about two months in addition to that; something over five years. One term was a long term.

Q. During your residence in Guthrie or in Iowa Township did you become reasonably well acquainted with the voting population of that township?—A. I think I knew the most of them.

Q. About what proportion of the voting population of that township are white and what proportion are colored?—A. I don't know that I can state exactly; I think there are about 50 colored voters now; that is that many since they applied the test rigidly and, I think, in the neighborhood of 45 whites, something like that.

Q. What are the occupations, largely, of the colored people of Iowa Township?—A. I think there are all farmers, except one.

Q. Is there any town in that township?—A. No, sir; it is just a whistling station on the Katy and also on the Fort Smith & Western.

Q. Are the colored male adults in that township mostly owners of real estate?—A. Well, I think the majority own their homes.

Q. I will ask you if it isn't a fact that in the settling of that portion of Logan County the lands were originally largely homesteaded by colored people?—A. Yes, sir.

Q. And they have continued to occupy that portion of the Territory?—A. Yes, sir.

Q. Did you hear, during your campaign for election as clerk of the district court, during your visits to your home township, talk amongst the colored people of an inclination or disposition to create any disturbance if they were not permitted to vote?—A. I heard them discussing the matter of wanting to vote, and they decided among themselves—so a number of them told me—that those who were not qualified to vote wouldn't go to the polls and wouldn't attempt to vote; they wanted no disturbance and they didn't want the township thrown out.

Q. Now, from your knowledge and familiarity with the voters in the township, did quite a number of them not go to the polls to vote?—A. I can answer that question from what they have told me.

Q. From your information?—A. Those who were not qualified to vote stayed at home.

Q. Did you compare the vote of that township in the election of 1912 with the vote on former elections to ascertain whether or not it fell short in that election?—A. Yes, sir.

Q. About what shortage was there?—A. My recollection is that the Republican vote was about 35 to 40 votes shy; perhaps a little more than that.

Q. What portion of the day at the November election, 1912, was you present at the polling place?—A. I was there in the evening, if I remember correctly. I left here on the 2.20 train and got out there about 3.20, and was back at the station at 6 o'clock. I don't suppose I was there at the polls to exceed 20 or 25 minutes.

Q. At the time you was there did you know whether the test was being applied to colored voters or not?—A. All I know was what the election officials themselves told me.

Q. What did they tell you?—A. They told me that they were applying it.

Q. Did you learn of any attempted disturbance of any character?—A. No, sir; knew nothing of that kind whatever.

Q. Did you hear any discussion among the people prior to that election of any intention to cause the arrest of any election officers who did not in good faith enforce the law?—A. Never heard such a thing mentioned.

Q. How active a canvass did you make of the county in the primary election in August?—A. I think I was in every township in the county near there.

Q. How active was your campaign conducted for the election at the regular election in November, 1912?—A. I didn't make such a strenuous campaign. I was in a number of the townships, but I don't think all of them; possibly three or four I didn't visit at all.

Q. During that time did you hear the matter of the so-called Boardman letter discussed, as to the purpose to cause the arrest of any election officers who did not enforce the grandfather clause?—A. The only time I ever remember of hearing the matter mentioned I discussed it myself with the county attorney at his



office one morning. He later came out in the Guthrie Daily Star—I am not certain it was in that paper—but at any rate we were reading the letter and discussing it. Never heard it discussed publicly at all.

Q. Now, Mr. Humphrey, in your canvass, together with other candidates, throughout the county there were a good many public meetings?—A. Yes, sir.

Q. And speeches made by county attorneys and others?—A. Yes, sir.

Q. You may state what was said by public speakers on that subject when referred to—as to colored people voting.—A. I never heard the Boardman letter discussed at all in any public meeting; never heard it mentioned.

Q. Was the question suggested in any of these public meetings and speeches by Republicans as to what the people should do in the several precincts as to procuring these colored people to vote, or only those who could pass the test?—A. The only time I ever discussed the matter with anyone that I remember of, with regard to any of the colored people, was with S. J. Favor, ex-county commissioner of this county. We talked about the voters of Iowa Township, and I advised him to call a meeting of colored people out there to go over this matter thoroughly with him and to advise those who could not vote to stay at home, because of the fact that in previous election contests here the election officials had attempted to throw out Iowa Township on account of irregularity; and that meeting was called, and my understanding is that those who could not vote did not vote; that is, those who were not qualified to vote.

Q. Who did you say the inspector was?—A. John Bivert.

Q. Is Bivert well acquainted with the colored people in that county and with their qualifications generally?—A. I believe that he knows every man in the township.

Q. How frequently has he been on election boards?—A. I can't say as to that; he was there in the primary election and there in the general election this fall. The primary election was held at his house.

Q. In your canvas for votes and public meetings and discussions as a candidate did you ever hear it intimated or rumored that the election boards in this county would permit all persons to vote who might apply, without question, because of the capital location being at issue?—A. The only report I ever heard was that the secretary of the chamber of commerce had advised the men with whom he talked in precincts where there were colored voters to allow no one to vote except those who could qualify under the State law, because they thought if more votes were cast than what was customary in Logan County they would probably contest the whole county.

Q. Did you ever have any talk with Mr. Wenner on that subject?—A. Yes; I talked to him personally.

Q. And wasn't it Mr. Wenner's policy, as announced by him, in order to prevent a contest of Logan County, in the event we should win in the capital fight, that we should have an absolutely pure vote in Logan County?—A. That was the impression.

Q. Because if we didn't have the county would be cast out in the count?—A. Yes, sir.

#### Cross-examination by Mr. FEUQUAY:

Q. How many years has it been, Mr. Humphrey, since you lived in Iowa Township?—A. About five years; a little over five years.

Q. You haven't been a resident of that township since statehood, have you?—A. My family didn't move to town until quite a little while after statehood, but my time was most of it taken up here in Guthrie. I have been at home practically every Sunday since that time.

Q. You haven't lived in Iowa Township since the grandfather clause was enacted?—A. No, sir.

Q. That has been about five years?—A. A little bit more than that; about six.

Q. And all you know about the qualifications of colored voters of that precinct is what you gained five years ago when you lived there?—A. That would be quite a good deal, because there are a number of colored school districts— independent school districts—where they have elected their own trustees, and they change from year to year, and I get acquainted with quite a few of them that way.

Q. In that part of the county most of the school districts are independent; that is, most of the districts are negro, and the negroes run their own schools as separate schools and the white schools are run by the county?—A. I think there is one independent white district out there; there is no colored school in that district, no separate school. I believe there are about two separate schools

that are white and the rest colored. There are three in that township and the rest of them are negro districts.

Q. Negro schools, and the white school is a separate school?—A. There are three districts where the white school is a separate school.

Q. And run by the county?—A. Yes, sir.

Q. You say you have looked over the returns from Iowa Township and you find them smaller than in previous years?—A. Yes, sir.

Q. Are they smaller than the primary in August, 1912?—A. I am not exactly certain about that, but I think they are.

Q. Do you know of any negro Republicans of that precinct who have turned Progressive?—A. I don't know what you mean by that term.

Q. More commonly termed "Bull Moose"?—A. I don't know what ones were and who not. As a matter of fact, we didn't consider that proposition very seriously down there, I don't think.

Q. There wasn't any Progressive ticket in the field?—A. No, sir; there wasn't; not that I know of.

Q. Do you remember what the weather conditions were that day?—A. Yes; I remember the election day.

Q. The November election?—A. I have pretty good reason for remembering it.

Q. What was the day?—A. In that neighborhood it was extremely muddy.

Q. It rained until nearly noon?—A. They had some showers out there; I think the most of the rain was in the night preceding the election.

Q. Very bad day, wasn't it, to travel?—A. I considered it so.

Q. Mr. Humphrey, did you hear of the Boardman letter?—A. Yes, sir.

Q. Had you seen a copy of it prior to the election?—A. As I said before, I discussed the letter with the county attorney prior to the election.

Q. Did you help the county attorney write his letter to the Guthrie Star, which was published before the election, about the Boardman letter?—A. I most certainly did not.

Q. You saw that letter?—A. Yes, sir.

Q. Did you suggest to him that he publish such a letter?—A. No, sir; I did not.

Q. Did he tell you he was going to?—A. No, sir.

Q. Didn't consult with you in any manner about the publication or advice in regard to the Boardman letter?—A. No.

Q. Did you see any of the so-called penitentiary warning slips?—A. No, sir.

Q. You were an interested party in the campaign as a candidate and frequented the Republican headquarters as such, didn't you?—A. I was around there occasionally, not often.

Q. While you were there did you see any of the Boardman letters in the headquarters of the Republican campaign committee for Logan County?—A. I don't remember of seeing a one there.

Q. Did you see any of the envelopes in which these Boardman letters were sent out to the inspectors and other election officials?—A. Remember of seeing nothing of the kind; I don't think I ever saw one. The only kind I saw was the one I mentioned.

Q. Did the county attorney tell you where he procured that letter?—A. No, sir; he did not. My recollection is it was printed in the Guthrie Star; I wouldn't be certain.

Q. What policy was the Guthrie Star? What party did it support?—A. I think it was intended to be Republican.

Q. Wasn't the Guthrie Star the largest daily newspaper published in this district at the time of the election?—A. I don't believe so; I believe the Leader is largest—as large a paper as the Daily Star. The Star was the largest Republican paper I know of.

Q. To your best knowledge, wasn't the Guthrie Star the official organ of Bird S. McGuire in his campaign for Congress?—A. I don't know about that.

Q. Do you know who was the editor of the Guthrie Star at campaign time, 1912?—A. My recollection is that the editor was Harry Maxwell; that Mr. Hornaday was engaged on the paper, but I am not certain which one did control the editorial policy.

Q. Do you know who was Congressman McGuire's secretary at that time?—A. My recollection is that Earl Croxton had charge of it.

Q. After Earl Croxton resigned?—A. I think that later on Harry Maxwell, possibly, had charge of it, but I wouldn't be certain.

Q. The senior editor of the Guthrie Daily Star?—A. I don't know that the old gentleman ever had edited the Guthrie Daily Star.

Q. Wasn't he employed or interested in it?—A. Mr. Maxwell, sr.?

Q. Yes.—A. Not that I know of. I might know in this way: I understand there was a judgment against him in the district court; he may have been interested in it.

Q. Wasn't Harry himself working on the paper?—A. I rather think, as I said before, that he was the editor, but I am not certain of it.

Q. He is now secretary to Congressman McGuire?—A. I don't know about that; I haven't had any correspondence with Mr. McGuire for a long time.

Q. Wasn't he at that time?—A. I don't know whether he was or not.

Q. You know whether Earl Croxton had assumed charge of the Medford Star at the time the campaign was on in 1912 or not?—A. My recollection is that during the campaign, whether it was before the primary or after, Earl took charge of some paper in Medford; I don't remember what paper it was.

Q. Afterwards he was appointed postmaster at Medford and since that time hasn't been secretary or connected in any way with Bird McGuire?—A. If he has any appointment, I have never learned it.

Q. Who was in charge of the Republican headquarters in Guthrie?—A. F. W. Wolf was chairman.

Q. Who stayed in the headquarters and managed it?—A. I think Mr. Wolf stayed there most of the time.

Q. You were a close friend of Mr. Wolf, weren't you?—A. I think we were good partisan friends.

Q. Mr. Wolf was doing all he could to help you get elected, and the rest of the Republican ticket, wasn't he?—A. I believe that is true.

Q. You know from your connection with the Republican campaign committee and your position as a candidate, who sent to the election officials of Logan County the purported Boardman letter and the penitentiary-warning circular?—A. I do not.

Q. Do you know whether they were sent from the Republican headquarters?—A. I do not.

Q. You don't know about who sent them?—A. No, sir.

Q. Or where they were published?—A. No, sir.

Q. Or anything about them at all?—A. No, sir.

Q. Did you visit Congressman McGuire's headquarters in Guthrie during the campaign?—A. I suppose I was up there three or four times during the campaign.

Q. Located in the Ione Hotel?—A. Yes, sir; on the second floor.

Q. Do you know who was in charge of those headquarters?—A. The only parties that I ever remember of talking to up there were Mr. Croxton and Mr. Schallenbarger.

Q. Wasn't Harry Maxwell connected with the headquarters of Mr. McGuire in this county?—A. I don't remember of seeing him there until after the election; I remember of seeing him once there.

Q. Do you know whether he was connected with those headquarters?—A. I have been told—no; I haven't either. I think he took Mr. Croxton's place, but I am not certain about that; know positive about it. As a matter of fact, we paid very little attention to the congressional campaign; was much more interested in my own.

(The further taking of depositions is, by agreement, postponed to July 3, 1913, at 9 o'clock a. m.)

Now, on this 3d day of July, 1913, the further taking of depositions on behalf of the contestee is resumed.

Present, the contestant, John J. Davis, in person and by Courtland Feuquay, his attorney, and the contestee by John H. Burford, his attorney.

The following-named persons, being duly sworn to testify to the truth, the whole truth, and nothing but the truth, before Marie E. Terrell, notary public, testified as follows, under the stipulation heretofore entered into:

W. M. HUMPHREY, sworn and examined, testified as follows:

Direct examination by Judge BURFORD:

Q. You may state your name.—A. W. M. Humphrey.

Q. Where do you reside, Mr. Humphrey?—A. My post office is Meridian, but I live three miles and a half east and one mile south.

Q. What is your age?—A. Thirty-five.

Q. What voting precinct in Logan County do you reside in?—A. South Cimarron.

Q. Were you at the voting precinct in that township at the November election, 1912?—A. Yes, sir.

Q. How long have you lived in that township?—A. This last time I have lived there three years, ever since the 9th of June, except the time I was here about eight years in Guthrie.

Q. What is your business?—A. Farming.

Q. Were you acquainted with the members of the precinct election board in the election of 1912?—A. Yes, sir.

Q. Who was the inspector of your precinct?—A. I don't know who the inspector is, but Mr. McDaniels and Miles Allen and Mr. Baird and Mr. Wilson.

Q. Mr. McDaniel was the inspector, wasn't he?—A. I think so; he seemed to be the man who had charge of it.

Q. Where was the voting place?—A. At the colored schoolhouse at Meridian.

Q. What portion of the day were you at the polling place?—A. I got up there about 7 o'clock, I believe, and stayed there until after the train went, when I came to Guthrie.

Q. Are you reasonably well acquainted with the voters of that precinct?—A. Yes, sir.

Q. Both colored and white?—A. Yes, sir.

Q. Do you know about what the ratio of the colored and white voters is in the precinct?—A. No; I couldn't say.

Q. Which are in the majority?—A. I expect there is more colored people than there is white people; take it all over the township, I think the white people are in the majority.

Q. Were any colored persons voting in November, 1912, when you were attending the election?—A. Yes; there were some.

Q. Were there any colored male persons of voting age who did not vote at that election?—A. Yes, sir.

Q. You know about how many?—A. No; I couldn't say just how many; but there was several around there; there was two, I recall distinctly, that didn't vote.

Q. Did you observe whether or not the election board was requiring any of them to take the test under the grandfather clause?—A. Yes, sir.

Q. They were?—A. Yes, sir.

Q. Did you notice any colored persons voting who were not required to take the test?—A. No, sir.

Q. Do you know whether any were rejected who took the test?—A. I don't know as to that; I know they turned some of them down; some of them that didn't pass the test were the ones that didn't take it.

Q. Were there some persons of voting age who didn't offer to take the test?—A. Yes, sir.

Q. Was there any disturbance in the voting precinct that day?—A. No, sir.

Q. Had you heard any rumors or representations to the effect that there would be any trouble made for the election board or others if the negroes were not allowed to vote?—A. No, sir.

Q. How frequently did you visit the town of Meridian prior to the election during October and November?—A. I don't know; I was up there buying cattle—in and out of there every few days.

Q. Did you have an opportunity to meet with and did you meet with the voters, both white and colored, in that precinct, frequently, just prior to the election?—A. Yes, sir.

Q. Did you attend any public meetings?—A. Yes, sir.

Q. State whether the candidates held any public meetings out in that country prior to the election.—A. Yes, sir.

Q. Were there some colored picnics and colored meetings out there especially for the colored?—A. Yes, sir.

Q. Did you attend those?—A. I was at one, I think.

Q. At those meetings did you hear any talk about making any trouble, or that there would be any trouble in the event they didn't get to vote?—A. No, sir.

Q. Was it the feeling and sentiment amongst the colored people that those who were not able to pass the test under the constitutional provision wouldn't endeavor to vote?—A. Yes; they didn't expect to vote at all if they didn't pass it.

Q. Had there been a change in the public sentiment and talk amongst the colored people between the election of 1910 and the election of 1912 in reference to that matter?—A. I don't know; I was here at that time.

Cross-examination by Mr. FEUQUAY:

Q. Mr. Humphrey, are you any relation to the present clerk of the district court?—A. Yes, sir.

Q. You live in Meridian?—A. Yes, sir.

Q. This schoolhouse is located over in South Cimarron Township?—A. Just across the street.

Q. Of which Mr. McDaniel was the inspector?—A. Yes, sir.

Q. How long have you lived there in South Cimarron Township the last time?—A. Two years the 6th of last month.

Q. How long previous to that time had you been away from South Cimarron Township?—A. Between seven and eight years.

Q. Vote in South Cimarron Township in 1910?—A. No, sir.

Q. Vote at the primary election?—A. I was here in Guthrie.

Q. At the primary election in 1912?—A. Yes, sir.

Q. And at the general election in 1912?—A. Yes, sir.

Q. How long did you say you were at the polls on election day?—A. I got there, I believe, about 7 o'clock in the morning; I left for Guthrie on the afternoon Katy train. I think it left there at that time about—it got in here between 1 and 2 o'clock sometime.

Q. While you were at the polls were you working for any of the Republican candidates, electioneering?—A. I worked for my brother.

Q. How long did you stay in the room while you were voting?—A. I suppose I was in there probably a half hour. There was some ahead of me, and after I voted I was talking to Mr. Bivert about a matter of business between us.

Q. You went outside and how far did you stay away from the polls after you came outside?—A. They had a rope stretched there.

Q. A short distance?—A. Yes, sir.

Q. They were voting inside the schoolhouse?—A. Inside the building.

Q. Could you see from where you were standing outside what they were doing in the building?—A. No, sir; they give the colored people a test in the other room; they give the colored people the test in the west room, and Mr. McDaniel would meet them at the door, and he would give them the test in the west room.

Q. Couldn't see what they was doing from where you were standing?—A. Yes, sir.

Q. Couldn't hear what he said, could you?—A. No, sir.

Q. So you don't know what kind of a test he give them?—A. No; I don't.

Q. What kind of a day was it that day, Mr. Humphrey, as to weather conditions?—A. It seems to me it had been raining—was kind of cloudy.

Q. Rained some?—A. A little bit at one time.

Q. Bad day to get out voters, wasn't it?—A. They all seemed to be there.

Q. All you know about whether the grandfather clause was enforced or not was what these voters told you?—A. There were several of them there that took the test; if I remember rightly, I believe Mr. McDaniels had them write a section of the Constitution.

GOVERNOR MOORE, sworn and examined, testified as follows:

Direct examination by Judge BURFORD:

Q. What is your name?—A. Governor Moore.

Q. What is your age?—A. God willing, I will be 54 years old the 17th of this month.

Q. Where do you live?—A. I live 2 miles east of Meridian and a mile south.

Q. In what township?—A. South Cimarron.

Q. Are you in South Cimarron voting precinct in this county?—A. Yes, sir.

Q. You are a colored person?—A. Yes, sir.

Q. Did you attend the primary election in August, 1912, at that voting precinct?—A. Yes, sir.

Q. Did you vote in the primary?—A. Yes, sir.

Q. Who was your inspector?—A. Jim McDaniel.

Q. Did Jim require you to take any test before he let you vote at the primary?—A. Yes, sir.

Q. What did you do?—A. I took the test.

Q. You read and wrote, did you?—A. Yes, sir.

Q. You can read and write, can you?—A. Yes, sir.

Q. At the regular election in November, did you vote at that election?—  
A. Yes, sir.

Q. Did he require you to take the test over or did you vote without taking it that time?—A. I believe I passed through without it.

Q. You was well acquainted with Jim, was you?—A. Yes, sir.

Q. How long has he known you?—A. He has been seeing me for 10 years.

Q. Was there a pretty strict enforcement of the law in taking the test at the primary election?—A. It seemed to me there was.

Q. I mean did they require each colored voter at that time to take the test at the August primary?—A. I couldn't say that they did, all of them; of course, some men that voted in 1910, they stated to me that they didn't test them.

Q. Some of them that had voted in 1910 were at the election in 1912?—  
A. Yes, sir.

Q. Did they let many of them vote at that election?—A. Not very many; didn't let me vote either.

Q. Did you offer to take the test then?—A. Yes, sir.

Q. Did you take it?—A. Yes, sir.

Q. You read a section of the Constitution?—A. Yes, sir.

Q. What was the reason that they didn't let you vote?—A. They had this colored man Brooks and Henry Porter, and one said it was all right and another said it wasn't, and so they claimed that I misspelled one word, so they wouldn't let me pass.

Q. Claimed you misspelled one word?—A. Yes, sir.

Q. Was Brooks and Porter on the election board?—A. Yes, sir.

Q. And they were both colored?—A. No; one was a white man and the other colored.

Q. And Jim McDaniel was on, was he?—A. Yes, sir.

Q. And in your writing of the section of the Constitution they claimed you misspelled one word?—A. Yes, sir.

Q. And rejected your vote?—A. Yes, sir.

Q. Were there very many colored men permitted to vote at the 1910 election?—A. Not overly many.

Q. In the 1912 election was the test applied to very many of the colored voters?—A. There were while I was there.

Q. How long was you at the polls that day?—A. I suppose I was there about half a day.

Q. Were there any colored male persons of voting age in your precinct that didn't vote at the November election, 1912?—A. As well as I could recollect, there was.

Q. Do you remember any of the ones that did vote?—A. Mac McClellan was one. There was a great many; there was several went in and brought the writing and all out and showed it to a good many of the people that was there; they showed this writing that they done. Of course I looked at it, too.

Q. They wouldn't let you vote?—A. No, sir.

Q. Say, Governor, wasn't there a good many negro voters who thought they couldn't pass the test that didn't go to the polls?—A. Yes, sir; that's right; I started not to go myself, and started home. There was lots there that wouldn't go in; I tried to get some to vote after I had gone in myself.

Q. They wouldn't try?—A. No; they wouldn't go in; afterwards said they knew they wouldn't let them vote.

Q. Didn't the colored people that had been in the habit of voting, after being rejected in 1910, become discouraged and in the 1912 election refused to attempt to vote?—A. Yes, sir.

Q. Was there any talk out in your neighborhood or amongst the colored people in your precinct to the effect that anybody would make trouble or cause any trouble to the election board if they didn't get to vote?—A. I don't know anything about that.

Q. Never heard of any such?—A. No, sir.

Q. Was it the general feeling amongst the colored men that this grandfather clause had cut a lot of them out and they would submit to it until it was settled by the court?—A. That was the feeling among a great many; yes, sir.

Q. You were surprised when you got to vote in 1912?—A. Yes, sir; because I thought those fellows would act just like they did before. Of course, everything was all right before if it just hadn't been a man that didn't like me.

Q. Which one was that?—A. That was Porter.

Q. You think you would have got to vote first if he hadn't been prejudiced against you?—A. That was all.

Q. Can you give an estimate of the number of colored men of voting age who didn't vote at all at that election in your precinct?—A. Not exactly, I couldn't.

Q. Can you approximate; about how many do you think there were?—A. You mean in this 1912 election?

Q. Yes; 1912.—A. I wouldn't like to just say, because I never had felt that I would ever have to speak about the matter. So I wouldn't like to say, because I ain't going to tell anything only just exactly what I know. I wouldn't like to guess at the number.

Q. Do you think there was as many as 10 or 15 or 20?—A. I feel like there would be that many; yes.

Q. But you haven't counted them up?—A. No, sir.

Q. You had several candidates' meetings out there, did you, and picnics and public meetings during the campaign?—A. The people did, and I visited, I believe, about three.

Q. Had meetings out there, sometimes two or three a week, in that precinct?—A. Some did.

Q. Visited by candidates or people making speeches?—A. I visited three; two or three; yes, sir.

Q. There was never any talk at any of those meetings about causing any trouble?—A. No, sir; not where I could hear it.

Q. And wasn't it urged by the candidates who were running on the ticket that none of the colored people should offer to vote except those who could comply with the law?—A. I suppose so. I am a man this way: Candidates don't bother me very much. I am a man whatever I am going to do I do that, and I don't be led.

Q. These candidates didn't come out—Candidates Bill Mitchell and others—and chop cotton for you and hoe your corn?—A. No, sir; I was busy; I had that to do myself.

Cross-examination by Mr. FEUQUAY:

Q. Governor, you said that the law had been strictly enforced out there—the grandfather law. What did you know about the grandfather law?—A. As to what I know about it, I guess it wouldn't be very much, because I hadn't studied very much about the grandfather law, since when I read that law I read it and passed on away; and I had other business to attend to, and I wasn't studying very much about the grandfather law.

Q. You don't mean you read the grandfather law to them; you read a section of the Constitution to them?—A. Yes, sir.

Q. You say they didn't allow you to vote in 1910?—A. No, sir.

Q. Did you read for them in 1910?—A. Yes, sir.

Q. How much did you read?—A. I read one section, I believe.

Q. You read it so they could understand it?—A. I guess so.

Q. You don't know now you read it so they could understand it?—A. I supposed they understood it.

Q. Do you know what section it was?—A. No, sir.

Q. Do you remember what the section was about?—A. No; I don't remember now.

Q. What did you write for them in 1910; section of the Constitution?—A. Yes, sir.

Q. They tried to read it?—A. No; I don't suppose they did. Of course, they was standing looking on, though.

Q. And they asked you to read it and you couldn't read it?—A. I did.

Q. Then when you read the writing you read only one misspelled word?—A. Yes; there was one letter wrote wrong, and that is what they claimed.

Q. You were reading it to them?—A. Yes, sir.

Q. How did they see that misspelled word?—A. They was looking on while I was reading. Of course, they wouldn't have knowed whether I was reading it right unless they were looking.

Q. They let you vote in August, 1912?—A. Yes, sir; but I stood the test under a different man.

Q. He wasn't as hard on you as the other fellow?—A. I don't know but what he was.

Q. You hadn't improved any?—A. I guess I was just like I was.

Q. You hadn't practiced any, had you?—A. No, sir.

Q. You couldn't read any better than you could before?—A. No.

Q. Did you write any better than you did in 1910?—A. The same writing.

Q. This fellow who tested you in August, 1912, didn't want to give you any test at all, hardly, did he?—A. I can't say that.

Q. Who was the colored man on the election board in 1910?—A. Sam Brooks.

Q. Who was the clerk?—A. I don't know whether he was a clerk or not.

Q. He wanted you to vote, didn't he?—A. No; I don't suppose he did.

Q. You said awhile ago that one of them wanted you to vote and one didn't.—A. One objected; the white man did, of course; the colored man he was standing there; he was just like most of them are.

Q. He didn't object?—A. He didn't say anything particularly.

Q. You went down to the election place about 7 o'clock, didn't you, Governor?—A. I guess it was later than that when I went there.

Q. How long did you stay?—A. In 1910, you mean?

Q. No; 1912; general election.—A. I suppose I stayed there nearly half a day.

Q. How long did it take you to vote when you went inside the house?—A. You mean to fix my ticket?

Q. No; to get your ticket after you went inside the door and fixed it and then came out again.—A. I suppose I might have been in there 5 or 10 minutes.

Q. During that time you got your ticket, tested the grandfather clause, and voted your ticket and came out again?—A. Now, they put us off in this other room here, and they put us in the west room to do this writing, and the man McDaniel, he went back in the other room where they was voting, and he didn't come back right away. By the time we were done he didn't come back there. I guess he was gone 15 or 20 minutes, or might have been gone—he didn't come right back, but stayed in there, and I think probably he called in some one else—two more, probably—before he come back to where we were.

Q. How many were in there taking the test at the same time?—A. There were two; one beside myself.

Q. After you finished voting, where did you go, Governor?—A. After I voted there I walked over across the street to the other precinct; that is, I went over there for a few minutes and went back over to our own side.

Q. After you finished voting you never were inside the ropes?—A. No, sir.

Q. Where were you standing; you couldn't see inside as to what kind of a grandfather test or whether McDaniel was applying any at all, could you?—A. I didn't pay any attention to that.

Q. You couldn't hear whether they could read or write?—A. I don't know.

Q. McDaniel let you vote in August, 1912, and didn't give you any test in November, 1912, at all, did he?

Judge BURFORD. Objected to as a misstatement of the witness's testimony.

Q. Did McDaniel give you the grandfather test in August, 1912, at the primary election?—A. Now, give me a little time to think about this matter. This test that I took to vote in this election, it was from McDaniel in 1912.

Q. You only took one test from McDaniel?—A. Yes; one test from McDaniel; that was when it was—in the last election. You see I took the test—I took the test in the primary election, and the last election I had done passed in the primary election; this other election didn't have to be tested; that's the way that was. Every man that passed in the primary election they didn't test him in the election when the election come on; that's the way it was now, because when I stood the test at the next election I didn't have to go through no test. That's the way that was.

Q. In November, 1912, at the general election, you didn't go into this room, this west room, with McDaniel and take any test, did you?—A. Like I say, I disremember, but in one or the other elections I didn't, because I had passed, and I know it was in the primary election for the reason that when I passed, and in the next election I didn't have to take any test.

Q. You know this Mac McClellan well?—A. Yes, sir.

Q. Why didn't he go to vote that day?—A. Mac went up there.

Q. Mac was there at the voting precinct?—A. Yes, sir.

Q. Did he make any attempt to vote?—A. He had; it was just about the time I come up; he was out at the end of the rope, and they were talking with Mac about something or another—about going back to try to vote again, and Mac said, "No; they won't let me vote." I didn't see him in the house. He says, "They won't let me vote, and there's no way but to go back." Some of them talked to Mr. McDaniel about it when I went in to stand the test, and he says, "I can't do it," and they commenced talking about his blood and what he was, and Mr. McDaniel say, "I can't let him vote on that," and they passed him on into the room; but, anyway, Mac never did get to vote.



Q. Did you try to get Mac to go in and vote?—A. When I went back out they were talking; I didn't mingle with them at all no more: I said to Mac, "Of course it was like this: You and nobody else can afford to run up against any one; if you ain't entitled to vote they won't let you vote. Just go on about your business."

Q. Who did you try to get to go in and vote?—A. I disremember the fellow now; one man that had done his writing and read to them, and I disremember him right now. Any way, he go out and was talking there, and the boys said, "Wait awhile." and I said, "Wait awhile and go back and probably they will accept the writing and reading and let you pass." But I don't know whether he went back or not. Several of them did go back up toward the door, and he said, "I ain't ready for you yet, and you will have to wait until later," and he said, "You have been in here once, and if there is any chance for you again after a while I will see about it." I could hear him.

Q. You went down there to vote for some special candidate, didn't you, at the election?—A. I suppose I did.

Q. Who was it you went to vote for?

Judge BURFORD. That is within the privilege of the voter. The law does not permit a voter to be required to disclose who he votes for unless he voluntarily does it, unless his vote is illegal.

Redirect examination by Judge BURFORD:

Q. Where were you born?—A. I was born in Tennessee, in Meigs County; Decatur is the county seat.

Q. How long have you been able to read and write?—A. I suppose any way 35 or very nearly 40 years.

Q. Where were you educated?—A. In Meigs County.

Q. Did you attend the common schools or private school?—A. Our common school; yes, sir.

Q. Public school, was it?—A. Yes, sir.

Q. Separate school for the colored?—A. Yes, sir.

Q. How long did you attend school?—A. I went to school from the time I was just about 9 years old until I was 20; I went to school one year after I was married.

Q. You went a short period each year, did you?—A. Yes, sir; we would have from four to six or eight months like that.

Q. Each year?—A. Yes, sir; each year.

Q. Since you arrived at manhood you have been able to read and write?—A. Yes, sir; a man can get my writing in Washington city; I served the Government four years, and sign many a pay roll and all like that.

Q. You were in the Regular Army?—A. No, sir; I was on the survey and repair of Government vessels on the Tennessee River; worked four years.

Q. You owned land in Cimarron Township, South Cimarron?—A. No, sir; no more than a town lot in Meridian.

W. H. HORNADAY, sworn and examined, testified as follows:

Direct examination by Judge BURFORD:

Q. State your name.—A. William H. Hornaday.

Q. What is your age?—A. I am 68 years old.

Q. Where do you reside?—A. I reside in Guthrie.

Q. What is your profession or business?—A. Engaged in newspaper work.

Q. How long have you lived in Guthrie?—A. I was here in 1889; been away several years, and came back about two years ago.

Q. How long have you lived in Oklahoma?—A. I was with Dave Payne among the sooners; as soon as the country was opened: I got in legally, and been here ever since.

Q. What is your nativity?—A. Indiana.

Q. Colonel, what was your relations to the newspaper known as the Guthrie Daily Star during last October and November?—A. I was editor of the Guthrie Daily Star.

Q. Who had the control or management of the editorial department of that paper?—A. I was responsible.

Q. There were a number of articles appeared in that paper prior to the November election on the subject of the so-called grandfather clause in the constitution of Oklahoma and the right of colored persons to vote. Who prepared those articles?—A. To the best of my recollection I prepared all of them.

Q. You may state whether or not any of those articles were suggested, dictated, or requested by Bird McGuire, the Republican candidate for Congress.—

A. Not to my recollection now; I don't remember of any suggestion from Mr. McGuire along those lines, or any other lines in fact, during the campaign, because I saw very little of him.

Q. What relation did Harry Maxwell have to the paper during the period just preceding the election?—A. He was city editor of the Guthrie Daily Star.

Q. Did he afterwards become private secretary to Mr. McGuire?—A. Yes, sir.

Q. You know what time he took that position?—A. I don't remember just the date.

Q. Before or after the election?—A. It was after the election, I think. I would like to qualify that answer by saying that it was just after Mr. Croxton was selected for postmaster at Medford. Now, as to just the date, I will not try to specify.

Q. Was Harry connected with the campaign headquarters in any way during the time he was working on the paper?—A. No, sir; only as he might drop around to get items of news. He was too busy where he was.

Q. Was he, prior to the election, connected with any of the campaign committees that you know of?—A. No, sir.

Q. Were any of the printed articles appearing in the Guthrie Daily Star, prior to the November election of 1912, furnished to you by Mr. McGuire's campaign committee or any person connected with his organization?—A. As to the editorial department, none whatever; no, sir.

Q. As city editor of the paper, what character of work was Harry Maxwell engaged in?—A. He was looking after the news exclusively.

Q. Local news?—A. Yes, sir.

Q. The paper was started here to run as a Republican paper?—A. Yes, sir; I was living in Lawton, and they had two Republican papers there, both of them morning papers, and I was interested in the company that owned one of them, and we managed to consolidate those two papers, both of them owning good printing plants, and when that result was secured, we looked about where to place the idle plant, and I had lived in Guthrie and knew Guthrie people, and, I think, it was the president of the chamber of commerce that suggested to me that there ought to be another paper, especially a morning paper, in Guthrie, and I came up here, talked with them, and then I brought Mr. Maxwell, and also the man who was managing and owning the consolidated concern at Lawton, and the result of that was that we concluded that this was a good field, and removed that idle plant to Guthrie. It was the Morning Star that we were printing, started it here.

Q. Your paper, the Guthrie Daily Star, took an active part in supporting the measure to relocate the capital at Guthrie, I believe?—A. Yes, sir; very active, yes.

Q. And that was promoted by an organization here in Guthrie known as the State capital location committee?—A. Yes, sir; under suborganization of the chamber of commerce.

Q. During that campaign you daily mixed generally with the citizens of Guthrie and became generally acquainted with what was going on in any public way, did you?—A. I tried to; yes, indeed.

Q. I will ask you if there was any sentiment by the State capital campaign committee or any intention, so far as observed by you, to have persons who were not qualified to vote permitted to vote at that election in order to increase the vote for the location of the capital?—A. No, sir; no, indeed. There was frequent discussions among the managers of the campaign and myself, almost daily discussions as to the lines of conducting the campaign, and also discussing what the campaign managers at Oklahoma City were doing, and there was a strong disposition and quite a determination to keep out all propositions of a questionable character, because the matter might come up and be decided in the courts; that is, we thought it was a possibility wherein the legality of any of these lines of work or votes cast might determine, and there was a disposition and determination to avoid any such thing. We knew that Oklahoma City was planning something along that line, and it was the determination of our people here to avoid anything or any entanglements of that kind.

Q. I will ask you if it wasn't the determination of the State capital campaign committee to have, as far as could be, an absolutely pure and straight election in Logan County, in order to avoid losing the county in the event we might succeed?—A. It was absolutely the primary proposition; couldn't afford to injure the result by any questionable line of work or anything of that kind—

clean and aboveboard. And I might say that there were a few people in the campaign, not only in this county but from other counties, who from time to time suggested that they were doing so-and-so in Oklahoma City, and we might with safety pursue the lines similar without injuring the result, because we couldn't be any worse than they were. Those things were talked over, but always had to be abandoned, because we wouldn't consider it for a moment.

Q. It has been, at the suggestion of counsel for contestant admitted in this record that prior to the election in November, 1912, the city of Guthrie had authorized a bond issue of \$100,000 for park improvement purposes. You may state from your knowledge and observation what occurred prior to the election in connection with that park fund, whether a dollar of it was ever used in any way to promote the State capital scheme, except as some of it might have been used in the way of advertising the mineral waters?—A. Now, I will not state that I positively know that there was none of it used, but I will state that I am almost certain if there had been I would have known something about it.

Q. I will ask you if you didn't attend public meetings in which prominent citizens in this city, and some of them Democratic candidates, advocated taking part of that fund and using it to promote the capital election, and the city authorities absolutely refused?—A. Yes, sir.

Q. To permit a cent of it to be used for such purposes?—A. That is a fact, not only at public meetings but also in private talks where, perhaps, the most prominent persons present were Democrats, and it was urged and argued that it was the proper thing to do; and while the city refused because illegal, and later positively refused to consider for a moment, several prominent people, among them prominent Democrats, urged that they would see that there was an order made to avoid any questionable feature.

Q. I will ask you if the prime mover in an effort to procure the city authorities to divert that fund for capital purposes wasn't one Frank Olsmith, a Democrat, who has testified in this case in behalf of the contestant?—A. He was one, I think; yes, sir. He was very energetic and outspoken and insistent.

Q. And publicly condemned the city authorities for refusing to grant his request?—A. Well, he severely criticized them and insisted that they shouldn't be so, as he suggested, so mealy mouthed about a little matter of that kind.

Q. And contended that Oklahoma City had voted bonds and raised a fund and used their money and delivered their money, and we ought to do the same thing?—A. Yes, sir.

Cross-examination by Mr. FEUQUAY:

Q. Col. Hornaday, what regiment did you belong to in the Civil War?—A. Sixty-third Indiana.

Q. Have you been in the newspaper business in Oklahoma since you came here?—A. Not all the time I was in Lawton I wasn't actively engaged in newspaper business.

Q. You brought the Lawton Star to Guthrie and changed its name to the Guthrie Daily Star; you had some arrangement with citizens of Guthrie, hadn't you?—A. Yes; some arrangements.

Q. You talked the matter over with citizens of Guthrie?—A. Yes, sir; and received encouragement from them.

Q. You talk to any Republican politicians of Logan County?—A. Very little.

Q. Did you talk with the county chairman?—A. No, sir; at that time I didn't know who the county chairman was.

Q. Had you ever, at any time before you moved the Guthrie Daily Star, talk with Bird S. McGuire, Congressman, about moving it to Guthrie?—A. No, sir.

Q. After you moved it here and before the campaign of 1912, did you talk with Mr. McGuire about the paper?—A. No, sir; not any more than in a general way.

Q. And in the campaign for the nomination in August, 1912, which one of the candidates for Congressman on the Republican side—for Congressman for the first district—did you support?—A. Between Hickman and McGuire, the Star supported McGuire at that time for Congressman.

Q. The Guthrie Daily Star then supported Mr. McGuire in his entire campaign for Congress in 1912?—A. Yes, sir; and without any conference with Mr. McGuire at all. I may say that in my relations to Oklahoma politics I had known of Mr. McGuire's work, although I wasn't very well acquainted personally with him, not having lived in his district very much of the time

while he was a Member of Congress, and as between the two candidates we very much preferred Mr. McGuire.

Q. You had lived in the Territory while Mr. McGuire was representing the Territory in Congress?—A. Yes, sir; but at that time I wasn't personally acquainted with him.

Q. Do you know who was Mr. McGuire's headquarters representative in Guthrie?—A. I took it to be Mr. Croxton. Whenever there was anything to be done he seemed to be in the field and looking after it.

Q. Where was Mr. McGuire's campaign headquarters in 1912 in Guthrie?—A. In the Ione Hotel.

Q. Who usually stayed in the rooms at the Ione Hotel, where Mr. McGuire had his headquarters?—A. I was so seldom in there; I think Mr. Croxton was there most of the time, or seemed to have charge of it, as far as I noticed.

Q. Various articles published in your paper between the primary election and the general election of 1912 were prepared in your office, were they not?—A. The most of them, I think.

Q. You had no correspondents at the different places at which Mr. McGuire spoke during his campaign for election in 1912?—A. At some of the places, yes; we had local correspondents, persons that usually had assisted us in obtaining public subscribers for people in that locality. Usually they kept us posted as to anything that was going on. We had arrangements with quite a number of those people.

Q. Were any of these dispatches purporting to have been written by your correspondent at various places where Mr. McGuire made speeches during his campaign handed to you through his campaign headquarters?—A. Not that I recollect of.

Q. This information and the material which you published about Mr. McGuire's campaign came to you through his headquarters?—A. I will qualify as to this question. The city editor, Mr. Harry Maxwell, was about for that kind of news, and he may have obtained information or something along those lines which he utilized; but as to that I couldn't say. If he did, it was to a very limited extent, because the most of the matter come either over the telephone or through correspondents.

Q. Col. Hornaday, did the Republican press of the first congressional district support the Guthrie Daily Star in the campaign for the election of Mr. McGuire?—A. So far as I remember. I never paid much attention to the proposition.

Q. You are reasonably well acquainted with the Republican editors of this first district, including these counties around Logan, aren't you?—A. Yes, sir.

Judge BURFORD. Objected to as incompetent, immaterial, and not competent cross-examination.

Q. What do you know about the change in editorship of the Medford Star in the campaign of 1912?

Judge BURFORD. Objected to as incompetent and immaterial, and not proper cross-examination.

A. I know nothing about it whatever.

Q. Don't know when Earl Croxton bought the Medford Daily Star, or the Medford Star?—A. I can't tell you as to the date. It was a matter I paid very little attention to.

Q. You don't know when Croxton left the headquarters in Guthrie to go to edit the Medford Star?—A. I knew when he did go, but I couldn't tell you the date and I don't know. Earl Croxton never told me; I didn't meet him very often, and there is lots of things he might have told me; I was pretty busy and there was lots of things we didn't talk about, and when I did meet him just for a moment's talk and ask him a few questions in a general way, I didn't know that he was contemplating taking the Medford Star until he had left the city, and I heard that his announcement would be in the next issue of the Medford Star.

Q. When was that, if you remember?—A. I don't remember as to the date.

Q. In regard to the election of 1912, before or after?—A. I will give you my impression, and it is only an impression, because I paid so little attention to it. I think it was before the election; that is my impression.

Q. Was it your duty to hire all the editorial force under you?—A. Yes, sir.

Q. Do you remember what time Harry Maxwell left the service of the Guthrie Daily Star?—A. Not without looking at the records as to the date; no, sir.

Q. You knew Harry Maxwell well, didn't you?—A. Yes, sir.

Q. Can you remember whether he went into the service of Congressman McGuire before or after the election in November, 1912?—A. From memory I wouldn't undertake to answer that positively. My impression is it was after the election.

Q. You don't remember?—A. No; I don't remember the date, because it was a matter of record; the business manager kept the books, so that whatever I told him that was out of my mind.

Q. Do you remember how frequently Mr. Maxwell was in the headquarters of Mr. McGuire in the Ione Hotel during the campaign?—A. Harry Maxwell was about the city every day; he would begin his work about noon, and it lasted until about midnight or a little after, and his duty was to cover all the news points in the city. As to just where he went or when he went I don't know, because that was a matter of his convenience, and his duty was to get the news whenever it was opportune to visit certain news centers; that was the arrangement.

Q. You don't know how often he was in Congressman McGuire's headquarters?—A. No, sir.

Q. Col. Hornaday, do you remember a letter published in the columns of the Guthrie Daily Star during the campaign in 1912, from the county attorney of Logan County concerning the Homer N. Boardman letter about the enforcement of the grandfather law?—A. Yes; I remember there was a letter.

Q. Can you tell me how you happened to see that letter from the county attorney? Was it at your request?—A. No, sir; I think that Mr. Boardman sent him personally a copy of that letter; that is my recollection of it.

Q. You published the Boardman letter?—A. Yes; I published the Boardman letter.

Q. Then the following day or some few days thereafter you published a letter from the county attorney of Logan County, John Adams, about the Boardman letter and about the enforcement of the grandfather clause? Do you remember how you happened to receive that letter?—A. I think Mr. Harry Maxwell secured the letter in his local rounds of the city.

Q. You don't know whether he asked for it or whether it was given him voluntarily?—A. No, sir; I do not.

Q. And you had nothing to do with publishing the letter?—A. Not that letter; that was the city news department.

Q. I believe you said that you had charge of all the articles in the Guthrie Daily Star about the enforcement of the grandfather clause with the exception of this Adams letter, did you not?—A. Yes, sir.

Q. What was your direct purpose in publishing those articles?—A. Well, sir, it was a general, presidential, and congressional election, and I may say that my observation during what few years I have been active in affairs of the country and public affairs I was very thoroughly convinced—in fact I heard on the floor of the legislature an announcement by advocates of the grandfather clause that they were simply after the negro vote and determined to get it, and I had very strong and decided convictions as to the purpose of the originators and advocates and supporters of that grandfather clause. In my opinion it was unjust and unfair, and I have always made it a point all my life, if I could see anything unfair, even in a dog fight, I was with the fellow who was being abused, and that was one reason, besides various other reasons, that I was very willing to print all, make public all opinions tending to show up just what the intent of the lawmakers and the administration was in trying to enforce the grandfather clause.

Q. Your purpose in publishing those articles was to influence the election officials of the first congressional and other districts of the State of Oklahoma?—A. I didn't care anything about influencing anybody; I had my ideas of the right and wrong of it, and that was the first proposition in my mind, and all officials who had accepted positions of trust to execute the laws.

Q. At the time of the general election in 1912 and at the present time you don't believe that the grandfather clause is a just law and should be enforced at all?—A. No, sir; I do not believe it.

Q. And that was the idea you intended to convey by your articles in the columns of the Guthrie Daily Star?—A. Yes, sir.

Q. What position did the Guthrie Daily Star hold among the Republican press of the State of Oklahoma in the last general campaign?—A. We were trying to make the Guthrie Star a paper of some little influence in a modest way. We were not assuming to be leaders or dictators.

Q. You were aware that the Guthrie Daily Star was considered the leading Republican daily of the State?—A. No; I will admit that, quite; desiring to be, perhaps; I will not assume that; but the Star was hoping to build up a circulation and influence that would amount to something in the State; it was a newspaper and for the Republican Party.

Q. It was by far the largest and leading Republican daily in the last campaign in the first congressional district, wasn't it, Colonel?—A. I believe that was a fact.

Q. It was considered by the people of the first congressional district as the leading Republican organ in this district, wasn't it, Colonel?—A. I won't answer for the people; I might say that I considered it so.

Q. You read the exchanges from the first congressional district during the campaign in 1912?—A. Well, yes; I read them, and still, if you know how a newspaper man reads, he does it very hurriedly.

Q. Is it your impression from the way you read those exchanges that practically all of those articles were published in all the smaller Republican newspapers of the first congressional district and labeled from the Guthrie Daily Star?—A. To some extent that was a fact.

Q. From your reading of these exchanges, didn't you gather the fact that they considered the Guthrie Daily Star as the leading supporter of Congressman McGuire for reelection in the campaign of 1912?—A. I noticed that in the exchanges that they were quoting a large number of Republican papers over the district, not exclusively by any means from the Star. Of course the Star was a daily paper and had the opportunity of printing more items because of the frequency of the publication, whereas many of them were weeklies, and being quoted they only had the opportunity of reaching the exchanges once a week, whereas we reached it once a day.

Q. Col. Hornaday, did you give any orders to Harry Maxwell, as city editor, concerning what material he should publish about the Bird McGuire campaign for Congress in 1912?—A. Along what line?

Q. Along the news line; that is what I understood him to be, news editor?—A. No, sir; no special orders that I can recall.

Q. Wasn't it understood in the office of the Guthrie Daily Star that it was the policy of the Guthrie Daily Star to publish, if possible, a news dispatch about Congressman McGuire's campaign every day purporting to be from the place where he spoke on the preceding day?—A. Not necessarily; no, sir. As a matter of fact in the space we had it was sometimes impossible to give room to that every day. When there were important meetings at some towns and we could get in touch with them either by phone or some one sent in a note about it, we tried to cover those things; any of the important meetings for that matter.

Q. You tried to cover all the meetings where Congressman McGuire spoke in the first congressional district?—A. Not necessarily where he spoke; we tried to cover all the important Republican meetings; that was the primary point we had or desired.

Q. You always published in the columns of the Guthrie Daily Star an article when Congressman McGuire and the Democratic candidate, John J. Davis, were in the same vicinity in their campaigns?—A. Well, I can't say that we always did; if we could, we tried to.

Q. You supported Mr. McGuire editorially, didn't you?—A. Yes; sure.

Q. And you gave him more space than the other candidates in proportion to his office?—A. If he was given more space, it was because the matters were shaping up so as to demand it; but we tried—and I may say that I was very much interested in all the candidates for Congress at large and was trying to give them a very energetic support, because I considered—hoped, at least—we had some show of electing the candidates for Congress at large—tried to give them an energetic support. My recollection is now that, as between candidates at large and Mr. McGuire, we gave them a very fair showing; that is my recollection.

Q. Candidates at large, or one of the candidates at large, was interested in the Guthrie Daily Star, wasn't he?—A. Not after the primaries; no sir.

Q. Before that time he had been?—A. Yes, sir.

Q. Were any of the parties interested financially in the Guthrie Daily Star during the campaign of 1912 particular friends of Bird McGuire?—A. No, sir; not especially; no, sir.

Q. Not any more friendly than you were yourself?—A. No, sir.

Q. There was some talk in the inner circles of the chamber of commerce, was there not, to let down the bars in Logan County and let everything vote, on account of the capital election?—A. Yes; there was such talk.

Q. You were very much in favor of the proposition to relocate the capital at Guthrie?—A. Yes, sir.

Q. And all business men and merchants and prominent citizens of Guthrie were equally as ardent in support of Guthrie at the capital election?—A. Yes, sir.

Q. And that subject was broached in the inner circles of the chamber of commerce by some of the ardent supporters of Guthrie?—A. Yes; all sorts of propositions. They were daily and nightly discussing means and methods of winning that election, and in those discussions every sort and kind of proposition was proposed, and to some extent discussed, because of the very earnest and energetic campaign.

Q. Any official action at that time taken on the proposition?—A. Yes; I may say that on the most of them official action was taken. They were turned down.

Q. Official action of that committee regarding the proposition of letting down the bars in Logan County wouldn't bind any partisan supporters of Guthrie if they wished to go further in the matter, would it?

Judge BURFORD. Objected to as a mere argument and not calling for a question of fact.

A. Well, the advocates of locating the capital at Guthrie were very strongly united, and it was my understanding that nothing should be done without the consent and assistance of the campaign committee; and while there were several things discussed in that campaign committee, when the committee turned them down that seemed to be the end of it and, so far as I know, was. Nobody proposed to do anything that they didn't approve.

Q. You were very ardent through the campaign of 1912, weren't you?—A. Yes, sir; rather so.

Q. And the principal part of your time was taken up with advocating the success of the Republican Party and advocating Guthrie as the place for the relocation of the capital?—A. To quite an extent; yes, sir.

Q. About all of the work you did for Guthrie was done editorially, wasn't it, Colonel?—A. As to newspaper work; yes, sir.

Q. You had no time to take part on any other committees appointed by the chamber of commerce?—A. Well, to some extent. I made a few trips over the State; they were very short.

Q. Most of your work was done through the Guthrie Daily Star?—A. Yes; that is true; and in the conferences of the campaign committee.

Q. Col. Hornaday, how long after the campaign was it that the Guthrie Star suspended publication?—A. I think it was the 10th of December; along there.

Q. The election was on November 6, wasn't it?—A. Yes, sir.

Q. About a month after?—A. Yes, sir; a little over a month.

Redirect examination by Judge BURFORD:

Q. Colonel, from your information and what you heard from leaders of the dominant party in Oklahoma, you were led to believe that the purpose in enacting the grandfather clause was in order to deprive the negro entirely of his right of suffrage, and at the same time try to keep within and not violate the fourteenth and fifteenth amendments to the Constitution?—A. Yes, sir.

Q. And wasn't it talked by dominant members and leaders publicly—by leaders of the dominant party—that the purpose was to keep the negro from voting, and that the provisions of that law should be so enforced as to prevent them from voting entirely?—A. I would consider it was the purpose.

Q. Isn't it a matter of public knowledge that in the election of 1910 the inspectors were directed by dominant leaders to so enforce the law as to prevent colored men from voting, notwithstanding they might be qualified under that law?—A. At the election of 1910 I voted in Lawton, and that was the purpose and was strictly carried out there.

Q. Wasn't the prosecutions that were instituted by the United States Government understood by persons in your position to be against those persons who had unfairly attempted to execute that law and kept persons from voting who would otherwise have been entitled to vote under it?—A. That was my understanding; and, so far as my observation went, that was my personal observation in 1910.

Q. Subsequent to that time the supreme court of the State rendered a decision in which it was held that the election officers must fairly enforce that law and not subject colored voters to unusual, arbitrary, and unnecessary tests?—A. I remember the decision along that line.

Q. And didn't the attorney general of the State render an opinion to the same effect, that election officers who took advantage of their position to prevent colored men from voting, or held them in from voting who would be entitled to it under the law, would be themselves liable?—A. I remember something of that kind being made public in the State press.

Q. Now, wasn't it the purpose of the Republican press and of the minority party during the campaign of 1912 to impress upon the public that those who were entitled to vote under the provisions of the grandfather clause must not be deprived of their vote, and that those who could not qualify under it should not attempt to enforce their rights?—A. That was the general sentiment, and that in the councils of not only the Republican Party, but locally in the councils of the campaign committee, the capital proposition was generally discussed.

Q. I will ask you if the State capital campaign committee wasn't an independent organization outside of the chamber of commerce and that campaign conducted exclusively by that State capital campaign committee, of which Mr. H. T. Swearingen, a Democrat, was chairman?—A. That was a fact. The chamber of commerce started the movement in mass meeting of all of the citizens; I think it was held in the auditorium of the city hall in my recollection now, and selected a campaign committee from the citizenship of Guthrie, and that committee selected Mr. Swearingen as chairman.

Q. I will ask you if Mrs. Finch, who was the president of the ladies' chamber of commerce and president of the Wilson and Marshall Democratic ladies women's committee, wasn't an active leader of the force in behalf of the women of Guthrie in conducting the State capital campaign?—A. That is a fact.

Q. That was a nonpartisan organization and in no way connected with the political organizations of the county or State?—A. It was nonpartisan.

Q. Composed of Republicans, Democrats, and Socialists?—A. Yes, sir; and Bull Moosers.

Recross-examination by Mr. FEUQUAY:

Q. Are you confident Mr. Swearingen was a Democrat?—A. It has been my understanding ever since I have been in the city.

Q. Do you know whether he was so regarded by the Democratic Party?—A. I am not conversant with the inner doings of the Democratic Party and do not know.

Q. Did he ever do any active work for the Democratic Party since he has been in Logan County?—A. Whatever he does along political lines has been along Democratic lines. I may suggest that that hasn't been very much.

Q. Counsel for the contestee asked a question as to whether or not you understood that the Federal court only prosecuted the election inspectors for conspiracy to keep the negroes from voting. I will ask you now if that is the impression you tried to create upon the minds of the inspectors in the columns of the Guthrie Daily Star by the articles you published?—A. As to those who were entitled to vote?

Q. As to the enforcement of the grandfather clause.—A. I think in a general way that was the line, although, as I stated before, I have no sympathy with the grandfather clause, no sympathy with its inception or foundation; and I think my recollection now is that all through some—at least portions—of what I may have written there would be found a sentiment along that line; but so far as the enforcement of the law was concerned, it should be enforced, and as announced by the Attorney General and Supreme Court.

Q. Did you advocate any enforcement of it at all in the columns of the Guthrie Daily Star?—A. At present I do not remember that I advocated any enforcement, because my sentiment in reference to the law was such that I never believed in it or its enactment.

Q. Isn't it a fact, Colonel, that you tried to create a sentiment by articles in the Guthrie Daily Star, written by yourself, that the grandfather clause was invalid and wasn't knocked out by the decision of the United States Federal Court in the Eastern District, and should not be enforced at all?—A. I suspect that there was a sentiment of that kind in writings I made at that time; that was my impression, and that decision was current.

Q. Didn't you further try to create the impression that under no case could the State regulate the election of Federal and congressional officers by the grandfather clause?

Judge BURFORD. The question is objected to for the reason that if any such articles appeared they are the best evidence of its contents.

(Question stricken.)



Q. State if it was your impression, after reading the Boardman letter, that it purported to tell the election officials of this State that the grandfather clause could not be enforced at all?—A. That is my impression, although it was some time ago, and a good many things happened; with the voluminous matters that I had to read and write about I couldn't say positively, but that is the impression I have at present. The letter was printed; it was one of those things that occur from day to day, and every day brings forth something new, so that you are always handling what is on top and latest.

Q. Col. Hornaday, I will read two paragraphs which were published in the Chandler News Publicist of August 2, 1912, and were clipped from the columns of the Guthrie Daily Star, and ask you if you are the author of those paragraphs:

"A statement from the United States attorney's office, made last evening, is to the effect that the officials of that office are ready and willing at all times to prosecute all cases wherein negroes are denied the right to register or to vote because of the operation of the grandfather clause.

"Any negro in the State who reports this to the United States attorney will be given immediate attention and Uncle Sam's attorneys will go right into the case and wage a vigorous prosecution, just as was done in the Guinn and Beal cases."

A. I don't remember exactly, but my impression is now that I wrote that item; that I had, I think, advice from the United States district attorney's office to that effect and made a notation about it. That is my impression now.

F. S. BARDE, sworn and examined, testified as follows:

Direct examination by Judge BURFORD:

Q. State your name, age, and residence.—A. F. S. Barde; 43; Guthrie.

Q. How long have you been a resident of Guthrie?—A. Since 1897.

Q. What is your business?—A. Newspaper writer.

Q. Mr. Barde, were you connected with the McGuire campaign committee prior to the election in November, 1912?—A. Yes, sir.

Q. What time did you become connected with that organization?—A. At the beginning of the campaign.

Q. And what was your position?—A. I looked after the political end of the campaign to the extent of writing campaign articles for newspapers and in seeing that the bills advertising the meetings were published and sent to the different places for distribution, and also in mapping itineraries for Mr. McGuire.

Q. Where did Mr. McGuire maintain his headquarters?—A. In the Ione Hotel.

Q. In Guthrie?—A. Yes, sir.

Q. Who had charge of those headquarters?—A. Mr. McGraw, at Ponca City, was chairman of the campaign committee, and I was there myself practically all the time. Mr. McGraw would come down from Ponca City from time to time.

Q. Then the active management of the campaign rooms was in your charge?—A. The active management of the campaign rooms was in my charge.

Q. Who had charge of the mailing out and distribution of such campaign literature as was sent out from the headquarters?—A. I did.

Q. You may state whether or not there was mailed out from that headquarters as campaign literature the so-called Boardman letters which have been introduced in evidence by the contestant.—A. Never. Not to my knowledge at all.

Q. You may state whether or not the circular designated in this record as the penitentiary warning circular was ever mailed out from McGuire's headquarters.—A. No, sir.

Q. Who, if you know, was Mr. McGuire's private secretary as a Member of Congress during that time?—A. Mr. Croxton had been; I don't recall the date, but he probably quit just before the campaign began; I don't know how soon Harry Maxwell was given the position, but Croxton was still looking after the old business that had been—whatever it was that had been under him—and Maxwell taking charge and paying attention to the current official business that came to Mr. McGuire; that was my understanding of it.

Q. Did the campaign committee as managed and directed by you under Mr. McGraw's chairmanship have anything to do with Mr. McGuire's official congressional matters?—A. Not in the least.

Q. Who had charge of that, according to your understanding?—A. Harry Maxwell and Earl Croxton, in the manner I have indicated.

Q. Did Mr. McGuire maintain an office and a private secretary at the Ione Hotel as well as rooms for his campaign committee?—A. We had two rooms; we had rooms, one across the hall; they were opposite.

Q. Was his private secretary connected with the campaign committee management?—A. He used both rooms; he worked in one room sometimes, and sometimes in another.

Q. What I desire to know is whether or not the private secretary was a part of the campaign committee organization?—A. No; he was not at all.

Q. He was conducting Mr. McGuire's official correspondence?—A. Yes, sir.

Q. Did Mr. McGuire's campaign committee have anything to do with furnishing editorial matter to the Guthrie Daily Star?—A. I do not know to what extent. Our campaign stuff in a measure was editorial, and in a measure news. That is, on different subjects they would be sent out to the different newspapers inclosed in envelopes from headquarters. They were just mailed—just simply inclosed—and, being Republican papers, they were free to use them or not use them, as they saw fit, and that was sent to the Star as well as others.

Q. And you prepared those articles yourself?—A. Yes, sir.

Q. You prepare any on the Boardman letter or penitentiary warning circular matters?—A. Nothing in which any reference or use was made of it. You see this negro question was a matter that concerned the local candidates in the counties more than anyone else, and the difference that Mr. McGuire had made was the division between the old-line Republicans and the Progressives or Bull Moosers.

Q. And the literature and matter sent out by the congressional campaign committee related to the matters affecting all the counties in the district alike in general, rather than any local questions in the several counties?—A. Most of the work was devoted to that end.

Cross-examination by Mr. FEUQUAY:

Q. Mr. Barde, I didn't catch exactly how you described the headquarters in the Ione Hotel.—A. Just what do you want to know?

Q. I understood you to say you had one room for headquarters and another room for some other purpose.—A. Judge asked me as to whether Mr. McGuire had his headquarters. I said there were two rooms there—one room that was paid for by Mr. McGuire as his official headquarters and another was paid for by the campaign committee.

Q. The one that was paid for as his official headquarters was where Harry Maxwell, city editor of the Guthrie Star, was?—A. He used both rooms: that is, Harry Maxwell did, and I really don't know which one of those rooms was paid for by Mr. McGuire as his official headquarters.

Q. At that time Mr. Maxwell was over working on the Guthrie Daily Star?—A. Well, if he was it was only incidental; I am not informed as to that. His father owned the paper, and whether he was employed on there or whether he just simply was around there because his father owned it, I don't know.

Q. At that time Mr. Croxton, formerly secretary of Mr. McGuire, had gone to take charge of the Medford Star, had he not?—A. I don't know whether it was the Star or the Patriot; it was a newspaper at Medford, anyway.

Q. Harry Maxwell was not a member of the campaign organization?—A. No.

Q. But he was acting as private secretary of Mr. McGuire?—A. Yes, sir.

Q. And so, of course, interested in his election?—A. I suppose so.

Q. And at that time—do you know whether at that time he had promised the position as private secretary if Congressman McGuire were reelected?—A. I don't know anything about that at all.

Q. Do you know anything about the purported news dispatches sent from various places in the first congressional district where Mr. McGuire had made speeches previously, to the Guthrie Daily Star?—A. They largely pursued their own course in the writing up of that matter, and I don't know.

Q. Did you, as press representative of Congressman McGuire, as you have stated, prepare any of the so-called news dispatches published in the Daily Star referring to John J. Davis as J. Jeff Davis, and published as news?—A. From where? You mean as news items?

Q. Yes; around town, but published as news items.—A. Yes; I recall that I did some of them.

Q. Some of that work was done through you and put in the Daily Star?—A. Yes, sir. I assume it was put in the Star; I wrote some articles of that kind, and they were sent to the Star and I supposed used.

Q. Did you have any talk with Col. Hornaday, editor of the Star, with reference to what he would publish in the McGuire campaign?—A. I never did.

Q. You never went over there and had any conversation with him in the office?—A. No; I don't know how friendly they were in the Star office. I don't mean by that that they were unfriendly; but, so far as I was concerned, I did the work this way: I mailed the articles to the Republican newspapers; they were then free to do just as they pleased in the matter. If they were Bull Moosers or the old-line fellows they could solve the question themselves, and it was left to them.

Q. You have been a resident of Guthrie for a good many years, have you?—A. Yes, sir.

Q. As a newspaper man, you are reasonably well acquainted with the political conditions?—A. I think so.

Q. Can you tell me whether when United States Attorney John Embry resigned and United States Attorney Homer N. Boardman was appointed, was Mr. Boardman the choice of Congressman McGuire?—A. I don't know anything about that; I don't know anything about that in a positive way; as a matter of fact my remembrance would be that he was not, and that Boardman was exclusively the choice, particularly of Dick E. Morgan, and if it hadn't been for Morgan wouldn't have received the appointment.

Q. Now, connected with McGuire's headquarters, did you ever visit the county headquarters?—A. I don't think I was in the county headquarters possibly more than once.

Q. Whenever at any time did you see this Homer N. Boardman letter?—A. I think the first time I saw the Boardman letter was in the newspapers, possibly the Oklahoman.

Q. Did you ever see a copy of it printed on a letterhead?—A. Not that I recall.

Q. Were any of them, to your best remembrance, mailed or brought in any other way to the headquarters that you occupied in the Ione Hotel?—A. No. I wasn't touching that thing at all.

Q. Did you ever see the so-called penitentiary warning circular?—A. I don't recall that circular in a circular form; I think I saw that in the newspaper first.

Q. You don't recall whether you saw it in circular form?—A. No; I do not.

Q. Do you recall seeing either one of these, the Boardman letter or the warning letter, at the county Republican headquarters of Logan County?—A. No; I don't recall having seen it there. The only time I can recall being in the headquarters I went up there to see something about a meeting at Crescent; that is, to see that the county candidates would be there; if Mr. McGuire could be there.

Q. At that time you didn't see any of those letters?—A. Not that I recall.

Q. You say that the impression in the McGuire headquarters was that the enforcement of the grandfather clause was purely a local matter?—A. No; I didn't say the impression at headquarters was that; I said that my impression was, the way I looked at it, was that it was an issue I didn't care to get mixed up in at all, if I could avoid it, and that naturally the county campaign committees were meeting that first anyway, and so I devoted my energies to the more pressing and important and entirely different matter of the campaign. We discussed the national issues to more extent than we had done before.

Q. From your previous experience you knew that nomination on the Republican ticket in Logan County meant election, didn't you?—A. There was nothing that you could take as evidence in that matter under the changed conditions that had come up through the split in the Republican Party; you couldn't tell what was going to happen.

Q. I mean so far as the grandfather clause was concerned, if it were enforced.—A. If the grandfather clause was reasonably enforced as the Republican Party advocated.

Q. Under the conditions which prevailed at that time you couldn't tell that was the trouble with the whole campaign?—A. You couldn't tell.

Q. However, if the Bull Moosers would vote with you and the grandfather clause was enforced, you would still have a Republican majority in Logan County?—A. I would say that if the Republicans known as the old-line Republicans and the Progressives should vote together and the grandfather clause were not enforced in the way that many Democrats had said publicly it should be enforced, that then the Republican Party would stand a show of winning.

Q. From your previous experience you knew that Lincoln County was about 500 Republican?—A. I don't recall the number now, but I had looked upon Lincoln County as a safely Republican county.

Q. And that it would probably still be Republican if the grandfather clause was enforced legally?—A. I couldn't tell about that.

Q. In Kingfisher County, was it the impression in your mind that if the grandfather clause were enforced Kingfisher County would still go for the local Republican candidates?—A. That was an unknown quantity. Kingfisher had always been regarded as a safely Republican county, but as a matter of fact the indications were not conclusive at all in that line.

Q. From your experience, would you say that the Bull Moosers were largely recruited from the colored or white Republicans?—A. From the white Republicans.

Q. Mr. Barde, I will ask you if while you were connected with Mr. McGuire's campaign headquarters you mailed a typewritten letter to all of the school land lessees of the first district of the State of Oklahoma in a franked envelope, signed by Congressman Bird S. McGuire, and dated Guthrie, Okla., October 31, 1912?—A. No; I didn't do that.

Q. Do you know whether such a letter, sent in a franked envelope and signed by Congressman Bird S. McGuire was ever sent from the Republican headquarters in Guthrie?

Judge BURFORD. Object to the question for the reason that it is not a ground of contest, would not disqualify the candidate if true, and would only be for a violation of law used to enforce the criminal law against the party offending, or for the impeachment as a Member of Congress, and would not affect his eligibility to be elected in Congress or affect the validity of his election.

A. I understood that Mr. McGuire had sent out a letter of that kind and it was in his official way; and as to how it was done, he possibly did it with a franked envelope.

Q. You don't know how it was sent out?—A. No; I am not sure about that, but I rather think he franked it.

Redirect examination by Judge BURFORD:

Q. Mr. Barde, as a newspaper man and a citizen of Guthrie, were you reasonably familiar with the campaign that was made here for the relocation of the capital prior to the November election?—A. I didn't pay very much attention to the details of that matter, because I was mixed up with the other, directing the other.

Q. Are you reasonably familiar with the public questions arising out of the adoption of the grandfather clause and its enforcement in the State of Oklahoma since statehood?—A. I think so.

Q. I will ask you if it wasn't generally understood from the statements made by leaders of the dominant party prior to the adoption of the grandfather clause and up to the election of 1910, that the concealed purpose of that provision was to deprive the colored persons of the right to vote in the State of Oklahoma?—A. In the strictly Democratic communities I have understood that certain leaders and candidates for office made that statement on the platform, and it has been generally understood.

Q. And that the enforcement of the provision was intended to be so arbitrary and unreasonable as to deprive those of the right to vote who would be eligible under it?—A. That is my understanding of it.

Q. I will ask you if that practice was not resorted to in Logan County by election inspectors during the 1910 election?—A. I was told a number of times that that was true in a number of the precincts.

Q. That those negroes who could read and write and who were eligible under the law were required to submit to such lengthy and unusual tests that they were in many instances unable to comply with it within the time prescribed by the board?—A. I have understood that, and know a good many details of how it was done.

Q. I will ask you if after the opinion of the supreme court of the State holding that such conduct on the part of election officers would be unlawful, and the interpretation given to the act by the letter of the attorney general of the State, if that interpretation was not generally submitted to by the organization of the dominant party and an effort made only to secure the votes of the colored people who were eligible under the law?—A. I think so, and I never heard, either in the county campaign or the congressional campaign, any

desire expressed to have more than the qualified legal voters, that they should be allowed to vote.

Q. Do you remember of a meeting held by the precinct election inspectors in Logan County prior to the election in 1910, addressed by the chairman of the State corporation commission, in which he gave instructions as to their duties under the grandfather clause?—A. I was not present at that meeting, but have been told about it very many times.

Q. Did you ever hear from any of the inspectors who were present what the instructions were he gave them there?—A. I can't recall that any of the inspectors who were there told me, but it was a statement commonly made on the streets that Love told the inspectors that that law was to put the negro out of business, and that it should be enforced to deprive all of them of the opportunity to vote.

Q. Did you hear of the statement that he made, that it was the duty of the two Democratic members of the board to seat the Republican members over in the corner and not listen to any protests or statements he might make, and conduct the election themselves?—A. I heard that story also.

Q. And wasn't it apparent from the conduct of the Democratic members of the election board on the election day in 1910 that there was an effort to carry out that direction by many of them?—A. I will answer it in a different way; I will answer it by saying that it was commonly talked after the election that that was attempted generally throughout the precincts in Guthrie where there were negro voters, more so in some of the precincts than in others.

Q. Depending largely upon the inspector himself?—A. Yes, sir.

Recross-examination by Mr. FEUQUAY:

Q. Mr. Barde, wasn't it the idea of the Republican Party to get out and vote all the negroes that were qualified under the grandfather clause?—A. You put it in an awkward way. It was the desire of the Republicans, as far as I knew, that every voter in the State who was qualified to cast his vote should support the Republican ticket.

Q. The idea was to get as many, as high a number as possible, and qualify them, wasn't it?—A. The idea was to get as strong a support as possible, because of the fact that the division in the party made the outcome uncertain.

Q. And the Democratic idea was to qualify as few as possible under the law?—A. My idea of the Democratic practice, as I understood it, was to prevent as many negroes as possible from voting, and to create just as wide a division between the old-line Republicans and the Progressives as possible.

Q. Just the difference in opinion, then, between the Democratic idea and the Republican idea of what the enforcement of the grandfather clause ought to be?—A. Well, it was considerably more than that from my standpoint.

Q. All you have testified to regarding what Corporation Commissioner Jack Love said and what was done at that meeting was entirely hearsay?—A. Entirely hearsay and from what I have read in the newspapers, Democratic and Republican newspapers.

Q. From your experience, Mr. Barde, as a newspaper man and as manager of Mr. McGuire's campaign in 1912, was it your idea at that time that the Bull Moose element of the Republican Party was divided between the Republican and Democratic tickets?—A. In that campaign?

Q. Yes.—A. Very slightly. The Progressive Democrats were, I thought—and it proved to be true—very well satisfied with Mr. Wilson.

Q. In speaking with reference to Congressman McGuire, in your efforts to elect him did you act upon the theory that stand-pat Republicans would follow him and vote for him?—A. Well, McGuire had a great many friends among the Progressives; he had a great many friends among the standpatters; and that was absolutely the trouble—was to get the two together and keep them from fighting among themselves, so as to support McGuire.

Q. Was Mr. McGuire recognized in the campaign as a Taft supporter or Bull Mooser?

Judge BURFORD. Objected to as immaterial and not affecting his qualifications to hold the office of Congressman.

A. Mr. McGuire was. I should say, not regarded as an ultra Progressive.

Q. Was it your idea, notwithstanding, that the Progressives would split their vote between McGuire and Davis, not having any candidate of their own?—A. There was fear, mostly on my part, that they would stay at home. It was the point to get the voters to come out; they were sore; they followed

the Chicago convention, and it was hard to get the voters out. I feared that it would be a stay-at-home vote among the Progressives and standpatters both.

Q. If the Progressives either voted for Mr. Davis or stayed at home, wouldn't the negro vote, in your opinion, in the first congressional district of the State of Oklahoma control the congressional election?—A. Do you mean by that it would have carried——

Q. Would it not have been the controlling force?—A. I don't think so.

Q. Is it your opinion that the old-line Republicans who supported Mr. McGuire and the Democrats were about equally divided in strength?—A. To the Democrats who supported him?

Q. No; that the Democrats who supported Mr. Davis, the Democratic Party, and the old-line Republicans, who supported Mr. McGuire, were about equal in size?—A. No.

Q. Mr. Barde, were you present at a Republican convention held in Guthrie, Okla., when Mr. McGuire was chairman of the resolutions committee?—A. I didn't attend that convention, but simply looked on for a few minutes and left. I don't recall whether McGuire was chairman of the resolutions committee or not; I didn't attend the convention.

Q. Did you ever see the resolutions passed by that committee?—A. I possibly have, but couldn't quote their contents now.

Q. Do you remember whether in those resolutions signed by Bird S. McGuire as chairman of the said committee William Howard Taft for President was indorsed or not?

Judge BURFORD. Objected to by counsel for contestee for the reason that it is incorporating into the record a large amount of matter which will be of no benefit to the committee in Congress in determining the question of the legality of this election and only requiring the committee to perform extra labor and consume valuable time without benefiting them in the least; and the question being submitted can only encumber the record and embarrass the committee without aiding them in coming to a conclusion.

Mr. FEUQUAY. Comes now the attorney for the contestant and states into the record that the reason for asking said question is to determine whether Mr. McGuire was a follower and advocate of the candidacy of William Howard Taft for President and that the witness has thus far evaded the question.

Judge BURFORD. On the statement of counsel, counsel for contestee renews his objection, which is wholly immaterial to the qualification of the eligibility of the candidate as to whether he supported Taft, Wilson, or no presidential candidate; is not required either by the laws of the State or the laws of Congress in order to be eligible to the votes for Member of Congress, as a candidate may support or advocate the claim of any nominee for the Presidency.

A. My remembrance is that that convention indorsed Mr. Taft.

Q. Was Bird S. McGuire, candidate for Congress from the first district of Oklahoma, a supporter of William H. Taft or Theodore Roosevelt for President in November, 1912?—A. I don't know how Mr. McGuire voted.

Judge BURFORD. Objected to for the reason that the public records of the State show that there were but four electoral tickets, one the State ticket to be voted for at the election of 1912, one that nominated the Democratic nominee, the other the Republican nominees, and one the Socialist nominees and one the Prohibitionist nominees.

JOHN CAPERS, sworn and examined, testified as follows:

Direct examination by Judge BURFORD:

Q. State your name, age, and residence.—A. John W. Capers; 42 years old; live in the city of Guthrie.

Q. How long have you lived in Guthrie?—A. Twenty-two years.

Q. Where were you born?—A. Chickasaw County, Miss.

Q. Are you a qualified voter under the laws and the grandfather constitution of the State of Oklahoma?—A. I am.

Q. You exercised that privilege at each election since the amendment?—A. I have.

Q. What position did you occupy with reference to the campaign of 1912?—A. Secretary of the county central committee.

Q. Of which party?—A. Republican Party.

Q. How long have you been connected with Republican politics in Logan County?—A. I have been a member of the committee about 20 years; I have been secretary of the committee for 16 years.

Q. Are you familiar with the colored population of Guthrie and largely of Logan County?—A. I am.

Q. Personally acquainted with the greater part of male persons of voting age?—A. Yes; I know practically all of them.

Q. Who had charge of the Republican county headquarters during the last campaign prior to the election of 1912?—A. Mr. Wolf and I, the county chairman.

Q. Frank Wolf, of Crescent, was chairman of the committee?—A. Yes, sir.

Q. You were the secretary?—A. Yes, sir.

Q. You had charge of the Republican headquarters?—A. Yes, sir.

Q. You may state whether you arranged public meetings; sent out campaign literature at that time.—A. Yes, sir; we did.

Q. Who had charge of the mail matter that was sent out from headquarters?—A. Mr. Wolf and I did all the mailing.

Q. You may state whether or not there was sent out from the Logan County Republican headquarters at any time prior to the election of 1912 any copies of the Homer N. Boardman letter in reference to the grandfather clause which has been made a part of the record in this case.—A. Not to my knowledge; I never saw one of them.

Q. Did you see any of the circulars headed, "Talk it over with your wife," and referred to in the record here as the penitentiary warning circular?—A. I believe not; I think the only thing I saw was in the Guthrie Star, something about it.

Q. Were any of these circulars mailed from the Republican headquarters of this county?—A. No, sir.

Q. Any of them left there for distribution?—A. No, sir; I don't think so.

Q. Any of the Boardman letters kept there for distribution?—A. I don't think there was a copy of them in our office at all.

Q. You may state whether prior to the election of 1912 there was any instructions given out from the Republican county committee headquarters to election officers of the county.—A. There were to our members of the election board and to the voters.

Q. Have you now a copy of the printed instructions or letter you sent out?—A. No, sir; I have not.

Q. You may state whether or not there were any instructions or directions given out to members of the election board or voters.—A. There were.

Q. State whether or not such instructions contained any directions to colored voters or others to make any trouble if they were deprived of the right to vote, or directing those colored voters who could not pass the grandfather test of resisting the right to vote.—A. We usually had our committee meetings, and at the committee meetings we had the committeemen of the various precincts present, and the candidates also. After discussing the matter among the candidates and with the committeemen, we directed them to advise the voters of their precincts where they were required to take the test to take it, and persons who could not qualify not to attempt to vote, because it consumed the time, and because from our experience in the campaign of 1910 we suffered more by having people to stamp the ballots of persons who couldn't vote than we did if they stayed away from the polls. They voted the fellows to suit themselves instead of voting as the fellows wanted to.

Q. You may state whether or not in the canvass of the vote of 1910 in this county the county election board threw out any voting precincts by reason of there being a large colored vote in the precinct.—A. Yes, sir; they threw out five negro precincts, where the negroes were largely in the majority, for the reason they claimed the grandfather law had been violated, and the county election board refused to count them, and we feared there would be an attempt to throw out those precincts again if there was any irregularity at all.

Q. Was it the settled policy of the Logan County Republican central committee to accept the provisions of the amendment to the constitution and get out a full vote of all those who could qualify under its provisions and not insist on anyone making the effort to vote who could not qualify to vote?—A. Yes, sir; it was.

Q. Have you made a comparison of the vote cast in the several precincts for Member of Congress in the election of 1910 and the election of 1912?—A. Yes; I have.

Q. Made a tabulation of it?—A. I have. It was made and certified to by the election board.

Q. Can you produce it?—A. I can.

Judge BURFORD. I will ask that this tabulation be introduced in evidence as a part of his deposition and made an exhibit in the testimony of Mr. Capers. (Instrument marked "Exhibit B" to the testimony.)

## EXHIBIT B.

	1910		1912	
	McNeil.	McGuire.	Davis.	McGuire.
Marshall.....	86	77	94	72
Orlando.....	73	101	75	87
Seward.....	43	77	51	69
Bismark.....	66	52	65	48
Oakview.....	90	58	77	64
Guthrie Township.....	50	124	47	96
Spring Creek.....	45	42	42	32
Woodland.....	47	58	58	59
Mulhall.....	105	105	104	97
Rosehill.....	44	58	50	52
Crescent.....	154	185	148	144
Cedar No. 1.....	34	34	82	70
Ward 2, precinct 1.....	66	117	65	117
Iron Mound.....	43	79	51	62
Ward 3, precinct 1.....	61	158	54	151
Ward 2, precinct 2.....	83	147	88	127
Springer.....	32	50	37	51
Ward 5, precinct 1.....	51	124	60	137
Ward 3, precinct 2.....	63	132	60	105
Springvale.....	20	50	19	55
South Cimarron.....	32	68	28	83
Ward 4, precinct 1.....	57	148	50	82
Ward 1, precinct 1.....	57	164	62	149
Ward 5, precinct 2.....	2	45	Consolidated.	
Bear Creek.....	34	78	42	70
Cedar No. 2.....	12	15	12	13
Ward 4, precinct 2.....	9	69	23	57
Antelope.....	50	138	41	49
North Cimarron.....	72	104	74	82
Iowa.....	13	111	18	77
Lawrie.....	55	82	55	64
Ward 1, precinct 2.....	47	166	35	147
	1,696	3,016	1,744	2,584

We, Frank Hindman, secretary of the Logan County, Okla., election board, and Hugh Scott, representing Hon. Bird S. McGuire, do hereby certify that the above and foregoing is a true and correct copy of the election records of the votes for Member of Congress for the years of 1910 and 1912 for Logan County, Okla.

Q. About what did the Republican vote for Congressman fall short in 1912 of the 1910 vote?—A. In the neighborhood of 500 less than 1912 from 1910.

Q. How did McGuire's vote compare with the Republican vote of the county for that year? Was it more or less?—A. I believe it was less than some—was about 500 votes shorter than it was the year before.

Q. From your position as secretary of the county central committee campaign of 1912, did you keep a pretty close observation upon the political conditions in your county?—A. Yes, sir; the best I could.

Q. You may state whether there was any portion of the colored voters who had previously been voting the Republican ticket left the Republican Party at that campaign and announced their allegiance to the Democratic Party?—A. We have a colored Democratic organization in this county.

Q. Was that composed of persons who had formerly voted and affiliated with the Republican Party?—A. Yes, sir; colored men; I can give you the officers if you want it.

Q. Who were the officers of the colored organization?—A. J. W. Matthews was president of it, and a fellow by the name of Henderson formerly was secretary, and Mr. Saddler was a member of it—E. I. Saddler.

Q. Member of the bar here?—A. Yes, sir. We have had a colored Democratic organization in this county since Douglas Russell was out to Langston.

Q. Do you know from the information you had, about what number of colored voters affiliated with that Democratic colored club?—A. Yes, sir; I have passed by while they were in session; they seemed to have about as high as 40 or 50



members. They had a public meeting in the probate court when they organized, in Judge Strang's court.

Q. Was it understood from their attitude and actions that they generally supported the Democratic ticket during that campaign and voted for Mr. Davis, the contestant in this case?—A. Yes; they seemed to be sore on McGuire more than anybody else. Ed Haynes, of Iowa Township, and quite a few of them voted against McGuire.

Q. This Democratic colored club was especially active in behalf of Mr. Davis against McGuire?—A. Yes, sir.

Q. You say that club organization also extended to Langston?—A. Well, they had a membership there. Jerry Hazelwood was a member.

Q. Langston is the seat of the Colored Agricultural and Mechanical College for the State of Oklahoma?—A. Yes, sir.

Q. And for the last five years that institution has been under Democratic control?—A. Yes, sir.

Q. And a Democratic board has employed all the professional and clerical help for that institution?—A. Yes, sir.

Q. Has that apparently made a difference in the political attitude of the people employed out there?—A. I presume it has. I think I could have had the appointment Russell has now if I had turned Democrat at that time.

Q. The president of that institution at Langston is one A. E. Page?—A. I. E. Page.

Q. Mr. Page is a very prominent, well educated man of considerable ability?—A. Yes, sir; he is.

Q. Has it been understood that he is now supporting the Democratic administration?—A. I don't know that he is. There is a man out there by the name of J. R. Johnson and one by the name of Hogan who stand in with the State administration.

Q. There was at one time one S. Douglas Russell, who edited a newspaper at Langston, who was appointed by the Democratic administration the president of the Taft Colored School? Do you read his paper any?—A. I do.

Q. You may state whether or not he is editing a Democratic paper and advocating that the negroes support the Democratic Party, which paper circulates among the colored voters in this county to some extent.—A. He edits a paper called the Tribune, a Democratic paper.

Q. Was that edited by a colored editor and owned by a colored man?—A. C. A. Buchanan.

Q. In your judgment, Mr. Capers, about how many votes of colored people did Mr. Davis get in this county at the last election?—A. The only way I could tell you is as they expressed themselves. I should judge Mr. Davis must have got 150 colored votes in this county. He has 33 voting precincts, I believe it is; he probably got an average of 10 votes from those colored precincts.

Q. Did you learn during the campaign of any Democrats in this county that were supporting Mr. McGuire amongst the white people?—A. No, sir.

Q. Is that Democratic colored organization supposed to be still in existence?—A. Yes, sir. Mr. Matthews, he is president of that organization, is an applicant for the post office at Boley, and he was insisting that the Boley post office ought to be given him as a reward for the services he has rendered the Democratic Party.

Q. Were you acquainted with one colored voter there known as Jim Noble?—A. Yes, sir.

Q. What was Jim's attitude during the last campaign?—A. Jim is a Democrat. He has been a Democrat for years.

Q. And has been an employee of the Democratic administration since statehood, hasn't he?—A. Yes, sir; Jim Noble, Bert Lester, Sam Lee. I think I could name 40 negro Democrats here in town.

Q. Did you learn that Jim had received the indorsement of the Democratic members of the legislature for the post office at Boley?—A. I saw an account of it in the paper. I usually see Jim when he comes up. He said he was sure going to get that post office down at Boley.

Q. Was he pretty active amongst the colored people in inducing them to sever their relations with the Republican Party and join the Democrats during the last campaign?—A. Yes; he has been for the last 8 or 10 years; ever since Gov. Haskell first went as governor. In fact, when Sheriff Murphy was sheriff of this county Jim turned Democrat at the first constitutional convention.

Q. Were any Democratic colored voters deprived of their right to vote at the election of 1910 or 1912 to your knowledge?—A. No; not to my knowledge, from

general information where negroes were voting the Democratic ticket. My information is from general understanding and has been that the colored fellows who voted the Democratic ticket were not challenged. I mention Mr. Luster, who was very limited in his education, if he has any at all, was permitted to vote without any test whatever.

Q. Was it understood that when a colored man was to vote the Democratic ticket he asked the inspector for a Democratic ticket, and that was sufficient to let him pass without applying the test?—A. In the primary; yes. Those colored fellows who they found come to the primaries and got a Democratic ticket, I suppose in the general election they give them a ticket.

Q. In the city of Guthrie the registration officers were all Democrats, were they not?—A. Yes, sir.

Q. And colored voters were required to obtain a registration certificate before they would be permitted to vote at the regular election?—A. Yes; they would have to register.

Q. And has it been the custom of the registration officers when any colored man announced to the registration officers that he voted the Democratic ticket that they registered him without applying any test?—A. I never heard of them refusing to register a colored man when he said he wanted a Democratic ticket.

Q. Do you know generally about what number of male colored inhabitants of the city of Guthrie over the age of 21 years have not been able to obtain registration certificates?—A. The vote in the city here has varied. Of course, it is not as heavy as it has been. My judgment is that not over 50 per cent of the negroes in the city vote. In fact, some of them had become disgusted and won't even vote at all.

Q. Is it a fact that that number of voters who didn't vote is due to their inability to pass the test, or is it due to the fact that many of them will not submit to it and decline to vote?—A. Some of them will not submit to it, and some of them have been embarrassed and you can't get them to go and vote. I talked to some fellows—good fellows—and they wouldn't let them vote in 1910, and they didn't care whether they voted at all or not.

Q. From your personal acquaintance with the colored population of the city and your business relations with them and your experience as a committeeman, about what per cent of those eligible to vote before the adoption of the grandfather clause amendment are now disqualified by reason of the fact that they can not read and write?—A. I don't believe there is more than 10 per cent that couldn't read and write—that is, given a reasonable test. That would be the class of old people. I don't believe that they have got a young man in this town under 40 who can't read and write.

Q. All of the younger element of the colored race who have grown up in the last 15 or 20 years and become of age at that time—who had the opportunity of school—are competent to read and write?—A. I don't believe there is a young man of this town under the age of 35 who can't read and write. Of course, they are not all educated, but they can read and write sufficiently to transact ordinary business.

Cross-examination by Mr. FEUQUAY:

Q. Who received the mail at the headquarters in the Republican county headquarters in Guthrie during the campaign in 1912?—A. F. W. Wolf and I had charge of it.

Q. And you didn't receive all the mail that came to the Republican headquarters in 1912?—A. I practically got all of the mail, whatever came there; both of us looked at the mail. Mr. Wolf usually went home on the 5 o'clock train, and if I got any mail in his absence I showed it to him when he came in.

Q. And you didn't get a package from Oklahoma City—State headquarters in Oklahoma City, from the Times-Journal Printing Co.; did you?—A. Not that I recall.

Q. To refresh your memory, isn't it a fact that you received a special-delivery letter from the Republican headquarters in Oklahoma City of matter printed by the Times-Journal Publishing Co.?—A. Not that I recall now.

Q. You don't recall having received such a letter from Oklahoma City?—A. What did it contain? I don't know.

Q. Did you receive any special-delivery package under a special-delivery stamp?—A. I don't know. I was working, and I got my mail—I got a dozen letters a day sometimes.

Q. And during the campaign time, immediately prior to the election in 1912, you didn't receive a special delivery package from Oklahoma City of penitentiary

warning circulars and Homer N. Boardman letters concerning the enforcement of the grandfather clause printed in the Times-Journal printing office in Oklahoma City, and distributed from the Republican headquarters in that city?—A. I don't recall whether I have ever seen them. If I ever saw one I saw it in the Guthrie Star, what purported to be.

Q. Do you know whether Mr. Wolf received this package or not?—A. No, sir; I do not.

Q. Do you know whether it was ever received at the headquarters or not?—A. No, sir; I do not.

Q. Did you have anybody in the office besides yourself and Mr. Wolf doing any clerical or other work?—A. Mr. Madden helped mail out some letters there, but Mr. Wolf and I done all the work.

Q. How long was Mr. Madden employed there?—A. He wasn't employed there at all; he was treasurer of our committee; sometimes he would go in and out.

Q. He and Mr. Wolf, as well as yourself, had free access to the office?—A. I couldn't say we did. We had a desk in there; Mr. Wolf and I were the only ones that had a desk.

Q. Have any stenographer?—A. Yes, sir.

Q. Stenographer work there all the time?—A. Yes, sir.

Q. Stenographer have access to the envelopes and other supplies?—A. Yes, sir.

Q. Mail delivered at the office?—A. Yes; mail come to the office.

Q. You at the office all the time?—A. Not all the time. We had two rooms; we locked the private room when we had it, both had keys to it.

Q. And mail matter coming to the Republican headquarters in this city might have been received by some one else besides you?—A. Yes; Mr. Wolf.

Q. Mightn't have been received by the stenographer or Mr. Madden?—A. I done the stenographic work myself.

Q. I think you said a while ago you had a stenographer.—A. I did; I was the one generally who did the work.

Q. You never did employ a stenographer except yourself, then?—A. No.

Q. And never was anybody worked in the office except yourself, Mr. Madden, and Mr. Wolf?—A. That is all; Mr. Madden done but very little work there; stamped and sealed the letters, maybe.

Q. How about the Republican candidates; were they allowed the freedom of the office headquarters?—A. They were allowed the freedom of the big room out there; they didn't have no access to our private room.

Q. What did you keep in the back room?—A. We had some chairs out there and a table.

Q. Left all the campaign literature in the back room, didn't you?—A. No, sir; we put our stationery and stuff in a closet in our private room and locked the door.

Q. I mean campaign literature.—A. No; we had but very little literature.

Q. What you did have and all that was sent to you was left in the big room to be distributed by the candidates as they saw fit?—A. No, sir.

Q. Where did you put it?—A. I put it back in the room; we had some stuff that was sent out—letters of advice. We were very careful about what we sent out. We had a Bull Moose and Republican Party here and a split in our party, and we were very careful about what we sent out.

Q. There was a split in the Republican Party, then?—A. Certainly there was.

Q. Was there any split in the Republican Party when Mr. McNeal ran against Mr. McGuire for Congress, in 1910?—A. No; not like there was this last year.

Q. Wasn't any Bull Moose Party then, was there?—A. No.

Q. Political conditions at the time McNeal ran against McGuire in Logan County were entirely different from what they were in the 1912 election, so far as the Republican and Democratic Party were concerned?—A. Yes; we didn't have the opposition in the primary like we had in 1912, because we didn't have any Republican candidate for President in 1910.

Q. As to the general election of 1912?—A. Yes; the feeling is some worse, because some of them tried to get out a Bull Moose ticket; and after they couldn't, there seemed to be kind of a cold feeling among them.

Q. As secretary of the Republican campaign committee in 1912, you know there was a good number of Bull Moose all over this county?—A. There is some; yes.

Q. Was there any Bull Moose ticket in Logan County in 1912?—A. No.

Q. I believe you testified there was a colored Democratic organization in Logan County in the last campaign?—A. It was organized before that, and was kept up.

Q. Has been a colored Democratic organization in Logan County and the State of Oklahoma ever since the Democrats got control, in 1907?—A. There has been some negro Democrats in this county before the Democrats got control, even in territorial days.

Q. When was this organization you speak of organized?—A. 1908.

Q. Organized after the Democrats got control of the State government, wasn't it?—A. Yes.

Q. Organized by a bunch of negroes who were seeking political patronage from the State government?—A. Yes; they were seeking appointments, and some of them were sore at the Republicans that didn't like Mr. Taft. I didn't like him very well myself; that probably accounted for it.

Q. These fellows who are chief leaders in this thing are all seeking places under the Democratic organization now, aren't they?—A. I don't know whether all of them is or not.

Q. Most of them?—A. I presume most of them.

Q. These two men who are trying to get the Boley post office are both members of that organization, aren't they?—A. Yes, sir.

Q. This fellow Russell you speak of now holds a position under the Democrats of the State of Oklahoma?—A. Yes.

Q. The rest of these small ones are all seeking some kind of patronage from the State government?—A. I don't think all are.

Q. In fact, some politicians offered you a job under the State Democratic government if you would change, didn't they?—A. A fellow told me I could have an appointment now about this Langston school if I wanted it.

Q. Do you know how those negroes voted out in Langston?—A. No, sir.

Q. Have you compared the Langston returns of 1910 with those of 1912?—A. That is in Antelope Township; I couldn't very well compare that because the precincts has been divided.

Q. Don't you know there were more white Democrats in East Antelope precinct than there were Democratic votes cast in the last election?—A. No, sir; I don't know that. As I stated a few minutes ago I think some white and some who hadn't been Republicans in this township voted for Mr. Davis.

Q. How do you know they voted for Mr. Davis?—A. I said I thought so; just from their conversation—fellows who expected appointments and were disappointed and declared vengeance against McGuire.

Q. That said they were going to vote for Davis?—A. They said they were not going to vote for McGuire.

Q. Then your estimate of 150 votes for Mr. Davis in this county was based simply on the fact that they told you they were not going to vote for Mr. McGuire?—A. Yes; and the fall off in the vote. McGuire seemed to have lost, but they just gained in those negro precincts except South Cimarron.

Q. Any white people in any of those negro precincts?—A. Yes, sir.

Q. Any Bull Moosers in any of those precincts?—A. Yes; I presume there is a few.

Q. Don't you know it to be a fact that all over Logan County and the first congressional district that Mr. McGuire advocated William Howard Taft for President?—A. I don't know as it is a fact; no, sir.

Q. Did you know that Bird S. McGuire advocated William Howard Taft for President?—A. I couldn't say that I did; I know he was for Taft as between Taft and Roosevelt.

Q. Were you at this Republican convention held in the city of Guthrie where Bird S. McGuire, chairman of the resolution committee?—A. When?

Q. In 1912.—A. No; I was here in town; I don't think I was in the convention at that time.

Q. Was those resolutions passed at that time?—A. I don't know whether they was or not.

Q. You don't know then that in those resolutions signed by Mr. McGuire, as chairman, William Howard Taft was indorsed for President by the Republican Party of the State of Oklahoma?—A. I don't know it; he should have been endorsed; he was President, and there was no reason why he shouldn't have been.

Q. You didn't see that resolution at all?—A. I might have; I would have been in favor of indorsing our President for nomination.

Q. What about this Bert Luster? Did you state he can't read and write and the Democrats let him vote?—A. I said he couldn't read and write as well as people I know who were refused to vote. In 1910 Prof. Scott, teacher in the Logan County High School, and a graduate from Fiske University, wasn't allowed to vote.

Q. He offered to take the test?—A. I don't know; he come around and said they wouldn't let him vote.

Q. Probably got biffed and wouldn't take the test?—A. In the third ward there was Judge Perkins, C. C. Buchanan, A. P. Portwood, men whom I know that they made take the test down there by Mr. Dodd.

Q. Where did Luster attempt to vote at the last election?—A. I don't know; he used to vote out in Springvale Township.

Q. You know where he voted?—A. I think he voted in Oklahoma City.

Q. Didn't vote in Logan County?—A. I think not.

Q. You stayed in Guthrie most of the time during the registration and voting period last year, didn't you—referring to August and November?—A. This is my home. I may have been out of town.

Q. You know that the law requires the registration books to be kept open all day for a certain number of days, so that any voter may apply and be registered and receive a certificate which will let him vote in the general election without further test?—A. Yes; I know that is the law.

Q. Did you see any of these registration officers test any of these colored gentlemen you have named as being able to vote?—A. No; I don't know that particularly. I went there and registered and went on away. I didn't stay there.

Q. Did you see the registration officials test any of the colored men whom you have said voted the Democratic ticket in the November, 1912, election?—A. No; 1910 is the one I referred to mostly.

Q. You say there isn't many colored men in the city of Guthrie under 35 years who can't read and write?—A. I wouldn't say there wasn't one.

Q. As a politician and business man, after 22 years experience among the colored race, of which you are a member, do you want it to go into the record that the colored people of Logan County are better educated than the white people of Logan County?—A. I haven't so made that statement.

Q. Don't you know that the records in the office of the State superintendent of public instruction will show that the illiteracy of the negro race in Logan County is greater than that of the white race?—A. That may be a fact; I presume they are. But I said you wouldn't hardly find a colored man of the age under 35 years who couldn't stand a reasonable test. Where I base my reasoning on this fact in this county is, for instance, take the fifth ward, B precinct, 1908. Mr. Eggleston got 2 votes, and McGuire got 101; and in 1910 Mr. McNeal got 25 and McGuire 45. That is why I say there isn't 50 per cent of the negroes in this county votes now. That is, votes in the negro ward shows that they got out 55 votes, where they only got 45 against 1910.

Q. Before the grandfather clause was enforced?—A. Between the time Mr. Eggleston ran against McGuire at the time Mr. McNeal ran against McGuire, the capital it moved away from Guthrie to Oklahoma City.

Q. And that reduced the population of Guthrie considerably?—A. I don't think it affected that precinct very much. I lived in that precinct 23 years.

FRED L. WENNER, sworn and examined, testified as follows:

Direct examination by Judge BURFORD:

Q. State your name, age, and residence?—A. Fred L. Wenner; live in Guthrie, Okla.; age, 48.

Q. How long have you lived in Logan County, Okla.?—A. About 22 years.

Q. What has been your principal business during that time?—A. I have been in the newspaper business longer than anything else—in the original business here.

Q. What has been your business for the last two years?—A. I have been secretary of the chamber of commerce a year and a half.

Q. You may state whether you occupied the position of secretary to the Guthrie Chamber of Commerce during the campaign preceding the election of 1912?—A. I did.

Q. What official position, if any, did you occupy during that time?—A. Member of the county election board.

Q. Of whom did the county election board consist?—A. John Hopkins, Frank Hindman, and myself.

Q. Who was the president of the board?—A. John Hopkins.

Q. And who was the secretary?—A. Frank Hindman.

Q. What was their politics?—A. Democrats.

Q. And what was yours?—A. Republican.

Q. Did that board have charge of the preparation for the election of November, 1912, and the canvassing of the results of that election?—A. It did.

Q. Was the same board in charge of the primary election in August, 1912?—A. Yes, sir.

Q. You may state whether or not the county election board, prior to the election of 1912, agreed upon any policy as to the enforcement of the so-called grandfather clause in reference to the colored vote in this county.—A. As I recollect, the understanding of the board was that we would give no individual members of the election boards any advice on the so-called grandfather law except that we told them that they were appointed to enforce the law, conduct the election according to law, and they must be their own judges of the law and enforce it as they understood it. That was our general understanding.

Q. Was there any special or printed directions prepared by the board for the use of inspectors in reference to that law?—A. Not that I know of. We had some instructions of some kind from Attorney General West, I believe, that were sent out with the supplies, but if there were any printed instructions sent out from the board the secretary sent them without my knowledge.

Q. The attorney general's instructions to the members of the election board were to the effect that the board should not subject the colored voters to any arbitrary, useless, or unnecessary tests, but only require a reasonable exercise of their power, wasn't it?—A. Something to that effect.

Q. And give each voter an opportunity to read or write the section of the Constitution—select a reasonable section for their purpose?—A. I believe that was it; they must be reasonable in their interpretation, but that the law must be enforced. I don't remember it exactly now, but that was my understanding.

Q. Was you connected with the campaign committee which had charge of the State capital location matter at that election?—A. That committee was a regular committee of the chamber of commerce, and as secretary of the chamber of commerce I became secretary of the committee, of all committees.

Q. Can you name the members of that State capital committee who had that election in charge?—A. H. T. Swearingen, E. J. Allen, F. E. Craigen, L. I. Beland, J. R. Abernathy, George H. Bradford. I believe that was the main committee.

Q. Tell Walton?—A. He was not a member of the committee.

Q. What was the politics of the members of that committee?—A. I would have to think a little on that. Mr. Swearingen, I believe, is a Democrat; Craigen is a Republican.

Q. Beland?—A. Beland is a Democrat.

Q. Abernathy?—A. Abernathy—I couldn't say. He is an M. E. South minister. I presume he is a Democrat; and Bradford, I presume, is a Republican. E. J. Allen—I don't know what his politics are.

Q. He is a Socialist, isn't he?—A. He trains with the Socialist bunch; I don't think he is a Socialist politically.

Q. There has been, in my judgment, an effort to impute to the city authorities and the campaign committee a charge that they used the park bonding fund authorized by the city of Guthrie prior to the election in promoting the State capital location scheme. State whether the city authorities permitted the State capital committee to use any portion of that fund, or whether they did use any portion of it for promoting the State capital scheme except in the matter of advertisement of mineral waters of Guthrie?—A. The city paid for advertising space in a certain number of newspapers over the State, the space to be used by the chamber of commerce in advertising the city and the mineral waters and the city's advantages as a health resort. These contracts were made by myself as secretary, and probably four-fifths of them will have space due the city on the contracts.

Q. Mr. Wenner, what was the policy as adopted and circulated by the State capital location committee as to having a lawful election held in Logan County, November, 1912?—A. We gave out instructions to everyone that in no case would there be any laxity in the enforcement of the election law, as we did not want any chance for a contest to be brought on the capital election in case we had the majority in the State. We knew that Logan County would be

watched very closely, and we urged our friends in every part of the county to be unusually careful about any laxity in the enforcement of the election law.

Q. Was there any disposition or effort on the part of the committee or anyone representing the committee to create a sentiment in favor of a loose or lax election at that time in order to get a large vote for the capital?—A. Not by anyone on the committee or representing the committee. Some outsiders came and proposed methods of that kind, but we discouraged every effort of this kind.

Q. Was it the policy and purpose of the capital campaign committee to have none vote at that election except those who could qualify under the provisions of the law, in order to avoid any grounds for contest in the event they were successful?—A. We didn't want any man to be allowed to vote that was not a fully qualified voter.

Q. Did the committee, on the morning of the election, send out any representatives of Guthrie to other precincts throughout the county?—A. We did to every precinct in the county.

Q. Now, you may state what those parties went out for and what their instructions were.—A. The committees that went to the various precincts in this county were business men from our city, who went mostly in automobiles, visiting every precinct to see if arrangements had been made for workers on the capital question, to visit with the local people in each community and ask them to do all they could to make Logan County cast a solid vote for Guthrie and not be split up, as it had been on previous elections.

Q. Now, Mr. Wenner, were those committees charged or directed to go out and secure a large attendance at the polls, or was it to get workers at the polls to secure those who voted, to instruct them how to stamp the constitutional amendment?—A. The object of the committees was to get some worker to stay at every poll until the polls closed, whose duty it would be to see that every man voted on the capital question and, if possible, to have him vote for Guthrie.

Q. Were those persons expected to see to getting any votes to the polls, or only to see that those voted on the proposition who came to vote?—A. Just to see that there were workers at each poll. If there were no local workers, some member of the committee was to stay at the polls until evening and he would be picked up by the return of the automobile.

Q. Why was that thought necessary by the committee, Mr. Wenner? Was it by reason of the fact that in voting upon the constitutional amendments heretofore that many voters failed to vote either way on the proposition?—A. Yes; partly on that and partly because of the question as put on the ballot—capital question—was hard to find.

Q. Was the capital question upon the general ballot containing the names of candidates or was it on a separate ticket?—A. On the general ballot.

Q. And under the law it was necessary to stamp in favor of Guthrie upon that particular part of the ballot or the vote would be counted against the proposition?—A. Yes, sir.

Q. Was there any political literature of any character sent out from your headquarters?—A. From the capital headquarters?

Q. Yes.—A. Nothing except on the capital question.

Q. Was there any instructions sent out to voters having for its purpose the determination of who or who were not qualified voters?—A. No, sir.

Q. These committees that went out in automobiles to visit the several precincts were nonpolitical, nonpartisan?—A. Yes, sir.

Q. And so far as you are advised none of them participated in any way in working for candidates on any ticket?—A. Not that I know of.

Q. They were employed as volunteers by the business men of the city?—A. Volunteers, and gave their time and paid their own expenses.

Q. As a member of the county election board, Mr. Wenner, was there any difficulty experienced by the county election board in securing persons to act on the precinct election boards throughout the county?—A. On election day?

Q. Generally for the election.—A. There was some little hesitancy about parties accepting places on the precinct boards because of the agitation over the grandfather law.

Q. Did there come to the committee any information of any threats on the part of any person to prosecute any of the members of the election board who fairly executed the law?—A. I don't think there was any complaint of that kind to the board. If anything came to the board of that kind I couldn't say; I was pretty busy those times and didn't pay any attention to the election board that day.

Q. Prior to the election?—A. Not to my knowledge. Nothing except such things as were read in the papers and stories; no complaint to the board.

Q. Were you connected with the county election board in any way at the 1910 election?—A. 1910 State election—no, sir.

Q. Did you vote in Logan County at that time?—A. Yes, sir.

Q. Were you familiar with the conditions existing at the time of that election with reference to the attempted enforcement of the grandfather proposition?—A. In a general way; I didn't pay any particular attention to it.

Q. Only simply as a voter?—A. Yes, sir.

Q. Did you learn of the threats on the part of certain leaders, or so-called leaders, of the dominant party to have election inspectors in this county place such impediments in the way of colored voters in enforcing that law as to prevent them from exercising their right?—A. Well, I heard that such was the case; to my own personal knowledge I don't know of anything except what was in our own precinct.

Q. What precinct did you vote in?—A. Guthrie Township.

Q. Did they have some colored voters?—A. A few.

Q. Who was the inspector at that time?—A. Curtis, I believe.

Q. I will ask you if it wasn't plainly observable from Mr. Curtis's action at that time that he was endeavoring to put such a construction upon the enforcement of the law as to make it practically impossible for those taking the test to pass?—A. He did a great deal to hinder them and embarrass them in that precinct; really caused more complaint from the white voters than from the colored, because he kept everybody waiting overlong and hindered the election.

Q. After the election did you learn of the action of the county election board in excluding a number of voting precincts in the canvass of the vote?—A. Yes, sir.

Q. I will ask you if those excluded were the precincts which had a large colored vote or not?—A. Most of them were; I don't remember exactly about all of them.

Q. Isn't it a fact known to you as an experienced newspaper man that the opposition amongst the colored people to the enforcement of the provisions of the constitutional amendment arose out of the embarrassments they were put under by the election inspectors imposing unnecessary and unusual tests to them?—A. I think there was more complaint here about that than there was about the law itself.

Q. Now after the supreme court of the State had decided that it was unlawful for the election officers to resort to such means in the enforcement of the law and the instruction of the attorney general that they were not to require a colored voter to take the test where the inspector knew of his qualifications to vote, or in cities where he held his registration certificate, that under that decision and the attorney general's instruction, that there was a general disposition amongst the colored voters to accept that, and those who could not take the test to remain away and not attempt to vote?—A. That was the rule, outside of a few agitators.

Q. Was there any particular complaint came to the county election board after the election of 1912 of any precinct election boards in the county failing to reasonably enforce the law?—A. No complaint came to the board that I know of.

Q. Was there any complaint came to the board that election inspectors at that election had resorted to the practice they did in the first election in reference to colored voters?—A. Not that I know of.

Q. Were you present all the time during the canvass of the precinct returns for the county election board?—A. No; I wasn't present all the time.

Q. Did you go over and verify the results when the returns were completed?—A. Yes; I went over the totals with them, and I was called out of the city during part of the count, and with the consent of the board and all the candidates on both sides, two Democrats were trusted to go on and complete the count, and I went over it with them after.

Q. Are you reasonably well acquainted with the vote of Logan County in its political complexion generally?—A. In a general way; yes.

Q. About what is the total vote of Logan County as compared with the total vote of 1910?—A. I don't remember the total figures now for either election.

Q. From your knowledge of the conditions in the county would you say that the population had varied sufficiently to make any material difference in the total number of votes?—A. No, I think not very much in the county.

Q. The removal of the capital took away a number of persons who possessed the qualifications of voters, I believe, didn't it?—A. Yes.

Q. A great many of those people voted at other places?—A. The majority of them voted and held their residence where they were elected from.



Cross-examination by Mr. FEUQUAY.

Q. Mr. Wenner, there was never a condition in Logan County before where there were three common political parties in the race, was there?—A. Well, a good many years ago we had the Populists and Democrats here at one time, and both running.

Q. There was a number of followers of Theodore Roosevelt, commonly called Bull Moosers, in this county, were there not?—A. Yes.

Q. And as there never was any party or part of a party following Theodore Roosevelt in this county in the election of 1910 and previous elections, it was impossible to judge fairly, wasn't it, as to the effect and conditions of the 1912 election?—A. They had no ticket here.

Q. Was there any ticket in Logan County of the so-called Bull Moose party?—A. No, sir.

Q. Was there any organization in Logan County of that party?—A. Not much of an organization during the campaign just preceding the election.

Q. As a Republican you knew that there was a split in the old Republican Party in Logan County, didn't you?—A. Well, it was talked here; I don't know whether there was any split at the election.

Q. And then in Logan County there was never such a condition before in the Republican Party as in the election of 1912?—A. I think not—not here or anywhere else.

Q. Mr. Wenner, you knew, as a citizen of Guthrie, that the capital location was considered absolutely vital to this city at the time of the election in 1912?—A. It was very important; I don't know whether it was vital or not.

Q. It was the idea of Guthrie to get as many votes as possible?—A. Yes, sir; here and everywhere.

Q. At the time this capital campaign was going on you were a member of the county election board and also secretary of the chamber of commerce?—A. Yes, sir.

Q. And also secretary of the committee of the chamber of commerce having the capital campaign in hand?—A. I acted as secretary for all committees.

Q. Do you remember who helped the election board of Logan County canvass the returns from the general election in November, 1912?—A. They had men working on the tally; I don't know who they had all the time.

Q. Were you in there when they were making up that sheet that was sent to the State election board?—A. Not while they were making up the sheet; I went over the totals with them.

Q. You don't know who compiled the sheets?—A. No, I don't know who did the clerical work. The secretary was supposed to sign the sheet as his work. I don't know who did the clerical work. The other members of the board agreed upon who should do the clerical work.

Q. You say, I believe, that there was some talk of people who were outside of the committee that the grandfather clause would not be enforced in this county on account of the capital election?—A. I didn't say particularly on the grandfather clause for a laxity of enforcement, not only here, but other places where parties would come with propositions of that kind.

Q. And all the instructions the county election board gave out—A. Just a minute. Did you say it came to the county election board or to the committee?

Q. No. All the information the county election board gave out was that a reasonable test should be given?—A. Yes, sir.

Q. And leave the idea of what was a reasonable test to the election board?—A. And the election officers.

Q. Do you know whether E. B. Henry, county assessor-elect of Logan county, worked upon the returns in the office of the county election board in the November (1912) election or not?—A. I think he did do some clerical work there—copying.

Q. Do you know whether he worked on the actual sheets sent to the State election board or not?—A. No; I couldn't say as to that.

FRANK WOLF, sworn and examined, testified as follows:

Direct examination by Judge BURFORD:

Q. Give your name, age, and residence.—A. F. W. Wolf; age, 41; live in Guthrie at the present.

Q. Where has been your residence in Logan County prior to your removal to Guthrie?—A. At Crescent.

Q. How long have you lived in Logan County?—A. Thirteen years.

Q. Where were you on the day of the regular election in November, 1912?—

A. I was in Guthrie at the Republican headquarters.

Q. All day?—A. Most of the day.

Q. What position did you hold with reference to the Republican headquarters?—A. I was chairman of the county organization.

Q. Who had charge of the committee headquarters during the campaign?—A. Mr. Capers and myself, and Fred Madden was our treasurer.

Q. How much of the time during the campaign were you present at headquarters?—A. Thirty days previous to election I was there about four days out of each week.

Q. For the last 30 days preceding the election?—A. Yes, sir.

Q. Who had charge of the sending out of literature and mail matter from the headquarters?—A. Mr. Capers and myself.

Q. Did you ever have in your headquarters for distribution or circulation any copies of the Homer N. Boardman letter relating to the enforcement of the grandfather proposition?—A. No, sir.

Q. Did you ever have any copies of a circular or printed communication, called in this record the penitentiary warning circular, that had headlines "Talk it over with your wife"?—A. No, sir.

Q. Did your committee ever send out or distribute or have for distribution any such literature as either of these communications?—A. No, sir.

Q. Were you, in your position as chairman, familiar with the political situation generally in Logan County?—A. Yes; in a general way.

Q. How many tickets were nominated in Logan County to go upon the general ticket at the election in November, 1912?—A. Three.

Q. What parties were they?—A. The Democrats, the Republicans, and the Socialists.

Q. Was there any candidates nominated by the so-called Bull Moose or Progressive wing of the Republican Party?—A. No, sir.

Q. At the primary election in August, were there any tickets voted for in this county, except the Democratic, Republican, Socialist, and Prohibition?—

A. At the primary?

Q. Yes.—A. No, sir.

Q. In the general election, while there were some Republicans that were adherents of the Roosevelt theories, was there any split in the party as to the support of the ticket generally?—A. Well no; not in a general way.

Q. In the selection of the electors upon the Republican ticket for all the wings of the Republican Party, were all the wings of the Republican Party supporting the same electoral ticket?—A. Yes, sir.

Q. Was there any distinct organization of the Progressive or Bull Moose Republican Party which maintained any campaign headquarters in this county?—A. No; I think not.

Q. So far as our county organization was concerned, while they differed about certain policies, the organization remained intact?—A. Yes, sir; practically so.

Q. What do you know about a Democratic colored organization in the county during the last campaign?—A. I was not acquainted with any members of this organization, and all I knew about it is what I heard from Mr. Capers.

Q. Did your committee make a poll of the voters of the county for that general election?—A. Yes, sir; we made a poll as best we could.

Q. Can you now tell how that compared with the poll of the previous two years as to numbers?—A. It was in the neighborhood of 500 votes less than at the previous election.

Q. The total number of votes in the county as shown by your poll was in the neighborhood of 500 less than the total vote of 1910?—A. Yes, sir.

Q. Where did that shortage mostly, apparently, occur?—A. It came mostly from the precincts that had colored voters.

Q. Was that due to a decrease in population, or to the enforcement of the grandfather clause, rendering ineligible those who could not read and write?—A. It might have been partially, to decrease in population, but in most cases it was caused by enforcing the grandfather clause, colored voters being dissatisfied and being put to the test at every election.

Q. Did you discover that shortage prior to the election, or did you discover it by reason of the vote cast at the election?—A. Of course, we ultimately discovered it by reason of the vote, but before election word came to headquarters by talking to the different precinct committeemen, that there was a feeling of

humiliation among the colored voters, and a large number that were qualified to vote had expressed themselves as not going to vote. I talked with a great many myself, who said that they were not going to attempt to vote.

Q. Was there any talk amongst them of any determination to enforce their voting right and privileges?—A. No; none whatever.

Q. Wasn't there a general abandonment of an effort to claim the privilege of voting amongst a great many of the negro voters?—A. Yes, sir.

Q. Did you hear any rumors or reports circulated of any threats to intimidate election officers?—A. No, sir.

Q. Was there any instructions or directions given out by your committee in regard to any inducement held out to those who were not eligible to vote to attempt to vote?—A. No, sir.

Q. Was it the general policy of your committee to encourage only those to vote who could pass a reasonable test under the constitutional amendment?—A. Yes, sir.

Cross-examination by Mr. FEUQUAY:

Q. How long have you been in politics in this county?—A. Not very long; about five years; that is, where I was taking an active part. I was a committeeman for several years.

Q. Has there ever been any split in the Republican Party before the election 1912 in Logan County?—A. No; not to speak of.

Q. There was quite a split in 1912, wasn't there, Mr. Wolf?—A. Yes; there seemed to be at one time; but before election that was all healed over, and they practically buried the hatchet.

Q. There was no sentiment in the county at all?—A. Yes; there was some sentiment; but the way they instructed everybody was. State national delegates to the presidential election were all Bull Moosers. The way we had it figured about 9 out of 11; that is, we had no State election, and there was a few said to be Bull Moosers on our local county tickets, and through all of these things it balanced and made a very evenly divided ticket, so that, generally speaking, those that had advocated Roosevelt and those that advocated Taft before the primary before the convention had all practically lined up and voted the Republican ticket.

Q. A straight Republican ticket?—A. There might have been some scratching on local fellows.

Q. There wasn't any split in Logan County by the time the election came about?—A. No; I didn't consider it much of a split at the time of the election.

Q. They were all lined up as Republicans and Democrats?—A. Yes; our presidential electors were—we always regarded him as a Roosevelt supporter.

Q. You don't really know who the people who advocated Theodore Roosevelt for President in Logan County voted for any Congressman, do you?—A. No; I couldn't say as to that; only my immediate friends.

Q. You do know that that was the instructions sent out all over the State and advocated by the Republican campaign committees that as these electors were all Bull Moosers—practically all of them—everybody should vote the straight Republican ticket?—A. Yes, sir.

Q. You didn't make this poll you speak of—the poll of voters of the county?—A. Before election?

Q. Yes.—A. No.

Q. Made by individuals in each precinct?—A. Yes, sir.

Q. You know how that poll was made?—A. Of course they didn't go and see every individual. As a general thing the present committeeman is pretty well acquainted with the politics of his township, and if he isn't, he will find out in a roundabout way a man's politics without asking him sometimes.

Q. In reference to the negro precincts of this county, how were they put on the polls?—A. I couldn't say; I presume the local precinct committeeman put them on where he thought they belonged; I couldn't say as to how they were listed, whether they were all Republicans or part Democrats.

Q. You don't know, then, Mr. Wolf, but what these precinct committeemen put all the negroes of voting age on this poll, regardless of whether they could qualify under the grandfather clause or not?—A. No; I couldn't say as to that.

CHARLES S. OLSON, sworn and examined, testified as follows:

Direct examination by Judge BURFORD:

Q. State your name, age, and residence.—A. Charles S. Olson; age, 35; residence, Guthrie, Okla.

Q. How long have you lived in Logan County?—A. Nine years.

Q. Where did you reside prior to coming to Guthrie?—A. Coyle, Okla.

Q. What official position do you hold at this time?—A. County clerk.

Q. How long have you been county clerk?—A. Two years and six months.

Q. What position was you in at Coyle before coming to Guthrie?—A. Cashier of the Cimarron Valley Bank.

Q. Are there many colored people who trade in and do business at Coyle?—A. Yes; lots of them.

Q. What voting precinct is Coyle in?—A. North Cimarron.

Q. How far is it from Coyle to the South Cimarron precinct line?—A. Four miles.

Q. What precinct is Langston in?—A. Langston is in the south and east precinct of Antelope Township.

Q. In your position as cashier of the Cimarron Valley Bank did you get acquainted with a great many of the colored men in that locality?—A. Yes, sir.

Q. About what proportion of the male citizens of voting age in that locality are you acquainted with, Charlie?—A. I suppose I was acquainted with about 95 per cent of them.

Q. About what per cent of them could read and write?—A. In our precinct?

Q. Yes.—A. In our precinct there was, I suppose there was about 85 per cent of them, 85 or 90 per cent.

Q. Did you participate in the last campaign prior to the election in November, 1912?—A. Yes, sir.

Q. Were you a candidate in the primary in August, 1912, for nomination?—A. Yes, sir.

Q. How extensively are you acquainted with the voters and political conditions in Logan County?—A. I was a candidate and was also in office at that time; I thought I was pretty well posted on the situation.

Q. In your position as county clerk within the past two years, have you had an opportunity to become acquainted with a great many people in relation to visiting the office in reference to revenue matters, bridge matters, road matters, etc.?—A. Yes, sir.

Q. Are you reasonably well acquainted in Bear Creek Township?—A. Yes; fairly well acquainted there.

Q. Prior to the election of 1912 did you hear any rumors or talk to the effect that there would be any threat on the part of any of the colored people to enforce their right to vote?—A. No, sir; I never heard of anything of that kind.

Q. Did you hear of any threats or rumors of intimidation of any members of the precinct election boards?—A. No. All that I heard in regard to Bear Creek Township was that I understood that there were parties trying to frame up a deal that if the colored voters would come in and vote for certain Democrats, they could vote whether they could read and write or not.

Q. That is, the Democratic election board would permit them to vote if they would vote for certain Democratic nominees?—A. Yes, sir.

Q. Do you know whether they carried out that deal or not?—A. I do not know.

Q. All the election boards in Logan County were Democratic, weren't they?—A. Yes, the majority of them—the majority of each board.

Q. And the Democratic organization had complete control of the election machinery of Logan County?—A. Yes, sir.

Q. The county members of the county election board were nominated by the Democratic organization?—A. Yes, sir.

Q. And the precinct committeemen also by the Democratic organization?—A. Yes, sir.

Q. Was you a candidate in the general election in 1910?—A. Yes, sir.

Q. Do you remember the canvass of the county election returns from the election in this county?—A. Yes, sir.

Q. How many precincts were excluded by the county election board in that canvass?—A. I think there were four.

Q. Were the precincts those with a large colored vote or otherwise?—A. Large colored vote.

Q. Previous to the election of 1912 had there, apparently, been any change in sentiment as to the manner of enforcement of the grandfather clause in this county?—A. If the sentiment was any way, it was more liberal.

Q. I mean, if you remember, in the election of 1910 the election inspectors apparently undertook to keep colored people from voting, and put unusual tests to them. After that election and up prior to the election of 1912 in this county, by reason of the decision of the Supreme Court and the Attorney General's instructions, did you discover any change of sentiment amongst the election inspectors about being more reasonable in the construction of the law and the enforcement of it?—A. All the inspectors I talked to said they would be reasonable; if a man could read and write they would let him vote, and if they knew he could read and write they wouldn't give him the test.

Q. In the primary of 1912 in this county there was a very spirited contest, wasn't there, on account of the numerous candidates for nomination on both party tickets?—A. Yes, sir.

Q. And in that election, in various precincts, the adherents of the various candidates were more active in their challenges to keep persons from voting, or in their activity to secure votes, weren't they?—A. Yes, sir.

Q. Wasn't it apparently the policy of the election boards, where a voter had been required to take the test at the primary and had passed then, the same board would permit him to vote in November without taking the test over?—A. Yes, sir.

Q. And that was general throughout the county?—A. Yes, sir; a man had to have the test, but the same inspector never gave him the test again.

Q. Did you learn of any sentiment or disposition throughout the county or in any of the precincts to let colored voters vote who were not eligible under the grandfather clause?—A. Never, except as I said, in Bear Creek Township.

Q. Do you know, as a matter of information and general knowledge, that after the election of 1910 a large number of colored voters having been denied the right to vote; that prior to the 1912 election those who knew they couldn't pass the test showed no disposition to go and vote at all?—A. Lots of them that didn't, and in our precinct, North Cimarron precinct, in 1910 there was only a couple that tried to vote that couldn't pass the test, and in 1912 I don't think there was one but what passed the test.

Q. Were you at the Cimarron precinct in 1912?—A. Yes, sir.

Q. South or North?—A. North Cimarron.

Q. Who was the inspector at that precinct?—A. F. A. Stockton.

Q. You may state whether or not he was applying the test to those negroes whose qualifications were doubtful or whom he thought could not qualify.—A. Of course, I wasn't in there much of the time and I couldn't state except as a matter of what he has told me.

Q. What did he say to you about it?—A. That where there was any negroes that he knew could read and write he didn't give them the test; otherwise he gave them the test.

Q. Do you know whether all the negroes voted at that election in that precinct?—A. All that tried to vote voted.

Q. What number of negro voters in the precinct failed to offer to vote at that time?—A. I think in that precinct there was about 15 that didn't offer to vote.

Q. Was you present any of the time at the office of the county canvassing board during the canvass of the returns of the November, 1912, election?—A. Yes, sir.

Q. Who was in charge of the canvass of the returns—what officer of the election board?—A. John Hopkins, chairman.

Q. And was either of the other members present at any time?—A. Yes; Frank Hindman was present, I think, all the time.

Q. Was there any protest or controversy about the canvass of any of the precinct returns in that election?—A. Not that I have heard of.

Q. It was inquired here whether or not Mr. Henry did not assist in keeping the figures; state the facts about that, if you know.—A. Mr. Henry, I think, helped tabulate the final tabulation; possibly ran the adding machine or something that way in the final tabulation for the election board.

Q. Was there any question arose at any time as to the correctness of any of the returns?—A. No, sir.

Q. Mr. Hopkins oversaw the whole transaction and all of the computations and results?—A. And checked them back, so Mr. Henry told me; that they checked back all.

Q. Mr. Hopkins examined all the sheets and called the figures himself, didn't he?—A. Yes, sir.

Q. Mr. Henry was simply doing some clerical work for the board?—A. Yes, sir.

Q. Was there any contest filed by any candidate on the 1912 election for recount of votes?—A. In the general election?

Q. Yes.—A. I think not; no, I know there wasn't.

Q. There was some contests in the primary?—A. The contests were in the primary.

Cross-examination by Mr. FEUQUAY:

Q. Mr. Olson, where were you on the day in August that the primary election took place in 1912?—A. I was here in Guthrie.

Q. Where did you vote?—A. I voted at the precinct—in the east precinct, first precinct.

Q. And all you know about the test given on that day is what you heard?—A. I was at all the precincts in town on that day, different times.

Q. You were a candidate at that time, weren't you?—A. Yes, sir.

Q. Stayed 50 feet away from the door?—A. Yes, sir.

Q. Don't know anything about what went on inside except what you could see within that 50 feet?—A. Just as a matter of common talk with the different inspectors.

Q. When you were out at Coyle in November, 1912, you say Stockton was out on the street?—A. No; I saw him standing at the door.

Q. Did you see Stockton that day helping to unload a safe and taking it into his store?—A. If he did, I didn't know it. I went out, got there at 7.30 in the morning, and left about 2.30 in the afternoon.

Q. What kind of a day was the election day in November, 1912?—A. It was a fair day, I think.

Q. Didn't it rain about noon that day?—A. I have forgotten; I think it rained. If it rained at all, it was very light out at Coyle. Of course, I don't know what it was here.

Q. You don't remember it was a bad day and the voters were not likely to come out that day? You weren't a voter in Coyle?—A. No, sir.

Q. All you know about what happened inside of the voting precinct was what Stockton told you?—A. Yes; Stockton and also Mr. Teal; he was the clerk of the election board.

Q. Republican?—A. Yes, sir.

Q. Stockton was the inspector?—A. Yes, sir.

Q. How long did you stay in the office of the county election board while the returns were being tabulated?—A. I was there different times; I couldn't say. I think I was down there probably all forenoon the day they finished tabulating the returns.

Q. Didn't stay around there very much after you found out that you were elected?—A. I knew I was elected long before they tabulated the returns.

Q. Certain you were elected when you were nominated, weren't you?—A. I had 1,400 and some odd majority, I think.

Q. You don't know what Henry was doing with those returns?—A. I don't think he had anything, if I remember right. While I was there he wasn't doing anything with the returns.

Q. You didn't see him sitting over at the desk in the corner of the room making one of the tally sheets that was sent to the State election board?—A. I didn't the afternoon I was there.

Q. While you were there didn't you see him and another man not a member of the election board making out those tally sheets?—A. I don't remember of seeing him do it.

Q. Mr. Henry was at that time county assessor for Logan County?—A. He was elected at the November election.

Q. Elected at the same election in which he was working on the returns?—A. Yes, sir.

Redirect examination by Judge BURFORD:

Q. Mr. Henry didn't work on the county election returns at all, did he?—A. I don't remember of his working on them; I was there all that afternoon.

Q. What did he say about assisting Mr. Hopkins in taking down the figures on the sheet they were tabulating?—A. When I was there—I was there after they finished counting, and then they tabulated the total and John Hopkins run the figures on the book.

Q. The sheet that they sent to the election board you saw made up from this book and Mr. Henry made that sheet?—A. I don't know, but that was done after we left the room. The county election board has a permanent record upon which it records the returns of each voting precinct for each candidate. I said Mr. Hopkins was making that; I believe he was doing the calling and Pat Woodworth was doing the clerical work and recording it on the book.

Q. And Mr. Hopkins called it back and compared it after he had called it off and Pat had put it down?—A. Yes, sir.

Q. All the work Mr. Henry did was to operate the adding machine some time after they had made the tabulations?—A. That was all.

Q. And to make the sheet that was returned to the State election board from the county election board's record?—A. If he did that it was after I left the room; I think they made that up possibly the next day, because it was late in the evening when they finished the counting and tabulation.

Q. That record, as they recorded that vote, is a permanent record in the hands of the county election board?—A. Yes, sir.

W. H. MITCHELL, sworn and examined, testifies as follows:

Direct examination by Judge BURFORD:

Q. State your name, age, and place of residence.—A. W. H. Mitchell; 48; Guthrie.

Q. How long have you been a resident of Logan County?—A. Since 1889.

Q. You may state if you proved up a homestead in this county?—A. I did.

Q. Where?—A. South Cimarron.

Q. How long have you lived in South Cimarron?—A. About a year.

Q. How far was that from Meridian?—A. Three miles.

Q. Still own that farm?—A. Yes, sir.

Q. You go back there frequently every year?—A. Yes, sir.

Q. Are you reasonably well acquainted in and about Meridian?—A. Yes, sir.

Q. What positions have you held in Guthrie?—A. Chief of police.

Q. How long were you chief of police?—A. Six years.

Q. During that time did you become reasonably well acquainted with the inhabitants of Guthrie?—A. Yes, sir.

Q. Both white and colored?—A. Yes, sir.

Q. Were you a candidate at the primary election in 1912?—A. I was.

Q. For what office?—A. Sheriff.

Q. Did you make a pretty general canvass of the county at that time?—A. I did.

Q. Did you meet with the voters at different places and on various occasions during that period?—A. From every precinct.

Q. Did you come in contact with any sentiment or hear of any on the part of any of the colored population to endeavor to enforce their right to vote at the election in 1912?—A. No, sir.

Q. Did you hear of any threats, or talk, which would indicate any intent to intimidate or put in fear the precinct election officers?—A. No, sir.

Q. What precincts did you visit?—A. In the election of 1912?

Q. Yes.—A. I was in the western precinct of the city of Guthrie most of the time, in fact I was at every precinct but the west three most of it.

Q. What did you observe, if anything, as to any inspector requiring any colored people to take the test on that day?—A. Some colored voters took the test and some didn't.

Q. At the primary election in August were you in the city of Guthrie?—A. Yes, sir.

Q. And what precincts did you visit that day?—A. West third, and in fact every precinct of the city, mostly west third.

Q. Who was the inspector of west third?—A. Joe Wisby.

Q. State whether or not Mr. Wisby was requiring the colored voters to take the test at the primary election.—A. He was.

Q. Were any rejected at that election?—A. I remember one old colored man was rejected there. I couldn't say how many more were rejected.

Q. What was the sentiment among the colored voters as you visited them and solicited their assistance as to endeavoring to vote at the November election?—A. We tried to get them to all come up and vote; a great many hung back, were indifferent about it. In fact were sulky about coming up to vote on account of the test.

Q. Were you endeavoring to get those to vote who told you they couldn't pass the test?—A. We had colored voters in the city and also every precinct in the county, and we told people to have no colored people to come who couldn't qualify to vote, because I explained to them how dangerous it was. In 1910 they threw out five precincts on the pretext that the grandfather clause was not being enforced.

Q. And your purpose was to guard against a similar condition in order to avoid having any precincts rejected?—A. Yes, sir.

Q. Now, did that sentiment generally prevail among the colored people?—A. Yes, that prevailed everywhere. We had no trouble with the colored people at all; they were very quiet about it—in fact it surprised me a great deal because so many were indignant on account of the test they put to them in 1910.

Q. Was there a disposition on the part of the inspectors to make the tests so burdensome that they would be unlikely to vote in 1912?—A. Yes; in a great many cases.

Q. And in 1912, owing to the court having construed the law and the attorney general's instructions, was there a different sentiment prevailing that the inspectors would be reasonable in the interpretation and enforcement of the law?—A. Yes, sir.

Q. Was there any sentiment toward an absolute disregard of the law and nonenforcement of it?—A. No; not at all.

Q. Did you hear any sentiment anywhere in the county on account of the capital location they would simply let down the bars and let everybody vote?—A. I heard something about that in town, but I didn't see anything like that at the precincts.

Q. What do you know about a Democratic colored club which was organized and maintained here during the campaign?—A. They had a colored Democratic club here in the city.

Q. Who were the prime moving leaders of that organization?—A. John Matthews was president and a fellow by the name of Henderson was secretary, and Jim Noble, Sam Lee, and Russell, at Langston, and Saddler—there were quite a crowd of them.

Q. Was it generally understood and talked that they were going to support the Democratic ticket?—A. Yes, sir.

Q. What do you know about their attitude toward McGuire? Did you see anything special about that?—A. I found the colored people were pretty strongly against McGuire in Iowa and South Cimarron and also in the city here.

Q. Was there a sentiment amongst them or a tendency to support Davis as against McGuire?—A. Yes; it surprised me, and I asked some of them what the trouble was.

Q. What reason did they give?—A. They said they didn't like McGuire.

Q. Since the election of 1912 have you visited a number of the precincts where there were colored voters and made inquiry about the manner of conducting the election at that time?—A. Yes, sir.

Q. Which precincts have you investigated?—A. Iowa and South Cimarron; also here in the city.

Q. What did you ascertain about the enforcement of the law in Iowa Township?—A. I found out that the test was put to some, and others went through without the test.

Q. Did you find that there had been any disposition there to ignore the law, or that these persons that went through without the test were persons known to the board to be qualified?—A. I think they were known.

Q. What about South Cimarron?—A. I found that in the same position.

Q. Did you make any inquiry in Bear Creek?—A. I don't know as I did in Bear Creek. Well, that was about the same. Bear Creek and South Cimarron are both right together there. You would take it for one precinct; in fact, a stranger going in there wouldn't know there was two precincts.

Q. Did you hear Miles Allen's testimony in behalf of the contestant?—A. Yes, sir.

Q. How far did you live from Miles Allen?—A. Three miles.

Q. Did you make any inquiry and investigation as to certain persons who claimed they voted who were disqualified?—A. I did.

Q. Which one was it?—A. Mose Graham.

Q. Now, Miles said he didn't think Mose could read and write and wouldn't let him vote down there. What did you find out about that?—A. I think Mose Graham could read and write. He was a preacher, and I went up to the



Meridian State Bank, and I asked Mr. Heath if he ever done business with a man by the name of Mose Graham, and he said he did. I asked him if he could read and write, and he said he could, and he said, "I have a signature here on a note," and went to his files and showed me a note with his signature.

Q. Signed by Mose Graham?—A. Yes, sir.

Q. By mark?—A. No, sir.

Q. He said he saw him sign it?—A. Yes, sir.

Q. Did you investigate any of the others there that Miles testified about?—

A. I investigated some of the others. Those fellows named Johnson, nobody down there seemed to know anything about them.

Q. Did you investigate the case of Willie Reed?—A. I think I did.

Q. Do you remember what you found out about him?—A. He can read and write.

Q. Tom Moore?—A. I don't remember now who Tom Moore is.

Q. Did you make any inquiry or investigation in Springvale Township?—

A. Yes, sir.

Q. Do you know Walter Towle?—A. Yes, sir.

Q. What did you find out there, Mr. Mitchell?—A. Satisfied he can read and write.

Q. From your knowledge and information and your experience as chief of police here for six years in the city in the city elections and county and State elections about what, in your judgment, approximately, of the male population of the city of Guthrie of voting age can read and write?—A. I should say 95 per cent here in the city of Guthrie. The only colored people in this city who can't read and write are some very old men—very few of them here.

Q. What do you know as to the general custom of the inspectors here in the city during the registration period to require these colored people who don't know how to read and write to make a showing as to their eligibility?—A. It was the custom to require them to take the test at the time they registered.

Q. Has that been their custom?—A. Yes, sir.

Q. And then, if he has a registration certificate on election day, to let him vote without the test?—A. Yes, sir.

Cross-examination by Mr. FEUQUAY:

Q. Mr. Mitchell, when you were talking with some of the voters down in ward 3 what did you tell them?—A. I told the voters—the colored voters—to be very careful and not allow any man to go up there who couldn't qualify, because there was danger of losing the precinct. The reason I done that was I went through that campaign in 1910. I was elected sheriff of this county without any doubt, and the county election board threw out five precincts in order to beat the sheriff and all the county officers, and they had it in their hands; there was no appeal from it at all, and the only thing we could do was not to allow anybody to go up there and try to vote who couldn't qualify, and not take any chances on having precincts thrown out.

Q. And you didn't urge them to go up and vote when you were talking to them in ward 3, or any other ward, in November, 1912?—A. I spoke with every colored man I came in contact with, and I would ask him is he had voted. If not I would ask him if he could qualify to vote. If he told me he could read and write I told him to go up and make application to vote and take the test.

Q. Doesn't the State law require all of them to be registered a certain length of time?—A. In the city.

Q. And when you were talking to them in ward 3 they couldn't have voted unless they had been registered in the city?—A. If a man wasn't in the city during the registration he could have been sworn in if he had a good reason for absence.

Q. Were there many of those who didn't register here when the registration was going on?—A. Yes; there were a good many of them working on the railroad, and they came home to vote.

Q. Some negroes, then, came home to vote in this election who hadn't been here during the registration?—A. Yes, sir.

Q. And they were allowed to be sworn in?—A. Yes, sir.

Q. You say the negroes were indignant in 1910 over the treatment they received in the enforcement of the grandfather clause?—A. Yes, sir.

Q. At that time they had thoughts of resisting and enforcing their right to vote, didn't they?—A. No, sir; it was just the other way; it was hard to get them up there when they found out what they had to go up against.

Q. You were only in a few precincts in 1910 on the day of the election?—A. I stayed right there in the city.

Q. And all you knew about what happened in the colored precincts that day and how the test was applied was from hearsay?—A. In most every precinct in the county I kept one or two men to watch my campaign and keep in touch with them.

Q. And you were not there personally that day?—A. No, sir.

Q. In the city precincts in the election of 1910 as a candidate you knew you were required to stay 50 feet from the building when the election was going on?—A. Yes, sir.

Q. And all that you know about the way the grandfather clause was enforced at that election is from what the colored people told you and you could hear and see from that far away?—A. In several cases I was inside of the voting precincts where they were voting.

Q. At the time you went in there you were a candidate for office?—A. Yes, sir.

Q. And that wasn't a precinct you were voting in?—A. I was called in to identify some parties that made application to vote.

Q. That wasn't the precinct in which you voted?—A. No.

Q. Isn't it true that the Democratic club that was formed was formed shortly after the Democrats took charge of the State of Oklahoma?—A. The Democratic club has been in existence here for going on, well, to my knowledge, formed after statehood.

Q. After statehood, wasn't it?—A. I think so.

Q. By a bunch of negroes who thought to gain political patronage from the State officials for that reason?—A. I don't know whether they intended that or not; I couldn't say; they might have, though.

Q. In your direct examination you testified to having talked to negroes down in the negro part of Logan County and that they were against McGuire. What time was that, Mr. Mitchell?—A. That was before the primary and before the general election.

Q. Between the time when you talked to these negroes and the time of the general election isn't it true that Mr. McGuire had a large negro meeting, in which he addressed the voters?—A. I don't think Mr. McGuire was down there but once. We had a meeting down there one day, and we was going away and McGuire got off the train; that was the first time I ever saw him down there. I think he had one meeting down there before the primary, but not before the general election. I don't think he made a speech after the primary.

Q. You don't know that Mr. McGuire had a meeting particularly for colored voters in Meridian before the election in 1912?—A. No; he had a meeting in the primary in 1912.

Q. In whose interest did you go to the black precincts of Logan County and investigate the ability of Mose Graham, Willie Reed, Tom Moore, and Walter Towle to read and write?—A. Partly in my own interest and partly in the interest of Mr. McGuire.

Q. You have been a supporter of Mr. McGuire throughout the entire campaign and primary election in 1912?—A. No; the reason I took an interest in this case in 1910, Miles Allen was a member of the county election board, and Miles Allen was the main man that threw out these five precincts and defeated me for sheriff, and that is the reason I have been calling up this case to find out what was coming out of it. Mr. Allen was the man I have been looking after.

It is hereby stipulated by and between the counsel for the contestant and the contestee that the further taking of depositions in this matter will be continued until Monday, July 7, 1913, the same being resumed at the office of P. S. Nagle, attorney at law, Kingfisher, Okla., before a notary and stenographer to be selected at that time and place, the said depositions to be taken under the same stipulations as to being taken in shorthand and reduced to typewriting, and carbon copies delivered to the contestant.

Now on this 9th day of July, 1913, at the office of Burford & Burford, in the city of Guthrie, the further taking of depositions on behalf of the contestee, Bird S. McGuire, is resumed pursuant to the agreement and stipulation heretofore entered into.

Present, the contestant, John J. Davis, in person, and by Roy Hoffman, his attorney; the contestee, Bird S. McGuire, by Burford & Burford, of counsel.

ROY TEAL, sworn and examined, testified as follows:

Direct examination by JOHN H. BURFORD:

Q. State your name.—A. Roy Teal.

Q. Age.—A. Forty-five years old.

Q. Residence.—A. Coyle, Okla.

Q. How long have you lived in Coyle?—A. Thirteen years.

Q. What is your occupation?—A. Lumber business.

Q. What voting precinct is Coyle in?—A. North Cimarron Township.

Q. State if you occupied any official position on the election board in North Cimarron Township precinct at the election of 1912.—A. Yes, sir; I was clerk of the election.

Q. Was you present all day at that election?—A. All except the time when I went to dinner.

Q. You served upon the election board that day in that precinct?—A. Yes, sir.

Q. Who were the other members of the board?—A. F. A. Stockton, Charlie Hayden.

Q. There were two Democrats and a Republican on the board?—A. Yes, sir.

Q. You was the Republican member?—A. Yes, sir.

Q. As clerk of the election board during the day, what particular duties did you assume?—A. I wrote down the names and issued the ticket, excepting when Mr. Stockton was at dinner. There was one man, I asked him if he could read and write; I think his name was Hall, according to my recollection. I don't know him.

Q. How long have you resided and been in business in that precinct?—A. Thirteen years.

Q. Has your business been of a character to bring you in contact generally with the adult people of the precinct?—A. Yes, sir.

Q. What was Mr. Stockton's business?—A. He is in the grocery business.

Q. How long has he been engaged in the grocery business at Coyle?—A. I am not sure just the number of years, but I think some four or five years.

Q. And what was his business prior to that time?—A. He was a farmer.

Q. How long has he lived in that precinct to your knowledge?—A. I think it is about four or five years; between four and five.

Q. Where did he live prior to that?—A. In Payne County.

Q. How far from Coyle?—A. About 5 miles.

Q. Was he the Stockton that was a member of the legislature from Payne County?—A. No, sir.

Q. Related to him?—A. I couldn't say as to that; I don't know.

Q. How long was Mr. Stockton absent from the polling place at any one time during the day of the election?—A. I don't think he was away from there any time over the noon hour; I don't know just how long he was gone to dinner, but not any longer than necessary to go and come right back; that was the longest he was away at one time.

Q. During that absence did any negroes vote?—A. I think so.

Q. About how many, do you remember?—A. I couldn't say as to that.

Q. Did anyone vote during that time who were not able to read and write under the provisions of the grandfather clause?—A. No, sir; I don't think so.

Q. You say there was one there to vote that you didn't know and you required him to take the test during that period?—A. Yes, sir.

Q. And was he able to take the test?—A. Yes, sir.

Q. What test did you require of him?—A. I asked him if he could read and write, and he wrote his name, and I give him a piece to read.

Q. Satisfied you he could read and write?—A. Yes, sir; he could read and write just as good as I can.

Q. You may state whether or not the election board at that precinct on that day permitted any negroes to vote who were not competent to pass the test under the grandfather provision.—A. I don't think they did.

Q. Was it the policy of the board to permit any of those to vote except those who were proved under that provision?—A. No, sir.

Q. From your knowledge and experience of business dealings with the citizenship of that community, were you familiar with the qualifications of all those who did vote that day and that you permitted to vote?—A. There was very few, I think, in that township but what I don't know that can't either read or write. I have had dealings with them in the lumber business and township board ever since the last 13 years.

Q. Are there some male persons of voting age of the colored race of that precinct who can not read and write?—A. Yes, sir.

Q. Did any of those offer to vote at that election?—A. No, sir.

Q. Was it the general understanding amongst the colored people in that community that those who were not eligible under the grandfather clause would not attempt to vote?

Mr. HOFFMAN. Objected to as calling for a conclusion, and for the reason the witness hasn't shown himself competent to testify.

A. I don't know whether they had any understanding as to that.

Q. You may state whether or not it is a fact that those who were ineligible, to your knowledge, didn't offer to vote.—A. According to my knowledge, they didn't offer to vote.

Q. Were you on the outside of the voting place at any time during the day?—

A. I don't think I was out of the voting precinct only just when I went to dinner, according to my recollection, further than right at the door and at the desk.

Q. What do you say as to whether or not Mr. Stockton was out of the voting place during the day and moving a safe out of the store?—A. I don't think he did; according to my recollection, he didn't.

Q. Did you have any information to that effect during that day?—A. No, sir; I did not.

Q. Absent any time in the forenoon engaged in that occupation?—A. No, sir; only just right back to the door and around.

Q. Was there any disturbance during the day at that voting precinct?—A. Not at all.

Q. Any challenge of voters?—A. There was one challenge, you might say, a fellow by the name of—I think I asked him myself; I challenged him in this way, asked him if he was a resident of the State, a Dr. Swallow, and he stated that he hadn't been in the State a year, but his family had been, and I asked him to make an affidavit and he refused to make the affidavit, and he didn't vote.

Q. Was there any talk that the inspector and members of the election board on election day or prior to the election, about there being any danger or either of them being in fear of enforcing the provisions of the grandfather law as against the colored voters?—A. Not that ever I heard.

Q. Did you prior to the election learn or hear of any rumor or talk amongst the colored people or others to the effect that if the law should be enforced that any effort would be made to enforce their right to vote or to prosecute the members of the election board for refusing to let them vote?—A. No, sir; I never heard it.

Q. Was there some political meetings held in your town prior to the election?—A. Well, there were a few.

Q. Some at which the colored people attended?—A. Yes; I guess they were there a time or two, but not very often; I don't think we had but very few speeches there, and there wasn't very many out.

Q. How was your vote at that election as compared with your voting population; was it large or small?—A. It was small.

Q. Did you have any information to the effect that the election boards in Logan County would not enforce the law as against illegal voters in order to get as large a vote as possible for the location of the capital at Guthrie?—A. No, sir; I have never known anything about it.

Q. Did you hear any talk or rumor or sentiment being circulated in your community to the effect that it was the purpose of the Logan County capital campaign committee to have every one vote without reference to their eligibility in order to get a big vote for the capital?—A. No; I never did.

Cross-examination by ROY HOFFMAN:

Q. Stockton was the inspector at that polling place, was he?—Yes, sir.

Q. Did you people have any consultation prior to the time of opening the polls or afterwards with reference to what test you would apply if any person should appear to vote whom you thought to be disqualified?—A. No, sir.

Q. You had no policy, then, at all in that regard?—A. No, sir.

Q. There had been no consultation as to what you would do?—A. No, sir.

Q. Did you receive a copy of what is known as the Boardman letter, letter from United States Attorney Boardman, over his signature?—A. No, sir.

Q. Either printed or written?—A. Never did.

Q. Did you receive a circular which was unsigned and which was called the penitentiary warning circular?—A. No, sir.

Q. I call your attention here to a letter and circular referred to and ask you again to read these documents and state whether or not a copy of these or either of them was received by you or if they fell into your hands or passed under your notice at any time prior to the November election?

Judge BURFORD. Objected to as not proper cross-examination. incompetent, irrelevant, and immaterial.

A. No, sir; I never saw it.

Q. Do you know whether or not such letter or penitentiary warning circular was received by the other members of the board?—A. I don't know.

Q. Were the Guinn and Beall cases talked over and discussed among you?—A. No, sir.

Q. How many negroes are there in that precinct—negro voters?—A. I don't know whether I can state just exactly.

Q. About how many?—A. Seventy-five or eighty.

Q. How many negroes are there there who have the other qualifications and who are unable to read and write a section of the Constitution and for that reason are disqualified from voting?—A. I couldn't state exact; I don't know just exactly.

Q. About how many?—A. About 25 or 30.

Q. About 25 per cent, then, of the negroes of that precinct were disqualified from voting under the grandfather clause at the last election?—A. I don't believe it would run quite 25 per cent—about 15 per cent.

Q. But you fixed the number as from 25 to 30; is that correct?—A. About 25 possibly; I wouldn't think it would be more than that.

Q. You say none of such persons offered to vote at that time?—A. No, sir; not to my knowledge.

Q. Where did the inspectors stay during that day—inside of the polls or outside?—A. Inside.

Q. Was he there all the time?—A. Yes; he was there at the desk most all the time.

Q. Under your observation?—A. Most all the time.

Q. When, after the election, was your attention first invited to the fact as to whether or not he was there present during election day?—A. I don't understand the question.

Q. Was your attention ever called to the fact as to whether or not Stockton was present during all the time on election day until you took the witness stand to-day?—A. No, sir.

Q. This is the first time you ever thought of it?—A. Yes, sir.

Q. What was it fixed the fact in your mind that he was or was not present there all that day?—A. He was there; we was supposed to run the election according to law.

Q. How do you know he didn't leave for the purpose of going and putting a safe in his office during that day?—A. I am satisfied he wasn't out of the office long enough to do anything of that kind.

Q. Do you know, as a matter of fact, he was in and out of the office that day?—A. He went out to dinner, but I don't think he was ever out of the office, according to my recollection, any time over 10 minutes.

Q. How long was he gone to dinner?—A. I don't suppose he was gone to dinner over 30 minutes.

Q. Do you know how many negroes voted during his absence?—A. No, sir; I do not.

Q. Did he challenge any negro while he was there that day?—A. Well, he might; I think he asked several if they could read and write, and they said, "You know I can read and write"—something of that kind.

Q. Who did he ask that of?—A. I couldn't say.

Q. You have no distinct recollection of his asking it of anyone?—A. Yes; but I couldn't say.

Q. But do you know whether it was black or white?—A. Black.

Q. What time of the day did he ask that question, forenoon or afternoon?—A. I don't remember.

Q. How many times did he ask it?—A. I don't remember that either.

Q. Did he ask it more than once?—A. Well, if he did, I wouldn't be sure.

Q. Did he have anybody sit down and write a section of the constitution, or attempt to do so?—A. No, sir.

Q. Or attempt to write anything else?—A. No, sir.

Q. Did he have anyone read anything?—A. No; I think not.

Q. Did you?—A. No, but just this man I mentioned.

Q. What did you have him write?—A. I had him write a piece on a piece of paper there; I don't know just what it was; it wasn't part of the constitution.

Q. Did you have a section of the constitution there?—A. Yes; we had it there.

Q. Did you hear Stockton or anyone else ask or attempt to ask any of these 75 or 80 negroes who voted to read or write a section of that constitution?—A. I don't know.

Q. It wasn't done in your presence or hearing, was it? You was there all the time?—A. Yes; all except at dinner time.

Q. Do you pretend to say that you knew that every one of those 75 or 80 negroes who voted were eligible, under the grandfather clause, to vote?—A. Yes; I think I know.

Q. Does your lumber business extend to all of those negroes?—A. Most all of them; not many of the fellows in that country but I don't know if they can read or write.

Q. And every single person, black or white, who offered to vote at that polling place that day were permitted to vote, were they?—A. Yes; except the white man I testified about.

Q. How many whites voted?—A. I have no way of telling that.

Q. Were there more, or less, whites than blacks?—A. I think there was more whites than black.

Q. Proportion about the same, or it is decidedly one way or the other?—A. More whites.

Q. What is your total vote in that precinct?—A. I don't remember; about 170, I think, according to my recollection; I couldn't swear to it now.

Q. If your total vote was 170, and about 75 or 80 negroes voted, there was about 100 whites; is that your best recollection?

Judge BURFORD. Objected to as argumentative and calling for a mathematical calculation.

A. I couldn't say; I think that is about it; there might have been more.

Q. What is the normal vote of that precinct?—A. It has run about as high as 230 or 235 at different times.

Q. When was that?—A. I think the last election before this.

Q. Wasn't that at the time when the grandfather clause was submitted to a vote and all the negroes turned out?—A. Well, we had a bigger vote there since the grandfather clause by some 15 or 20 to 30 then than we had this last time.

Q. How was the weather this last election?—A. The weather was all right.

Q. Was it raining?—A. I think it rained a little, wasn't very bad, it sprinkled some.

Q. Have you ever talked to Stockton since the election about finding out what time he actually spent there?—A. No, sir.

Q. Had any conversation with him on the subject?—A. No, sir.

Q. You lived in Guthrie, didn't you, a number of years before you moved to Coyle?—A. Yes, sir.

Q. And was in business here?—A. Yes, sir.

Q. You still have interests here haven't you?—A. No, sir.

Q. What lumber company do you manage up there?—A. Arkansas Lumber Co.

Q. Is that a company that has other yards?—A. Yes, sir.

Q. Has one here at Guthrie?—A. Yes, sir.

Q. Did they at that time, on election day?—A. Yes, sir.

Q. Did you say that your former business associates and friends here in Guthrie didn't appeal to you and urge you to work in every way possible to get out a big vote for Guthrie for the capital at this last general election?—A. Not to my recollection.

Q. Don't recollect that anybody asked you to do that?—A. No.

Q. How far is Coyle from Guthrie?—A. Eighteen miles.

Q. You recollect that Guthrie had emissaries up there at Coyle from the board of trade and other organizations here urging and talking for Guthrie for the capital, don't you?—A. No; I don't believe they ever had an agent out there.

Q. Do you undertake to say to this court that a town right here in Logan County, a few miles from Guthrie, didn't have representatives from this town to get out a big vote on election day?—A. I don't remember of it.

Q. Your memory isn't very good as to facts at that time, is it?—A. It is all right.

Q. Are you a special friend of Bird McGuire?—A. No, sir.

Q. You ever apply to him for any favors?—A. No, sir.

Redirect examination by Judge BURFORD:

Q. I will ask you if it wasn't the prevalent sentiment amongst all the persons, without regard to political preference, that they would support Guthrie in the capital location in Logan County?—A. Yes; I can answer that question from my understanding out there a little better. The facts of the matter is, that is to say, in my business I have two contractors that are very bitter against Guthrie, and they were our main contractors and very bitter against Guthrie as against the capital, and for that reason I took no action whatever in the capital fight; it was unfair with our business, and I had understood some time before from our company that I would take no interest, and didn't take any interest.

Q. I will call your attention to the fact that Mr. Lou Beland is the manager of that company.—A. He is.

Q. And he was a member of the State capital promotion committee here in Guthrie?—A. He might have been, I don't know.

Q. He didn't call upon you for any service?—A. No, sir; he never did.

Recross-examination by ROY HOFFMAN:

Q. Lou Beland and his father have large property interests here in Guthrie and have at this time?—A. His father, not his father.

Q. And those property interests are and have been affected by the removal of the capital, seriously?—A. Yes; I suppose they have.

Q. And it was commonly talked and understood at that time, wasn't it, that all property values would be seriously affected and reduced here if the capital was removed by that vote?—A. Yes, that was understood.

Q. The vote on Guthrie for the capital was practically unanimous, wasn't it, at that time?—A. No, it wasn't.

Q. What was the vote?—A. I don't remember now.

Q. The great preponderance was for Guthrie, wasn't it?—A. I think there was 25 or 30 votes, maybe more, against Guthrie.

Q. And the balance of the 175 were for—approximately 175 was for Guthrie?—A. Yes, sir.

Redirect examination by Judge BURFORD:

Q. Mr. Teal, Mr. Beland has no father in Guthrie?—A. No, sir; his father is dead; been dead a good many years.

Q. And his brother lives in Arkansas?—A. Yes, sir.

Q. And their lumber interests are largely in Arkansas?—A. All in Arkansas.

BEN DOBSON, sworn and examined, testifies as follows:

Direct examination by Judge BURFORD:

Q. State your name, age, and residence.—A. Ben Dobson, 23; Coyle.

Q. How long have you lived in Logan County?—A. Ever since I was about 6 years old.

Q. What voting precinct are you a resident of?—A. Antelope.

Q. Where was the voting place in your precinct at the November election, 1912?—A. It was west of Langston.

Q. And what was the name of the place where you voted?—A. It was at the schoolhouse southeast of Langston.

Q. You voted at the schoolhouse?—A. Yes, sir.

Q. Who were the members of the election board at that election?—A. I couldn't say.

Q. Weren't you a member of the election board?—A. Not in 1912; I was put on last year.

Q. Not the election last November?—A. I was put on there in August.

Q. 1912?—A. Yes, sir.

Q. You served as a member of that election board in 1912?—A. Yes, sir.

Q. Who were the other two members with you?—A. Martin and Pulliam.

Q. J. P. Martin?—A. J. P. Martin—yes; I think. F. S. Pulliam.

Q. That is the Pulliam that was at one time a member of the legislature?—

A. I couldn't say.

Q. Lived south of Langston?—A. North of Langston.

Q. Elderly gentleman, about 60 years of age?—A. Yes, sir.

Q. He acted as inspector?—A. Yes, sir.

Q. What position did Mr. Martin occupy?—A. He was judge.

Q. And you were the clerk?—A. Yes, sir.

Q. Are you reasonably well acquainted with the male persons of adult age in that precinct?—A. Pretty well acquainted.

Q. What is your business?—A. Farmer.

Q. Did any negroes vote in your precinct at that election?—A. Yes, sir.

Q. Couldn't give approximately about the number?—A. I couldn't, exactly. I wouldn't swear, but it was something like 35 or 40; maybe more; I couldn't say.

Q. Were any of them subjected to the test under the grandfather clause?—

A. You mean put through a test?

Q. Yes.—A. Yes, sir.

Q. Did any of them fail to pass the test?—A. Yes, sir.

Q. About how many?—A. Four.

Q. Were they permitted to vote?—A. No, sir.

Q. Who put them to the test?—A. Mr. Pulliam.

Q. Is Mr. Pulliam an old resident of that precinct?—A. Yes; he has been there for years.

Q. A man who is well acquainted with the people of the precinct?—A. Yes; acquainted with everyone.

Q. Has been a candidate for office several times himself, hasn't he?—A. I think so.

Q. Were all the colored persons who voted required to take the test?—A. No, sir.

Q. Why were they not?—A. Because we knew them well and knew they could read and write.

Q. Did any colored person vote at that election that day who wasn't able to read and write?—A. No, sir.

Q. Did you hear any talk prior to the election in your precinct which was of a character to create any fear in the minds of the members of the election board that they would be arrested?—A. No, sir.

Q. Was there any trouble at your voting precinct?—A. No, sir.

Q. State whether or not the election passed off peaceably and quietly.—A. It did.

Q. Were there any colored persons in your precinct at that time of voting age—male persons—who were unable to read and write, to your knowledge?—A. Yes; there were some.

Q. State whether any of them except the four that you mention offered to vote that day.—A. No, sir.

Q. Is it a fact, to your personal knowledge, that several negroes of voting age in your precinct who were unable to read and write didn't offer to vote at that election?—A. Yes; there were some.

Q. Was it the policy and purpose of that election board to require such a test of the colored voters as would be necessary to determine their eligibility under the constitution?—A. Yes, sir.

Q. Those whom you knew to be qualified you didn't subject to any test?—A. No, sir.

Q. Those you didn't you put to the test?—A. Yes, sir.

Q. And rejected any who could not pass the test?—A. Yes, sir.

Cross-examination by ROY HOFFMAN:

Q. How old did you say you are?—A. Twenty-three.

Q. What is your business?—A. Farmer.

Q. Do you farm?—A. Yes, sir.

Q. You stated that no negroes voted at that polling place that day who could not read and write a section of the constitution?—A. Yes, sir.

Q. How do you know that?—A. We put them to the test, those that we had any idea that they couldn't.

Q. Pulliam was inspector, wasn't he?—A. Yes, sir.

Q. Who made the challenge, you or Pulliam?—A. Pulliam.

Q. Did you take it over when a man came in that was doubtful?—A. No; he would take it upon himself.

Q. You didn't do anything about that at all yourself?—A. No, sir.

Q. You depended upon his judgment to do the challenging?—A. I stayed there, and those that he didn't know he put them to the test.

Q. How many did he test?—A. Something like five or six.



Q. And how many passed of those who tested?—A. It was two, I think, and four that didn't.

Q. You say you had a fixed policy there among the board to enforce the grandfather clause strictly?—A. Yes, sir.

Q. Talked that over before the polls or not?—A. Yes, sir.

Q. When did you arrive at that policy?—A. When we opened up.

Q. Did you talk it over then?—A. No; we didn't talk anything about it.

Q. When did you arrive at that policy, then, to strictly enforce the grandfather clause?—A. When there was a man come in.

Q. You are testifying to what you did and not about any policy?—A. No, sir; that is what we did; whenever there was a man come in.

Q. And you state here positively in the record that Mr. Pulliam and yourself and the other member did strictly enforce the grandfather clause that day?—A. Yes, sir.

Q. If Mr. Pulliam has sworn before a notary public, on the 19th day of November, 1912, the notary public Theo Lower, that the election law was not enforced there on that day, the grandfather clause was not enforced there, either in that election or the previous election, you are mistaken, aren't you, as to what your policy and what was your course of action that you pursued there as a member of that election board that day, aren't you?

Judge BURFORD. Objected to as not proper cross-examination and an improper method to incorporate into the record a sworn so-called statement of Pulliam, as Pulliam has already been upon the witness stand and testified in this case, and is incompetent, irrelevant, and immaterial, and is not a proper mode of testing the recollection of this witness and is a mode of cross-examination which is not permitted in the trial courts in this State. I want to make the further objection that if Pulliam did make any such affidavit it would be no evidence that this man is mistaken in his testimony.

A. If I understand the grandfather clause, I suppose it was enforced; I don't know. I think it was enforced.

Q. You never got it out and studied it, have you?—A. No, sir; I have never looked at it.

Q. If Pulliam and Martin have both sworn it was not, don't you think you might be mistaken?

Judge BURFORD. Objected to as a misstatement of the record, Mr. Martin having testified that it was enforced and that 8 negroes were rejected and failed to pass the test at that election, and the test was put to the negroes and is a part of the record at this time.

A. Yes; they were put to the test.

Q. If J. A. Martin swore before Theo. Lower, notary public, on November 19, 1912, that the election officers did not enforce the grandfather clause at the precinct at the last general election, you are mistaken, aren't you?—A. No, sir.

Q. Did you receive a copy of what is known as the Boardman letter?—A. No, sir.

Q. Suppose you wait until I hand you the instrument which I refer to.

Judge BURFORD. Object to the cross-examination of the counsel as uncalled for and not a proper mode of conducting the examination.

Mr. HOFFMAN. Here counsel for contestant states that the witness answered the question before he had an opportunity to hand him the exhibit referred to, and he doesn't comprehend how a witness can state whether he received an instrument before he had an opportunity to examine it.

Judge BURFORD. The so-called Boardman letter has been so much discussed by counsel for contestant in the presence of the witness and in the last 60 days that every citizen who had not heard of it prior to the election of 1912 has heard of it who reads the press reports sent out by the counsel for the contestant in this case.

Mr. HOFFMAN. Counsel for contestant denies the gentlemanly insinuation that he is having any press bureau, or that if he was doing it, he could hope to cope with the strenuous efforts of the contestee in that direction or the free franking privilege which he is working overtime in bolstering up his statements.

Judge BURFORD. Counsel for contestee, in reference to the press bureau, refers to the statements and press reports appearing in the Daily Oklahoman, a Democratic newspaper published in Oklahoma City, in which it stated that that information was obtained from the associate counsel of the present appearing counsel for contestant.

Mr. HOFFMAN. I now hand you this letter and ask you to state whether or not you received that letter or a copy of same similar in purport and nature and

over the signature, either printed or written, of Boardman, the United States attorney at that time.—A. No, sir.

Q. Did you ever see or hear of that letter prior to the election?—A. No, sir.

Q. Do you know whether Mr. Pulliam or Mr. Martin received a copy of that letter?—A. I couldn't say.

Q. I call your attention to the next instrument, exhibit known in the record as the penitentiary warning circular, and ask you to state whether you received a copy of that warning prior to the election?—A. No, sir.

Q. Did you see or hear of that prior to the election?—A. No, sir; never saw it before.

Q. Do you know whether or not Pulliam or Martin received the same?—A. Couldn't say.

Q. You are the Republican member of the board?—A. Yes, sir.

Q. I now hand you the affidavits referred to of Pulliam and Martin and ask the stenographer to mark these exhibits "A" and "B," respectively, for the purpose of identification, and state after having read those affidavits that you do not now think you were mistaken when you state that the grandfather clause was enforced at the polling place that day.

#### EXHIBIT A TO TESTIMONY OF BEN DOBSON.

STATE OF OKLAHOMA, *County of Logan, ss:*

Before me, a notary public in and for the said county and State, personally appeared F. S. Pulliam, of lawful age, who, first being duly sworn, states that he was inspector of district No. 2 of Antelope Township in the general election held on the 5th day of November, 1912, and that he acted as inspector on the above day.

That from his own personal knowledge knows that there were threats of prosecution published and circulated in said county, threatening election officers who would enforce the grandfather clause of the State constitution.

I also know that there was a general sentiment against the enforcement of the grandfather clause on account of the State capital election, and that it was the desire to get as large a vote as possible upon that question, and that efforts were made in that direction in said county.

I believe that many election officers were restrained from enforcing the grandfather clause, both in the election of 1912 and 1910, for fear of prosecution.

F. S. PULLIAM.

Subscribed and sworn to before me, a notary public in and for said county and State, this 19th day of November, 1912.

[SEAL.]

THEO. LOWER, *Notary Public.*

My commission expires January 25, 1915.

#### EXHIBIT B TO TESTIMONY OF BEN DOBSON.

STATE OF OKLAHOMA, *County of Logan, ss:*

Before me, a notary public in and for said county and State, personally appeared J. A. Martin, of lawful age, who, first being duly sworn, states that he was counter of district No. 2, Antelope Township, in the general election held on the 5th day of November, 1912, and that he acted as counter on the above day.

That from his own personal knowledge he knows that there were threats of prosecution published and circulated in said county and State, threatening election officers who would enforce the grandfather clause of the State constitution.

I also know that there was a general sentiment against the enforcement of the grandfather clause on account of the State capital election, and that it was the desire to get as large a vote as possible upon that question, that the desire was general all over the county, and that efforts were made in that direction in said county.

I believe that many election officers were restrained from enforcing the grandfather clause, both in the election of 1910 and 1912, for fear of prosecution.

J. A. MARTIN.

Subscribed and sworn to before me, a notary public in and for said county and State, this 19th day of November, 1912.

[SEAL.]

THEO. LOWER,  
*Notary Public.*

My commission expires January 25, 1915.

Judge BURFORD. Counsel for contestee objects to the question for the reason that one of the affiants, Martin, has been a witness in this case and has testified that the grandfather provisions were enforced, and that eight negroes were rejected at the polls that day because they were unable to pass the test, and in his testimony and on the examination by the counsel who is now examining this witness, repudiated the affidavit in question and said he never read it, and would not testify to the contents of the affidavit.

Mr. HOFFMAN. Counsel for contestant objects to the counsel for contestee briefing his case in his objection.

Q. What do you say about it since reading those affidavits? Think you are mistaken?—A. No, sir.

Q. Do you know the literary qualifications of the negroes who appeared there that day to vote?—A. Yes, sir.

Q. How do you know that?—A. Well, those we had any doubt about we put to a test and those we knew, we didn't.

Q. You have just explained that you left that to Pulliam, that you didn't yourself make any challenges but you left it to Pulliam. I want to know if you know personally that all those that Pulliam challenged could read and write?—A. Those he knew could read and write we let them vote and those he didn't know and I knew, we let vote.

Q. Will you please answer the question whether you know personally that all those whom Pulliam did not challenge could read and write?—A. Yes, sir.

Q. How do you know that?—A. He knew them and I knew them.

Q. You mean to say that you were depending on his knowledge? Do you mean to say that you knew individually all those who voted could read and write?—A. Yes, sir.

Q. How do you know?—A. Because I know them all.

Q. Had you seen them write and heard them read?—A. Yes, sir.

Q. What brought you into such close connection with them?—A. I have lived in the precinct for about 13 years; I ought to know most of them.

Q. I am not asking you whether you know them, but how it happens you knew they could read and write?—A. I do a good deal of business with most of them.

Q. What business?—A. I do quite a good deal of business with the farmers.

Q. What kind?—A. I have mortgages.

Q. Are you in the mortgage business?—A. I sell a good many mules to them.

Q. How many of those negroes that voted there that day have you taken mortgages from?—A. Must be 15 or 20.

Q. What writing have you had in connection with those negroes that you made mortgages with?—A. They signed their names.

Q. Did they write an article of the constitution?—A. They did when we put them to the test.

Q. But I am asking you about this. You didn't put them to the test?—A. No, sir.

Q. How do you know whether they could write a section of the constitution?—A. I know they could read and write and Pulliam knew they could.

Q. You keep referring to Pulliam as having known them. I am asking you what you know about them. Pulliam says in his affidavit that he didn't enforce the law. I am asking you how many of those negroes who voted there that you knew could write a section of the constitution?—A. I don't know.

Q. Not a single one, do you?—A. Yes, sir.

Q. Name them.—A. There was about 15.

Q. Name them.—A. John Williams.

Q. You are sure he can read and write a section of the constitution?—A. Yes, sir.

Q. Name another.—A. A. Brow.

Q. You are sure that Brow can read and write a section of the constitution?—A. Yes, sir.

Q. Did you ever see or hear him?—A. Never saw him.

Q. Did you ever hear him read it?—A. No; not the constitution.

Q. Did he there that day?—A. Yes, sir.

Q. How many others, now, that you know can read and write a section of the constitution?—A. I couldn't say.

Q. Can you name any others besides those two?—A. Hazelwood.

Q. How long have you known him?—A. Ever since I have been there; he is postmaster there; has been there for years.

Q. And you are sure he can read and write a section of the constitution?—A. Yes, sir.

Q. He vote that day?—A. Yes, sir.

Q. How many others voted there that you know and can name that can read and write a section of the constitution?—A. I don't know.

Q. You have named three or four.—A. There are more than that; I can name more than that.

Q. Name all that you know, and be careful whom you name, because I am going to have them examined in here.

Judge BURFORD. Object to the manner of cross-examination, and I move to strike it out of the record as improper.

A. Prof. Mitchell, Prof. Page, John Williams, Ellis Settles, P. C. Jones, Willie Williams.

Q. How many of these you have named are persons who you have had mule transactions with, mortgages?—A. One.

Q. How many negroes in your best judgment, altogether, voted there that day?—A. Something like 50, I should judge; 40 or 50.

Q. Do you know what the vote on the capital question was there?—A. No, sir.

Redirect examination by Judge BURFORD:

Q. Do you know whether or not the negroes had a Democratic club out there?—A. No, sir.

E. C. DODD, sworn and examined, testified as follows:

Direct examination by Judge BURFORD:

Q. State your name, age, and residence.—A. E. C. Dodd; 64 years old; 606 East Cleveland, Guthrie.

Q. How long have you lived in Guthrie?—A. Since 1889.

Q. What voting precinct do you live in?—A. In the first precinct of the first ward.

Q. What official position do you occupy with relation to the elections?—A. Inspector.

Q. How long have you been inspector of elections in your precinct?—A. Since 1909; I think it was the fall of 1909 I was made inspector.

Q. You have been selected and acted as the representative of the Democratic Party in that precinct?—A. Yes, sir.

Q. Recommended for that position by the Democratic organization?—A. Yes, sir.

Q. Do you recall a meeting of inspectors that was held in this city prior to the election of 1910?—A. Yes, sir.

Q. How many of the election inspectors were present at that meeting from this county?—A. I should judge there was 20 or 25; probably there was 50; but there wasn't less than 20; they were not all inspectors, there was committeemen from other precincts.

Q. Was that meeting of inspectors in conjunction with the Democratic precinct committeemen?—A. Yes, sir.

Q. Are you personally acquainted with one Col. Jack Love?—A. Yes, sir.

Q. He was at that time chairman of the State corporation commission?—A. Yes, sir.

Q. And at that time a publicly announced candidate for governor of the State of Oklahoma?—A. I don't know whether he was a candidate.

Q. At this time?—A. I don't know whether he is a candidate or not.

Q. Have you seen his name in the press that he would be a candidate?—A. No.

Q. He is still the chairman of the State corporation commission?—A. Yes, sir.

Q. I will ask you if at that meeting he, as a representative of the party organization, gave to the inspectors certain instructions as to how they were to conduct the election and interpret the provisions of the constitutional amendment relating to the grandfather clause?—A. He had a chairman of the meet-

ing selected, and the chairman called on certain persons of the talks that would be expected, among others he called on Love.

Q. Did Col. Love, in his talk to the inspectors, instruct them about what the constitutional amendment was and how they were to enforce it?

Mr. HOFFMAN. Objected to as incompetent, irrelevant, and immaterial, and no part of the issues in this case.

A. He told us what to do; that it was our duty to do——

Q. What did he tell you was your duty as inspector with reference to the negro vote?

Mr. HOFFMAN. Objected to as above.

A. He told us not to let them vote at all.

Q. How did he say that you could conduct the election?

Mr. HOFFMAN. Objected to as above.

A. Said we should take the Republican clerk and set him off in one corner and make him set there, by God, until the election was over.

Q. And what did he say you were to do with him if he protested or said anything?

Mr. HOFFMAN. Objected to as above.

A. That I don't know; I don't remember what he said in regard to that.

Q. To refresh your recollection, I will ask you if he didn't advise you that if the Republican—the clerk—protested against the manner in which you were conducting the election that you should throw him out of the voting booth?—

A. Yes, sir; yes.

Q. What did he say in that speech in which he was instructing the inspectors how to conduct the election as to how the grandfather clause was to be interpreted by you?

Mr. HOFFMAN. Objected to as above and for the additional reason that the witness has already stated that whatever was said by Mr. Love on that occasion was as a private citizen and not in any official capacity or not in any way representing the Democratic Party; he was simply called on for volunteer remarks.

A. That was the purport of what he said. He didn't mention the constitution as I know.

Q. To refresh your memory, I will ask you if he didn't state that the purpose of adopting the grandfather amendment was to prohibit all negroes from voting?—A. No; he only told us what we should do in letting negroes vote; not let them vote.

Q. What did he say about putting the test to them and how you should do it?—A. I don't recollect of his saying how we should put the test to them.

Q. To refresh your memory, I will ask you if he didn't there advise you that it was your duty to submit a section of the Constitution to them to read and write and that you should select the longest and most difficult for that purpose?

Mr. HOFFMAN. We object to the continual refreshing of this witness's memory.

A. No; I don't recall of him saying that, but we knew that was our duty.

Q. Where did you get the idea that your duty was to submit the most difficult?—A. From instructions from headquarters and a copy of the Constitution; also of the State constitution.

Q. Was your instructions from headquarters in writing?—A. No; it was printed.

Q. Have you a copy of those instructions?—A. Not with me.

Q. What did those instructions contain as to directing you how you should put the test to the colored voters?—A. We should make them swear, qualify them first on reading and writing—they should know how to read and write—then they should be able to read a section of the Constitution of the United States.

Q. You familiarized yourself with your duties as inspector, didn't you?—A. I did this to some extent.

Q. You have a few colored voters in your precinct?—A. I think about 20 colored voters in my precinct, and only 12, I think, are qualified.

Q. You haven't permitted any one to vote in your precinct who was not qualified?—A. No; qualified them at registration.

Q. Required them to take the test at that time?—A. Yes, sir.

Q. Then those who presented registration certificates on election day were permitted to vote?—A. Out of the 12 duly qualified at registration, in the subsequent election of 1912, there was only 9 out of that 12 that voted in the precinct.

Q. Have any of those negroes who failed to qualify at registration made any effort to vote?—A. At the 1910 election or 1912?

Q. 1912.—A. Yes; I qualified three that came in that wasn't even registered that attempted to vote that came in to ask permission to vote, and I disqualified them; I think it was three.

Cross-examination by ROY HOFFMAN:

Q. You say you are a Democrat?—A. Yes, sir.

Q. McGuire Democrat, aren't you?—A. No; McGuire is a Republican.

Q. You are a McGuire Democrat, aren't you, and are known and so classified by the Democracy here?—A. You are the man to say that if you think that is so.

Q. I am asking you.—A. I don't know that it is.

Q. You voted for McGuire, didn't you?—A. I don't know as I have to answer that.

Q. Do you refuse to answer?—A. No.

Q. Do you want to keep us from knowing the facts here?

Judge BURFORD. Objected to as not proper cross-examination, counsel having no right to inquire of a voter how he voted unless he is disqualified as a voter.

Q. And you have always been known and you always have been a supporter and worker for McGuire?—A. No, sir.

Q. You have in the last two elections?—A. Well, I don't know, I haven't been a worker for McGuire.

Judge BURFORD. Object to the question as not proper cross-examination.

Q. But you have been his supporter?—A. Yes; I supported McGuire.

Q. What objection did you have to answering that question awhile ago?—A. Well, simply I don't know as you have any right to know how I voted; that is my own business.

Q. Do you want to conceal any of the facts in this case?—A. None at all.

Q. You say you have the instructions and advice which were given you from Democratic headquarters in 1910 in a pamphlet form, have you?—A. I didn't say I have them now; but as I remember it they were in pamphlet form.

Q. In answer to Judge Burford's question when he asked you where that pamphlet was you said you didn't have it here.—A. Yes; they were printed instructions.

Q. Have you got them?—A. I don't know that I have a copy of it now for 1910.

Q. Have you for 1912?—A. The duties of the inspector are quoted from the statutes of the State.

Q. Was that the substance of the instructions you had in 1910 and 1912?—A. Yes, sir; statutory.

Q. Is there anything in those copied statutes of the State or any instructions, printed or otherwise, that you ever had from Democratic headquarters in this State either in 1910 or 1912 directing you to give the hardest and most difficult section in the Constitution as a test to the negro voters who applied to vote?—A. No, sir; nor I didn't testify so.

Q. You do appear in the record as so testifying.—A. I did not so testify.

Q. You didn't intend to do that?—A. No, sir.

Q. There never was any instruction of that kind given out?—A. No, sir; it didn't say what section.

Q. Just quoted the law and the statute on that subject?—A. Yes; that is right.

Q. When Jack Love talked to you here in your ward meeting in 1910 that you testified about you say he was simply called on as one of the speakers present to deliver some remarks?—A. He was called on by the chairman of the meeting.

Q. And the chairman called on others?—A. Yes; there were others spoke.

Q. Did Jack Love pretend to speak in any official capacity?—A. No more than generally; the facts was I think he was drunk.

Q. You say he was drunk at that time?—A. I think so.

Q. How did he act which made you think he was drunk?—A. Such orders as he gave us disgusted a good many inspectors besides myself.

Q. You didn't pay any attention to what he said?—A. No.

Q. Nor the other inspectors there, either?—A. I don't know about the other inspectors, but I didn't.

Q. It wasn't given in such a way as to convey any force or significance to you inspectors as to what he said?—A. As to my duties as inspector; no.

Q. And he didn't pretend to convey any message from Democratic headquarters to the inspectors?—A. No; he was instructing us what we should do.

Q. You say about 12 out of the 20 in your ward was able to qualify?—A. No; there was about 20 negro votes in the precinct and there is nearly 300 voters in the precinct, and out of those 20 there is 12 that are duly registered. That 12, most of them, I think all of that 12 I qualified at registration.

Q. Don't you think from your long citizenship and acquaintance with the negroes here that as a rule the educational qualifications of the negroes here in town are superior to those in the country?—A. Yes; I would rather think so.

Q. Then, in your judgment, isn't that proportion of 12 to 20 a good liberal average proportion of the negroes in this county who are qualified otherwise as electors as to their educational qualifications?—A. As to that I couldn't say; I couldn't tell the per cent.

Q. But you think it is fully as high, if not higher, in the town than in the country?—A. It looks like it ought to be.

Redirect examination by Judge BURFORD:

Q. Did all of the 20 in your precinct that are of voting age attempt to qualify at the registration?—A. No; there was only three or four—three—that came to vote that was not duly registered, and I disqualified them myself. That was in 1912. I disqualified them. There were about three. There is about 20 of these negro votes in that precinct.

Q. But the whole 20 have never applied for registration?—A. No.

Q. So you don't know as to the qualifications of those who didn't apply?—A. No; I don't know, only that three that was disqualified; they are the only ones I do know.

Q. Don't you know, as a matter of common observation and your experience as a member of the election board, that there are a number of negroes unable to qualify under the grandfather clause that never do attempt to take the test?—A. Yes; there was probably seven in my precinct made no attempt whatever.

Recross-examination by Mr. HOFFMAN:

Q. You had business dealings with those seven that you mention?—A. No.

Q. You don't know whether they are able to read and write, do you?—A. I don't know them.

Q. You don't know whether they are able to read and write?—A. No; I have no way of knowing; I know I disqualified those three.

Q. Do you know the Boardman letter we have referred to?—A. Yes, sir.

Q. Did you get a copy of that?—A. I got a copy of that letter; whether I got it through the mail or as common literature, I don't remember, but I remember of getting a copy of that letter.

Q. Don't remember how you received it?—A. No. I must have received it through the mail, but my impression is that it was a circular—distributed it.

Q. You don't think the Democratic party distributed it?—A. No; from Mr. Boardman.

Q. Did you get a copy of that warning circular I have mentioned?—A. That is the circular I have reference to.

Q. The letter over Mr. Boardman's signature—did you get a copy of that letter?—A. Will you let me see a copy of that letter? That letter that I received from Mr. Boardman, it seems to me that was just charging me with my duty as inspector to follow the Constitution of the United States and quoting that section of the Constitution wherein the negro should not be deprived of his right of franchise on account of race, color, and previous condition of servitude; something to that effect in the letter I received.

Q. You don't remember to have seen that letter?—A. I don't remember anything of that kind.

Q. You do remember of receiving a letter over the signature, either printed or written of Boardman, United States attorney?—A. Yes; it was either in circular form or I might have got it through the mail; I don't remember now.

Q. Related to your instructions and duties as inspector?—A. Yes, sir.

Q. And it was received just prior to election?—A. Dwelling on the Constitution of the United States and the qualification clause of colored people.

Judge BURFORD. It didn't frighten you any, did it?

A. No; simply the construction of the Constitution.

Mr. HOFFMAN. It didn't frighten you because you were a McGuire supporter; was that the reason? You knew McGuire's friends wouldn't be prosecuted by the Federal authorities?

A. It didn't threaten prosecution to me; it didn't threaten prosecution to the inspectors. It was only in regard to the duties they had to perform under the Constitution of the United States.

Mr. HOFFMAN. We offer in evidence Exhibits "A" and "B," referred to in the testimony of Ben Dobson, and ask to have them made a part of the cross-examination of this witness.

Judge BURFORD. Objected to, for the reason that it is not proper cross-examination, incompetent, and irrelevant, and immaterial, and is not a proper mode of incorporating testimony into the record. If competent at all, it would be upon rebuttal and no part of the witness's cross-examination, because he had no knowledge of the affidavits, and so far as the witness Martin is concerned, has repudiated the affidavit in his own testimony.

Counsel for contestee now moves to strike from the record the affidavits referred to as Exhibits "A" and "B" to Dobson's testimony as not a proper part of the testimony of said witness, and only to be treated as an effort on behalf of the contestant to get affidavits into the record which are incompetent as testimony on behalf of the contestant.

HENRY MILES, sworn and examined, testified as follows:

Direct examination by Judge BURFORD:

Q. State your name, age, and residence.—A. Henry Miles; 23; Langston.

Q. How long have you lived in Langston?—A. I have been in Langston ever since December 23, 1906.

Q. Are you reasonably well acquainted with the colored people of that locality?—A. I am.

Q. Was you attending the election of November, 1912?—A. Yes, sir.

Q. What precinct did you attend?—A. Antelope No. 2.

Q. Who was the inspector at that precinct?—A. Mr. Pulliam.

Q. Did you vote at that precinct?—A. I did.

Q. How long have you been acquainted with Pulliam?—A. I got acquainted with him shortly after I reached Langston. I presume it was that year; yes, sir.

Q. What was you engaged in during the day?—A. I was transferring voters from Langston to the voting precinct.

Q. How far was it from Langston to the place where you were voting?—A. In the east part of town; 1 mile west and 1 mile south.

Q. And you had a team, taking the voters out to the voting place and back?—A. Yes, sir.

Q. In what capacity were you acting?—A. I was committeeman of that district.

Q. Precinct committeeman of the Republican committee?—A. Yes, sir.

Q. And you was looking after the votes?—A. Yes, sir.

Q. Henry, did you have any meeting of the colored voters there immediately prior to the election?—A. Yes, sir.

Q. Was it pretty generally attended?—A. Pretty much so.

Q. Now you may state what was talked over there and decided amongst you people about the negroes voting at that election.

Mr. HOFFMAN. Objected to as incompetent, irrelevant, and immaterial, and calling for hearsay.

A. The night before the election was to be held the next day we had a meeting, and during the night of the same discussion I received a letter from the headquarters—that is, the Republican committee—and they instructed me that it wouldn't be wise for anyone to attend the election who couldn't read and write, because they didn't think they were eligible to vote. I read the letter in their hearing and explained it the best I could, that it wouldn't be proper for any of them to vote unless they could read and write.

Q. Did anyone make a talk there besides you?—A. Yes, sir.

Q. Who was it?—A. Mr. Trotter.

Q. What did Mr. Trotter say about the right to vote?

Mr. HOFFMAN. Objected to for the same reason as above.

A. He made a general talk, and he told them that those that couldn't read and write wouldn't be allowed to vote.

Q. Was there any talk of any trouble, of making any trouble there, prior to the election, about the negroes not being allowed to vote?—A. No, sir.

Q. During the election day was there any talk amongst the colored people or those who went to the polls about making any trouble on account of anyone not being permitted to vote?—A. No, sir; nothing of that kind.



Q. You may state whether or not from your knowledge of the sentiment in the community amongst the colored people and your relation with them as committeeman, whether or not there was a general disposition to submit to the State law and not to offer the vote of those who couldn't comply with the test.

Mr. HOFFMAN. Objected to as last above.

A. As far as I could state, it seemed to be the sentiment among all the people that those who couldn't read or couldn't write couldn't vote; that seemed to be all there was to it.

Q. From your acquaintance with the colored people in that precinct, state whether or not there were any who were not able to read and write that didn't go to the polls that day.

Mr. HOFFMAN. We object to that as incompetent, irrelevant, and immaterial, negative proof, no relation in any way to any issues in this case.

A. I can only state one that I am personally acquainted with that didn't vote because he couldn't read and he couldn't write.

Q. State whether or not you had a poll of the colored voters made prior to that election who were of voting age in that precinct, as committeeman.—

A. The committeeman who preceded me.

Q. Did you as committeeman have a list of the colored men of voting age in that precinct?—A. I didn't have a list.

Q. Do you know about how many colored men of voting age there were in that precinct who were unable to read and write?—A. I can only state one, to my knowledge, just one.

Q. Did he offer to vote?—A. No, sir; he didn't attempt to go out.

Q. What is his name?—A. Frank Williams.

Q. All these people that you took out to the polls to vote that day, state whether or not, of your own knowledge, they could read and write—all of them.—A. Every one that went out on my wagon could read and write, but there was so many in other conveyances that went to the polls; some had their own buggies; but all those that went in the wagon, they could read, and they could write.

Cross-examination by Mr. HOFFMAN:

Q. Did you hear Ben Dobson's testimony before dinner?—A. I did.

Q. Did you hear him say that Frank Williams could read and write?—A. It was John Williams.

Q. He also named the other, didn't he?—A. I don't know about Frank Williams; there are so many Williamses over there.

Q. How many Williamses are there?—A. There are several Williamses there; there are four different families in town.

Q. You are a negro, are you?—A. Yes, sir.

Q. Were you armed that day?—A. What do you mean by that?

Q. Did you have a razor that day?—A. No, sir.

Q. Six-shooter?—A. No, sir.

Q. Did you have any other arms?—A. No, sir; nothing but my wagon and buggy whip.

Q. You know of but one in that precinct—and you are committeeman—and you know of but one person among your own race, male, of adult age, who is unable to read and write?—A. I know of one.

Q. Just one?—A. Yes, sir.

Q. There is a negro State school, isn't there, in that precinct?—A. Yes, sir.

Q. And that is in Langston?—A. Yes, sir.

Q. But it is a negro settlement all around there?—A. Yes, sir.

Q. That is a negro town?—A. Yes, sir.

Q. Any whites live there at all?—A. No, sir.

Q. You say you have the instructions from the Republican county committee that the negroes couldn't read and write should not go to the polls?—A. I said that I received a letter from the committee over here at Guthrie, in the person of Mr. Capers, instructing me that those that could read and write would be eligible to vote; that that couldn't read and couldn't write could not vote.

Q. Have you got that letter?—A. I don't know; it may be at home.

Q. Will you produce that letter and make it part of your testimony?—A. I don't know whether I can find it.

Q. I will give you from now on until Christmas to get that letter and produce it.—A. I don't know whether I can find it.

Q. Do you mean to say that such a statement as that was put in writing and passed out to you from the Republican committee of this county?—A. Yes, sir.

Q. Again I ask you to search for that letter and produce it in this record; or if you can't get that, any copy of such a letter.

It is hereby stipulated and agreed between the parties to this contest that the total number of votes cast in the first congressional district at the November election, 1912, for the candidates for Congress is 42,260, of which number John J. Davis received 18,456, Bird S. McGuire, 19,035; A. W. Renshaw, 4,447; Thomas P. Hopley, 322, as shown by the official records of the State election board as made up from the returns of the several county election boards in said district.

It is further admitted that the tabulation marked "vote for Congressman, first district, Oklahoma, November, 1912," is a correct tabulation of the votes cast for the several candidates for Congress in the first congressional district in each voting precinct of the several counties in the said first congressional district, and that said tabulation shall be copied into and made a part of the record in this case. Such testimony, both as to the precincts and the totals, being submitted as evidence by both parties to this controversy. Said testimony is marked "Exhibit C."

EXHIBIT C.—Vote for Congressman, first district, Oklahoma, November, 1912.

LINCOLN COUNTY.

	Davis.	McGuire.	Renshaw.	Hopley.
N. Ponca.....	11	17	12	2
S. Ponca.....	31	29	20	1
N. Pawnee.....	22	18	13	
S. Pawnee.....	49	37	55	
N. Osage.....	55	36	22	
S. Osage.....	34	48	24	2
N. Iowa.....	55	44	24	
S. Iowa.....	27	50	23	
Cimarron No. 1.....	56	15	10	1
Cimarron No. 2.....	47	69	4	1
Cimarron No. 3.....	22	6	5	
N. Keokuk.....	68	53	27	5
S. Keokuk.....	34	88	29	2
N. Fox.....	57	54	24	
S. Fox.....	57	87	42	
E. Otoe.....	38	38	18	
W. Otoe.....	42	29	2	
Union.....	55	86	19	1
Chandler Township.....	63	86	24	2
E. McKinley.....	32	56	13	1
W. McKinley.....	31	54	18	1
Wellston Township.....	55	63	6	
N. Wichita.....	59	99	17	1
S. Wichita.....	76	33	17	1
E. N. Choctaw.....	19	29	18	2
W. N. Choctaw.....	31	26	26	
S. Choctaw.....	70	64	29	2
N. Seminole.....	49	50	39	
S. Seminole.....	25	69	38	1
N. Creek.....	40	75	19	
S. Creek.....	53	82	18	
Bryan.....	48	32	50	1
Kickapoo.....	63	51	45	
Agra.....	35	37	3	
Tryon.....	25	17	3	
N. Carney.....	4	3	3	
Carney.....	22	18	3	
Davenport.....	45	17	17	
Kendrick.....	22	19	2	1
Fallis.....	17	23	7	
Chandler, ward No. 1.....	86	58	9	1
Chandler, ward No. 2.....	60	45	6	
Chandler, ward No. 3.....	33	27	4	
Chandler, ward No. 4.....	34	31	5	1
Wellston City.....	63	65	5	
Sparks.....	28	35	8	1
W. Sparks.....	12	15	1	
Meeker.....	39	36	4	
Prague.....	85	71	22	1
Midlothain.....	13	8	6	
N. Stroud.....	76	75	14	
S. Stroud.....	36	46	15	
Tohee.....	46	58	17	
Total.....	2,255	2,377	904	39

Vote for Congressman, first district, Oklahoma, November, 1912—Continued.

KINGFISHER COUNTY.

	Davis.	McGuire.	Renshaw.	Hopley.
Altona.....	24	30	19	1
Banner No. 1.....	24	43	8	
Banner No. 2.....	14	10	2	
Center.....	63	32	4	
Cimarron No. 1.....	39	54	6	1
Cimarron No. 2.....	35	38	4	1
Cornado No. 1.....	14	12	5	1
Cornado No. 2.....	17	27	1	
Cooper.....	43	46	17	1
Columbia.....	44	62	17	1
Cashion.....	27	33	5	2
Downs.....	35	24	34	2
Excelsior.....	37	56	10	
Forest No. 1.....	11	10	5	2
Forest No. 2.....	9	13	5	
Grant.....	33	46	11	2
Hennessey Township.....	46	71	6	1
Hennessey, ward No. 1.....	47	54	10	
Hennessey, ward No. 2.....	84	78	17	1
Harrison.....	30	41	2	
Kingfisher Township.....	56	60	8	
Kingfisher, ward No. 1.....	12	56	9	
Kingfisher, ward No. 2.....	25	43	6	
Kingfisher, ward No. 3.....	42	68	7	
Kingfisher, ward No. 4.....	59	84	12	
Kingfisher, ward No. 5.....	36	47	4	
Lacy <sup>1</sup> .....				
Logan.....	33	34	16	
Lynn.....	30	30	9	1
Omega.....	46	32	18	
Otter.....	51	39	15	
Park.....	48	26	2	
River.....	17	45	10	
Reserve.....	32	55	3	1
Sherman.....	29	48	3	1
Skeleton.....	37	43	16	1
Union <sup>2</sup> .....				
Okarche.....	36	20	3	
Total.....	1,265	1,510	330	18

OSAGE COUNTY.

Caney No. 1.....	34	20	9	1
Caney No. 2.....	24	17		
Caney No. 3.....	10	4		
Caney No. 4.....	6	8	7	
Caney No. 5.....	19	7	5	
Caney No. 6.....	21	8		
Strikeaxe No. 1.....	48	17	3	
Strikeaxe No. 2.....	17	20	1	
Strikeaxe No. 3.....	13	24	2	
Strikeaxe No. 4.....	57	67	12	1
Strikeaxe No. 5.....	25	11	5	
Strikeaxe No. 6.....	39	48	21	
Pawhuska No. 1.....	118	97	7	2
Pawhuska No. 2.....	67	54	5	
Pawhuska No. 3.....	44	27	6	
Pawhuska No. 4.....	101	61	4	
Bigheart No. 1.....	49	39		
Bigheart No. 2.....	43	59	27	
Bigheart No. 3.....	15	12	9	1
Bigheart No. 4.....	40	48	26	1
Bigheart No. 5.....	50	43	12	2
Bigheart No. 6.....	53	82	7	
Blackdog No. 1.....	72	37	11	
Blackdog No. 2.....	12	8		
Blackdog No. 3.....	7	17	8	
Blackdog No. 4.....	18	11	4	
Blackdog No. 5.....	5	11	5	
Blackdog No. 6.....	22	18	6	
Blackdog No. 7.....	6	11	4	
Hominy No. 1.....	17	26	12	
Hominy No. 2.....	11		1	
Hominy No. 3.....	16	32	10	
Hominy No. 4.....	65	57	8	

<sup>1</sup> Not canvassed on account of irregularities.

<sup>2</sup> No official returns.

Vote for Congressman, first district, Oklahoma, November, 1912—Continued.

## OSAGE COUNTY—Continued.

	Davis.	McGuire.	Renshaw.	Hopley.
Hominy No. 5.....	20	18	3	3
Hominy No. 6.....	26	25	15	.....
Hominy No. 7.....	14	34	29	1
Hominy No. 8.....	14	6	2	.....
Hominy No. 9.....	84	55	6	1
Hominy No. 10.....	20	32	29	.....
Fairfax No. 1.....	10	5	3	.....
Fairfax No. 2.....	17	70	2	1
Fairfax No. 3.....	15	10	2	.....
Fairfax No. 4.....	88	73	21	2
Fairfax No. 5.....	19	25	15	.....
Fairfax No. 6.....	24	39	2	.....
Bighill No. 1.....	41	32	3	.....
Bighill No. 2.....	30	22	9	.....
Bighill No. 3.....	45	72	6	1
Bighill No. 4.....	17	34	1	.....
Bighill No. 5.....	46	53	3	.....
Bighill No. 6.....	47	35	6	1
Foraker No. 1.....	4	2	1	.....
Foraker No. 2.....	19	35	4	.....
Foraker No. 3.....	51	25	14	.....
Foraker No. 4.....	13	24	6	.....
Foraker No. 5.....	20	10	10	.....
Foraker No. 6.....	6	6	.....	.....
Foraker No. 7.....	14	10	1	.....
Foraker No. 8.....	32	30	8	.....
Total.....	1,880	1,784	441	18

## PAWNEE COUNTY.

S. Coal Creek.....	72	56	9	1
S. Eagle.....	47	28	14	.....
Pawnee.....	33	78	13	.....
Skedee.....	110	94	34	1
Liberty.....	53	67	15	.....
Burnham.....	40	61	6	2
Banner.....	40	41	19	2
Lagoon N.....	65	36	16	1
Valley.....	58	53	33	1
Blackburn.....	116	79	11	.....
McElroy.....	53	65	23	.....
Jordan Valley.....	53	62	60	1
House Creek.....	73	69	20	1
W. Cimarron.....	44	46	10	2
E. Cimarron.....	42	45	32	.....
N. McElroy.....	62	34	12	.....
N. Coal Creek.....	45	43	7	.....
Otoe.....	39	31	3	.....
S. Lagoon.....	32	25	11	.....
N. Eagle.....	10	14	12	.....
Pawnee No. 1.....	18	45	8	.....
Pawnee No. 2.....	48	40	9	1
Pawnee No. 3.....	61	30	1	1
Pawnee No. 4.....	56	54	6	1
Cleveland No. 1.....	22	29	.....	1
Cleveland No. 2.....	40	53	15	1
Cleveland No. 3.....	23	18	17	.....
Cleveland No. 4.....	15	25	19	.....
Total.....	1,396	1,311	435	17

## GRANT COUNTY.

N. Bluff.....	26	39	1	2
S. Bluff.....	48	40	12	.....
N. Fairview.....	14	28	6	.....
S. Fairview.....	35	35	8	.....
N. Hickory.....	31	20	1	.....
S. Hickory.....	48	34	7	.....
N. Jarvis.....	16	29	1	1
S. Jarvis.....	43	31	5	2
N. Wakita.....	23	35	1	1
S. Wakita.....	48	58	9	3
N. Manchester.....	34	19	6	3
S. Manchester.....	50	50	6	.....

Vote for Congressman, first district, Oklahoma, November, 1912—Continued.

GRANT COUNTY—Continued.

	Davis.	McGuire.	Renshaw.	Hopley.
Ware.....	27	38	12	2
Gore.....	51	42	1	2
Valley.....	35	33	11	.....
Medford.....	42	38	8	.....
Numa.....	40	37	2	.....
Derigo.....	59	51	6	1
Liberty.....	50	48	8	1
Rock Island.....	48	59	1	4
S. Coldwater.....	26	34	5	5
N. Coldwater.....	47	35	16	2
Prairie.....	104	55	17	1
Banner.....	30	40	3	.....
Berry.....	57	54	.....	.....
Reno.....	52	42	1	.....
Salt Fork.....	64	35	11	2
Alfalfa.....	58	38	10	3
Lamont.....	53	51	12	.....
Bryan.....	57	40	11	.....
Pond Creek, Ward No. 1.....	28	25	2	1
Pond Creek, Ward No. 2.....	26	43	1	1
Pond Creek, Ward No. 3.....	17	16	1	.....
Pond Creek, Ward No. 4.....	31	27	2	1
Pond Creek, Ward No. 5.....	12	10	.....	.....
Renfrow.....	13	19	2	1
Manchester.....	40	25	6	.....
Wakita.....	33	46	7	.....
Deer Creek.....	16	11	3	1
Lamont.....	57	59	11	2
Jefferson.....	38	25	4	.....
Medford, No. 1.....	38	34	5	2
Medford, No. 2.....	63	54	13	2
Total.....	1,728	1,592	255	46

KAY COUNTY.

Ponca, Ward No. 1.....	87	72	10	1
Ponca, Ward No. 2.....	59	41	7	.....
Ponca, Ward No. 3.....	78	65	12	1
Ponca, Ward No. 4.....	33	52	7	.....
Ponca, Ward No. 5.....	38	21	2	.....
Cross.....	98	71	18	1
Round Grove.....	64	47	6	.....
Kildare.....	75	67	3	3
Kaw City.....	63	59	11	.....
Longwood.....	64	63	17	3
Waltham.....	76	72	7	2
E. Miller.....	60	22	7	.....
W. Miller.....	53	38	3	.....
Newkirk, No. 1.....	27	26	9	.....
Newkirk, No. 2.....	46	48	4	.....
Newkirk, No. 3.....	80	84	2	3
Newkirk, No. 4.....	18	22	1	1
Newkirk Township.....	81	94	12	3
Beaver.....	42	65	17	.....
Kaw Township.....	106	67	18	.....
Dale.....	87	95	12	3
N. Vernon.....	31	37	14	.....
S. Vernon.....	71	52	4	.....
S. Lowe.....	81	108	1	3
N. Lowe.....	44	54	5	.....
Blackwell, No. 1.....	57	61	.....	1
Blackwell, No. 2.....	79	80	3	1
Blackwell, No. 3.....	76	97	2	1
Blackwell, No. 4.....	55	48	5	.....
Blackwell Township.....	78	75	5	1
Rock Falls.....	61	71	7	.....
Renfrow.....	89	98	3	2
Weston.....	59	71	2	1
Carlisle.....	79	65	10	.....
Owens.....	96	69	5	.....
Tonkawa Township.....	97	73	8	1
Tonkawa City, No. 1.....	54	37	5	2
Tonkawa City, No. 2.....	32	26	3	2
Tonkawa City, No. 3.....	26	23	9	9
Tonkawa City, No. 4.....	64	49	4	.....
Total.....	2,564	2,385	280	45

Vote for Congressman, first district, Oklahoma, November, 1912—Continued.

## GARFIELD COUNTY.

	Davis.	McGuire.	Renshaw.	Hopley.
Enid, W. 1, P. 1.....	83	98	2	.....
Enid, W. 1, P. 2.....	184	122	3	1
Enid, W. 2, P. 1.....	74	125	15	1
Enid, W. 2, P. 2.....	66	55	21	.....
Enid, W. 3, P. 1.....	51	61	14	1
Enid, W. 4, P. 1.....	127	155	21	3
Enid, W. 4, P. 2.....	86	99	12	5
Enid, W. 5, P. 1.....	62	91	6	.....
Enid, W. 5, P. 2.....	68	84	20	.....
Enid, W. 6, P. 1.....	108	116	18	3
Enid, W. 6, P. 2.....	89	93	10	3
Allison.....	82	57	20	1
Banner.....	49	62	5	.....
Blaine.....	58	36	9	.....
Buffalo.....	28	34	5	.....
Enid.....	49	42	10	2
Flynn.....	48	28	5	.....
Garland.....	62	72	6	.....
Grant.....	48	33	6	.....
Hackberry.....	38	51	5	2
Hobart.....	72	53	7	3
Kowee.....	48	58	14	1
Kremlin.....	75	75	5	1
Lincoln.....	71	21	3	1
Logan.....	67	95	5	2
Marshall.....	39	49	9	.....
McKinley.....	36	62	10	1
Noble.....	87	53	17	2
North Enid.....	41	72	3	.....
Olive.....	45	36	11	1
Osborne.....	28	49	1	1
Otter, No. 1.....	58	40	7	.....
Otter, No. 2.....	41	20	9	1
Patterson.....	55	67	4	1
Reed.....	38	36	6	.....
Sheridan.....	53	90	6	1
Skeleton.....	53	30	3	.....
Sumner.....	45	62	1	1
Union.....	70	56	6	.....
Washington.....	29	58	13	1
Waukomis.....	96	122	10	.....
Wood.....	45	42	15	.....
Total.....	2,652	2,760	378	40

## LOGAN COUNTY.

Antelope, No. 1.....	49	49	2	.....
Antelope, No. 2.....	14	64	2	1
Bear Creek.....	42	70	22	2
Bismarck.....	65	48	6	1
Cedar, No. 1.....	37	22	2	2
Cedar, No. 2.....	12	13	8	.....
Guthrie Township.....	47	96	29	1
Iowa.....	18	77	5	.....
Iron Mound.....	51	62	9	1
Lawroe.....	55	65	10	.....
Marshall.....	94	72	27	.....
Mulhall.....	104	97	6	.....
North Cimarron.....	74	82	10	1
Oak View.....	77	64	6	.....
Orlando.....	75	87	10	1
Seward.....	51	69	11	.....
South Cimarron.....	28	83	7	.....
Spring Creek.....	42	32	29	1
Springer.....	37	51	22	.....
Spring Vale.....	19	55	9	.....
Rose Hill.....	50	52	9	1
Woodland.....	58	59	16	3
Guthrie City, W. 1, P. 1.....	62	149	5	2
Guthrie City, W. 1, P. 2.....	35	147	13	5
Guthrie City, W. 2, P. 2.....	88	127	24	4
Guthrie City, W. 2, P. 1.....	65	117	5	2
Guthrie City, W. 3, P. 1.....	54	151	26	2
Guthrie City, W. 3, P. 2.....	60	105	20	2
Guthrie City, W. 4, P. 1.....	50	82	23	5
Guthrie City, W. 4, P. 2.....	23	57	10	2

Vote for Congressman, first district, Oklahoma, November, 1912—Continued.

LOGAN COUNTY—Continued.

	Davis.	McGuire.	Renshaw.	Hopley.
Guthrie City, W. 5.....	60	137	12	3
Crescent, No. 1.....	82	70	27	2
Crescent, No. 2.....	66	74	18	
Total.....	1,744	2,584	440	43

PAYNE COUNTY.

Cherokee.....	50	61	16	2
Cimarron, No. 1.....	20	14	45	1
Cimarron, No. 2.....	61	43	25	
Clarkson.....	33	50	7	1
Clayton, No. 1.....	51	42	23	
Clayton, No. 2.....	47	46	18	1
Clear Creek.....	29	40	16	1
Elm Grove.....	72	61	22	3
Eden.....	50	45	17	
Eagle, precinct No. 1.....	45	46	34	1
Eagle, No. 2.....	18	33	29	
Glencoe.....	53	46	10	
Henry.....	53	85	13	1
Indian.....	30	31	24	3
Mound.....	41	49	44	2
Pawnee.....	53	64	30	2
Paradise.....	87	46	57	
Perkins.....	83	74	34	3
Rose.....	50	60	22	1
Stillwater.....	73	50	32	6
Union, precinct No. 1.....	38	32	55	2
Union, No. 2.....	30	29	8	
Cushing town.....	84	82	19	
Glencoe town.....	24	46	17	1
Perkins town.....	58	60	12	3
Rinley town.....	36	34	7	1
Stillwater, W. 1.....	49	32	18	1
Stillwater, W. 2, P. 2.....	67	47	14	2
Stillwater, W. 2, P. 1.....	116	63	16	8
Stillwater, W. 3.....	64	43	29	
Stillwater, W. 4.....	54	45	10	1
Yale town.....	62	48	14	3
Total.....	1,671	1,547	737	51

NOBLE COUNTY.

Antry.....	57	60	16	
Auburn.....	85	42	16	1
Buffalo.....	22	15	1	
Black Bear.....	52	40	11	
Bunch Creek.....	68	38	4	3
Walnut.....	29	56	26	
Noble.....	46	49	12	1
Bliss.....	18	12	1	1
Lowe.....	39	47	20	
Oakdale.....	57	33	8	
Morrison.....	38	33	8	
Watkins.....	58	40	8	1
White Rock.....	34	41	3	
Missouri.....	35	17		
Warren Valley.....	75	49	7	1
Otoe, No. 1.....	30	33		1
Otoe, No. 2.....	27	25		
Otoe, No. 3.....	27	12	9	
Red Rock City.....	50	23	8	
Carson.....	39	20	3	
Billings City.....	32	42	24	1
Glenrose.....	38	48	2	
Rock Township.....	31	60	16	1
Red Rock Township.....	47	44	12	
Perry, ward No. 1.....	30	18	8	
Perry, ward No. 2.....	43	79	9	
Perry, ward No. 3.....	122	112	7	1
Perry, ward No. 4.....	72	97	8	
Total.....	1,301	1,185	247	12

SAM ABLES, sworn and examined, testified as follows:

Direct examination by Judge BURFORD:

Q. State your name.—A. Sam Ables.

Q. What is your age?—A. Sixty-one.

Q. Where do you live?—A. In Springvale Township.

Q. How long have you lived in Logan County?—A. I have lived there ever since the first year the country opened up.

Q. Since 1889?—A. Yes, sir.

Q. You belong to the colored or negro race?—A. Yes, sir.

Q. What State were you born in?—A. Texas.

Q. Have you been voting under the laws of the Territory and the State of Oklahoma?—A. Yes, sir.

Q. Are you qualified to vote under the constitutional provision relating to the so-called grandfather clause?—A. Yes; I suppose so.

Q. Who was the election inspector in your voting precinct at the 1912 election?—A. Mr. Walter Towle.

Q. Who had been the inspector prior to that time?—A. Greenway.

Q. Did you vote in the election of 1910 when Mr. Greenway was inspector?—A. No, sir.

Q. Why didn't you vote at that time?—A. He wanted me to read and write, and I wouldn't do it, and he said I couldn't vote.

Q. You didn't attempt to read and write?—A. No, sir.

Q. Can you read and write?—A. Some.

Q. At the election in 1912, did you vote?—A. Yes, sir.

Q. Did they ask you to read and write that time?—A. No, sir.

Q. Did Mr. Towle know whether you could read and write or not?—A. Yes, sir.

Q. Had you ever written or read in his presence?—A. Yes, sir.

Q. Was you at the office primary prior to the general election in November?—A. Yes, sir.

Q. Did you vote at that time?—A. Yes, sir.

Q. Did the inspector require you to take any test at that time?—A. I don't think he did.

Q. Are you reasonably well acquainted with the colored people in the township where you live?—A. Yes; pretty well.

Q. Prior to the election in 1910, you may state whether any meetings were held in that township by the colored people, in which the question of their right to vote was discussed or considered.—A. No, sir; we didn't have any.

Q. You may state whether any meetings were held among the colored people, in which any threats were made against the election officers, or any talk made that the election officers would be in danger if they enforced the law.—A. No, sir; I never heard such a thing.

Q. Did you hear of any talk of that kind in your locality?—A. No, sir.

Q. You associated generally with the colored people?—A. I do.

Q. Attend their meetings?—A. I do when they have any; yes, sir.

Q. Prior to 1912 election in November, when you were getting ready to nominate your candidates for county offices, did you have any meetings out in that township?—A. I believe they did have one; I think they had one for the county officers.

Q. Do you know whether there was ever any talk prior to the 1912 election about prosecuting the election officers or causing them any trouble if they enforced the law preventing any colored men from voting?—A. No, sir; never heard of anything of the kind.

Q. Do you know about how many colored men of voting age there are in that township who can not read and write?—A. I don't believe I know exactly how many there is.

Q. I don't mean exactly, just approximately; about how many?—A. There may be some 9 or 10, I suppose.

Q. You may state whether any of those that can't read and write voted at the 1912 election.—A. No, sir; I don't think any of them come out there that day at all.

Q. You may state whether or not there was any understanding among the colored people of your township that those who couldn't read and write would not attempt to vote at that election.

Mr. HOFFMAN. Objected to for the reason that it is calling for hearsay, incompetent, irrelevant, and immaterial.



A. Yes, sir; I do; because I was told myself there was no use to go unless I could read and write; I told several of them that.

Q. Was there any disposition manifested on the part of any of them to make any resistance against that?—A. No, sir; not a bit; didn't none of them come.

Q. Was you at the polls about all day at the November election, 1912?

Mr. HOFFMAN. Objected to as a leading question.

Judge BURFORD. Question is withdrawn.

Q. What part of the day were you in attendance at the voting place in your precinct in November, 1912?—A. I was there about 8 o'clock, and I stayed there about a couple of hours and then I came back about 11 o'clock and stayed there all day.

Q. During that time was there any colored citizen went to the polls and tried to vote who couldn't read and write?—A. No, sir.

Q. You may state whether any disturbance arose that day about the voting place.—A. No, sir; just as quiet and nice as could be.

Cross-examination by Mr. HOFFMAN:

Q. What is the proportion of the black to the white voters in your precinct; which is in the majority?—A. Colored people.

Q. By how many?—A. About 20, I suppose.

Q. Do you know all the colored people who are of voting age who are in that precinct at the last election time?—A. Really, I don't know all of them, because there is some come in there that I don't know; I can't recall their names, but I know them only when I see them.

Q. How do you pretend to be able to testify when you don't know how many of them can read and write?—A. I have heard folks say they could do it.

Q. You are telling what folks have told you about this, are you?—A. They wouldn't have let them vote if they couldn't read and write.

Q. You say you didn't vote at the 1910 election?—A. No, sir.

Q. Why didn't you?—A. I had been used to voting, but I told them I wouldn't vote.

Q. Was you mad and wouldn't?—A. Yes, sir.

Q. You could have at that time written a section of the constitution?—A. I suppose so.

Q. And you didn't do it just because you was mad, is that it?—A. Well, I didn't think I had a right to do any more than I was doing, that is what I thought about it.

Q. You didn't propose to comply with our election laws was the reason you didn't vote?—A. I didn't vote.

Q. I am asking you what your reason was. I say the reason you didn't vote was because you didn't propose to be bound by our election laws, was that right?—A. I reckon so.

Q. You haven't got much sympathy with this election law, have you?—A. No; I haven't.

Q. Why did you go back and vote in 1912?—A. I went back to see if I could vote, and I saw I could vote and so I voted.

Q. Nobody applied any test to you, did they?—A. No, sir.

Q. Nobody asked you whether you could read or write?—A. No; they knew I could.

Q. And nobody else who applied to vote of your race there at that precinct that day had any test given them, did they?—A. I couldn't tell you that.

Q. You say you was there all day?—A. I wasn't in the house.

Q. Did you talk and argue around there, converse with them?—A. I didn't ask them anything about that.

Q. You don't know, then, whether any of them were asked whether they could read or write or not, do you?—A. I don't know.

Q. You know that anybody was rejected that came there?—A. They all voted.

Q. Wasn't anybody turned out?—A. No, sir.

Q. I ask the stenographer to mark these papers that I hand you Exhibits "A" and "B," and I will ask you to take Exhibits "A" and "B," purporting to be affidavits or statements of the inspectors and officers of that election precinct on that day in the 1912 election, and state whether or not, after refreshing your memory from these statements, you don't know it to be a fact that it was generally understood among your people who went there that day that these election officers were intimidated by this letter from United States Attorney Boardman and this warning circular threatening to send election board officers

to the penitentiary if they enforced the State law, until they had decided there in that precinct that day that they would not apply the test to any member of your race, and that all of your people who went there could vote?

Judge BURFORD. Counsel for contestee objects to the counsel for contestant injecting into the record at this time and prior to the period in which the arguments are permissible in the case, and advises the witness on the stand that he is not required to read the several affidavits made by the witnesses for the contestant for the reasons, first, that the penmanship is so inferior that it would require practically the remainder of the day to translate the chirography, and for the further reason that it is not a proper mode of cross-examination of the witness.

Q. I again offer you these affidavits and ask you to read them, notwithstanding the advice of your lawyer, and answer the question.—A. I can't read them.

Mr. HOFFMAN. Here witness states, without attempting to read them, that he couldn't read them.

Q. Can you read printing?—A. Some.

Q. Why do you refuse to read these statements and answer the question? Is it owing to your inability to read?—A. I don't just know why; I don't care to read it.

Q. If Mr. Legrand states in the affidavit referred to that he acted as judge of the election board in Springvale Township, Logan County, on the 5th of November, 1912, and that a large number of negroes voted, and that having heard of the Boardman letter (meaning the letter of United States Attorney Boardman), and fearing violence, no one was challenged and no questions asked, and all allowed to vote, and that negroes voted who could not read and write and could not have passed the test, and that no test was given to anyone, and that when the negroes discovered they could vote they swarmed in in great numbers, what do you say now as to whether or not there was an understanding among your people there assembled that day that the test would not be applied, and that all could vote who offered, irrespective of whether or not they could qualify under the grandfather clause? The question is if he makes that statement under oath, are you not now ready to admit that your people knew that they were not going to be tested in order to vote?

Judge BURFORD. Counsel for contestee objects to the question just submitted to the witness, and moves to strike the same from the record for the reason that the witness, Legrand, whose affidavit has been read from, has testified as a witness in behalf of the contestant in this case, and his evidence is in the record, and a copy now in the possession of the contestant and his counsel, and that the affidavit read from is not a part of the record, has not been introduced into it, and is incompetent, and it is improper practice to use an ex parte affidavit of a party to cross-examine the witness upon when a witness has testified in relation to the same matters fully in the cause.

Mr. HOFFMAN. Counsel for contestant here offers in evidence the statement of the witness, Legrand, marked "Exhibit A," and of the witness, Walter Towle, marked "Exhibit B," and asks that they may be made a part of the cross-examination of this witness, and identified by the exhibit marks hereinabove referred to.

#### EXHIBIT A.

STATE OF OKLAHOMA, *County of Logan, ss:*

I hereby certify that I am judge of the election board of Springvale Township, Logan County, State of Oklahoma, and that I acted in that capacity on the 5th of November, 1912, and that I acted in that capacity and while acting in that capacity a large number of negroes voted; having heard of the Boardman letter and fearing violence no one was challenged and no questions were asked and all allowed to vote who wanted to vote; that some negroes voted who were not allowed to vote on test two years ago; that I believe many of the negroes could not read and write and could not have passed the test; that no test was given to anyone; that when the negroes discovered they could vote they swarmed in in great numbers; that the grandfather clause has never been enforced in this township; that no one was challenged for any cause; that I could swear to above but it is impossible to reach a notary public.

(Signed) C. M. LEGRAND.

Attested by us at the direction of Martin Legrand above and we by signing certify that the above signature is genuine and that Martin Legrand declared

above to be true and that he would swear to it if it were possible to reach a notary public and that it was impossible to reach a notary public.

COURTLAND M. FENQUAY.  
PETE DUNHAM.

STATE OF OKLAHOMA, *County of Logan, ss:*

I hereby certify that I am \_\_\_\_\_, of the \_\_\_\_\_ precinct, \_\_\_\_\_ of the ward \_\_\_\_\_ of the city of \_\_\_\_\_, Logan County, State of Oklahoma, and that I acted in that capacity on the 5th day of November, 1912, and that while acting in that capacity a large (small) number of negroes voted; that only \_\_\_\_\_ were challenged and that I did not know personally that any of those who voted could read and write and that I did not challenge any negro voter; that I let \_\_\_\_\_ negroes vote on affidavit that they could read and write a section of the Constitution; that I gave the test as required by law to \_\_\_\_\_ number of negroes and that I only let those who passed vote; that \_\_\_\_\_ negroes were turned down as not qualified.

(Signed) \_\_\_\_\_.

Subscribed and sworn to before me this \_\_\_\_\_ day of November, 1912.

\_\_\_\_\_, *Notary Public.*

My commission expires \_\_\_\_\_.

EXHIBIT B.

STATE OF OKLAHOMA, *County of Logan, ss:*

I hereby certify that I, inspector of the election board of Springvale Township, Logan County, State of Oklahoma, and that I acted in that capacity on the 5th of November, 1912, and that while acting in that capacity a large number of negroes voted; that I had heard of the Boardman letter and fearing trouble no one was challenged and no questions asked as I thought only a specially appointed challenger had right to challenge; that all were allowed to vote who wanted to vote and who presented themselves; that I believe that some of the negroes could not read and write so as to pass the test if it had been given; that not test was given to anyone; that the grandfather clause has never been enforced in this township; that no one was challenged for any cause; that I would swear above to be the exact truth but it is impossible to get to a notary public; that no supplies were furnished to make test on.

(Signed) WALTER TOWLE.

Attested at the request of Walter Towle (above) and we by signing certify that the above signature is genuine and that Walter Towle declared above to be true and that he would swear to it if it were possible to get to a notary public and that it was impossible to reach a notary public.

COURTLAND M. FENQUAY.  
PETE DUNHAM.

JUDGE BURFORD. Objected to as not competent under any rule of evidence or practice prevailing in the courts of this State or of the United States to be admitted as evidence, either as original testimony or as part of the cross-examination of this witness, witness not having given any testimony in reference to the affidavits.

Q. You say you are a legal voter and voted at the 1912 election? I hand you here a copy of our State constitution. Opening it at the first place the book opens, section 29 of article 10, and ask you to read it to us.—A. You will have to get me a pair of glasses.

Q. What do you say is the matter with the glasses you have in your pocket?—A. These are the ones I wear when I look around and they are not reading glasses.

Q. Have you got a separate pair of specs for reading?—A. Yes; I got a separate pair.

Q. Where are they?—A. The pair I use is at home.

Q. Did you take your reading specs along with you into the polling booth on the 5th of November?—A. I suppose I did.

Q. Don't you know whether you did?—A. I carried them.

Q. You carried that pair of specs that day?—A. Yes.

Q. What did you do with those you have here to-day?—A. This is the first time I have had them on in five or six months.

Q. You can't read anything with the specs you have on?—A. No, sir; I can't see. I couldn't see that at all.

Q. Didn't you think when you came to town you might have use for your reading specs?—A. No, sir; I didn't think I had so much to do.

Q. You knew you were coming here to testify, didn't you?—A. I had an idea of it.

Q. You knew it, didn't you?—A. I know it now.

Q. Didn't you know it before you started from home this morning?—A. No, sir.

Q. What did you come to town for?—A. I came to town to do some trading; I didn't know as I would have to testify.

Q. You were working up evidence in the case?—A. No, sir.

Q. You were called here as a witness?—A. Yes, sir.

Q. And you didn't know you would have to testify after being called as a witness, and you didn't know that you would have any use for your reading specs?—A. No, sir; I didn't.

Q. Have you got any place around here where you can borrow some reading specs?—A. I don't suppose I have.

Q. I will excuse you from the witness stand to get some reading specs and read us that section of the constitution.—A. Do I have to do it?

Q. Yes. Talk to your own lawyer whether you have to.—A. If he says read it, get me a pair of specs and I will try to read it.

Q. I am giving you all the time you want, you and your lawyer between you, to get you a pair of reading specs so that you can read that section.

Judge BURFORD. Counsel for the contestee advises the counsel for contestant that he is not a lawyer for the witness and does not represent him; that he represents the contestee; that they have no funds available under the laws of Congress for paying the expense of furnishing a specialist to examine the eyes of witnesses or to furnish them reading glasses.

Mr. HOFFMAN. Counsel for contestant offers to pay the expense of the witness while he hunts a pair of specs and the expense of procuring the same.

Q. Can you read with those specs you have on?—A. No, sir.

Q. Have you got another pair of writing spectacles too?—A. I have got a pair I can see to read with.

Q. Have you got a pair you can see to write with?—A. When there is a reason I can write with the same pair.

WALLACE BRIGHT, sworn and examined, testified as follows:

Direct examination by Judge BURFORD:

Q. What is your name?—A. Wallace Bright.

Q. What is your age, Bright?—A. Thirty-one years old.

Q. Where were you born?—A. Tennessee.

Q. Where do you live?—A. Oklahoma.

Q. What voting precinct do you live in?—A. Springvale.

Q. What county?—A. Logan County.

Q. How long have you been a resident of Logan County?—A. About 22 years, I guess.

Q. What is your occupation?—A. Farmer.

Q. Do you own a farm?—A. Not directly; no, sir.

Q. Are you a renter?—A. Practically a renter; I am living on property my father-in-law gave my wife.

Q. Are you reasonably well acquainted in the precinct where you live?—A. Fairly well; yes, sir.

Q. Have you been in the habit of attending public meetings of the colored people in your township?—A. Yes, sir.

Q. You may state whether or not, prior to the election of 1910, there were any meetings held in your township for the colored people in which any threats were made against the election officers or in which there was discussed any disposition to make any trouble for the election officers.—A. No, sir.

Q. Did you ever hear of any colored people making any threats against Mr. Greenway?—A. No, sir; I have no.

Q. Did you ever hear of Mr. Greenway himself complaining that any one had threatened him?

Mr. HOFFMAN. Objected to as incompetent, irrelevant, and immaterial, and a negative method of proof and has no value: not the best evidence.

A. No, sir.

Q. Prior to the election in 1912, did you attend any meetings of the colored voters in your precinct?—A. We had some meetings, but it wasn't really colored voters—just township meeting.

Q. Aat those meetings were there any discussions or talk about making any disturbance by the colored men that couldn't read and write and attempting to force their right to vote?—A. They did not.

Q. Was there any sentiment of that kind prevailing in that neighborhood, so far as you could determine from the talk and conduct of the people?

Mr. HOFFMAN. Objected to as last above—incompetent, irrelevant, and immaterial.

A. No, sir; there was not.

Q. Did you attend the election in November, 1912?—A. Yes, sir.

Q. Are you able to read and write?—A. I think so; I am not a college graduate, but I can read and write.

Q. Transact your own business, do you?—A. Yes, sir.

Q. And do you know of some colored men of voting age in your precinct who are not able to read and write?—A. Yes, sir.

Q. About how many do you know of, Mr. Bright?—A. They move in and out, but I judge there is probably 8 or 10.

Q. Did any of those persons make any attempt to vote at the November, 1912, election?—A. Not to my knowledge.

Q. How long was you at the voting place at that election?—A. I guess I went there about 8 o'clock and left, I guess, about half past 5—no; I guess it was 6 o'clock.

Q. During the day was there any trouble or disturbance at the polls?—A. No, sir.

Q. Was there ever any time when the colored men made a rush on the ballot box or the voting place?—A. No, sir.

Q. Attempted to crowd in and take possession?—A. No, sir.

Q. Who was the Republican member of the board?—A. Mr. Kenney.

Q. The clerk, I mean?—A. I think he was the clerk, Kenney.

Q. White or colored?—A. White man.

Q. Have you seen him recently; know where he is?—A. He is on the farm, I think; I haven't seen him for a few days; I think he is on the farm.

Q. Lives out there?—A. Yes, sir.

Q. And Mr. Tewle was the inspector?—A. Yes, sir.

Q. And who was your judge, Mr. Legrand?—A. Yes, sir.

Q. Do you know of any negro voting that day who couldn't read and write?—A. No, sir; not to my knowledge; I am pretty near satisfied they hadn't been in the polls, because I would know it.

Q. You may state whether there was a feeling among the colored people out there and had been the common talk that those who were not able to read and write would not try to vote?

Mr. HOFFMAN. Object to the question as incompetent and there is no method counsel for contestant knows of to prove the sentiment and it is immaterial.

A. I know two or three myself who didn't attempt to vote because they couldn't read and write.

Cross-examination by Mr. HOFFMAN:

Q. You are a member of the colored race?—A. Yes, sir.

Q. You a candidate for any office that day?—A. No, sir.

Q. You elect negroes out there occasionally?—A. Yes, sir.

Q. Got them now, haven't you?—A. Yes, sir.

Q. As officeholders in that township?—A. Yes, sir.

Q. Negroes away in the majority in the township?—A. No, sir.

Q. About an even break?—A. I think there are more colored voters than there are whites, but they are about even with the Democratic vote and the white Republican votes are about even, I think.

Q. What business did you have staying around the polls there all day?—A. I usually attend every election—every primary.

Q. Stay there all day?—A. Yes, sir.

Q. Haven't you got anything else to do?—A. I choose that day—election day—and lay it aside there; if I have anything else to do I leave it, off until the next day.

Q. You are a politician, are you?—A. No.

Q. You are a kind of ringleader among your people and advise them what to do?—A. Sometimes I do.

Q. Anybody paid you for being on hand that day?—A. No, sir.

Q. When do you get your pay?—A. When I work for it.

Q. You worked for it that day, didn't you?—A. If anybody promised to pay me anything that day, he hasn't paid it yet.

Q. Don't you know whether they have or not?—A. Not to my knowledge.

Q. Didn't any negro go around the polls that day that couldn't read and write, did they?—A. If he did, I didn't see him, and I was pretty close there.

Q. All of them stayed away from the polls?—A. Yes, sir.

Q. Didn't even go up to see the excitement?—A. Them that could read and write.

Q. They were all there?—A. Yes, sir.

Q. And those that couldn't read and write all stayed away?—A. That is some that I know couldn't read and write, because I had circulated two or three petitions in that township, and I know they were absent.

It is hereby stipulated by and between the contestant and contestee that the further taking of depositions on behalf of the contestee shall be resumed at Pawnee, in Pawnee County, on Friday, the 11th day of July, 1913, at 5 o'clock p. m., before a notary public and stenographer to be agreed upon by the parties at that time.

STATE OF OKLAHOMA, *County of Logan, ss:*

Personally appeared before me, Pete Dunham and Courtland M. Feuquay, and first being sworn by me, depose and state on oath that they are the identical persons who signed the attached certificates, and that they were signed in each instance at the request of the party signing, and that they saw the party sign in each case, and that all of the signatures are genuine, and that each and every one of the parties who signed declared of his own free will that the certificate he had signed was true in every way, and that the signer would have sworn to it if it had been possible to get to a notary public or a justice of the peace: that in their own knowledge it was impossible to get to a notary public or justice of the peace, it being in all cases 8 or more miles, over nearly impassible roads to one, and in two cases about dark, and about 14 miles from a notary or other officer who could administer an oath; that in most cases a pen was not available, and the paper had to be written with a pencil, and that in all cases the contents were dictated in the presence of both, and then read to the signer, and then read by him, and that he declared that he knew the contents and that the contents were true, and he would swear to same if he could get to a notary; that they signed same as witnesses, and that they have examined the attached certificates and find that they are the identical ones made as above.

(Signed)

COURTLAND M. FEUQUAY.  
PETE DUNHAM.

Subscribed and sworn to before me, a notary public, in and for Logan County, State of Oklahoma, this, the 13th day of November, 1912.

[SEAL.]

THEO. LOWER,  
*Notary Public.*

My commission expires January 25, 1915.

CERTIFICATE.

In the Congress of the United States, House of Representatives, Sixty-third Congress. John J. Davis, contestant, *v.* Bird S. McGuire, contestee.

I, Marie E. Terrell, a notary public within and for the county of Logan and State of Oklahoma, do hereby certify that each of the witnesses produced was by me duly sworn to tell the truth, the whole truth, and nothing but the truth; that the evidence of each witness was by me taken in shorthand notes and the same reduced to typewriting; that the foregoing is a full, true, and complete transcript of the testimony of each witness produced; that the signing of the depositions was waived by stipulation hereto attached; and that said deposi-

tions were taken at the time and place specified in the notice for taking the same.

Dated July 9, 1913, at Guthrie, Okla.

[SEAL.]

MARIE E. TERRELL, *Notary Public.*

Commission expires November 27, 1916.

Now, on this 23d day of June, 1913, the same being the time heretofore set by stipulation for the commencing of the taking of the testimony in Lincoln County, Okla., for and on behalf of Bird S. McGuire, contestee, and now on said date the contestant being present in person and by Roy Hoffman and Courtland M. Feuquay, his attorneys, and Bird S. McGuire being present by his attorney, Fred A. Wagoner.

Whereupon it is agreed by and between the parties that the taking of the testimony in said matter be, and the same is hereby, continued until Tuesday July 1, 1913, at the hour of 2 o'clock p. m.

It is further agreed that said testimony may be taken before Lucy Adams as notary public in and for Lincoln County, Okla., and that the same may be taken by Lucy Adams in shorthand and afterwards transcribed by her.

And now on July 1, 1913, at the hour of 2 o'clock p. m., said John J. Davis, contestant, being present in person and by his attorney, Courtland M. Feuquay, and Bird S. McGuire being present by his attorney, Fred A. Wagoner, and Lucy Adams being present as notary and stenographer, the following testimony is taken in behalf of said Bird S. McGuire, contestee:

JOHN J. GAYMAN, being first duly sworn to testify to the truth, the whole truth, and nothing but the truth, testifies as follows:

Direct examination by FRED A. WAGONER:

Q. State your name.—A. John J. Gayman.

Q. Where do you reside?—A. Chandler.

Q. In Lincoln County, Okla.?—A. In Lincoln County, Okla.

Q. How long have you lived in Lincoln County?—A. Fourteen years.

Q. What official position, if any, do you hold at this time?—A. County treasurer.

Q. What official position, if any, did you hold in the years 1911 and 1912?—A. County treasurer.

Q. Were you a candidate for county treasurer in the November election, 1910?—A. Yes, sir.

Q. And were elected at that time?—A. Yes, sir.

Q. And you were again a candidate in 1912 at the general election?—A. Yes, sir.

Q. And as such candidate did you take an active part in the political campaign in Lincoln County?—A. Yes, sir.

Q. You may state about how many townships, if you know, that you visited during that campaign.—A. Every township in the county and every town.

Q. Were you present at the political meetings held in the county—that is, under the auspices of the Republican Party?—A. Some of them.

Q. In those meetings did you hear the speeches that were made by the speakers, both locally and speakers from outside the county?—A. Yes, sir.

Q. You may state what, if anything, was said by the speakers in regard to the grandfather clause and threatening the election officials as to the enforcement of that law.—A. Well, in the speeches I heard through the county, the general run of speeches, run something like this, the negroes were advised to go to the polls, if they could qualify to vote, but to go peaceably and make no trouble, and if they could not qualify to go on home.

Q. And that was generally made by all of the speakers?—A. Yes, sir; we wanted every vote that we could get that could be cast legally.

Q. Was there anything said in these meetings by any of the speakers you heard advising the negroes to go to the polls and force their way through to vote—use guns?—A. No.

Q. Did you hear such statements as that made in any part of the county by anybody?—A. No, sir.

Q. On page 160, in the testimony taken in behalf of Mr. Davis, this question was asked of one J. F. Collar, who was then testifying: "State whether or not it was a matter of current rumor and generally reported throughout the county just prior to the last general election, that the negroes were going to vote, and if necessary they would resort to force to vote at the last general election."

His answer to that is "I have heard that; yes, sir." The next question was: "Did you hear it frequently or otherwise?" "Quite frequently." I ask you to state whether you ever heard any such statement as that made over the county?—A. No, sir.

Q. Mr. Gayman, were you present at the various meetings of the Republican campaign committee of the county?—A. Yes, sir.

Q. Do you know what their attitude and instructions were with regard to the enforcement of the grandfather clause?—A. It was to get every legal vote we possibly could.

Q. Did they ask anything other than a square deal and fair count?—A. No, sir.

Q. What do you know, if anything, as to the enforcement of the grandfather clause or the election law of the State of Oklahoma in Lincoln County at the last election; were they enforced?—A. They were, so far as I know.

Q. What do you know about any election officials being intimidated or scared prior to the general election?—A. I know of none.

Q. Did you have occasion to talk with a number of them during the campaign?—A. Yes, sir.

Q. Did you discuss with them or they with you the grandfather clause—the enforcement of it?—A. I don't remember talking with any election official with the exception of in my own precinct; I can not call to mind any other, but I can those in my precinct, but we talked that over fully.

Q. What did they say about it?—A. Mr. Law and I talked the matter over, and he said he wanted to comply with the law, and I told him all we wanted was just what was coming to us, but we wanted all of it, and a fair count.

Q. Did he say he was intimidated or scared of anything?—A. No.

Q. He said he was going to enforce the law?—A. He said he was going to enforce the law.

Q. And was the law enforced in your precinct?—A. I think it was, as near as I know; while I was on the outside I don't know what was going on in the inside, but most of the negroes voted.

Q. Are you acquainted with the negro population of your township pretty well?—A. Yes, sir.

Q. What do you know about them being able to read and write?—A. Most of them can read and write.

Q. Those who could not read and write, did they appear at the polls to offer themselves or did they stay at home?—A. Some appeared at the polls; went home without ever taking the test, because they knew they couldn't read or write.

Q. Did any of your committeemen or any officers of the Republican county organization that was present at your precinct on election day insist and try to get the election officials to allow negroes to vote who couldn't read and write?—A. Not to my knowledge.

Q. Did you do anything of that kind?—A. No.

Q. You say you took part in the 1910 campaign?—A. Yes, sir.

Q. During that campaign there was a good deal of agitation, was there not, in regard to how the grandfather clause should be enforced?—A. Yes, sir.

Q. And in your travels over the county you found people of various opinions?—A. Yes, sir.

Q. Do you remember of seeing a letter—you know John J. Davis, do you?—A. I think I do.

Q. Did you know him in 1910?—A. Yes, sir.

Q. Do you know what official position he held at that time?—A. County attorney of this county.

Q. Do you remember seeing a letter he wrote at that time in which he advised the election officials as to what their duties were under the grandfather law?—A. I couldn't say for sure, but it appears in my mind that I did see that letter, but I wouldn't state positive.

Q. To refresh your memory I will ask you whether you didn't see a letter which he sent out in which he stated in substance that the election inspectors had a right to require all negroes to repeat from memory a section of the constitution?—A. No.

Q. You didn't see that?—A. No.

Q. Did you hear of it?—A. Well, that's been so long ago I have forgotten.

Q. You don't recall?—A. No.

Q. What, if anything, do you know of the Democratic organization in Lincoln County in 1910 instructing the inspectors to not allow negroes to vote at all and to submit them to a test and keep them reading and writing so that they or



others could not vote?—A. Why I know—I can not recall—I can not call to mind just exactly the conditions that we were up against then, but the general impression was they were going to shut out all the negroes they possibly could under the grandfather clause.

Q. Of your own knowledge do you know whether they did or not?—A. No; I can not speak from my own knowledge.

Q. In your precinct they didn't enforce it that strong?—A. In my precinct they cut out a number of votes which could read and write, but not as good as the inspector thought they should; they would mispronounce some words.

Q. In 1912 the law was enforced in your precinct?—A. The inspector used his own judgment on it.

Q. He tested them himself?—A. I presume so.

Q. You were not on the inside?—A. No, sir; the law forbid me being there.

Q. Who was the clerk in your precinct—do you remember?—A. J. K. Christy.

Cross-examination by Mr. DAVIS:

Q. Mr. Gayman, in 1912 you say that none of the speeches, the general run of the speeches, was that the law should be enforced reasonably, and reasonably only, that the negroes who could not qualify under the law should stay at home from the polls, not try to vote?—A. Yes, sir.

Q. You say that was the general discussion among the Republicans?—A. Yes, sir.

Q. You don't pretend to say all of them made such speeches as that, do you?—A. No; because I didn't hear all of them.

Q. Did all you heard make such statements as that?—A. Yes, sir.

Q. Did you hear Mr. McGuire make any speeches?—A. I heard one at Wellston.

Q. Now, Mr. Gayman, did you hear Mr. Boardman, United States district attorney, make a speech?—A. No, sir.

Q. Now, the literature you sent out—was that along the same line also?—A. Well, the literature we sent out—I don't remember any literature we sent out touched on that subject, not of my knowledge.

Q. Now, you remember seeing a copy of the Boardman letter, do you not?—A. Yes, sir; I remember seeing a Boardman letter that was sent out.

Q. That was addressed to Fred A. Wagoner as county attorney?—A. Yes, sir.

Q. Concerning the constitutionality and enforcement of the grandfather law?—A. Yes, sir.

Judge WAGONER. Object to that as the letter shows for itself.

Q. Where did you see the first copy of that letter?

Judge WAGONER. Objected to as not proper cross-examination, no inquiry being made of this witness about any literature or Boardman letter.

A. I don't remember where I did see the first one, the fact of the business is I didn't pay much attention to the Boardman letter.

Q. Did you ever see the literature known as the penitentiary warning circular—a printed slip that was sent out to election officials just prior to the election?

Judge WAGONER. Object to that as stating it was sent out when there is no proof that it was sent out by anyone in Lincoln County.

A. Yes, sir; I saw those warnings.

Q. Where did you see them?—A. At our polls.

Q. Who had them?—A. Well, I can not call to mind. I think they were scattered around on the ground was the first I saw of that, where I picked them up.

Q. You don't know who took them there?—A. I don't know anything about them.

Q. You were in and out of Republican headquarters occasionally during the campaign?—A. Yes, sir.

Q. Did you see any in Republican headquarters?—A. No, sir.

Q. Did you see any of the Boardman letters?—A. No; I don't remember seeing any of the Boardman letters even.

Q. Mr. Gayman, was the Boardman letter that you saw a printed or stereotyped copy?

Judge WAGONER. Objected to as incompetent, immaterial, irrelevant, not proper cross-examination.

A. I don't know what you would call either printed or stereotyped.

Q. Well, printed, like an article printed by an ordinary printing press, and then as copied from a typewritten copy on a multigraph or mimeograph?—A.

This I saw I would take to be from a mimeograph or something like that, or a typewritten copy, you can not tell the difference between a typewritten copy and a mimeograph.

Q. Now Mr. Gayman do you know where those mimeograph copies were made?—A. No, sir.

Q. You don't know anything about them?—A. No, sir. I had troubles of my own along about that time.

Q. You don't pretend to say Mr. Gayman, that the grandfather clause was strictly enforced on election day in your precinct?—A. I know nothing about it except as the inspector told me he would enforce it.

Q. That was before?—A. That was in the morning before the election—he said he would give it a reasonable enforcement, because Mr. Law knew every negro in the township and knew his qualifications, knew whether he could read or write.

Q. You are just stating your opinion?—A. That is exactly what Mr. Law said.

Q. Did you know all of them?—A. There is not many of them but what I know.

Q. Did you know all that could read and write?—A. I think I do.

Q. Think you do.—A. Yes.

Q. Before you were not sure you knew them all even.—A. That is questionable.

Q. You have been in that precinct about as long as Mr. Law, haven't you?—A. Just about the same length of time.

Q. And been doing business with those negroes and seeing them around there and meeting them at different places all those years?—A. Yes, sir.

Q. As a matter of fact, you don't know whether there was any test at all applied, do you?—A. I know nothing more than was told me outside the polls.

Q. Of your own knowledge, Mr. Gayman?—A. No: of my own knowledge, I can not say.

Q. You never heard of any negro being turned down at all?—A. 1912?

Q. Yes.—A. Yes; it seems to me there was one negro turned down there.

Q. What was his name?—A. Well, now, I won't be positive, but it appears to me his name is Humphreys.

Q. How did you get that information that he had applied and been turned down?—A. He came outdoors talking.

Q. You heard him making the statement?—A. Yes.

Cross-examination by C. M. FEUQUAY:

Q. In 1910 you were a candidate for county office?—A. Yes, sir.

Q. In 1912 you were a candidate for the same county office?—A. Yes, sir.

Q. You knew it to be the law both times you were not allowed in the confines of the voting place?—A. Yes. If you had been present you would have heard my testimony in regard to that.

Q. At no time, then, you know anything about what happened inside the voting precinct?—A. At no time, except when I was in there myself.

Q. At the time you were in there did you see any negro being tested or see anyone turned down?—A. No, sir; they happened to be all whites in there when I was in.

Q. I believe you stated in your direct examination that the Republicans wanted the highest number of votes they could get out under the law?—A. Yes, sir.

Q. And in 1910 the Democrats wanted the lowest number they could get out under the law—to keep as few negroes from voting as possible under the law?—A. Yes, sir.

Q. Is it your opinion that the Republicans and Democrats in the county wanted a different enforcement of the law?—A. Yes, sir.

Q. And it depended entirely upon the idea the inspector had as to what was a reasonable enforcement of the law. Is it not your opinion that it depended entirely on what the inspector considered a reasonable interpretation of the law and not what the Republicans or Democrats considered a reasonable enforcement of the law?

Judge WAGONER. Objected to as incompetent, irrelevant, and immaterial.

Q. I will try to explain what I mean. You said the Republicans wanted to get all the negro votes they could under the law and the Democrats wanted to allow as few to vote as they could under the law. I take it from that, if the Republican, who wanted the greatest number he could get, would enforce the

law, he would allow a greater number to vote than the Democrat, who wanted as few as possible, and I am asking if it is not your opinion the grandfather clause could only be enforced upon what the inspector considered to be a reasonable enforcement of it?

Judge WAGONER. Object to the question, in the first place, for the reason there is no sense to it; second, it is incompetent, irrelevant, and immaterial; and, third, that it is calling for an opinion of the witness.

A. My opinion is I don't know.

Q. You know that the Democrats wanted one enforcement and the Republicans wanted another, but you don't know that it depended upon the idea of the inspector as to what a reasonable enforcement was?—A. He was supposed to know the law.

Q. Supposing him to know the law, would it not be within his own idea what a reasonable enforcement of that law was?—A. It is presumed to be.

Q. Then if a Republican had enforced the law his idea what a reasonable test might be would differ from the idea of what a Democrat would hold was the same reasonable test, would it not?

Judge WAGONER. Objected to as incompetent, irrelevant, and immaterial; the law contemplates that election officials shall be honest and shall permit all legal voters to vote and to count those votes as cast, and it's immaterial what the opinion of this witness or any other may be upon those matters.

A. It would all depend on what kind of a Democrat it was.

Q. Then your view is to be understood as saying that the John Embry letter of 1910, prosecution of Guinn and Beall in Kingfisher County, election indictments in Lincoln County, prosecutions in Logan County would not have any effect on the mind of an inspector as to what a reasonable test was?—A. No; because the State law would protect him.

Q. Did the State law protect these gentlemen?—A. I don't know—see the record on that.

Redirect examination by F. A. WAGONER:

Q. If a man who was an official was honest, Mr. Gayman, and tried to enforce the law in a fair, honest manner, he need have no fear of prosecution, need he?—A. No.

Q. I believe you stated awhile ago you thought there was one man refused who took the test in McKinley Township. You also stated, I believe, on examination in chief, there were several there who could not read and write and did not submit themselves to any test or offer to vote?—A. That was 1910.

Q. Do you know whether any of them came in 1912 who couldn't vote and didn't submit themselves?—A. No; I do not; I think not.

Q. Mr. Davis asked you if you heard all the speeches in the county, and I believe you said not?—A. No.

Q. But all those you did hear advised those negroes to stay at home, did they not, who couldn't read and write and only those to come to the polls who could qualify, and for them to do that in a peaceable, quiet manner; that was the advice given, was it not, from the platform?—A. Yes, sir; so far as I heard it.

A. A. BEASLER, being first duly sworn to testify to the truth, the whole truth, and nothing but the truth, testifies as follows:

Direct examination by FRED A. WAGONER:

Q. State your name.—A. A. A. Beasler.

Q. Captain, you live in Lincoln County, Okla.?—A. I do.

Q. And have for how many years?—A. Twenty-one years.

Q. What official position do you hold at the present time?—A. Justice of the peace.

Q. Were you holding any official position in 1910?—A. Police judge.

Q. What position were you holding in 1912?—A. Well, I filled both at the time.

Q. You say you have been a resident of this county 21 years?—A. Yes, sir.

Q. You have been a man who has taken a part in politics, have you?—A. Always.

Q. And your political faith is what?—A. Republican.

Q. In 1912, Captain, at the fall election, or prior to the election, did you take any part in the campaign?—A. I did.

Q. Did you make any speeches in this county?—A. I did.

Q. Do you remember about how many?—A. Six or seven.

Q. In any of these speeches did you talk to negro audiences exclusively or audiences where they were part negroes?—A. Both.

Q. Who was present at those different meetings? Who spoke besides yourself at any of them?—A. Yourself; one time Harry Gilstrap, I think.

Q. What, if anything, was said by yourself or any of the speakers that was with you in those meetings about the enforcement of the grandfather clause, and what instructions, if any, did you give to the negroes in those public speeches?—A. We told them, both yourself and I, in public, that we didn't wish any negro to go to the polls that couldn't read and write and qualify. That they could just go there peaceably and quiet and demand their rights, if they were refused, to go home.

Q. Was there anything said in any of those meetings where you were present by yourself or anybody else advising the negroes to arm themselves?—A. The first inkling I got to-day when you asked that question, I never heard of it.

Q. Never heard of it in the county?—A. No.

Q. I will ask you the same question, on page 160 of the testimony taken by Mr. Davis and in his behalf, of J. F. Collar, he testified, and in the record on that page he was asked this question: "State whether or not it was a matter of current rumor and generally reported throughout the county just prior to the last general election that the negroes were going to vote, and if necessary they would resort to force to vote at the last general election." His answer to that was: "I have heard that; yes, sir." The next question: "Did you hear it frequently or otherwise?" "Quite frequently." I will ask you to state whether you heard any such thing frequently or otherwise.—A. As I say before, this was the first time I heard of that. I never heard it even rumored.

Q. You were on the streets of Chandler every day?—A. Spoke to every Republican that came to town; gave him the same advice.

Q. Did you hear any Democrats make any statement like this Mr. Collar has testified about?—A. Never heard the like.

Q. You talked to them during the campaign the same as the Republican?—A. Yes.

Q. Did you talk with any inspector prior to the campaign you remember of now, or any of them talk with you, in regard to the election?—A. No; I have not.

Q. You didn't hear any of them say they were intimidated and were afraid to sit?—A. I heard one inspector come down on the courthouse square and ask a certain attorney his advice in regard to his duties, and he told him, "You know what the law is; if you don't obey it you will be after me after the election to try to help you out of the hole."

Q. Who was the attorney who gave that?—A. I don't like to mention his name.

Q. George Rittenhouse, wasn't it?—A. I suppose so.

Q. Captain, was you present in Tohee Township any time during the last campaign?—A. I was.

Q. Who was with you?—A. Yourself and Gilstrap.

Q. In Tohee?—A. Yes; at that schoolhouse this side of Fallis.

Q. 1912?—A. Yes; I was there.

Q. Who else was with you?—A. Yourself, I think.

Q. No; you are mistaken about that; that was Gilstrap.—A. Yes; that is right.

Q. Now, did you make a speech that night?—A. I did.

Q. Did Mr. Gilstrap?—A. He did.

Q. What instructions did you give the negroes?—A. The same as before—to stay away from the polls if they were not qualified; if they were they had a right to be there; if refused, to go home without making any trouble.

Q. What, if anything, did you hear that night about a combination being fixed up between one member of the election board and certain candidates on the county ticket and township ticket?—A. There were two or three colored men got up, and if I am not mistaken there was a white man there, but I don't know his name; he used to live at Carney; I know him when I see him; he said that was the fact that they stated; that a member of the township board had told negroes if they would vote for certain members of the township board and Streater Speakman they would be allowed to vote; if they didn't they couldn't.

Q. Did they tell you who the member of the board was?—A. I think his name is Prough.

Q. Working up that combination?—A. Yes, sir.

Q. What, if anything, did you do, or who did you report that to, if anybody, when you came back to Chandler?—A. Well, I told it to all the boys here: I don't remember particularly who I said it to.

Q. Captain, were you in North Wichita Township on the day of the primary, 1912?—A. I was.

Q. Who did you go there with?—A. You.

Q. Do you know J. P. Farrell?—A. I do.

Q. Did you see him that day?—A. I saw him once.

Q. Were you close to him?—A. Just the width of the street.

Q. Did he say anything to you?—A. No; he shook hands, I believe, was all.

Q. Did you and he have any conversation that day?—A. I think not; he was going to the store from the voting precinct when I saw him.

Q. On page 47 of the testimony which he gave in behalf of Mr. Davis he was asked this question and made this answer: "Mr. Farrell, after I reached North Wichita township after you refused 15 or 20 negroes the right to vote, I never came near the voting precinct, did I?" "No, sir; but I saw you: your partner did." I will ask you to state if you went near the voting precinct.—A. We were at least 150 yards if not more away from it.

Q. Then the next question was: "I never said a word to you?" and his answer was, "No; but your partner did" (meaning Beasler).—A. No; we are old friends and acquaintances, but I never spoke to him.

Q. Did you or I make any threats to him out there that day, or anyone else?—A. Never did.

Q. Did we instruct the negroes to make any threats?—A. Never.

Q. Do you know how we came to go there that day?—A. Well, you received a dispatch or phone message that they refused negroes to vote there and asked me to go with you; it was my old township where I used to live.

Q. I now hand you a paper which has been heretofore marked "Exhibit 11" and ask you to examine it and state whether or not your signature appears upon it.—A. Yes.

Q. Did you see that party sign that?—A. I did.

Q. And it was signed in your presence?—A. Yes.

Q. Where was that signed?—A. In the road near the fence on your grip.

Mr. WAGONER. We now offer Exhibit 11.

Q. I now hand you exhibit heretofore marked "12" and ask you to state if you signed that.—A. I did.

Q. Did you see D. A. Sneed sign that?—A. I did.

Q. And was that signed at the same place and same manner?—A. Same place and same manner.

Mr. WAGONER. We now offer Exhibit 12.

Q. I hand you Exhibit 13 and ask you to state if you signed that.—A. I did.

Q. Did you see Sam Parker sign it?—A. I did.

Q. And was it signed at the same place and same manner?—A. Yes, sir; same place and same manner.

Mr. WAGONER. We now offer Exhibit 13.

Q. I hand you Exhibit 14 and ask you to examine that; state whether your signature appears thereon.—A. Yes.

Q. Did Willie Randles sign that in your presence?—A. He did.

Q. And in the same place and same manner?—A. He did.

Q. I hand you Exhibit 15 and ask you to state if your signature appears on that.—A. It does.

Q. Did you see McFarrow sign that?—A. Yes.

Q. And at the same place and in the same manner?—A. Yes.

Judge WAGONER. We offer in evidence Exhibits 14 and 15.

Q. I hand you Exhibit 16 and ask you to state if you signed that.—A. I did.

Q. And did you see Lemmie Searcy sign it?—A. He did.

Q. Did he sign it in your presence?—A. He did.

Q. And in the same time and in the same manner as the other?—A. Same.

Mr. WAGONER. Exhibit 16 offered in evidence.

Q. I hand you Exhibit 17 and ask you to state if your name appears on that?—A. It does.

Q. Did you sign it?—A. I did.

Q. Did you see John Rankin sign it?—A. I did.

Q. Did he sign it the same as the others?—A. The same place and same manner as the others.

Mr. WAGONER. We offer it in evidence.

Mr. DAVIS. To all of which we object for the reason it is incompetent, irrelevant, immaterial—have no tendency to prove any of the issues in this contest.

Q. Mr. Beasler, were you present and heard any other speeches delivered in the county other than those where you were present and took part yourself?—

A. I was in Tohee Township, I was in Choctaw Township, I can not remember, six or seven different townships out here.

Q. Did you hear any of the speakers from outside the county that spoke in the county?—A. I don't believe I did.

Q. Were you a member of any committee that had charge of the Republican campaign in the county?—A. No, sir.

Q. You know nothing of the workings then of the campaign committees?—A. No, sir.

Q. You know nothing about any literature being sent out or who sent it out?—A. I saw the literature in the headquarters.

Q. But you don't know anything about sending it out or who it was sent it?—A. No, sir.

Q. Did you ever see the Boardman letter?—A. I think I saw a copy in the newspaper.

Q. Did you read it over?—A. I may have read it.

Q. Do you remember enough of the contents to know whether that letter would intimidate, coerce, or scare an honest man who wanted to do his duty and follow the law?—A. Not as I could see——

Mr. DAVIS. Objected to for the reason he has not shown himself to be an expert.

A. It was merely a statement what the law was, as near as I remember, I couldn't see anybody being effected by it.

Q. Do you know John J. Davis?—A. I do.

Q. Did you know him when he was county attorney?—A. I did.

Q. Do you remember seeing a letter he sent out to the election inspectors or officials, prior to the 1910 election, in which he instructed them what the law was in regard to the grandfather clause?—A. I heard of the letter, but never saw a copy of it.

Q. Was that the letter wherein he instructed them they were required to repeat from memory a section of the constitution?

Mr. DAVIS. Objected to as incompetent, irrelevant and immaterial, and hearsay.

A. I never saw the letter itself.

Cross-examination by C. M. FEUQUAY:

Q. Mr. Beasler, on the 6th day of August, 1912, I believe you said you went to North Wichita Township. I believe you also stated some one telephoned to headquarters here in Chandler and yourself and Judge Wagoner responded to the call.—A. Yes.

Q. And while you were there you saw these affidavits numbered from 11 to 17 and introduced as exhibits, signed by these parties?—A. I did.

Q. Did you know what those exhibits contained when they were signed by those parties?—A. I read them at the time.

Q. You remember, then, these affidavits contain the following: "I do hereby present myself and demand that you, the inspector in and for North Wichita Township, Lincoln County, Okla., do allow me to vote at the primary election held this 6th day of August, 1912, in said North Wichita Township, Lincoln County, Okla., for Congressman and other Federal officers."—A. Yes; I remember that was in there.

Q. There was no other demand except these men being allowed to vote in a primary election for Congressman and other Federal officers?—A. If they could vote for one they could vote for the balance.

Q. Why, if that is so, that your intention was they could vote for all the officers, why did you make this affidavit for Congressman and other Federal officers?

Judge WAGONER. Objected to because it is not an affidavit and misstatement of the fact as they appear on the face of the paper, and incompetent, irrelevant, and immaterial.

A. My opinion is under the Federal law they couldn't very well refuse them while they might do the same under the State law.

Q. You had heard that the Federal authorities would take care of the votes for Congressman and other Federal officers?—A. No; I didn't hear that.

Q. Then you had no reason for restricting it to Congressmen and other Federal officers?—A. No; the only reason is if they had the right to vote for them they certainly could vote for the rest of them.

Q. You had not seen the newspaper talk in the press before that time saying the negro must be allowed to vote without qualifying them under the grandfather clause under the Federal law?

Judge WAGONER. Objected to as incompetent, irrelevant, and immaterial, not proper cross-examination, the name of the paper or periodical in which the statements quoted were published is not given, and doubt very much whether such statements were ever uttered by a living soul excepting himself. It is not a statement of the facts.

A. You asked me there about some rumors—may I state a rumor that I heard?

Mr. FEUQUAY. We have no objection.

Redirect examination by Judge WAGONER:

Q. State anything that you may know, Captain, that has any bearing upon the matter.—A. During my stay in Rossville, in North Wichita, it was plainly stated on the streets that Capt. Farrell had received a telephone message from John Davis to allow no negro to vote; that was a rumor; I didn't hear it.

Q. You don't hardly believe John would do that, do you, since he came from Mississippi?—A. I don't know what a politician might do, but that was a rumor plainly stated on the streets.

Cross-examination by C. M. FEUQUAY:

Q. I believe you stated regarding the rumors testified to by Mr. J. F. Collar that you had heard no such rumors?—A. Never heard it mentioned.

Q. You never heard any rumors of any kind about the enforcement of the grandfather clause relative to what the negroes were going to do?—A. No, sir.

Q. You are aware of the fact Lincoln County is boarded on the west by a part of Logan County and a part of Oklahoma County, and that the part of Logan County which borders on Lincoln County is solidly black in inhabitants, and that the part of Oklahoma County which borders on Lincoln County around Luther is mostly inhabited by negroes, and do you know, of your own personal knowledge, that there were no rumors in the eastern and western and northern part of Lincoln County as to what the negroes intended doing if the grandfather clause was enforced?

Mr. WAGONER. Objected to as being incompetent, irrelevant, and immaterial. The question asked the witness a moment ago was what J. F. Collar, candidate for commissioner of the first district on the Democratic ticket in Lincoln County, had said that he heard; nothing to show Collar was in Logan County or Oklahoma County; not proper cross-examination.

Mr. FEUQUAY. Here counsel for John J. Davis states that the evident attempt of the evidence offered by Bird S. McGuire was to discredit the testimony of Mr. Collar, and states this question is for the purpose of proving that the witness does not have sufficient facts in mind to testify as to the credibility of other witness' testimony.

A. They probably heard those rumors in Democratic caucuses, but not outside.

Examination by JOHN J. DAVIS:

Q. You don't pretend to say there were no such rumors?—A. I never heard. I never heard a darkey even mention it.

Q. You don't pretend to say there were no such rumors?—A. If there were I never heard of them.

Q. Just answer the questions, yes or no.—A. There never were such rumors.

Q. You are positive of that?—A. Yes, sir, I am; I don't care who told it.

Q. In regard to that statement you heard in Tohee Township, who made the statement there that the inspector, Mr. Prough, in regard to the statement of Mr. Prough, in regard to letting the negroes vote?—A. My memory is very poor; I can not remember the names.

Q. Was it made by a white man or a negro?—A. They were mostly made by colored men, but there was a white man there said he heard the same thing, if I could see the man, he used to live there in Carney, I could probably call his name, but I can not call it now.

Q. Now, Captain, did any of them state Mr. Prough made that statement to them?—A. That's what they said.

Q. They said he made it to them direct?—Yes; privately.

Q. That if the negroes would vote for the Democratic precinct officer?—A. Two or three of the township officers and Streator Speakman, and I think somebody else, if I am not mistaken.

Q. They would be allowed to vote without any contest?—A. And if they didn't, they wouldn't.

Q. And you heard that from a number of parties?—A. Yes, sir.

Q. And some of them stated it as a fact Mr. Prough had made such a statement to them?—A. They sure did, or I wouldn't have heard it.

Q. This controversy down at Rossville was in the primary election, 1912?—A. Yes, the primary.

Q. You were not there at all the date of the general election, 1912?—A. No, sir.

S. F. ALLENBAUGH, being first duly sworn to testify to the truth, the whole truth, and nothing but the truth, testifies as follows:

Direct examination by FRED A. WAGONER:

Q. State your name.—A. S. F. Allenbaugh.

Q. Where did you live, Mr. Allenbaugh, in the months of October and November, 1912?—A. North Choctaw Township.

Q. At that time what official position in Lincoln County were you holding?—A. County commissioner of the third district in this county.

Q. Were you present at the voting precinct West North Choctaw at the general election, 1912?—A. I was.

Q. Do you know of your own knowledge whether the law in regard to the grandfather clause was enforced there at that time?—A. Yes, there was.

Q. It was enforced, was it?—A. Yes, sir.

Q. Who was the inspector?—A. Joe Burris.

Cross-examination by C. M. FEUQUAY.

Q. Mr. Allenbaugh, at the time you were at this election, 1912, you were a candidate for public office, were you not?—A. Yes, sir.

Q. You knew the law to be at that time a candidate for public office could not go within 50 feet of the voting place?—A. Yes, except when he voted.

Q. Yes, and you were not within the 50 feet of the voting place except when you cast your vote?—A. Yes, I was at one time, the inspector called me to the door one time.

Q. How long did you stay at the door?—A. Just a few minutes.

Q. How long were you in when you voted?—A. Ordinarily it don't take me long to vote. In regard to that I would say this also, the election at that place is in a double schoolhouse, at the time the polls opened in the morning I suppose there was something like 10 or 12 electors and 2 or 3 candidates and the election was held in the east room, and Mr. Burris told us we might remain in the west room as a heavy rain was falling and the voters stayed in there until the rain broke.

Q. From the room in which the voters were allowed to stay, could you see what was going on in the voting precinct?—A. No; we could not.

Q. How long do you think you were inside the voting precinct when you voted?—A. About two minutes, I reckon.

Q. It only took you a few minutes at the time you voted and the time the inspector called you to the door.—A. Yes, sir.

Q. Did West North Choctaw contain a good number of negro voters?—A. Yes, sir.

Q. As a candidate did you actually know of your own personal knowledge what happened inside the voting precinct?—A. Well of course you could see from the windows of the schoolhouse when out even a distance from the road, the negroes were in writing, I suppose they were writing, at least the inspector said so.

Q. You don't know of your own personal knowledge whether it was enforced or not?—A. Well, it was. It is not likely that a Democrat inspector would keep a negro in there for his company entirely for from 2 to 4 hours because he thought so much of them.

Q. You saw some negroes in there 2 to 4 hours?—A. Yes, sir.

Q. What were their names?—A. There was one negro, named Smiley, that was kept in, I should judge, between three and four hours.

Q. Any others kept in that length of time?—A. No, sir; I don't think so.



Q. Then all you know about this is you know of one negro being in the voting place three or four hours?—A. He was the only one in that long. I think seven altogether took the test.

Q. All you know about the enforcement is what you could see from a proper distance of 50 feet away from the voting precinct?—A. I was not in there when they were reading or writing.

Direct examination by F. A. WAGONER:

Q. This inspector was a Democrat?—A. Yes, sir.

Q. He tested each one of these men before he permitted them to vote?—A. He said he did; yes, sir.

Q. And he gave them a test sufficient to satisfy his mind they were qualified?—A. Yes, sir.

Q. You say seven were tested and voted?—A. Seven were tested and six voted. There were about 22 negro persons; the rest of them didn't take the test.

Q. You say 22 were present?—A. I think so.

Q. Seven of them were tested?—A. Yes, sir.

Q. And six voted?—A. Yes, sir.

Q. And the rest went away from the polls without voting?—A. Yes, sir.

Q. That was 1912?—A. Yes.

Cross-examination by C. M. FEUQUAY:

Q. All you know about the test given was what you could see 50 feet away through the windows, and what you could see—A. And when the inspector called me to the door.

Q. You don't know whether this man kept there three hours was being given a chance to vote or whether he was being kept from voting?—A. It might be he was just being kept in there by the inspector, a good friend of his, or something.

Q. You don't know, then, that the inspector was giving him several chances to qualify?—A. Well, the inspector told me this: This negro first went in one time and he sent him out and the negro was out until three or four more went in and taken the test and voted, then this negro went in and tried again and he turned him down.

Q. All you know about this matter is what you saw 50 feet away and the few minutes you were up at the door talking to the inspector?—A. Oh, as far as seeing them reading and writing, that is true.

Redirect examination by F. A. WAGONER:

Q. But the inspector, who is a Democrat, told you what he did?—A. Yes, sir.

Q. And you know that is the number who voted?—A. Yes, sir.

Q. And all the negroes who did vote that day in West North Choctaw?—A. Yes, sir; that's all.

L. B. NICHOLS, being first duly sworn to testify to the truth, the whole truth, and nothing but the truth, testifies as follows:

Direct examination by Mr. WAGONER:

Q. You may state your name.—A. L. B. Nichols.

Q. Where do you reside?—A. Chandler.

Q. How long have you lived here?—A. Ten years.

Q. In 1912 were you connected with the campaign in Lincoln County?—A. Yes, sir.

Q. For which ticket?—A. The Republican ticket.

Q. What position did you hold?—A. Secretary of the county central committee.

Q. As secretary of the county central committee, what were some of your duties? Enumerate them as near as you can.—A. I had charge of headquarters, routed the speakers, distributed the literature, furnished general information.

Q. During the campaign prior to the general election did you have any speakers in this county other than the local speakers?—A. Yes, sir.

Q. Do you remember the names of all of them?—A. Well, I couldn't just call all of them right now.

Q. Name as near as you can.—A. Mr. Parmenter.

Q. You remember where he spoke?—A. Agra, Stroud, and Prague.

Q. Do you know whether in Agra, Stroud, and Prague there are very many negro voters, if any?—A. Not many; a few at Agra, maybe.

Q. Who else besides Parmenter?—A. We had others in the county, but I don't remember who they are; Parmenter was the only one I heard.

Q. Were you present at any of these meetings held in the county?—A. Yes, sir.

Q. In what townships; now, do you recollect as to them being in negro precincts; were you present?—A. The only meetings I attended were the Parmenter meetings and one other.

Q. Did he touch upon the grandfather clause?—A. Only a word or two, if he did at all; I think he just mentioned it in general.

Q. Did he give any instructions to the negroes in those remarks he made as to what to do?—A. No, sir.

Q. Did he advise them to take guns to the polls and kill these Democrats?—A. No, sir.

Q. Now, your campaign was managed by what committees; that is, of what did they consist? You first had a county committee.—A. County central committee, and we had an executive committee and then the secretary.

Q. Your executive committee consisted of how many members?—A. Three members besides the chairman and secretary of the committee.

Q. And your county committee consisted of one member from each township or voting precinct?—A. Yes, sir.

Q. At any meeting of your executive committee did you discuss the enforcement of the grandfather clause and formulate and outline plans for election day?—A. Yes, sir.

Q. State what those were briefly.—A. Of course, the grandfather clause was discussed from every viewpoint, but the only instructions given out from headquarters were for those negroes who were qualified to vote to go and vote and the others to stay home.

Q. No instructions given by the chairman or secretary of the executive committee or any committee they had there for them to use force or anything of that kind?—A. No, sir.

Q. Now, the literature you had at headquarters, what did they consist of, as near as you remember?—A. It consisted of figures from the county, county records and from the State, and some literature sent out from the State central committee, sent here for distribution—general literature.

Q. Was there any literature sent out from your headquarters for and on behalf of Bird S. McGuire for Congressman that you now remember?—A. I think not. I don't think we handled any of his stuff.

Q. Did you send out the Boardman letter?—A. There were copies of the Boardman letter there; I don't remember any of these being mailed out.

Q. How about the warning circular?—A. The warning signs that we got hold of were ditched.

Q. You never mailed them out?—A. Never sent them out; no.

Q. You were in the county in 1910, were you?—A. Yes, sir.

Q. Do you know anything about the campaign that year?—A. Well, I don't recall any particular instances.

Q. Do you remember the discussion pro and con on the streets and otherwise in regard to the enforcement of the grandfather clause? You remember there was considerable discussion about it—how it should be enforced.—A. Oh, yes.

Q. And various people had various opinions?—A. Yes.

Q. The Republicans taking one view and the Democrats another?—A. Yes.

Q. And do you remember about hearing of its enforcement in various precincts in the county after the election was over?—A. Yes; I remember hearing of it, but I don't recall at this time just who made the report. I remember the instances.

Q. Is it not a fact, Mr. Nichols, the manner in which the grandfather clause was enforced in 1910 is what caused what agitation there was in 1912 as to how it should be enforced more than anything else in this county?—A. I believe so; yes, sir.

Q. Did you talk with any of the inspectors prior to the general election in 1912?—A. Yes, sir; I presume I talked to nearly all of them.

Q. What, if anything, did they say about being scared and intimidated on account of the Boardman letter or the John Embry letter or any other letters or papers they had received in the mails?—A. I didn't hear of anyone who was intimidated or scared.

Q. Do you know of any that did resign, and did they give you their reasons for not serving?—A. No, sir.

Q. Do you remember quite a number resigning while John Davis was secretary of the county election board?—A. I know it was reported some had resigned.

Q. You didn't talk with any of those and learn their reasons for resigning?—A. No, sir.

Q. As secretary of the county central committee of the Republican Party in Lincoln County, 1912, and your general knowledge of the campaign and the election, what do you say as to the enforcement of the grandfather clause and the election laws in general in Lincoln County at the last general election?—

A. I think the election law—the grandfather law—was enforced, but I don't know just what you mean by the election law.

Q. I mean the whole election law as to whites and blacks, illegal votes of all kinds and character, was it or not fairly and reasonably enforced in Lincoln County?—A. As near as I have been able to ascertain; yes, sir.

Q. Did you see during the campaign a letter that was given out by Gov. Cruce in regard to how the grandfather clause should be enforced?—A. I remember the letter; yes, sir.

Q. You didn't publish that letter, did you?—A. I think not; I am not sure.

Q. You don't find it in your files?—A. I haven't looked thoroughly.

Q. Do you remember a circular sent out giving the opinion of the attorney general as to how the law should be enforced?—A. Yes, sir; I remember that, and thought we published it, but I haven't found it yet if we did.

Q. Do you remember whether you published the letter of John Davis as to how the grandfather law should be enforced in 1910?—A. I remember that letter, but I am not sure whether we published it or not; I think we did, because it runs in my mind he took it back, and the head of our article was "Davis takes it back," or something of that sort.

Q. Do you remember that letter, the contents: could you give it?—A. No; I wouldn't say what was in the letter.

Q. Do you remember any part of it saying the inspector had the right to require the negroes to repeat from memory any section of the constitution, or that in substance?—A. That's my recollection.

Q. Will you examine your files further and see whether you did publish that letter?—A. Yes, sir.

Q. And if so, then we can get a copy of it?—A. Yes, sir.

Q. And if it was published we desire to have that attached and made a part of this testimony; also the letter of Gov. Cruce, if published here, and the letter of the attorney general. If not we will secure them from the Oklahoman and ask to have it attached later.

Cross-examination by C. M. FEUQUAY:

Q. Mr. Nichols, I believe you said you heard only one other speech except Mr. Parmenter's in the county?—A. That's about all I heard.

Q. What was it, if you remember?—A. A little talk Emery Foster made to the Germans down in Seminole Township.

Q. Did Mr. Foster, if he was in condition to, make remarks about the grandfather clause at that time?—A. He didn't mention it at all.

Q. It was not a prohibition talk, was it, Mr. Nichols?—A. Not exactly.

Q. Mr. Nichols, with reference to the Boardman letters, you stated, I believe, they were lying in the campaign headquarters?—A. Yes; I think there was quite a bunch there; I think I testified to that before.

Q. Do you remember where they came from?—A. No; I don't remember who brought them in or where they came from.

Q. You don't remember whether they were mailed or not?—A. I don't believe they were mailed.

Q. You would not swear at this time they were not mailed from those campaign headquarters to the election inspectors?—A. I know they were not mailed from our headquarters by my authority.

Q. You know they were there?—A. Yes.

Q. Mr. Nichols, if the testimony in this case shows there was those Boardman letters sent out in the official envelopes of the campaign committee of which you were the head could you state how they happened to be so sent out?

Mr. WAGONER. We object to that, as the record does not show it, and I have a copy of the testimony of Lincoln County. I now present it to counsel for Mr. Davis, and ask him to turn to the page and read to the witness the part of the record if the evidence shows they were sent out from Republican headquarters; and we further object to this line of examination of this witness be-

cause, on pages commencing page 91, Mr. Nichols gave his testimony examined by Mr. Hoffman for and on behalf of the contestant, and on pages 91, 92, and 93 these questions are asked and fully answered by this witness, in which he states none of this stuff was sent out either by his direction or with his knowledge.

A. No; I can not state how they happened to be sent out.

Q. Do you know whether anyone else in the city of Chandler or in Lincoln County had in his possession any of these Boardman letters?—A. Our headquarters were wide open; anyone could go in there any time, night or day, almost.

Q. How do you account for the fact, these Boardman letters which you had in your headquarters, which were the only ones you know of—A. I don't know that they were.

Q. How do you account for them being sent out?—A. There were Democrats used to hang around headquarters; they might have sent them out.

Q. You stated you destroyed all the penitentiary warning slips sent to you?—A. I wouldn't swear every single one sent in to headquarters were destroyed; they were put away anyway; they were not left lying around; they were supposed to be destroyed; they were not used.

Q. Why were they put away, Mr. Nichols?—A. Some of the men thought they were not the right kind of stuff for campaign literature.

Q. The candidates thought they were too strong to be used by the campaign committee?—A. I don't know whether candidates or not; it was just the sentiment of the bunch around there that they should not be used. I think I wrapped a rubber band around them and threw them in a drawer or destroyed them.

Q. If the letters sent out in Lincoln County contained the Boardman letter and the penitentiary warning slip, how do you account for that?

Judge WAGONER. Objected to, as it has not been shown they were sent out in Lincoln County, and these questions have been answered for and on behalf of Mr. Davis.

A. I don't account for them.

Q. You made no attempt to destroy either the letters or the penitentiary warning slips, so they could not be sent out?—A. I don't think we made any attempt to destroy the Boardman letters, but I am sure it was the intention to put the warning slips away where they could not be used.

Q. In your direct examination, Mr. Nichols, you stated that the grandfather clause in Lincoln County was reasonably enforced in 1912, did you not?—A. Yes, sir.

Q. I will ask you if you were present at any of the negro precincts on election day in November, 1912?—A. No, sir.

Q. Then this is only your opinion from having heard talk of the affairs since?—A. Yes, sir.

Q. You knew at the time you talked to these election inspectors before the election, 1912, they knew you were Republican campaign manager for this county?—A. Yes, sir.

Q. And you had no authority to ask them whether they were intimidated or not?—A. I suppose not.

Judge WAGONER. I object to that; a man has a right to ask anything he wants to.

A. I don't know what they thought about it.

Q. And of your own personal knowledge, you don't know why any of these inspectors resigned while Mr. Davis was secretary of the election board?—A. No; I don't know of my own knowledge why they resigned.

Q. You were not at any time an official upon the election board?—A. No, sir.

Whereupon by agreement adjournment is taken until the 14th day of July, 1913, at the hour of 1 o'clock p. m.

And on said 14th day of July, 1913, the contestant, John J. Davis, being present in person and by his attorney, Roy Hoffman, the contestee being present by Attorney Fred A. Wagoner, the following testimony is taken on behalf of the contestee:

JAMES A. EMBRY, being duly called and sworn, testifies as follows:

Direct examination by Mr. WAGONER:

Q. State your name.—A. James A. Embry.

Q. Where do you now reside?—A. Chandler, Okla.

Q. What official position, if any, are you holding at present?—A. Clerk of the district court.

Q. Were you holding any official position in the months of September, October, and November, 1912?—A. No, sir.

Q. At that time you were seeking to hold an official position?—A. Yes, sir.

Q. Candidate for what office?—A. Clerk of the district court of Lincoln County.

Q. And on the Republican ticket?—A. Yes, sir.

Q. Mr. Embry, did you hold any position prior to that time as member of the election board of Lincoln County?—A. Yes, sir.

Q. And who were the other two members of the board at the time you were a member?—A. Mr. John Davis of this town, and Mr. Charlie Stewart of Agra.

Q. You represented what commissioner district?—A. Third.

Q. Mr. Davis?—A. Second.

Q. And Mr. Stewart first?—A. Yes.

Q. As a member of that board your duties among others was to select the election officials, was it?—A. Precinct election officials.

Q. In Lincoln County?—A. Yes, sir.

Q. And you may state whether or not this board while you were a member of it did select those officials prior to the August primary 1912?—A. They did in most instances.

Q. Now, Mr. Embry, were there any discussions of the board while in session, or did you have any discussions with the members when not in session as to the board's attitude toward the enforcement of the grandfather clause and, if so, state what they were.—A. Why, yes; we talked about it and joked about it a good deal, but I don't remember just exactly what was said, the arguments usually came up over the appointment of election officials, and the precincts having negro votes, and the argument was usually between Mr. Stewart and me. Mr. Davis didn't indulge very much in those arguments.

Q. What did Mr. Stewart say to you about it?

Mr. HOFFMAN. Objected to as incompetent, irrelevant, immaterial.

A. He was careful at all times to select what he said was the right kind of men in those precincts.

Q. For what purpose?—A. For the enforcement of the grandfather clause—that was about all the difference in the selection of men.

Q. Was he trying to get men who would enforce the grandfather clause fairly and reasonably, or was he seeking to get men who would prevent the negroes from voting whether they could read or write, or did he indicate in his statements?

Mr. HOFFMAN. Objected to as leading, suggestive, and calling for an expression of opinion of the witness.

Q. State what he said along those lines, if anything?

Mr. HOFFMAN. Objected to as above and as hearsay.

A. Well, Stewart is one of those fellows who don't believe they should vote at all, any of them.

Mr. HOFFMAN. Object to that and ask to have witness's answer stricken as nonresponsive.

Q. Use his language as near as you can while he was a member of this election board.—A. He simply told me, in an open board meeting, while he was on the election board, the precinct election board, himself, he didn't let any of them vote, and he wouldn't let any of these vote if he was on a precinct board, and he would like to have men in every precinct in the county who wouldn't let them vote.

Q. Regardless of whether they could read or write?—A. Yes, sir.

Q. At the last election where did you live?—A. Sparks.

Q. In what precinct?—A. The east ward, Sparks.

Q. Where had you resided prior to that time?—A. North Seminole.

Q. Were you at any voting precinct on election day?—A. I was at the voting precinct, Lydia School House, North Seminole.

Q. How long had you lived, up to the time you moved to Sparks, in North Seminole?—A. About eight years.

Q. Acquainted with the voters of that township, both white and black?—A. Not personally acquainted with all of them; no.

Q. You know most of them, do you?—A. Yes, sir.

Q. On that day do you know whether or not the grandfather law was enforced in North Seminole Township?—A. Yes, sir.

Q. Do you know about how many negroes there were in that township at that election?—A. If my memory serves me right, about 17 applied to vote.

Q. How many voted?—A. I think 6 out of the 17.

Q. The rest were refused after taking the test or refused to go in and submit to a test?—A. I think they all submitted to the test. I will not be sure about that; I was not there all day.

Q. Mr. Embry, you made a canvass over the county in the last election, did you—primary and in the general election?—A. Yes, sir.

Q. What, if anything, did you hear over the county about the negroes being instructed to go to the polls with guns and force their right to vote? Did you hear anything of that kind about the negroes?—A. No; I never heard the negroes were instructed to do that; no.

Q. Did you ever hear any talk about it over the county, that they were going to do it, by the negroes themselves?—A. No. I heard some rumors that purported to have come from negro precincts, but I never heard a negro said that.

Q. Do you remember whether it was Democrats or Republicans that repeated those rumors?—A. No; I don't.

Q. Was there any trouble in your precinct in North Seminole?—A. None whatever.

Q. Anyone there with a gun that you saw?—A. Nobody armed that I saw.

Q. You met a good many negroes over the county, did you, during the last campaign?—A. Yes, sir.

Q. Did you advise them regarding the grandfather clause in any way?—A. Yes, sir; I advised them where they asked it; especially on my own place; I had negroes, three negroes, living there, and none of the three voted. One of them I knew could read and write, because he had been there with me five years, and one other I knew couldn't read and write, and I told him not to go to the polls and he didn't go, and another told me he could read and write, went to the polls and was denied, and afterwards I found out he could not read and write.

Q. The instructions you gave the negroes was that if they could read and write to go to the polls and submit to the test and if they couldn't stay at home?—A. Yes; I advised that those negroes who could read and write would do very well if they got to vote, and the negro who couldn't read and write would probably jeopardize his opportunities by insisting, and keep others from voting.

Q. Was there any negroes in Sparks?—A. No.

Q. Who was your inspector in North Seminole?—A. I think Mr. W. P. Hughes.

Q. You noticed him there that day?—A. Yes; I have been on the board with Mr. Hughes myself.

Q. From his appearance and actions did he appear to be intimidated or scared?—A. No, sir; he is a man pretty hard to intimidate.

Q. You think, then, from what you saw and know there he tried to enforce the law as he understood it, fairly and honestly?—A. Well, I didn't notice just what steps he took any more than he denied some fellows a vote down there that I think could have qualified under the law; they could fully have met the requirements of the law.

Q. Is the John J. Davis on the county election board the same one running for Congressman?—A. Yes, sir.

Cross-examination by Mr. HOFFMAN:

Q. You are the same James Embry that's a brother of John Embry, former United States attorney, are you not?—A. He is a brother of mine.

Q. And who wrote a letter over his official signature and which was published and circulated throughout this district in the 1910 election, at the time he was United States attorney, which appears in our petition contesting for the seat in the first district; you have seen that letter?—A. I saw the letter, Colonel; I don't know whether it's the same one in your petition.

Q. Well, it's the letter which directs the negroes to go ahead and vote, regardless of the State law.—A. No; I didn't see that kind of a letter.

Q. Well, you mean the way you read it, you didn't see that kind?—A. The way I interpreted the letter I saw was he declined to express an opinion as to those negroes who couldn't qualify under the law.

Q. I hand you here the letter referred to, being under date November 2, 1910, to A. P. Jordan, at Guthrie, and ask you to state if that is the letter which your brother issued as United States attorney just prior to the 1910 election.—A. I believe, Colonel, that's the same letter, to the best of my recollection.

Q. Now, Mr. Embry, you say Mr. Stewart, while Democratic member of the election board with you, talked over his wishes with you to disfranchise the negroes in this county in his precinct?—A. No; not to disfranchise them, but simply stated—this was all done in a jocular way—would insist that was his view.

Q. That he intended to keep all negroes from voting whether they were entitled to vote or not under the law?—A. Yes; he said he thought the white men could settle it without the negroes voting at all.

Q. Didn't you think it strange the Democratic member would confide in you, knowing your views?—A. No.

Q. What was the subject of the conversation?—A. The appointment of precinct officials; for instance, the appointment of R. P. Martin in South Fox Township and Mr. Key in Wellston.

Q. You had a good deal of trouble in getting election officials in some precincts?—A. No, sir; I never heard of any trouble.

Q. Don't you know some quit?—A. I know some resigned, but I don't think they assigned any reason except that they were not able to attend to the duties.

Q. As a matter of fact Jim, you know the real reason was they were afraid of Federal prosecution if they enforced the grandfather clause?—A. No; I do not.

Q. You know there had been similar prosecutions after the 1910 election?—A. Yes; but those prosecutions were generally understood among the Democratic officials themselves, because the officials violated the State laws by not even letting those vote who could qualify.

Q. Don't you know it was generally discussed in the newspapers in this county and by the citizens generally that there was a good deal of difficulty in getting persons to serve as election officials in this county at the 1912 election because they feared to enforce the grandfather clause and incur the liability of being indicted and prosecuted by the Federal authorities?

Mr. WAGONER. Objected to as incompetent, irrelevant, immaterial, the names of the officials not being given who did resign, and the newspaper reports are hearsay, and the witness's attention not being called to matters that are definite.

A. Why, I don't know just what was said in the newspapers; I haven't a clear recollection; didn't pay much attention except that part that related to my own affairs. I had my hands full and I don't remember just what was said. There might have been something like that, but as to any election official that I know of in the county resigning and assigning that as his reason I don't know of it, and Mr. Davis, as secretary, never told me he received any such communications.

Q. You, as Republican member of the board, wouldn't come in contact with persons who resigned and assigned those facts as their reasons?—A. Their resignations would come up at the board meeting.

Q. Before the full board?—A. Yes.

Q. The mere resignation; but when the parties met these persons and explained their reasons, isn't it a fact they would go to the Democratic members of the board?—A. Yes; we had an arrangement between Mr. Davis, Mr. Stewart, and myself by which we each selected one member of the election board from each precinct and I selected the Republican member, and I think Mr. Stewart selected most on his side, probably the entire board, and Mr. Davis the entire board in most instances in his district, and then they kind of divided it up in the third district between themselves.

Q. How long a time were you at the polls on election day?—A. I was there at the poles in North Seminole?

Q. Yes.—A. Probably about 2 o'clock to about the time the polls closed.

Q. Is that the place where you stated some negroes were turned down who offered to vote?—A. Yes, sir.

Q. Were you inside the polling place?—A. No, 'sir.

Q. Where did you vote?—A. East ward, Sparks.

Q. No negroes there?—A. No, sir.

Q. Now, in Seminole, you don't know what occurred inside of the booth, do you?—A. No, sir; any more than what they told me when they came out.

Q. You are relating hearsay?—A. Yes; they came out and told me they wouldn't let them vote.

Q. Did they also strike you for a little contribution at the same time?—A. I don't remember that they did on that particular instance.

Q. As a matter of fact, you didn't see the test applied to anyone?—A. No, sir; not the last time; but I have seen that particular inspector apply the test.

Q. At the last election?—A. The general election previous to that I sat in there with him.

Q. Now, this talk about the negroes taking guns to the polls—that was pretty generally talked over the county prior to the last election?—A. I never heard of it if it was, and I was over the entire county.

Q. I understood you to state awhile ago you did hear some talk?—A. Not by the negroes; it was occasionally rumored around; probably a Chandler paper was where I heard that rumored.

Q. You know of Gov. Haskell having to issue an order to the National Guard in 1901 to insure the tranquillity at the polls, where negroes would go armed in this county and Kingfisher and Logan Counties?—A. I don't know that I knew he issued an order. I saw an interview that he would do that if it became necessary.

Q. The negroes are very strong and insistent on what they regard as their political rights throughout this vicinity?—A. In North Seminole, where I have always voted, it is rather on the contrary; they are very humble and meek about it.

Q. That don't apply generally throughout the county?—A. My opinion is the rule would probably hold good in other precincts. About the only way they can get to vote is by the inspector agreeing to it; he is the sole judge, and nobody else has anything to say about it.

Redirect examination by Mr. WAGONER:

Q. About the only way a negro can get to vote is to be very kind to the Democratic inspector, where he can read and write?

Mr. HOFFMAN. Objected to as leading, assuming.

Q. You say you did remember about Gov. Haskell making a grand stand—saying he was going to issue an order based on an article written by George Smith and published in the Chandler Tribune?—A. I think I saw an article to that effect.

Q. Did you hear anybody say anything about the negroes going to take guns to the polls election day, except some Democrat?—A. I can not say it was a Democrat, Judge. I heard some rumor—probably a newspaper rumor—I think it was the Chandler Tribune; that's the only place I heard of it in this county.

Q. I will ask you if you didn't hear, and isn't it a fact, Harve Becknell started the negro gun proposition and said he thought it was a joke?—A. The boys told me that; I didn't pay any attention, Judge; supposed they were kidding Harve.

Q. Mr. Hoffman asked you if you as Republican member of the election board would not likely be taken into the confidence of the other two members of the board; is that true; and if so, why should the other members refuse to take you into their confidence upon an official matter laid down by the law, if you know?—A. I don't think the election board, either Mr. Davis or Mr. Stewart, tried to deny me any secrets relating to any action of the board, except probably they had an understanding between themselves they were to select men in these negro precincts who would enforce the law.

Q. Was it not the desire of Mr. Davis, so expressed in your presence, to select men who would enforce the grandfather law?—A. Well, I don't remember Mr. Davis expressing it in just that language, but Mr. Stewart did.

Q. I will ask you if it is not a fact that Mr. Stewart wanted the law violated?—A. Mr. Stewart didn't want any of them to vote.

Q. That would be a violation, wouldn't it? Wasn't it the attitude of you and Mr. Davis the law only be enforced, and that negroes be required to take the test and men be selected who would do that fairly and reasonably?—A. Yes.

Q. Mr. Stewart's idea was different; if he had had his way he would have violated the law by not allowing any of them to vote like some inspectors in 1910?—A. He said no negro could read and write well enough for him to let them vote if he was inspector, and I asked him at the time if he would instruct the inspectors to that effect, and he said, yes, he would do that.

Q. Do you know whether he was inspector Osage Township in 1910?—A. No; I think he told me he was; I don't know whether he was or not.

Q. Wasn't he one of the officers who kept negroes and Indians from voting out there?—A. He told me he simply didn't let them vote when he was on; I don't remember what particular time.



Q. I notice, Mr. Embry, that in Mr. Davis's contest he asks that certain townships or precincts in this county be throwed out, which he calls negro precincts; that is, precincts in which there are negro voters, and I notice in that list that he desires to have thrown out that he does not have North Seminole, but in his list that he asks that the precincts be counted he does have North Seminole. Now, North Seminole has some negro voters in it, has it not?—A. Yes, sir.

Q. About 20 or more?—A. I don't think that many came to the polls; from what they told me about 17 came to the polls.

Cross-examination by Mr. HOFFMAN:

Q. Stewart was not on the election board at the time of the 1912 election?—A. No, sir; he resigned and became a candidate himself.

Q. And he did not name the inspectors, did he, or assist in naming the inspectors for the 1912 election?—A. I think we completed the list—that is, I completed my list, and I am pretty sure; and I think they completed theirs.

Q. Well, refreshing your recollection, don't you know he resigned in the spring of 1912 before that work was done?—A. I think we all resigned on Saturday night before; we had to to become candidates.

Q. Did you get a copy of the letter of United States Attorney Boardman?—A. No; I didn't get a copy; I think I saw a copy probably.

Q. Where did you see it?—A. I don't remember now where I saw it.

Q. See it at Republican headquarters here?—A. I probably might have.

Q. Did you get a copy of the penitentiary warning circular warning the inspectors they would receive a probable penitentiary sentence if they enforced the grandfather clause?—A. No; I didn't receive a copy. I have an indistinct recollection of seeing that circular around, but I don't know who circulated it.

Q. I will hand you copy of our petition calling attention to the circular in question. Did you see that circular during the campaign?—A. Why, I seen something; I don't know whether it is a verbatim copy; I think I saw something somewhere.

Q. Was that also in Republican headquarters in this county?—A. I don't remember seeing it there; I don't think it was; it may have been there.

Redirect examination by Mr. WAGONER:

Q. You were a member of the election board, 1910, North Seminole?—A. The precinct board, I think

Q. The same inspector was inspector in 1910 as 1912?—A. Yes, sir.

Q. He enforced the law in 1910?—A. He was not the inspector appointed down there; I think Mr. Davis's brother was the regularly appointed inspector, and became disqualified when he was running for office.

Q. He enforced the law in 1910 by requiring them to read and write or rejecting them if they couldn't?—A. Yes. To my best recollection, he denied them all the ballot. Even denied a fellow to vote down there who could really write better than he could.

Q. And from your knowledge that was the way they did in most of the precincts in 1910—from what you heard?—A. That's the way they reported it to me around; I don't know whether it was or not

Cross-examination by Mr. HOFFMAN:

Q. You have no personal knowledge of the subject?—A. No, sir.

HARRY B. GILSTRAP, being first duly sworn according to law, testifies as follows:

Direct examination by Mr. WAGONER:

Q. State your name.—A. Harry B. Gilstrap.

Q. You reside in Chandler?—A. I do.

Q. How long have you lived here?—A. A little over 21 years.

Q. I believe you were called as a witness in behalf of Mr. Davis, the contestant, and testified in this contest, did you not?—A. I testified; yes, sir.

Q. What political position, if any, did you hold during the last campaign?—A. I was member Republican congressional committee for this county.

Q. And you were a member of the Republican congressional committee from this county in 1910?—A. Yes, sir; I was.

Q. As such member of the Republican congressional committee in 1910 did you have occasion and did you take part in that campaign?—A. I did.

Q. Grandfather clause was a law at that time, was it?—A. Yes, sir.

Q. And we were voting under it for the first time?—A. Yes, sir.

Q. Did you have occasion to go or were you called to any township or voting precinct in this county at this election—1910?—A. Yes, sir.

Q. What precinct?—A. West North Choctaw.

Q. Now, Mr. Gilstrap, go ahead and tell what you found when you got there and what you did and what was done by some of the voters there to try to cast a ballot on that day.—A. The voting was at the schoolhouse known as Forest Schoolhouse, and I found some 30 or 40 negroes there—

Mr. HOFFMAN. Objected to as incompetent, irrelevant, immaterial, no application to the 1912 election.

A. Who had been waiting. I got there about 3 o'clock. They had been there since the opening of the polls in the morning desiring to vote, and they informed me all who offered to vote had been rejected. One of them, William Tucker, had been required to write for two or three hours, and then had been rejected. I had with me my notary seal and a supply of forms of oaths for challenged voters, and as many of them as could read and write in my presence and before me as notary made affidavit they were qualified voters, some of them stating in addition to the requirements of the form furnished by the election board that their grandfathers had been voters, and after they made these affidavits and I attested them, one at a time, they presented themselves and offered to vote and were in turn rejected without test, as they informed me, and each came back to me and signed in my presence a statement, which they first read, to the effect they had offered to vote and had been denied the right. Some 18, I think, signed this in my presence. Their handwriting was as legible as is the handwriting of any 18 farmers that might be selected at random without any regard to their race, and I attested this as notary and turned it over to United States Attorney Embry, who used it as the basis, I understand later, of the prosecution of the inspector who was indicted; so I personally know of some 17 or 18 who did read and write in my presence who swore they were denied to vote in that precinct at that time.

Q. Who was the inspector there?—A. Lum Edmonson, now State senator.

Q. Did you take part in the 1912 campaign as member of the congressional committee?—A. In a small way; I didn't do much.

Q. As member of the congressional committee from Lincoln County you had charge of the campaign here?—A. Yes, sir; I suppose I did.

Q. What kind of a campaign did you make in regard to the enforcement of the grandfather clause or any other part of the campaign?—A. I personally attended two or three meetings of negroes—two, I believe, was all. I should have attended more, but it rained on me—exclusive negro meetings. I advised them all who were qualified to go to the polls, telling them if they went there and were turned down, it would be the election board disfranchising them, while if they remained away they would be disfranchising themselves, and at these meetings I heard talks from the leading representative negroes as to how they felt.

Q. What were those talks as to carrying arms or going to cause trouble?—A. There was no suggestion of any kind carrying arms; there were urgent appeals from their leaders to refrain from any violence or disorder. They were advised their race was on trial for citizenship, and any disorder or violence would prejudice their rights. There were no suggestions of any violation of the law with regard to their voting, except at one of these meetings in Tohee Township one negro said he had been assured all who would vote for certain men, naming the Democratic candidates for township officers and Streator Sepakman and James Embry, would be allowed to vote without reference to their qualifications.

Q. Did you hear the inspector testify in Mr. Davis's behalf in that township, in which he swore he enforced the grandfather clause and required them all to read and write?—A. No, sir; I didn't hear that.

Q. Mr. Gilstrap, the allegations of Mr. Davis, or one of his allegations in his petition for contest against Mr. McGuire in Lincoln County, is that the grandfather clause was not enforced and that a great number of negroes who could not read and write and were illiterate were permitted to vote. Can you, from any facts or knowledge that you have, state whether or not that is true in the main?—A. I think I can.

Q. Upon what do you base your information?—A. Upon comparison of the vote as shown by the election returns 1910 and 1912 and study of the United States census as to the number of illiterate males of voting age in this county.

Q. Can you give the number of illiterate males in this congressional district as taken from the Federal census?

Mr. HOFFMAN. Objected to as not the best evidence. It is apparent that the witness draws his information from a publication which is current.

Mr. WAGONER. Comes now the contestee and states that it is impossible to place in the record in this testimony the volume and the book in which is contained the facts and figures which the witness is going to testify about at this time.

Q. Go ahead and state. What does the United States census show as to the number of illiterate males of voting age in this congressional district regardless of color?

Mr. HOFFMAN. Objected to as not the best evidence.

A. The abstract of the census of 1910 shows that in the 10 counties comprising the first congressional district there were 2,353 males of voting age classed as illiterates.

Q. Now, then, give the number of illiterate male negroes of voting age in this same 10 counties.

Mr. HOFFMAN. Objected to as above and to all questions following based on this census.

A. 741, or 31.5 per cent of the total illiterate voting population.

Q. What is the per cent of illiterate male negroes of voting age?—A. The average in the 10 counties is 12.42 per cent.

Q. In Lincoln County what does the census show as to the total number of illiterate males of voting age regardless of color?—A. Four hundred and eighteen.

Q. And the number of illiterate male negroes of voting age in Lincoln County?—A. One hundred and sixty-six.

Q. What is the percentage of illiterate males of voting age in Lincoln County?—A. Four and nine-tenths.

Q. And the percentage of illiterate male negroes of voting age?—A. Eighteen and five-tenths.

Q. Kingfisher County, give the illiterate males of voting age?—A. One hundred and eighty.

Q. And the percentage of illiterate males of voting age?—A. 3.6 per cent.

Q. Illiterate male negroes of voting age?—A. One hundred and ten.

Q. Percentage of illiterate male negroes of voting age?—A. Seventeen and eight-tenths.

Q. Logan County, number of illiterate males of voting age?—A. Four hundred and ninety-eight.

Q. Per cent of illiterate voting males?—A. Five and six-tenths.

Q. Illiterate male negroes of voting age?—A. Two hundred and eighty-nine.

Q. Percentage of illiterate male negroes of voting age?—A. Fourteen and six-tenths.

Q. In Osage County, illiterate males of voting age?—A. Two hundred and fifty-four.

Q. Percentage of illiterate males of voting age?—A. Four and one-tenth.

Q. Illiterate male negroes of voting age?—A. Fourteen.

Q. Per cent of illiterate male negroes of voting age?—A. Eight and seven-tenths.

Q. Pawnee, the number of illiterate males of voting age?—A. Two hundred and thirty-one.

Q. Percentage?—A. Four and nine-tenths.

Q. Number of illiterate male negroes of voting age?—A. Forty-four.

Q. Percentage of illiterate male negroes of voting age?—A. Nineteen and seven-tenths.

Q. Payne County, illiterate males of voting age?—A. Two hundred and nine.

Q. Percentage?—A. Three and four-tenths.

Q. Number illiterate male negroes?—A. Fifty-five.

Q. Percentage of illiterate male negroes?—A. Fourteen per cent.

Q. Noble County, illiterate males?—A. One hundred and seventy-three.

Q. Percentage?—A. Four and two-tenths.

Q. Illiterate male negroes of voting age?—A. Forty-four.

Q. Percentage?—A. Twenty-four and three-tenths.

Q. Kay County, illiterate males?—A. Two hundred and forty-four.

Q. Percentage?—A. Three.

Q. Illiterate male negroes of voting age?—A. One per cent.

Q. Garfield, illiterate males of voting age?—A. Ninety-five.

Q. Percentage?—A. One.

Q. Illiterate male negroes of voting age?—A. Seventeen.

Q. Percentage?—A. Six and six-tenths.

Q. Grant County, illiterate males of voting age?—A. Fifty-one.

Q. Percentage?—A. One per cent.

Q. Illiterate male negroes of voting age?—A. Just one negro of that sort.

Q. Now, Mr. Gilstrap, Mr. Davis also alleges in his petition for contest that these negroes voted for Mr. McGuire. Have you made any computations or comparisons of figures in reference to the vote from which you can arrive at a basis as to whether that allegation is true in the main or not?

Mr. HOFFMAN. Objected to as a piece of pure speculative fancy and mathematical guesswork it is impossible to base an opinion upon.

Q. You may state your comparison.

Mr. HOFFMAN. Objected to as incompetent, irrelevant, and immaterial.

A. I made a comparison in 18 of the precincts containing the greatest number of negro votes as to the vote on Mr. McNeil, the Democratic nominee for Congressman in 1910, and the vote on Mr. Davis, the Democratic nominee 1912, and I found in 1910 Mr. McNeil carried only two of those 18 so-called negro precincts, with an aggregate majority of 20. That in 1912 Mr. Davis carried five of these so-called negro precincts, with an aggregate majority of 57. I found in these 18 precincts in 1910 Mr. McGuire, the Republican nominee, had a net majority of 279, that in 1912 in these same 18 precincts Mr. McGuire had a net majority of 231, or 48 less than the majority of two years previous. I made a comparison of the vote of Mr. Davis in 1912 with the vote of Gov. Cruce 1910 and found, while in the entire county in 1910 Mr. Cruce received 43 more votes than Mr. Davis received in 1912, yet, in these 18 so-called negro precincts Mr. Davis in 1912 received 24 votes more than Mr. Cruce received in the same precincts in 1910. I also found that while in 1910 Mr. McNeil, then Democratic candidate for Congress, received in the entire county 131 more votes than Mr. Davis received in the entire county in 1912, yet Mr. Davis in 1912 in these 18 so-called negro precincts received 13 more votes than Mr. McNeil received in the same precincts in 1910.

Q. Have you made any comparison as to the differences in the number of votes cast for Congressman in 1910 and 1912?—A. I haven't as to the aggregate; no, sir. I have a comparison of the Democratic votes, though, showing Mr. Davis received fewer votes than his opponent, yet Mr. Davis received more in these negro precincts.

Q. Mr. Davis, in his evidence, sought to show by several witnesses in South Fox Township, a negro precinct, that the grandfather law was not enforced. Have you made any comparisons as to South Fox Township?—A. Well, I have, in general, as to all of what might be termed as the negro precincts in the second commissioner district.

Q. One J. F. Collar, Democratic candidate for county commissioner in 1912, and who was elected in a Republican commissioner district, testified as to certain matters and things that took place in South Fox Township. Do you know how the vote compared between Mr. Collar and Mr. Davis in South Fox Township?—A. Yes, sir; I can tell you.

Q. And if the grandfather law was not enforced there, can you state from your comparison who it was that caused it not to be enforced—whether it was the Republican organization or Jake Collar, the Democratic candidate for county commissioner, or other Democrats?—A. The official tabulated vote for South Fox Township will show, I think, Mr. Collar received 99 votes in that township, Mr. Davis received 57, a difference of 42; that Mr. Collar received 12 more votes than Mr. McGuire in the same township.

Q. Give the number McGuire and Davis received in the township.—A. Mr. McGuire received in South Fox Township 87 and Mr. Davis 57. I continued this comparison for the purpose of satisfying myself as to Mr. Collar's activity among the negro voters of the 14 precincts in the second commissioner district, which contained a considerable number of negro voters, and I found Mr. Collar's net majority over his Republican opponent for the office of county commissioner was 193, while the net majority of Mr. McGuire for Congress over Mr. Davis, his Democratic opponent in these 14 precincts, was 153, or 40 less in these negro precincts than the majority of the Democrat Collar, indicating that if anyone had been perniciously active in securing the counting or casting of negro votes it had been Collar.

Q. Have you made any other comparisons from the official returns other than those you have given?—A. No, sir.

Q. Is there anything else, Mr. Gilstrap, you think of I have talked over with you before that I haven't asked you about that I have called your attention to?—A. No, sir; I don't think of anything at this time.

Q. I hand you now this paper, and ask if those are the figures from which you have made your comparisons as to the Congressmen and governor you have testified about?—A. Yes, sir; all my figures except those relating to county commissioner.

Mr. WAGONER. We now ask the list to be marked as an exhibit and offered in evidence.

(Marked "Exhibit A.")

Mr. HOFFMAN. Objected to as incompetent, irrelevant, and immaterial, and manufactured campaign dope.

Cross-examination by Mr. HOFFMAN:

Q. Your theory, then, is you admit the bars were let down and the negroes did all vote, or practically all vote, in these precincts where Mr. Collar ran, but you lay it to Collar instead of McGuire—is that correct?—A. No, sir; I don't admit anything of the kind.

Q. That is what I understand from your testimony?—A. I claim those of your party who assert the bars were let down should place the blame for the alleged letting upon the beneficiary of the letting, which would be Mr. Collar.

Q. And you admit that after they did get in there and, furthering an arrangement they may have had with Collar, they proceeded also to vote for McGuire.—A. The comparison would indicate some did not vote for McGuire.

Q. In all your figuring you haven't figured out a line upon the Bull Moosers and Stand Patters in the Republican Party?—A. No; I think that accounts for some of the votes Mr. Davis received.

Q. You admit, do you not, the sentiment was strong here, as elsewhere in the Nation, and this decided division did exist in the Republican Party, and that by no means were your efforts sufficient to combine the two wings of the party on McGuire?—A. I don't think it seriously affected us—we elected the usual number of county officers and by about the nominal Republican majority. It was offset by dissatisfaction in the Democratic ranks.

Q. On your local county ticket here the Republican Party had both Bull Moosers and standpatters, did they not?—A. I think they could be classified so.

Q. And you were able to effect a fusion on your county ticket, but do you not know you were not able to do that so far as Mr. McGuire was concerned?—A. No; I do not know that.

Q. Don't you know he was fought bitterly by standpatters, old-time Republicans, who became Bull Moosers? I will name one, Dan Norton.—A. No, sir; I don't understand he fought him. He told me he was for McGuire.

Q. Norton was a delegate to the Bull Moose convention, wasn't he?—A. Yes, sir; he was.

Q. You have always been quite active in the Republican politics of this county, haven't you?—A. Rather; yes, sir.

Q. You have been their figure expert, have you not, in the county?—A. I don't know; I figure a little.

Q. And generally considered their mathematician, and ready to prove anything with figures at any time?—A. No, sir; I am an exponent of the truth; whenever they want to know the facts they call on me.

Q. You are the present postmaster?—A. So far as I know.

Q. You have been postmaster here for—A. Eleven years and some months. Mr. Cameron tells me he has it.

Q. You procured the testimony upon which the indictment of Senator Lum Edmonson was had, did you?—A. Well, I don't know upon just what testimony he was indicted. I turned in these statements of these negroes that they were denied the right to vote to the United States attorney, and I presume he used it.

Q. Were you there for that purpose?—A. Yes, sir; I was there to see qualified negroes vote, if possible.

Q. And did you announce the purpose of your visit there to the election officers there at that time?—A. No, sir; I didn't confer with the election officers.

Q. Did you tell the negroes whose affidavits you secured what you were getting them for?—A. I explained to them the making of the affidavits of the right to vote was for the purpose of aiding them to vote.

Q. You then entertained the avowed purpose of assisting the Federal officers in prosecuting the election officials?—A. It was my purpose, if possible, to aid in the prosecuting of all who violated the State law

FRED A. WAGONER, attorney for Bird S. McGuire, contestee, being first duly sworn, asks to testify to a certain allegation in the contestant's petition and to certain testimony given by witnesses in behalf of the contestant.

Mr. WAGONER. I desire to say in answer to that part of the petition which alleges that in Lincoln County, the county in which the said coconspirator, Fred A. Wagoner, was deputy county attorney, he, "the said Fred A. Wagoner, frequently advised election inspectors and judges that if they denied a negro the right to vote they would be prosecuted by the Federal Government and would doubtless be convicted and given terms in the penitentiary similar to those of Guinn and Beal, the election officials heretofore referred to, who had been at the last general election prosecuted and convicted in the Federal court by the United States attorney." In answer to that I will say that I never gave such advice to any election inspectors or judges. However, in the 1912 campaign, as I have stated before, I did not take active part in that campaign for the Republicans. Being deputy county attorney and being personally acquainted with more than a majority of all of the election officers of the county, quite a number of them did at different times ask me not only about the grandfather law, but other parts of the election law, and as deputy county attorney I advised them as I honestly understood the law to be, at no time ever threatening them, as has been alleged, if they didn't do so and so that they would be prosecuted. I advised them that they had a right to require every negro to read and write any section of the Constitution. Also told them they must be fair and reasonable in that requirement; that they couldn't simply keep testing a man for the sole purpose of keeping him from voting.

After Gov. Cruce made his speeches at Sparks and at Chandler I advised them all he had correctly, as I thought, stated the law. And after the Supreme Court of the State of Oklahoma gave their decision, which is recorded in One hundred and twenty-ninth Pacific, on page 34, being the case of Snyder v. Blake, rendered on October 22, 1912, I find by reading that decision in regard to what the officials can do and could not do in regard to the test that I had correctly advised every election inspector in this county that had ever asked me anything about it.

And in regard to election inspectors resigning on account of the grandfather clause, I will say that two, if not three—and I have been trying to recall just who they were, but am unable to do so at this time—came to me and said that some of the members of their party wanted them to enforce the law to such an extent as to not allow any negro to vote, and that they wanted to know if they had a right to do that and if that was the law. To those men I told them that they did not, and if they did they might be prosecuted. That if I was them I would go ahead and give these men a test and if I was satisfied they could read and write I would let them vote, and if I was not I would turn them down. One of those men said that he would resign, and I think that man I talked to—I am not certain; I won't put his name in, because I am not certain about it.

As to the conspiracy between Mr. McGuire and the other parties named in this petition, there is nothing of that kind, as I have testified before. I took but very little part. I made a speech in South Fox to the negroes exclusively. I made one in Chandler Township, south of town, between here and the Lewis Bridge, to about six negroes, and I made a speech in Tohee Township; is the only three speeches I made in Lincoln County in 1912; and in each of those speeches I advised all negroes who could not read and write to stay at home. I advised the others to go to the polls peaceably and quiet; that if the inspector gave them a hard test to go ahead and take it; not to sass him back, because they could arrest him if he did, and if they couldn't pass to go home. I also advised them to protect their rights if they could read and write by noticing who was present when they were submitted to the test, so if those men were violating the law and were arrested they would have the evidence. I also advised them, as deputy county attorney, in those speeches that if any negro or white man took a gun to the polls on election day he would be prosecuted; that if there was any whisky on the ground they would be prosecuted; and asked them all to pay attention to it and submit to the county attorney's office the names of the persons who violated the law and the witnesses who knew of the violation.

That has always been my attitude in the political campaigns in Lincoln County and every other county where I lived. I believe in fair and square dealing for both sides. Don't believe in dirty politics, but I believe in each side

taking all advantage they can to win, and ever since the grandfather law has been enacted the Democrats have tried to use it to their best advantage, and the Republicans have done all they could to protect themselves and not permit the Democrats to run away with the whole thing—in Lincoln County especially. I believe most of our election officers are honest men. In 1910 Mr. Edmonson, in West North Choctaw, and the inspector in South Seminole, and Dol Sayers, the inspector in North Osage, and several other inspectors in some of the other negro precincts went awful strong preventing men from voting who could read and write, and that's what brought about these prosecutions and all this agitation. I talked with Mr. Stettmund, the secretary of the county election board in the campaign, 1912, and he told me he was advising the inspectors to be fair and square and to require all those negroes they didn't know could read and write to submit to a test, and where they could not to refuse them. I told him that was all the Republicans asked. In 1910 I know that's all we asked, because at that time I was a candidate, took part in the campaign, made a speech I expect in every township or voting precinct in the county, and have always been sent by the campaign committee to speak in the negro precincts; and in 1910 and 1912, alike, I advised them that if they couldn't read and write not to go and try, and especially that in 1912.

Now, then, as to the testimony of George Prough, from Tohee Township, commencing on page 49 of the record of the contestant, Mr. Prough testified that he received a letter from me, and I said in that letter if all the negroes were not allowed to vote, "I [meaning Prough] was subject to a fine and punishment. I [meaning Prough] would be prosecuted to the full extent of the law. I read it over and just passed it up. I was not a bit scared." I want to say in answer to that statement of Mr. Prough's that there is absolutely not a word of truth in it, and he could have known it and should have known it at the time he made that statement. I never wrote but one political letter in the 1912 campaign, and that letter was written upon the request of a Democratic friend of Mr. Jones in South Keokuk Township, Mr. Peck, asking that Mr. Jones write to George Scott; that it might help him; and on Mr. Jones's suggestion I wrote a letter for him to Mr. Scott with a very few lines, suggesting to him that Mr. Jones would appreciate anything he might do for him in the campaign; and that's the only political letter I wrote of any sort that I can recall in Lincoln County in that campaign. I am unable to understand why Mr. Prough would make such a statement. I offered him \$10 on the day he made this statement to produce that letter. He said he would if he could find it. I have never heard a word from him since, one way or the other. In his cross-examination he says it was a typewritten letter, that my name was signed to it on the typewriter. I desire to say if he received such a letter as that signed by typewriter it's an absolute forgery, because I never wrote it nor authorized anyone else to write such a letter. In the first place, I know that I would have no right to write such a letter under the law; that I expect I would be subject to disbarment proceedings as an attorney for writing such a threatening letter; and I know I would have been ousted out of the county attorney's office if I had written such a letter, and should have been.

There is also some testimony in Mr. Davis's record in regard to a speech I made in Tohee Township Saturday night before the election. In answer to that I desire to say I did make a speech, and Mr. Gilstrap testified a few moments ago that when he was out there a negro had told him that one of the election officers had said that if the negroes would vote for three members of the township board—Jim Embry and Streator Speakman—that they would allow them to vote, and if they didn't they wouldn't. When Mr. Gilstrap came back from Tohee he repeated that to me. As an officer of the law, when I went out there, I sought to make an investigation, and found out the truth of it. I took with me that night the statutes of Oklahoma (Snyder's 1909 Stats.) and by turning to that statute you will find three different sections under which an election official could be prosecuted for entering into a combination like was sought to be entered into there, or was reported they were about to enter into. After I had made my speech, the latter part of it I took up that phase of it. I was man enough to tell them there who the election officer was I was told was doing this talking, and it was not Mr. Prough; it was Sam Clark, the Republican judge, and I stated it publicly and asked the colored and white people there to watch and see if they were carrying out that combination and report it to me, if they were, and get the evidence and I would prosecute them under the State law. There was an enemy of mine at that schoolhouse that night—a white fellow—who is the fellow I have since learned reported to George Prough

what he had heard about my speech, and the fellow was such a liar he could not tell the truth as to what I did say, but that's what I did say in regard to that combination. I also told the negroes there that night—those of them who could read and write—to go to the polls, those who could not to stay at home. I told them I thought they would have no trouble there. I talked with the white people of the township, and they didn't think there would be any on the part of the election officials; that they would be fair. Up to that time, or up to the time George Prough testified here, I did not know but what he was as good a friend as I have in the county, and I told them that night that, knowing George Prough as I did, I thought he would be fair and reasonable with them. There was several white fellows there who heard what I said, among them Jim Murphy and Joel Rogers and a couple of others that I did not know. And that is the answer to that part of Mr. Collar's testimony in which he said Mr. Prough was in here looking for me and wanted to whip me. He could have found me had he looked very close, because I was in town at that time attending to my official duties every day.

In regard to North Wichita Township, A. A. Beasler the other day gave his testimony, and there was introduced some exhibits marked for identification 11, 12, 13, 14, 15, 16, and 17. I will state I was with Mr. Beasler on that day, that neither he nor I went within 75 or 100 feet of the voting precinct. Mr. Farrell swears he talked with Beasler, but not with me. Mr. Farrell is mistaken. Capt. Beasler never said anything to him unless it was to wave his hand and say how-de-do. We were never out of the section-line road. The exhibits introduced in evidence were signed in my presence by those negroes; they were brought back to Chandler. I made an examination of the State law to see if anything could be done toward a prosecution, and I found nothing could be done. I made an examination as to whether Mr. Farrell could be prosecuted under the Federal law, and I found he could not because there was no conspiracy. He simply was the election board, refused them himself, did not call upon or receive any suggestions from other members, and there being no conspiracy there was nothing done. The matter was dropped. Those slips are simply introduced in evidence to show the attitude of Mr. Farrell in regard to the enforcement of the law. They were taken for that purpose—to be used at the regular election as his attitude.

In Mr. Prough's testimony he says that some negroes told him that I and my partner said for them to take their dinner and go and stay there and vote if they had to take the guns, they told him so. I want to say as to that, I don't know what the negroes told him, but I expect to have them both here to-morrow to testify as to what they did say. If they did, tell him that I never made such a statement, and as to my partner, I had no partner with me. Capt. Beasler did not accompany me to Tohee on this Saturday night. He was with me at the other two places where I spoke to negro audiences.

I want to say in regard to the Boardman letter that that letter was never asked for nor secured by me with the idea of any intimidation or coercion of any election officials. It was sought in good faith for the purpose of giving advice to certain of my friends, both Democrats and Republicans, who had spoken to me upon the proposition, and in reading the letter over I can not for the life of me to this day see where there is any intimidation or coercion in it anywhere.

Cross-examination by ROY HOFFMAN:

Q. If you were inactive as you seem to have it appear in the 1912 election, how does it happen that you sought the advice of the Federal prosecuting attorney?—

A. My activity in the campaign had nothing to do with it and could not have.

Q. You were able to interpret the law without his advice in that regard?—A. I had interpreted it, sir, exactly like the supreme court interpreted it.

Q. You and the supreme court agreed, did you not?—A. Yes, sir.

Q. And you interpreted the law and issued your opinion long before you ever got the Boardman letter, did you not?—A. Yes; as to the enforcement of the grandfather law, but not upon the good-faith proposition.

Q. The Boardman letter was not received until on the eve of election and was immediately issued as a campaign document, was it not?—A. I don't know as to that; I had nothing to do with that; I wrote for this a week or more before I got it.

Q. You caused it to achieve wide circulation, did you not, in a very short time?—A. No, sir.



Q. How do you account for the fact that letter received only three days, I believe it was before the election, managed to get printed and circulated and in the hands of practically every election official in the entire first district prior to the time they opened the polls for election?—A. I am not able to tell about that; I don't know anything about it.

Q. Don't you consider it rather remarkable this private communication of yours received such a large circulation?—A. If it had not been published, I would have published it myself.

Q. Did you give it the wide publicity it attained?—A. No, sir.

Q. Did you turn it over to the campaign committee?—A. No, sir.

Q. How do you account for the fact it was published?—A. I am not accounting for it.

Q. Have you got the original of the letter now?—A. I think I destroyed it when I moved out of the county attorney's office. I haven't any of that matter. I looked for some the other day.

Q. You didn't give it out for publication or cause it to be published, and you don't understand or know any reason to offer here why it attained the wide circulation it did?—A. No; I see no objection to its being circulated. It was information for the people.

Q. Do you think the penitentiary-warning circular which was inclosed with it in most instances in accordance with this record was also proper?—A. I don't know anything about that. The testimony don't show it very conclusively in more than one or two instances that I have read.

Q. You didn't get that out, did you, Fred?—A. No, sir.

Q. Did you cause it to be distributed?—A. No; I didn't know it was out until I read it in the newspaper.

#### Direct examination of Mr. WAGONER:

Some time before the election in 1912 letters were sent out by Gov. Cruce and the attorney general on the enforcement of the grandfather clause, and I read both of them, and after that I talked with election inspectors and told them if they followed those they would make no mistake; they would have to use their own judgment as to the test, but must be fair and reasonable.

In 1910 Mr. John J. Davis, then county attorney of Lincoln County, wrote a letter to the inspectors of this county defining their powers and duty under the grandfather clause of the election law, of which I did have a copy, but am unable at this time to find it, where John advised them they had a right to require the negroes to repeat a section of the constitution from memory, which was not then and never has been the law, and our Supreme Court of Oklahoma has so decided in the Wagoner County case.

#### Cross-examination by Mr. DAVIS:

Q. You don't remember the provisions of that opinion of mine you refer to?—A. It was a letter you had prepared, and some of them had been sent out, and I remember this part of it because—I think it was Mr. Foster and I were talking about it at the time; think he was in the office when I read the letter over; its the only one I remember of seeing; we were discussing it at the time is the reason I remember it; you advised the inspectors as county attorney in this letter they had a right to require the negroes to repeat a section of the constitution from memory. Afterwards you sent out another one different from that.

Q. What was the contents or substance of the second letter?—A. I don't know; I was told it was different; you corrected the other one.

Q. I will ask you to refresh your memory. If it is not a fact in the first letter I quoted the law as it was written on the statute and stated that accepting the terms as they were contained in the provisions of the law, it would be capable of such an interpretation and that said subsequent letter came out and said that to require them to write the constitution without a book to copy from would probably be too severe a test?—A. I think so; you said in your first letter you sent out they had a right to require them to write from memory, and in your second letter you said that would be too severe a test.

Q. I will ask you if it is not a fact the first letter in substance stated the law as written on the statute book was susceptible of such an interpretation?—A. Yes; but there was not anybody else believed it was, and the supreme court had said it was not.

Q. Requiring them to write from memory?—A. Yes; you said that.

Q. But the letter that followed was to the effect that would be requiring too severe a test.—A. That's true; you said in your first one they had a right to require that, as you construed the law as written on the statute books, and in the second you said that was too severe a test, and the supreme court has stated they could not require that to be done.

Q. You are just quoting that from memory—not the exact language?—A. Yes; but there is no question but the meaning of the first letter was they had a right to require them to read and write from memory. I think it was Mr. Foster I was talking to, and he said he was going right up to tell you he thought it was too strong.

Q. You never heard of any damage done by reason of the first letter?—A. I am inclined to think so, maybe; Lum Edmonson wouldn't let anybody vote.

Q. Did you hear of anyone requiring them to write a section of the constitution without the book to go by?—A. I will answer it this way, Mr. Davis: You know a man in your position writing a letter that way with lots of those people has its effect, and they get out and talk.

Q. I would like for you to answer my question.—A. Yes; it caused a lot of trouble, that letter written in 1910, and the enforcement of the grandfather law as it was enforced in 1910, which our supreme court in each instance has held to be illegal, has caused all this agitation and turmoil in Lincoln County.

Q. I insist on your answer the question, yes or no.

(Question repeated:)

Did you hear of anyone requiring them to write a section of the constitution without the book to go by?

A. No; I don't know of them doing that; but the letter had its effect, as stated above, as they all do; whether written by Democrats or Republicans, they have a little effect.

## EXHIBIT A.

Precinct.	For governor, 1910.		Congressman, 1910.		Congressman, 1912.	
	Cruce.	McNeal.	McNeill.	McGuire.	Davis.	McGuire.
North Ponca.....	22	28	24	28	11	17
South Ponca.....	29	28	40	23	31	29
North Pawnee.....	26	30	25	30	22	18
South Pawnee.....	65	56	73	56	49	37
North Osage.....	45	46	49	47	55	36
South Osage.....	41	29	44	30	34	48
North Iowa.....	38	48	41	51	55	44
South Iowa.....	23	62	24	59	27	50
Cimarron No. 1.....	40	17	42	15	56	15
Cimarron No. 2.....	52	67	47	62	47	69
Cimarron No. 3.....	31	12	31	13	22	6
North Keokuk.....	86	48	85	51	68	53
South Keokuk.....	41	82	40	77	34	88
North Fox.....	100	82	109	79	57	54
South Fox.....	56	83	61	84	57	87
East Otoe.....	29	37	34	36	38	38
West Otoe.....	42	22	44	23	42	29
Union.....	58	104	59	100	55	86
Chandler Township.....	52	86	53	83	63	86
East McKinley.....	32	40	33	41	32	56
West McKinley.....	36	37	32	36	31	54
Wellston Township.....	62	71	62	67	55	63
North Wichita.....	85	94	89	94	59	99
South Wichita.....	78	40	81	38	76	33
East and North Choctaw.....	29	39	26	39	19	29
West and North Choctaw.....	43	31	44	32	31	26
South Choctaw.....	71	88	78	87	70	64
North Seminole.....	75	73	74	72	49	50
South Seminole.....	36	81	35	79	25	69
North Creek.....	49	99	55	93	40	75
South Creek.....	61	104	59	97	53	82
Bryan.....	63	53	71	38	48	32
Kickapoo.....	40	69	45	64	63	51
Tohee.....	35	80	33	76	46	58
Agra.....	17	40	19	40	35	37
Tryon.....	20	20	22	16	25	17
North Carney.....					4	3
Carney.....	21	21	25	19	22	18
Davenport.....	36	32	43	27	45	17
Kendrick.....					22	19
Fallis.....	14	30	12	28	17	23
Chandler No. 1.....	48	74	53	75	86	58

EXHIBIT A—Continued.

Precinct.	For governor, 1910.		Congressman, 1910.		Congressman, 1912.	
	Cruce.	McNeal.	McNeill.	McGuire.	Davis.	McGuire.
Chandler No. 2.....	41	54	39	54	60	45
Chandler No. 3.....	35	26	36	28	33	27
Chandler No. 4.....	34	37	34	36	34	31
Wellston City.....	64	54	66	49	63	65
Sparks.....	35	44	38	41	28	35
West Sparks.....					12	15
Meeke.....	37	40	45	35	39	36
Prague.....	89	103	86	99	85	71
Midlothian.....	9	6	8	6	13	8
North Stroud.....	75	75	77	73	76	75
South Stroud.....	42	40	41	42	36	46
Total.....	2,298	2,662	2,386	2,555	2,255	2,377

STATE OF OKLAHOMA.

*County of Lincoln, ss:*

I, H. G. Stettmund, do hereby certify that the above and foregoing is a true and correct copy of the election returns of the votes for governor and Congressman in 1910 in Lincoln County, Okla., and the vote of Davis and McGuire for Congress in 1912 in Lincoln County, as shown by the official returns now on file in my office.

H. G. STETTMUND.

*Secretary County Election Board, Lincoln County, Okla.*

Dated this 14th day of July, 1913.

EXHIBIT 11.

STATE OF OKLAHOMA, *County of Lincoln, ss:*

To J. P. FARRELL,

*Inspector for North Wichita Township, Lincoln County, Okla.*

I, J. H. Tyree, do hereby state that I am a resident of North Wichita Township, Lincoln County, Okla., and a citizen of the United States, and a resident of the State of Oklahoma for more than 1 year last past, and a resident of Lincoln County, Okla., for 6 months last past, and a resident of North Wichita Township, Lincoln County, Okla., for more than 30 days last past. I am a legal voter in said North Wichita Township, said county and State, and as such I do hereby state that I desire to vote at the primary election held on the 6th day of August, 1912, and at the general election to be held on the 5th day of November, 1912, in said township, county, and State.

I do hereby present myself and demand that you, the inspector in and for North Wichita Township, Lincoln County, Okla., do allow me to vote at the primary election held this 6th day of August, 1912, in said North Wichita Township, Lincoln County, Okla., for Congressman and other Federal officers.

Dated this 6th day of August, 1912.

J. H. TYREE.

Witnesses to signature:

FRED A. WAGONER,

A. A. BEASLER.

EXHIBIT 12.

STATE OF OKLAHOMA, *County of Lincoln, ss:*

To J. P. FARRELL,

*Inspector for North Wichita Township, Lincoln County, Okla.*

I, D. A. Sneed, do hereby state that I am a resident of North Wichita Township, Lincoln County, Okla., and a citizen of the United States, and a resi-

dent of the State of Oklahoma for more than 1 year last past, and a resident of Lincoln County, Okla., for more than 6 months last past, and a resident of North Wichita Township, Lincoln County, Okla., for more than 30 days last past. I am a legal voter in said North Wichita Township, said county and State, and as such I do hereby state that I desire to vote at the primary election held on the 6th day of August, 1912, and at the general election to be held on the 5th day of November, 1912, in said township, county, and State.

I do hereby present myself and demand that you, the inspector in and for North Wichita Township, Lincoln County, Okla., do allow me to vote in the primary election held this 6th day of August, 1912, in said North Wichita Township, Lincoln County, Okla., for Congressman and other Federal officers.

Dated this 6th day of August, 1912.

D. A. SNEED, *Affiant*.

Witnesses to signature:

FRED A. WAGONER,  
A. A. BEASLER.

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EXHIBIT 13.

STATE OF OKLAHOMA, *County of Lincoln, ss:*

To J. P. FARRELL,

*Inspector for North Wichita Township, Lincoln County, Okla.:*

I, Sam Parker, do hereby state that I am a resident of North Wichita Township, Lincoln County, Okla., and a citizen of the United States, and a resident of the State of Oklahoma for more than 1 year last past, and a resident of Lincoln County, Okla., for 6 months last past, and a resident of North Wichita Township, Lincoln County, Okla., for more than 30 days last past. I am a legal voter in said North Wichita Township, said county and State, and as such I do hereby state that I desire to vote at the primary election held on the 6th day of August, 1912, and at the general election to be held on the 5th day of November, 1912, in said township, county, and State.

I do hereby present myself and demand that you, the inspector in and for North Wichita Township, Lincoln County, Okla., do allow me to vote at the primary election held this 6th day of August, 1912, in said North Wichita Township, Lincoln County, Okla., for Congressman and other Federal officers.

Dated this 6th day of August, 1912.

SAM PARKER.

Witnesses to signature:

FRED A. WAGONER,  
A. A. BEASLER.

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EXHIBIT 14.

STATE OF OKLAHOMA, *Lincoln County, ss:*

To J. P. FARRELL,

*Inspector for North Wichita Township, Lincoln County, Okla.:*

I, Willie Randles, do hereby state that I am a resident of North Wichita Township, Lincoln County, Okla., and a citizen of the United States, and a resident of the State of Oklahoma for more than 1 year last past, and a resident of Lincoln County, Okla., for more than 6 months last past, and a resident of North Wichita Township, Lincoln County, Okla., for more than 30 days last past. I am a legal voter in said North Wichita Township, said county and State, and as such I do hereby state that I desire to vote at the primary election held on the 6th day of August, 1912, and at the general election to be held on the 5th day of November, 1912, in said township, county, and State.

I do hereby present myself and demand that you, the inspector in and for North Wichita Township, Lincoln County, Okla., do allow me to vote in the primary election held this 6th day of August, 1912, in said North Wichita Township, Lincoln County, Okla., for Congressman and other Federal officers.

Dated this 6th day of August, A. D. 1912.

WILLIE RANGLES, *Affiant*.

Witnesses to signature:

FRED A. WAGONER,  
A. A. BEASLER.

## EXHIBIT 15.

STATE OF OKLAHOMA, *County of Lincoln, ss:*

To J. P. FARRELL,

*Inspector for North Wichita Township, Lincoln County, Okla.:*

I, M. C. Farrow, do hereby state that I am a resident of North Wichita Township, Lincoln County, Okla., and a citizen of the United States, and a resident of the State of Oklahoma for more than 1 year last past, and a resident of Lincoln County, Okla., for 6 months last past, and a resident of North Wichita Township, Lincoln County, Okla., for more than 30 days last past. I am a legal voter in said North Wichita Township, said county and State, and as such I do hereby state that I desire to vote at the primary election held on the 6th day of August, 1912, and at the general election to be held on the 5th day of November, 1912, in said township, county, and State.

I do hereby present myself and demand that you, the inspector in and for North Wichita Township, Lincoln County, Okla., do allow me to vote at the primary election held this 6th day of August, 1912, in said North Wichita Township, Lincoln County, Okla., for Congressman and other Federal officers.

Dated this 6th day of August, 1912.

M. C. FARROW.

Witnesses to signature:

FRED. A. WAGONER,

A. A. BEASLER.

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 EXHIBIT 16.

STATE OF OKLAHOMA, *County of Lincoln, ss:*

To J. P. FARRELL,

*Inspector for North Wichita Township, Lincoln County, Okla.:*

I, Lennie Searcy, do hereby state that I am a resident of North Wichita Township, Lincoln County, Okla., and a citizen of the United States, and a resident of the State of Oklahoma for more than 1 year last past, and a resident of Lincoln County, Okla., for 6 months last past, and a resident of North Wichita Township, Lincoln County, Okla., for more than 30 days last past. I am a legal voter in said North Wichita Township, said county and State, and as such I do hereby state that I desire to vote at the primary election held on the 6th day of August, 1912, and at the general election to be held on the 5th day of November, 1912, in said township, county, and State.

I do hereby present myself and demand that you, the inspector in and for North Wichita Township, Lincoln County, Okla., do allow me to vote at the primary election held this 6th day of August, 1912, in said North Wichita Township.

Dated this 6th day of August, A. D. 1912.

LENNIE SEARCY, *Affiant.*

Witnesses to signature:

FRED. A. WAGONER,

A. A. BEASLER.

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 EXHIBIT 17.

STATE OF OKLAHOMA, *County of Lincoln, ss:*

To J. P. FARRELL,

*Inspector for North Wichita Township, Lincoln County, Okla.:*

I, John Rankin, do hereby state that I am a resident of North Wichita Township, Lincoln County, Okla., and a citizen of the United States and a resident of the State of Oklahoma for more than 1 year last past, and a resident of Lincoln County, Okla., for 6 months last past, and a resident of North Wichita Township, Lincoln County, Okla., for more than 30 days last past. I am a legal voter in said North Wichita Township, said county and State, and as such I do hereby state that I desire to vote at the primary election held on the 6th day of August, 1912, and at the general election to be held on the 5th day of November, 1912, in said township and State.

I do hereby present myself and demand that you, the inspector in and for North Wichita Towuship, Lincoln County, Okla., do allow me to vote in the primary election held on the 6th day of August, 1912, in said North Wichita Township, Lincoln County, Okla., for Congressman and other Federal officers.

Dated this 6th day of August, A. D. 1912.

JOHN RANKIN, *Affiant*.

Witnesses to signature:

FRED. A. WAGONER.

A. A. BEASLER.

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STATE OF OKLAHOMA, *County of Lincoln, ss:*

I, Lucy Adams, notary public within and for the county of Lincoln and State of Oklahoma, do hereby certify that the attached and foregoing is a true, complete, and perfect copy of all testimony taken by Bird S. McGuire, contestee, in the matter of the contest of John J. Davis, contestant, against Bird S. McGuire, contestee, in the county of Lincoln and State of Oklahoma, and in accordance with agreement of counsel for contestant and contestee the same was taken by me in shorthand and by me reduced to writing, and is a true, complete, and full copy of all evidence so adduced on direct and cross-examination in Lincoln County, Okla.

Dated at Chandler, Okla., this 19th day of August, 1913.

[SEAL.]

LUCY ADAMS,

*Notary Public, Lincoln County, Okla.*

My commission expires January 2, 1915.

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In the Congress of the United States. John J. Davis, contestant, *v.* Bird S. McGuire, contestee. Contested election.

It is hereby stipulated by and between the contestant and contestee that the further taking of depositions on behalf of the contestee, Bird S. McGuire, may be taken at this place, pursuant to a former notice and stipulation, and that said deposition may be taken before Eva M. Bonnett, notary public, and taken in shorthand by Eva M. Bonnett as stenographer; that after taking the same in shorthand said testimony may be reduced to typewriting by the stenographer and one carbon copy furnished to each the contestant and contestee and the original to be furnished to the contestee to be filed with the contest, and the signing of said depositions by the several witnesses is hereby waived, and when certified to by the stenographer as correct shall be sufficient to entitle the same to be filed in said cause.

The contestee, Bird S. McGuire, appeared by John H. Burford as his counsel, and the contestant, John J. Davis, appeared in person and by Roy Hoffman, his attorney.

P. S. NAGLE, being produced by the contestee as a witness in his behalf, was duly sworn by the notary to testify to the truth, the whole truth, and nothing but the truth, testified as follows:

Direct interrogatories by Mr. BURFORD:

Q. State your name, age, and residence.—A. My name is Patrick S. Nagle; I am 53 years old; Kingfisher, Okla.

Q. How long have you lived in Kingfisher County?—A. Well, I have lived there ever since the opening of the country in 1889.

Q. What is your business?—A. I practice law.

Q. Have you been engaged in the active practice of law since the opening of this country to settlement?—A. Yes, sir.

Q. You are a regularly admitted member of the bar of the courts of this State and the Federal courts?—A. Yes, sir.

Q. What official position have you held in Oklahoma during that period?—A. I was United States marshal for a short time under Cleveland.

Q. By what administration were you appointed United States marshal?—A. Mr. Cleveland's administration.

Q. By what political party were you appointed and of what political party were you?—A. Democratic Party.

Q. Have you been somewhat active in political affairs in Kingfisher County?—A. To some extent; yes.

Q. Have you ever occupied any position in connection with the Democratic political organization?—A. Yes; I have been on their committees and managed their campaigns at times.

Q. Were you at any time Territorial chairman of the committee in Territorial days?—A. I don't think so, unless in the very early day.

Q. Mr. Nagle, there has been some testimony taken on behalf of the contestant to the effect that you had, prior to the election of 1910 and 1912, either threatened or attempted to intimidate election precinct officials in Kingfisher County. You may state what your position and conduct has been with reference to the conduct of either of said elections.

(Contestant objects to the question as calling for a conclusion and incompetent, irrelevant, and immaterial.)

A. In reply to the charges that have been made in the record in reference to myself, I wish to say:

The issue in Kingfisher County in 1910 was this: Those in charge of the Democratic campaign took the position that before the negro could vote, the election officers had the right to compel the negro to actually read and write any section of the constitution of the State. I took the position that when a person offering to vote was challenged, the same rule as to proof of qualification must be applied whether the challenged be under the "grandfather clause" or under the previous law or under both.

That under the State law, the only proof the election officers could demand of a challenged voter was an affidavit showing that he possessed the qualifications required of voters by the State constitution and laws as defined and construed by the State supreme court, and any attempt to apply any different rule to a negro offering to vote would be a discrimination which is prohibited by the Federal Constitution and laws.

In other words, under the laws of the State as they existed at that time, if a white man was challenged, the board could not prevent his voting if he made a statutory affidavit, and I held that the same rule applied to the negro, to wit, that if he made a statutory affidavit and also making oath that he could read and write any section of the constitution, that the election board could not prevent the negro from voting. I stated publicly and in the newspapers at that time and particularly in the Daily Midget of November 5: "I take the position that any negro who will swear to the affidavit published as a supplement in yesterday's paper, or to an affidavit furnished by the election board to the effect that he can read and write any section of the constitution, that he is entitled to vote provided of course that he is qualified as to residence, etc."

The affidavit referred to above is as follows:

AFFIDAVIT OF CHALLENGED VOTER.

STATE OF OKLAHOMA, *County of Kingfisher, ss:*

I do solemnly swear (or affirm):

1. I am a male citizen of the United States.
2. I am a native of the United States.
3. I have for more than 30 days last past resided in the precinct in which I am now offering to vote, and that I am now a bona fide resident of this precinct.
4. I have resided for more than 6 months last past in the county in which I am now offering to vote.
5. I have resided for more than 1 year last past in the State of Oklahoma.
6. I am over the age of 21 years.
7. I am not deprived of any rights of citizenship by virtue of any conviction of a felony.
8. I am not now kept in a poorhouse or other asylum at public expense.
9. I am not now being kept in a public prison.
10. I am not a lunatic.
11. I am not an officer or soldier in the Regular Army or marine in the Navy of the United States.
12. I know of no reason why I am not entitled to vote.
13. I am generally known by the name under which I now desire to vote, which is \_\_\_\_\_.
14. I have not voted and will not vote in any other precinct in this election.
15. My occupation is \_\_\_\_\_.
16. My residence is \_\_\_\_\_ (if in city or town, give street and number).

17. During the last 6 months I have resided at \_\_\_\_\_.

18. I have removed from \_\_\_\_\_ to \_\_\_\_\_ of the following date \_\_\_\_\_.

19. That \_\_\_\_\_ and \_\_\_\_\_ have personal knowledge of my residence in the precinct 30 days and in the county 6 months and the State 1 year.

20. I am able to read and write any section of the constitution of the State of Oklahoma.

21. I was on January 1, 1866, entitled to vote under a form of government.

22. I am a lineal descendant of a person who was entitled to vote on January 1, 1866, under a form of government.

23. I was on January 1, 1866, a resident of a foreign nation.

24. I am a lineal descendant of a person who on January 1, 1866, was a resident of a foreign nation.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Should the person challenged not be a native of the United States, unless he be of Indian descent, he may strike out the avowal No. 2 in the affidavit to be by him subscribed.

If he be of Indian descent, he must be a native of the United States to be entitled to vote.

Should the person challenged be at the time confined in a poorhouse or other asylum at public expense, he may still be entitled to subscribe to said affidavit and vote, provided he will strike out of avowal No. 8 as arranged herein the word "not" and add at the close of such avowal, with pen and ink, the words "as a soldier of the War of 1861-1865 between the States."

Should the person challenged be an officer in the Regular Army or marine in the Navy of the United States, enlisted from this State, he may strike out the word "nor" in avowal No. 11 and add at the close of the avowal the words "but I enlisted from this State," and strike out avowal No. 18 in case he has not removed as therein provided.

Should the person challenged be able to read and write any section of the constitution, he can strike out avowals Nos. 21, 22, 23, and 24.

Should the person challenged not be able to read and write, but be qualified to make avowal No. 21, he may strike out avowals Nos. 20, 22, 23, and 24.

Should the person challenged not be able to read and write, and not qualified to make avowal No. 21, but qualified to make avowal No. 22, he may strike out Nos. 20, 21, 23, and 24.

If the person challenged was a resident of a foreign nation and qualified to make avowal No. 23, he may strike out avowals Nos. 20, 21, 22, and 24.

If the person challenged is a lineal descendant of anyone who was a resident of a foreign nation and he is qualified to make avowal No. 24, he may strike out avowals Nos. 20, 21, 22, and 23.

I then publicly stated and notified George L. Bowman, who had charge of the Democratic campaign in this county, that if Charles N. Haskell, the then governor of the State, or Charles West, the attorney general of the State, would make a statement in writing and sign their names to it that the election boards of the State had the right under the State law to compel the negro, before he was allowed to vote, to actually sit down at a table and write a section of the constitution or read a section of the constitution, that I would be concluded and quit the fight.

The days wore along, and those opposed to my position were unable to get such statement either from the governor or the attorney general. This, of course, with the people, weakened their position and strengthened mine.

I then stated publicly that if any reputable lawyer in Oklahoma would state in writing, over his name as a lawyer, that under the laws of this State the negro could not vote unless he should submit to the actual test of reading and writing a section of the constitution, I would be concluded and quit the fight.

They could get no lawyer to respond to this challenge. Mr. Bowman in his extremity then sent this telegram to the chairman of the Democratic State committee:

Hon. FRED BRANSON,

*Democratic Headquarters, Oklahoma City, Okla.:*

Telegram received; but would like for you to wire me to tell the inspectors not to let negroes vote unless they read and write a section of the Constitution.



Must not let negroes vote by affidavit. Can you make such telegram? Must have such to help inspectors. Do not say, "Do not allow illegal voters to vote." This does not mean anything. Can you pledge Democratic committee to help any Democratic inspector who gets into trouble? Answer at once.

(Signed) GEORGE L. BOWMAN.

Mr. Bowman has resided in this city or town for some 12 or 15 years. He is a lawyer of good repute and is now and was then a man of high standing in this community. When he found that in reply to the foregoing telegram that Branson, the State chairman, refused to go on record, he issued the following notice:

NOVEMBER 7, 1910.

To the COUNTY ELECTION BOARD, *Kingfisher County*:

I have heretofore held the opinion that negroes should be permitted to vote the State ticket on making affidavit that he can read and write, provided that he is otherwise qualified, and I am now of the opinion that the negroes may be permitted to vote the county ticket on making the same affidavit required for the State ticket.

Respectfully,

GEORGE L. BOWMAN.

This action on the part of Bowman dissatisfied a small coterie of politicians who were endeavoring to elect themselves or their friends to office regardless of the laws of the State. Bowman was relieved of the management of the campaign, or quit of his own accord, I don't know which; but in any event, he was superseded by Lee M. Gray.

Here again this coterie made a mistake. Mr. Gray is not only one of the ablest lawyers in this part of the State, but an honorable gentleman. This is substantially what occurred after Mr. Gray took charge of the campaign, which, as I recollect, was the day before election: I met him on the street, and he stated that the campaign was under his charge, and that he understood that I was advising the negroes to demand the right to vote upon affidavit. I replied that this was correct. He then stated that after he was wired to take charge of the campaign he was called to Oklahoma City for consultation with Gov. Haskell and Attorney General West: that the governor instructed him not to allow any negro to vote unless the negro submitted to the actual test; that an affidavit was not sufficient.

I asked him if the governor put that statement in writing. He said he had not, but that the governor had given him the written opinion of Attorney General West to that effect. I asked him if he had read the opinion of the attorney general, and he said he had not, and seemed somewhat surprised that I should question the good faith of the governor's statement. He then handed me the opinion, which consisted of several typewritten pages. I took it, turned to the last page, and saw that it was signed by West, and, without reading any part of it, handed it back to him. I then stated to Gray that if West's opinion stated that under the laws of this State a negro could not vote on affidavit but must submit to the actual test, that I would agree not to advise them to try to vote except by complying with such requirements as he [Gray] might demand.

He said this was certainly fair enough. He stated, further, that he had had no recent occasion to examine critically the election laws, but was willing to rest his case on the attorney general's opinion. I then asked him if he would be willing to allow the negroes to vote if West's opinion should fail to decide or touch upon the point in issue. He said he certainly was. We then walked west three or four blocks from Main Street and sat down under a tree. I asked him for West's opinion and he handed it to me. I read the first paragraph and asked him if West held with him in that paragraph. He said "No." I then read the second paragraph, and asked him again if West held with him in that paragraph. He answered, somewhat impatiently, "No," and told me to read at least one page before asking any questions. I then concluded the page and asked the questions. His answer was "No." As I concluded reading each page I repeated the question and he remained silent. After I had read the entire opinion I asked him if in any single paragraph of the opinion, or in all the paragraphs taken and construed together, if West had held as Gov. Haskell had stated. He said nothing, but looked like a man that had been flimflammed or handed a gold brick. That same night at about 11 o'clock Gray came to my house and stated that rumor and report had it that unless the negroes voted to-morrow there would be trouble. I stated that there would be no trouble so far as I was concerned that I would not insist upon any negro

voting unless he made the affidavit required by the law of the State. I then stated to Gray that Matthew J. Kane, the chief justice of the Supreme Court of Oklahoma, with his wife and child, were upstairs in bed and asleep in my house, and that E. G. Spillman, assistant attorney general of the State, and his wife were upstairs in bed and asleep in my house, and that I would wake them up, and that if he could get a written statement from either of them that I was wrong in my contention that I would advise all of the negroes to stay away from the polls. I assured Mr. Gray that I had no intention of demanding that any negro vote unless he qualified strictly under the laws of the State. My view of the law was afterwards sustained by rulings of the United States District Court for the Western District of Oklahoma and by the supreme court of the State.

Notwithstanding the fight that I made, hundreds of negroes in this county and thousands throughout the State were refused the franchise, and this contrary to the law of the State. It is charged, as I understand, in this proceeding that I incited the negroes to violence, sought to terrorize this community, and especially the election board. This is what I told the negroes, and it can be found in the Daily Midget of November 2, 1910:

"On the 8th of November go to the polls, and go early and go unarmed. When you go to the polls have no arms, concealed or otherwise—no gun, pistol, knife, or razor. When the final struggle comes in this country between the ruling class and the working class it will not be fought out with razors. If a red-card Socialist lives in your precinct, ask him to go to the polls with you. If he is a southern man, it will make no difference with him. Cumbie, the Socialist nominee for governor, fought four years in the Confederate Army. A red-card Socialist is bound at all hazard to himself to protect and defend you as best he may, stopping only at a breach of the peace."

I wish to say further that any charge to the effect that I incited negroes in this community is wholly unwarranted and wholly unfounded.

Q. Did you write or publish any articles or make any public address in this county in which you advised the negroes to resist any action of the precinct election boards in refusing to permit them to vote?—A. No, sir; I never did.

Q. Did you either publicly or privately advise any negro or negroes to attempt by force to exercise his so-called right to vote?—A. By force?

Q. Yes.—A. No, sir.

Q. Do you remember an incident testified to in any of this record of D. G. Woodworth where he claims you came to his office and had some conversation with him and J. A. Smith in relation to the registration of voters?—A. Yes; but I don't remember who testified to it; I remember it was in the record.

Q. You may state the circumstances of that transaction, Mr. Nagle.—A. The circumstances surrounding that incident are these: These colored people came to me, a great many of them, at different times. This, as I recollect, was at the time when the books were open for registration prior to the 1912 election; I think that was the election. They told me they were refusing to allow them to register, and I had made a fight for them in 1910, and they expected, of course, I would again; and I was willing to, to a certain extent. They said the registrar was holding his office in a dark building, and when they went in there they received but scant attention, and were afraid to go in there. Finally I went up to the second and third wards and asked to see the inspector. I went in there—I don't know the man's name—and I asked him in a gentlemanly manner for the inspector. He said something about my being a friend of the negro, and was very impertinent. McCartney was standing at the door. We had a wordy war, but it was not on the negro question; it was because they were insulting to me. I told the whole bunch that if they wanted to fight I would fight them. It was not intimidation, and they did not intimidate me.

Q. Did you make any threats against the election officers as such?—A. No, sir; it was against the whole crowd, and the question of the election was lost sight of. I didn't go in there to insult them. I went to see, so if any of these men wanted to go into court there would be somebody here to see what was done.

Q. Were you there as their attorney?—A. Well, no; I was acting as a citizen.

Q. Who else was present, if you know, besides the inspector at that time?—A. I don't know. Woodworth was there, I remember.

Q. Did you ever make any threats or intimate any violence against any member of the precinct election board?—A. I never did.

Q. What do you know about the action of the county canvassing board of this county in refusing to canvass the election returns of 1912 from Lacey

Township?—A. Well, I was present at the time the canvass was made in Union Township in this county. That is the township where there is somewhere in the neighborhood of 75 to 100 negro votes. The facts were disclosed later in court proceedings that the polls were open and 29 votes polled, and a negro came in and demanded the right to vote——

(Contestant objects to the further statement of the witness as hearsay and not the best evidence.)

A. And they stated to him that they would give him a ballot; but if he voted they would close the polls. They gave him a ballot and he voted, and they closed the polls, and there was no further election held there.

Q. What hour did they state the polls were closed?—A. Early in the day, somewhere in the middle of the forenoon, and that at the time there were 29 votes polled, and the entire citizenship of the district was disfranchised, for those that were polled were never counted. Mandamus proceedings were brought to compel them to count them, and the mandamus was issued, and they refused to comply with the order.

Q. Were these 29 votes ever canvassed by the county election board?—A. No, sir; they were not.

Q. Were these reasons which you have stated given by the precinct election board officers at the time the matter was up before the county election board?

(Objected to as calling for hearsay.)

A. I do not remember whether it was then or in court. I couldn't say when I heard it—those were the facts, however.

Q. Have you learned why the county election board refused to canvass the returns from Lacey Township, 1912 election?—A. Well, the election was held in Lacey Township, and that Lacey was a Republican and Socialist township, and I was present when that township came on to be canvassed, and the chairman of the board stated that they had an affidavit——

(Objected to as above.)

A. In his pocket to the effect that the board had been intimidated by a letter from the United States district attorney, and a circular also, unsigned, and that for one he refused to canvass that township; and it was concurred in by another member of the board, and the township was not canvassed, and never was canvassed up to this time.

Q. Has that matter been involved in some litigation pending in the courts?—A. There is a suit pending over the sheriff's office.

Q. Has it been determined?—A. They appealed it. It stands on appeal to the supreme court.

Q. Where were you during the November, 1912, election?—A. I was here in Kingfisher.

Q. You may state whether or not you were at or about the polling places and had an opportunity to observe the conditions during the day.—A. Well, I was in the city along the streets, and I passed three of the polling places and was within a short distance of the fourth. I was not in the fifth.

Q. You may state what the conditions were that day, as to being quiet.—A. There was no disturbance whatever.

Q. Were there any disturbances whatever in the county?

(Objected to as calling for hearsay, and he stated that he was not at the other polling place.)

Q. Did you learn of any disturbance at any of the polling places in Kingfisher County?

(Objected to as above.)

A. No, sir; there was no disturbance that I ever heard of, even when they took the box away from Union Township; there was no violence nor threats, even by those negroes and whites that were disfranchised.

Q. That was done by the election board themselves?—A. Yes, sir.

Q. About how many male negroes of voting age are there in Kingfisher County, to the best of your information?—A. Well, it runs somewhere about 500 or 600.

Q. About what proportion of that number can read and write?—A. Well, that would be just an estimate on my part. I suppose in this county 75 per cent can read and write.

Q. You may state whether or not in the settling of this county originally if there were a number of homesteaders filed upon land—colored homesteaders?

(Objected to as immaterial and does not prove any issue in the case.)

A. In the early day a large number of negroes settled here, took up homesteads, and I presume 75 or 80 per cent of the negroes in the county are still farmers.

Q. Which precinct in Kingfisher County contains the largest negro voting population?—A. Union Township and Lacey Township.

Q. Are there any voting precincts in the county in which the negroes predominate over the whites?—A. Yes.

Q. Which one?—A. Union and Lacey Townships.

Q. Have you any data or figures showing what the vote was in Lacey Township in 1912—what each candidate for Congress received in that voting precinct?

(Objected to as incompetent, irrelevant, and immaterial, and not the best evidence.)

A. I have not got the data right at hand; no, sir; but it is accessible. I should say, approximately, there is about 150 votes in Union Township and probably more in Lacey.

Cross-interrogatories by Mr. HOFFMAN:

Q. What are your politics?—A. I am a Socialist.

Q. How long were you—how long since you affiliated with the Democratic Party?—A. Five or six years, I think.

Q. At the time you were appointed United States marshal you at that time were identified with what was known as the gold-standard wing of the Democratic Party?—A. Yes, sir.

Q. Were you the representative of the negro voters of this county at the 1910 and 1912 elections, the legal representative, I mean?—A. No, sir; I never was employed.

Q. That is, you never received a fee?—A. Yes; that is what I mean.

Q. But it is a fact that you acted as their counselor and friend, did you not?—A. I acted as adviser and friend; yes.

Q. Are you attorney in any of the litigation now pending as a result of their rejecting townships Union and Lacey in the last election?—A. No, sir; I am not.

Q. You were still of the same opinion in 1912 prior to the election that you were in 1910 prior to the election, that making affidavit was all that was legally required for a negro to vote?—A. No, sir; I was not.

Q. What changed your views?—A. Well, I think they fixed the laws up to suit themselves.

Q. You think the change in the law was sufficient to change—you are satisfied that under the 1912 law it was necessary for the negro to submit to the test, in regard to educational test?—A. I don't know as—after 1910—I don't remember, but I suppose I have examined the law as to that—I have it in mind that that is the law.

Q. You do not remember what change occurred, or whether you examined the law?—A. Well, I presume I examined the law, and I just assume that is the law now—at least they had to submit to the test.

Q. In advising the negroes prior to 1912, did you advise them to submit to the test?—A. No, sir.

Q. Had you had any opinion over the signature of the then governor of the State?—A. No, sir.

Q. How did it happen that you did not continue advising in 1912?—A. I saw it was practically useless to make a fight for the negroes.

Q. You had given up the fight, then?—A. I practically had; yes.

Q. Don't you know the negroes voted in 1912, except in Union and Lacey Townships?—A. No, sir.

Q. What reason have you for making that statement?—A. I know there are negroes that didn't vote here.

Q. Well, it is due to their own lack of interest in election?—A. No, sir. The way they did the negro out of their vote is this: Under the laws of this State, the election law of this State, practically what you may call the Goebel election law—the State election board is appointed by the governor, the State election board appoints the county election board, and the county election board appoints the township board, and the majority of the board is always appointed by the dominating party. Most of this State, of course, is Democratic. They have also a registration law for cities, and in the white wards, where the white people live, or what you might call the aristocratic wards, they appoint decent, reputable men for registrars. But in the wards where the negroes and poor white trash live they appoint strong-arm men and ruffians, as a general thing, and when a negro comes to them to register the registration officer's wife comes in

and says the officer is not in. The negro doesn't dare answer back to the woman, and asks no questions. Then when he meets the registration officer on the street he has not got his book with him. In that way they fail to register many of them that can read, and when they are not registered they can not vote. I know men that served in the Federal Army that they refused to allow to vote.

Q. Do you mean to say the election officials of this State are strong-arm men and ruffians?—A. I mean to say that in cities throughout the State, wherever the whites live, strictly white wards or the aristocratic wards, that the election officers and the inspectors are always men of good repute and high standing, and there is absolutely no discrimination made against any man on account of his color. But I wish to state that where the working class live, and especially the black section of the working class, that under the laws of this State, they neither desire the negro vote nor the poor white trash, and I wish to go on record as making that statement. I wish to state, further, that in Oklahoma City the election and the manner in which they conduct elections are no better than in Adams County, Ohio.

Q. Let us confine ourselves to Kingfisher County. Do you mean to say or not that persons acting as inspectors in the city of Kingfisher disregarded the law?—A. I wish to say that the United States district judge for the western district of Oklahoma held the grandfather clause unconstitutional, and I wish to say further that the election officers of the city of Kingfisher, in the first, second, and third wards, where the negroes live, deprived the negroes of the right to vote, irrespective of that section of the Constitution of the United States.

Q. What election officer do you refer to?—A. I refer to the first, second, and third wards.

Q. Do you remember their names?—A. No, sir; I do not remember. I know particularly that I went to the second ward with some negroes, I think it was the election of 1912—and they refused to register them—as I recollect, they could not read nor write, and I am satisfied also that that was true in the second and third wards; in fact, I know they refused in the third ward, because that is where they accused me of bulldozing.

Q. What negroes were refused to vote in either the second or third wards, name them—in the 1912 election?—A. I don't remember the names.

Q. Can you name a single one that was denied the right to vote in the 1912 election?—A. I can get their names; yes, if necessary.

Q. You have known for some time you would be called as a witness here?—A. Yes; certainly.

Q. And you prepared a typewritten statement after having read the testimony of witnesses given you before?—A. Yes, sir.

Q. Didn't it occur to you to look up the names of those you say were denied the right to vote?—A. No, sir; it didn't occur to me because it was so commonly known that all those that could not read nor write were still disfranchised, that I didn't suppose it was necessary.

Q. Were you present at the trial of Gwinn and Beal?—A. Yes.

Q. Were you there as an attorney and advisor?—A. I was subpoenaed there.

Q. You were as a sympathizer, if not legal advisor of the prosecution?—A. I was sympathetic; yes.

Q. You acted for the prosecution in giving them such help and assistance as you could?—A. Yes; I answered all questions promptly and gave assistance in that way.

Q. And helped them look up evidence?—A. Yes.

Q. Were you present at any polling place at the 1912 election when a single negro who complied with the requirements was denied the right to vote?—A. No, sir; I don't think—as a matter of fact, I don't think I was around any polling place.

Q. Then when you testified there was no disturbance at any of the polling places, you were merely testifying from hearsay?—A. Yes.

Q. You don't know what occurred at Union Township?—A. Of my own knowledge?

Q. Yes.—A. No, sir.

Q. Have you not also heard from common report and rumor that the Republican member of the election board in Union Township was awed and depressed by the menacing attitude of the body of negroes there assembled, and that he joined with his Democratic associates in assuming it was necessary for their own protection to close down the polling books and cease receiving votes?—A. No, sir; I never heard that.

Q. You know he did that, don't you?—A. I never heard that.

Q. You know, don't you, there was a large body of negroes there assembled at the time, at the polling place when it was closed?—A. I knew there were negroes there, but from all I heard, they acquitted themselves very creditably.

Q. Did you know they refused to take the test, and everyone that complied with the test, voted up to the time they shut down the poll books?—A. No, sir; the only thing I heard was that these negroes went in there and demanded the right to vote for Congress, and they stated that if they insisted on voting, they would close the polls, and if he insisted on his right to vote they would give him a ballot, and if he voted they would close down the polls.

Q. That is the man that said he couldn't read and write and refused to take the test, is it not?—A. I don't remember.

Q. And he was going to vote anyhow?—A. No, sir; as I understand it, he was not going in there to threaten, but he was going to test his rights.

Q. At the time he made those remarks, he made them in an insolent way and threatening manner, and the negroes came up within the legal limit and crowded around in a threatening manner; do you not know this happened?—A. No, sir; and I am satisfied that it never did happen.

Q. Have you heard it?—A. I never heard that. In fact, I have heard many and many a man say that the way those negroes acted when they were disfranchised was very creditable to their race, and a way in which white men would not have acted under the same circumstances.

Q. Is it not a fact that in Union Township, after the election was shut down, that the Republicans from Kingfisher went out there in automobiles, representatives of the party, and a rump election was held?—A. What I understand was done was that some Republican lawyers went out there, and I suppose took others with them, when it was telephoned in that the election officers had left that precinct and improvised an election.

Q. Conducted it themselves, and that all the negroes were allowed to vote?—A. They took the member of the board that was still there and swore in others, I understand; wrote out some ballots; and let those that were there vote. They were never counted.

Q. There were about 30 votes cast, wasn't there, and those votes are here now?—A. I don't know how many were cast.

Q. The question as to whether or not the election was being properly held—that is to say, that question is among the questions involved in the peremptory writ for mandamus now pending in the supreme court?—A. I think so; yes; as I recollect the proceedings.

Q. Is it not a fact that Judge Cullison, a Republican judge for this district, had held that there was no election in Union Township in the 1912 election?—A. Yes; I think so—held that those ballots that were cast there after the regular board had left could not be counted.

Q. Now, Pat, did you say you were insulted when you went down to register those negroes prior to the last election?—A. Well, I am not very easily insulted, but their conduct to me was such that it stirred up my ire.

Q. Who was it that was offensive to you?—A. Well, the most offensive man was the man they pointed out as the inspector and Woodworth. Woodworth didn't say much, he demonstrated.

Q. Who was the man pointed out as inspector?—A. I don't know, I have seen him since, and would know him if I saw him.

Q. Who else was present at that time besides you and the negroes?—A. I think McCartney and Jam Smith.

Q. Bill McCartney, your brother-in-law?—A. Yes.

Q. You didn't consider yourself in any danger, did you, Pat?—A. Oh, no.

Q. You are pretty well able to take care of yourself?—A. No, sir; I wasn't scared at all, I was just mad.

Q. Any ladies present?—A. Not that I saw.

Q. Isn't it a fact that when you began to act mad and cuss around that your attention was called to a lady being present?—A. If there was any, I never noticed.

Q. Was that said?—A. No, sir.

Q. Did you use the language attributed to you, that if they would come outside—with some oaths—that you would clean them up with Winchesters?—A. No, sir; as I recollect, I thought maybe the negroes were telling the truth that they had more of them back there in that dark building, with a lot of machinery in the back end of it, and I told them if they would come out on the street—the language that I used, as I recollect it, is this: That if they wanted to try it out with Winchesters I would try it out that way.

Q. If they had more concealed strength?—A. In fact, I went up there just as a citizen to satisfy myself everything was all right—in fact, I went to see that the darkies got a fair deal.

Q. Do you know whether or not the negroes were armed?—A. I know they were not.

Q. Did you search them?—A. No, sir; they were not armed.

Q. Feeling was running pretty high?—A. No, sir; that time was two years before.

Q. You say there was no feeling at this last election?—A. No more here than anywhere.

Q. Isn't it a fact that there is a large negro population here, and the fact of their insistence upon their so-called rights that it has always been so since the early day here?—A. I have lived here as long as any man could live here legally, and there has not been anything in the nature of a race war between the whites and blacks in this county; no negro ever insulted me nor any member of my family, and I have never heard of a negro insulting any other white woman. I never was robbed by the negroes. In fact, I think most of the robbing was done the other way, both by myself and others. Up to the time I left the Democratic Party the negro question never entered into politics of this county. The only time there was any trouble was since the grandfather law passed.

Q. If this county has always been so peaceful on the race issue, why did you find it necessary to publish advertisements in the daily newspaper of November, 1910, in your prior statement, from which I quote—this statement being directed to the negroes of Kingfisher County: "On the 8th of November go to the polls, and go early, and go unarmed (unarmed being underscored in your statement) when you go to the polls; have no arms concealed or otherwise; no gun, pistol, knife, or razor." Why did you feel it necessary to lay stress on it to the extent of publicly advertising that fact?—A. In my former statement I stated there was nothing in the nature of a race war up to the time of the passage of the grandfather clause, and this statement was made after the grandfather law was passed, and of course that was the cause of this trouble—this excitement and race feeling—and it was to allay that feeling that I made that statement. After the grandfather law was passed—if it ever was passed, which I doubt, legally—I took the position that it was unconstitutional, but I advised the negroes to make the affidavit to comply with the law.

Q. Isn't it a fact—that the newspaper published here during the year 1910, prior to the election—that you advised these same negroes they had a right to vote; that they could not be disqualified by any educational test, and to go to the polls on election day and vote, and if anybody tried to stop them to shoot their way in?—A. No, sir.

Q. Did you advise them that in substance?—A. No, sir; any statement of that character is unfounded and false. Anything I did with reference to the negroes was for the purpose of repressing anything of that kind.

Q. You say it was not necessary?—A. They acted as better citizens in this county.

Q. You think the negroes are better citizens than the whites in this county?—A. Well, as between the two, I favor the negroes. I favor any man, irrespective of color, when I know he is being oppressed, because I belong to a race that was oppressed myself.

Q. Not in this country, Pat.

Redirect interrogatories by Mr. BURFORD:

Q. Was this inspector named Bezanson?—A. I don't know; yes, that is his name.

Q. Where has he kept himself concealed that you have lived here since 1889 and never came in contact with him?—A. I might have met the man—I don't know every man in town. I don't try to get acquainted with everybody. I am not in politics, and it is not necessary. He may be a reputable citizen here for all I know; I don't know anything against the man. I didn't say he was a bad man; I don't want to be understood to say anything against his character.

Q. Do you know Mr. Wells?—A. Jim Wells? I know Jim Wells.

Q. Yes; Jim Wells.—A. Yes; I know him.

Q. Did you and Mr. Wells and Mr. McCartney go in there together that day?—A. If Wells was along, I have forgotten. I don't recollect him.

Q. When you went in there you were interested on behalf of this colored man whom it was claimed they were refusing to register, to request them to register him?—A. Yes, sir.

Q. And their conduct toward you personally was such as to arouse your Irish blood, and you gave them a piece of your mind?—A. Yes; it was the way they treated me personally, more than the construction of the law in regard to the negro question.

Q. Mr. Smith testified that during the conversation that you started out and said, "If you want anything, come outside and I will give you a Winchester fight."—A. The remark I made, whatever it was, I have just stated into the record as I remember it.

Q. That it had nothing to do with the registration matter? It was because you felt they were insulting you?—A. Yes, sir.

Q. What has been your attitude in public, or in your written published articles, as to advising the negroes to be peaceable and not to resort to any violence in this election matter?—A. I told the negroes publicly, and I told them privately, and I told them in writing that under no circumstances should they resort to violence. What your enemies want is for some reason to kick up a race war so they can shoot you down. I said to be very careful not to have any arms, for you never can get your rights or retain what rights you have by violence. It will only incite the other race against you. I told them the only hope of the negro was the civilization and enlightenment of the white man.

Q. You say there were a great many negroes in 1912 election in this county who had previously been voted that did not vote at that election?—A. This is the way they did: You take a man like Bowman, that stands well in the community—he is a southern man and of good repute—he would say to the negroes that we don't want any trouble in this community and the thing for them to do is to stay at home, to stay away from the polls. It is not altogether shotgun intimidation, but is more or less effective, and the negroes are not voted to any great extent.

Q. Isn't it a fact that in the election of 1912 there were very few negroes offered to vote except those who were able to pass the test?

(Objected to, as the witness has already stated that he had no personal knowledge of the matter.)

A. I will state this as a matter of general knowledge in this county that in the last two elections since the grandfather law passed they have been very careful to exclude the negroes that could not read and write a section of the constitution, and even in 1910 they were not allowed to vote under affidavit except here. In other parts of the county they didn't vote. In 1912 there was quite a per cent of the negroes that did not go to the polls at all, and I venture to say that they can not produce a single negro that voted in this county in 1912 that was not entitled to vote under their own law. I know of one instance, however, of a negro voting that was not entitled to vote. I never examined the poll book, but this is what occurred. He came to my office and said they refused to register him, and I said, "Joe" (it was Joe Ketchem, and I knew he couldn't read nor write). I said, "If you will vote their ticket they will let you vote. All you have to do is to vote the Democratic ticket." I did that to get rid of him. After election he came to me and said, "I voted all right." I said, "How did you vote?" He said, "I voted their ticket." I said, "Who fixed your ticket?" He said, "Mr. Grimes, the election inspector."

Q. Is it not a matter of general observation on your part, as one who has been an advocate of the workingman and the negro workingman having the rights of suffrage, that the objection of the dominant party to the negro here in Oklahoma is not so much his race as the manner in which he has been voting?—A. Sir, that is not true. The objection to the negro voting is—the real reason is—98 per cent of the negroes belong to the working class. They have no objection to the negro lawyer nor the negro preacher nor any other negro that does not belong to the working class voting. Now, I assume, of course, that on the surface the objection to the negro voting, by the Democrats of the State, is because they vote the Republican ticket.

But the reason I insist the negro should be allowed to vote—and the party with which I now affiliate—is this: If the negro is disfranchised, it is only the first step toward the disfranchisement of the whites belonging to the working class. And this statement is borne out by the fact that according to the census of 1900 in the State of Mississippi—

(Contestant objects to this record being made a vehicle of socialistic doctrine.)

A. That after disfranchising 199,000 negro voters there were 150,530 white men of voting age in Mississippi, and 91,380 of these white men were disfranchised by the registration, poll-tax laws, and other laws directed at the renters



and poor whites. In Louisiana, after disfranchising all the negroes, there were left 177,888 white men, and 109,974 of these didn't vote. The same rule was practically true in Florida, Georgia, and Alabama.

Recross-examination by Mr. HOFFMAN:

Q. What is the paper you were reading those figures from just now?—A. That was an article that I published at the time. I now hand it to the stenographer. It is taken from the census.

Q. Do you wish to have it made a part of your testimony?—A. I don't care.

Q. We do, if you don't. [To the stenographer:] Mark it "Exhibit A," and let it be attached to Mr. Nagle's deposition.

EXHIBIT A.

STUDY THESE FIGURES CAREFULLY AND SEE WHO IS DISFRANCHISED.

State.	Total male population of voting age, 1900 census.	Total white population of voting age, 1900 census.	Total vote cast in presidential election of 1900.	Total vote cast in presidential election of 1908.
Alabama.....	413,862	232,294	159,583	103,809
Mississippi.....	349,177	150,530	58,150	66,904
Georgia.....	500,752	277,496	122,715	132,794
Florida.....	139,601	77,962	39,226	49,360
Louisiana.....	325,943	177,878	67,904	75,146

Here are five southern Democratic States which have disfranchised the "nigger" by grandfather clauses. But look at Mississippi—after disfranchising 199,000 negro voters, there were 150,530 white men of voting age in Mississippi in 1900. Did all these white men get to vote? Not on your life—the total vote cast in the State was 58,150, which means that 91,380 white men did not vote. Almost twice as many men did not vote as did vote—and the reason is that two-thirds of them could not vote.

Look at Louisiana. After disfranchising all the negroes there were left 177,888 white men of voting age. Did they all get to vote? Well, hardly. The official returns show that only 67,904 of them voted, while 109,974 white men did not vote. Why not? Because the largest number of them were disfranchised.

Look at Alabama. There were 232,294 white men of voting age in 1900. Only 159,583 of them voted, which wasn't so bad, as only 72,711 didn't vote. But after eight years of increasing population only 103,809 white men voted, or 56,000 less than eight years before. Why was this? Because they have a cumulative poll tax in Alabama for the benefit of the workingman that isn't disfranchised by the grandfather clause. And this cumulative poll-tax law disfranchised over 60,000 white voters between 1900 and 1908.

Q. You believe, then, that the election laws of the Southern States are generally corrupt?—A. No, sir.

Q. Then you think they disfranchise the negro voter?—A. Yes; they do.

Q. To that extent you think they are corrupt in violation of the rights of citizens?—A. I think they discriminate against the negro.

Q. Does Socialism teach social equality between people of all races?—A. There is no such thing as social equality even among the whites.

Q. Socialism believes in taking all barriers down?—A. No, sir; it does not.

Q. I have frequently heard it urged, without giving the subject any thought myself, that Socialism did advocate social equality among people of all races. I will ask you to state whether or not that has any foundation.—A. Well, I don't know. Of course, you would have to define what you mean by social equality. If you mean this by social equality, that every man, woman, and child should have the full product of their own labor, in that way we believe in social equality. To-day, on account of existing conditions, the daughter of a white man of the working class is compelled to associate with a negro man, and work with them in hotels and laundries and other places of public employment. And this is considered all right by the dominant party. Our theory of social equality is this: That no white woman, on account of her poverty or existing condition, should be compelled so to do by reason of her poverty unless she

wants to do so. That is the kind of social equality we believe in—that a woman should be protected in her social rights.

ED GOULD being called as a witness, after being duly sworn to testify to the truth, the whole truth, and nothing but the truth, made answer as follows:

Interrogatories by Mr. BURFORD:

Q. You may state your name, age, and residence.—A. Edward Gould, 61 years of age; residence, Kingfisher County.

Q. What voting precinct do you live in, Mr. Gould?—A. Excelsior Township.

Q. How long have you been a resident of Kingfisher County?—A. Since the 22d of April, 1889.

Q. What is your occupation?—A. Farmer.

Q. With what political party do you affiliate?—A. I am classed as a Democrat. I am not, however; I am not a strong partisan.

Q. Are you an election inspector?—A. Yes, sir.

Q. How long have you been holding that position?—A. Ever since statehood, and prior to that by appointment; I believe two elections.

Q. You were inspector in Excelsior Township precinct at the election held in 1912, November?—A. Yes, sir.

Q. Who are the other members of the board?—A. The judge was H. Arnett and clerk L. W. Foster.

Q. What are their politics?—A. Mr. Arnett is a Democrat and Foster is a Progressive Republican.

Q. Are there any voters of the negro race in your precinct?—A. There are quite a large number.

Q. About what proportion as compared with the white?—A. Why, I presume about 40 per cent; perhaps not that many; that is, colored residents.

Q. About what is the voting population in Excelsior precinct?—A. I think we voted as high as 180 votes.

Q. What is the political complexion of the precinct?—A. Republican; has been in the past.

Q. State what, if any, disturbance occurred at your precinct in 1912.—A. None.

Q. About what number of colored persons were allowed to vote in that precinct on that occasion?—A. That would be a matter of recollection purely, but I think somewhere in the neighborhood of 20.

Q. You may state whether any negroes voted who were not able to pass the test required by the laws of the State.—A. One negro voted, to my knowledge, who was not eligible, but his vote was recognized, as he was a veteran of the Civil War.

Q. You considered, did you, that qualification would permit him to vote?—A. I did not think the State qualification would prevent his voting under the provisions of the Federal law.

Q. That was the only one you had?—A. There were seven others who applied for votes who, upon interrogation, acknowledged that they were not able to read and write. Acting according to what I believed was my authority, I challenged those votes. They were about to leave the room—that is, now, I do not mean they came in collectively; they were recognized by the other members of the board, who said the challenge would be overruled by a majority of the board. After my instruction—the ordinary way is for me to instruct the clerk, after I am satisfied, to issue the ticket; but they instructed the ballots to be issued to these seven voters. They went into the booth, and what they did I don't know; but they returned and presented the ballots. I thought that when they returned these ballots they should be challenged, and I did so. I supported that challenge by written affidavit in each case. There are in the precinct three election boxes in the possession of the inspector. On that day I brought two of them to the polls. One was locked and the key intrusted to the judge and clerk, according to law. The other was placed upon the same stand and locked, being empty, both of them. I retained the keys of them myself. When these negroes returned I instructed the judge who had charge of the ballot box to place those votes in the separate box, separate from the general election, in order that they may be segregated by themselves and not passed to the counters and thereby invalidate or confuse what I regarded as the strictly legal vote. I made the order peremptorily, and they did so and placed them in the separate box. At the end of the day that box was opened and the ballots taken therefrom and inclosed at once in a sealed envelope. The

question was asked me as custodian of the envelopes what I was going to do with them. I said I was going to return them with the other returns and call the attention of the county election board to them to pass on up to the courts for final decision as to the counting of those seven votes. The other votes were passed in regular form and returns made and certified to as usual.

Q. Those seven ballots never entered into the count or computation?—A. No, sir.

Q. They were returned to the county election board sealed?—A. Yes; and I think the members of the board will bear me out when I call their attention to it. I said they could not be opened except on order of the court. That is my recollection.

Q. If I correctly understand you, each of those seven admitted their inability to pass the test and asked only to vote for Member of Congress?—A. That was the general understanding, but I don't know that all of them made that assertion. I explained to them in this way, and I tried to be courteous, and explained that there was no separate ballot without voting for the whole State ticket, which under the law they had no right to do. And it would be impossible for them except as we might instruct them, and we had no authority under the law to render any assistance without voting for the other candidates on that ballot. I did not raise the question as to their privilege of voting for Member of Congress, but they could not vote for them without voting the whole State ticket.

Q. Under our law each and every political party having nominees are placed on one ticket?—A. Yes; for State and congressional.

Q. In balloting for Congressman it necessarily included the others?—A. Yes; the only way would be to stamp under the emblem, and that would carry the whole State ticket.

Q. How do you account for the fact that there were only 20 negroes voted when there were, according to your estimate, more than double that number of negroes of voting age?—A. Well, unless there has been something specially interesting to the negroes, it has been my experience in voting that they don't turn out; this was my experience prior to statehood and prior to the passage of the law restricting the ballot to the educated negro, that they don't turn out. I think the votes polled that day were approximately as large as is usual in that township except as there may be some special matter. The only data I have on that is a matter of recollection, as to the number of negro voters—and there was between 70 and 80 votes—negro votes cast at the election when the grandfather law was submitted to the people. There were more negroes then than I ever knew were in the township at all. The negro vote has not been large up there.

Q. In your township your board did not permit to vote, nor anyone give permission to any negro to vote who, in the judgment of the board was not eligible under the grandfather test?—A. Yes; that has been the action of the board.

Q. Isn't it a fact, brought to your knowledge by general observation in your precinct as an election officer in the 1912 election, that the negroes that could not pass the test generally did not make any offer to vote?

(Objected to as leading and suggestive and calling for hearsay.)

A. There has been two elections since the passage of that law, and my impression is that there was not as large an attendance on the part of the negroes as is usual at elections, except as I have specified as to special interest. They have been discouraged even by their own people not to present themselves except as they were qualified. In the 1912 election there were quite a number of negroes on the grounds who did not come in and make any proffer to vote.

Q. Were not those of the class who it was understood would not be able to take the test?—A. That I could not state. I presume they were. I do not know. I think every negro who was qualified came in and offered his vote.

The policy of your board and your policy as inspector was to follow the construction of the law as given by the attorney general and the supreme court of the State and not subject those persons to the test whom you believed to be qualified?—A. That has been the rule. If you will let me explain. The course has been that if a man could qualify no objection was raised whatever, but I usually did all the challenging, and if a man came in with whom I was not acquainted I asked the members of the board if either of them knew him. If they said he was qualified to read and write, he received a ticket just the same as any other voter, and where they were not acquainted I interrogated him

myself, and if he said he was I asked him if he was willing to be tested. Some in the 1910 election objected. I think one or two quoted Mr. Nagle as saying they could make affidavit. I said that the form of the affidavit in the hands of the board was of such a nature that we could not use them without inserting in the affidavit, for which there was no room, the requiring of witnesses and the requiring them to leave the room and make the affidavit without assistance, etc., so it was easier to take the test. I made it as easy as I could. When I was satisfied a man was getting along all right, I stopped him and asked him to read over what he had written, whether he had written the whole section or not. I held the book and asked him to read over what he had written, and when he got through, if it was only a dozen words, I told him to sign and then gave him his ticket.

Q. Did you learn of any threatening action of the beforees in your precinct or any trouble if they were not permitted to vote?—A. No, sir.

Cross-examination by Mr. HOFFMAN:

Q. What State are you from?—A. Massachusetts—Colorado, here.

Q. Were you a supporter of Davis in the last campaign?—A. Yes, sir.

Q. Did you vote for him?

(Objected to.)

A. I did.

Q. The vote was about the same in the aggregate in your precinct in the last two elections as it was in the elections prior to that time?—A. Why, except the election at which the grandfather clause was submitted.

Q. That was when the negroes all turned out?—A. Yes, sir.

Q. As a general thing it ranged about the same?—A. Yes; of course it depended a little on what was up.

Q. You say there were some negroes that did not come to the polls?—A. Yes, sir.

Q. And some whites?—A. Yes; a few.

Q. That seven that you spoke of, what did you do with the affidavit that you made?—A. It is in the possession of the county election board.

Q. Were they attached to the ballots?—A. They were not—they were submitted with the challenged ballots.

Q. Did you seal those ballots up?—A. I did.

Q. Who did you deliver them to?—A. Mr. Miles Judge.

Q. Personally?—A. Yes; personally.

Q. Did you challenge any others who stood the test and went through the last election?—A. Several.

Q. They all qualified?—A. Yes, sir.

Q. They are the ones where you say you made it as easy as you could?—A. I mean that has been the rule since the passage of the law.

Q. Did you ever turn anybody down that submitted to the test?—A. No, sir; they came to the requirements, and I don't think one ever failed.

Q. Well, you said, Mr. Gould, that you made it as easy as you could. That was your policy; you didn't require a full reading or writing out of the section if they started all right?—A. Only what was satisfactory, and in my judgment they were competent.

Q. You carried out the law as you understood it?—A. Yes; as I understood it, according to the ruling of the supreme court.

Q. Those seven negroes whose votes you challenged admitted they could not read and write?—A. Yes, sir.

WALTER LOCH, being called as witness, after being first duly sworn to tell the truth, the whole truth, and nothing but the truth, made answer as follows:

Questions by Mr. BURFORD:

Q. You may state your name, age, and place of residence?—A. Walter Loch; Dover, Okla.; 26 years old.

Q. What is your occupation?—A. Farmer.

Q. How long have you lived in Kingfisher County?—A. Eleven years.

Q. Mr. Loch, did you occupy any official position in this county on an election board in 1912?—A. I was clerk.

Q. In what voting precinct?—A. Union.

Q. Union Township, Kingfisher County?—A. Yes, sir.

Q. Were you at the voting place on election day?—A. I was.

Q. Who was inspector?—A. Sloan.

Q. Who was judge?—A. Frank Gwinn.

Q. You may state whether or not your board organized.—A. Yes, sir.

Q. And whether you opened the polls.—A. We organized and opened the polls about 8 o'clock.

Q. You may state what was done after you opened the polls.—A. We opened the polls and everything was going along as nice as could be expected; there was 29 votes cast when Mr. Owens came in and demanded his right to vote for Congressman, and he stood there a little while and then asked what they were going to do about it. They said they would have to let him vote. I asked them to challenge his vote, and they wouldn't do it, and I said I would challenge his vote myself, but they said to give him the ballots, and I asked how many, and they said to give him all three. They said if he voted it would invalidate the whole election and they would close the polls. There had been 29 votes cast before that. Probably there were 9 or 10 colored votes cast. I think they all taken the test except J. I. Currin, and he was a member of the legislature, so they didn't require him to take it. The rest of them took the test—voted.

Q. Up to that time there had been no controversy about their right to vote?—A. No, sir.

Q. Was Owens a colored man?—A. Yes, sir.

Q. Was anything said to him as to whether he could take the test?—A. Well, I don't know as there was. I believe they told him he have to read and write a section of the constitution of the State, and he demanded his right to vote for Congressman.

Q. Was the question submitted to the board by the inspector?—A. No, sir.

Q. What did the inspector do?—A. He said he was the sole judge and the rest didn't have anything to say.

Q. You yourself requested the privilege of challenging Owens's vote?—A. I did.

Q. They would not accept the challenge?—A. No, sir; they said it would invalidate the election if he voted, and they would close the polls.

Q. They instructed you to issue the tickets?—A. Yes, sir.

Q. What did he do?—A. He went to work and cast his ballot, like any other man.

Q. Went into the booth?—A. Yes.

Q. And returned the ticket to the inspector?—A. Yes, sir.

Q. Was it put in the poll box?—A. Yes, sir.

Q. And the inspector closed the poll box?—A. He declared the polls closed, and him and Gwinn and Beal went to gathering the election supplies up and put them in the poll box, and when Sloan came out a man asked him what he was doing and by whose authority, and he said he did it himself, and took the ballot box.

Q. Was this Gwinn the same man that was convicted prior to that?—A. Yes, sir.

Q. Was Beal the same man that was convicted in the Federal court?—A. Yes, sir.

Q. What position did Gwinn hold?—A. Judge.

Q. Beal was counter?—A. Yes, sir.

Q. Had the counters counted the 29 votes?—A. They started to, but I don't know how many they had tallied up; they were counting.

Q. Did the inspector submit the question to the election board, consisting of the inspector, judge, and clerk, as to whether they would close the polls?—A. No, sir.

Q. Did he consult the judge?—A. Him and the judge talked some together themselves, but as to what they said I don't know. They seemed to want to have a private conversation.

Q. You had the stub book?—A. Yes, sir.

Q. Did they take it away?—A. Yes, sir.

Q. About what time of the day was that?—A. I judge that was between 10 and 11 o'clock.

Q. Had there been any disturbance or trouble?—A. No, sir.

Q. Was there any when they took the ballot box away?—A. No, sir.

Q. Were many negroes there?—A. Quite a few there.

Q. Did any of them make any protest or objection?—A. None whatever; they seemed to take it all in good nature.

Q. Did you see anyone have a tendency to threaten or intimidate any election officers?—A. No, sir.

Q. After that you made an effort to organize another election board, didn't you?—A. I did.

Q. And some proceeded to vote after that?—A. Yes, sir.

Q. About what time did you get to work at that?—A. About 5 o'clock.

Q. How many voted then?—A. Twenty-two.

Q. Did you have any counters?—A. Yes. Well, I said we had counters—the way I understand it the board had a right to count the votes if they could not get counters, and we had a Democratic inspector and judge and we went ahead and looked after the counting ourselves and used ballots we prepared ourselves.

Q. Did you make a tally sheet of the votes cast?—A. Yes, sir.

Q. Did you sign up the returns?—A. Yes, sir.

Q. What did you do with them?—A. I gave them to the county board secretary.

Q. You brought them yourself?—A. Yes; personally.

Cross-interrogatories by Mr. HOFFMAN:

Q. What are your politics?—A. Republican.

Q. You were a supporter of McGuire in the last election?—A. That depends on if I had a right to vote or not.

Q. You had been advocating the election of McGuire, hadn't you? Why do you hesitate?—A. I didn't.

Q. Why don't you answer then?—A. I have a right to support anybody. The vote was never cast.

Q. I ask you if prior to the election you had been a supporter of Mr. McGuire's candidacy?—A. I was.

Q. How many negroes were around there when you closed the polls?—A. As to the exact number, I don't know.

Q. About how many?—A. I judge 40 or 50.

Q. How close were they to the polling place?—A. I judge 75 feet away or a little farther.

Q. Did you have ropes extended out?—A. Had wires.

Q. Anybody inside the wires?—A. No, sir.

Q. Anybody inside the polling place for the purpose of voting except Owens?—A. I think probably one or maybe two other men at the time.

Q. Do you remember their names?—A. No, sir; I don't just now.

Q. Are the other members of the election board present to-day?—A. No, sir.

Q. Do you know whether they were summoned?—A. I do not.

Q. Did you make any objection or protest to the members of the board closing the polls?—A. I did.

Q. What did you say?—A. I told them I thought the best thing for them to do was to challenge this vote and submit it to the county election board and let them do whatever they wanted to with it and hold the election and let everything go quiet.

Q. Had there been any vote rejected prior to the time this negro voted?—A. No, sir.

Q. You say a number of negroes had voted prior to that time?—A. Yes, sir.

Q. Had there been any challenged?—A. They were required to read and write a section of the constitution, and they went ahead and voted.

Q. This man Owen; what reply did he make when he was directed to write and read a section of the constitution, or was that request made of him?—A. I don't know that it was.

Q. He just said he would not submit to the test?—A. I never heard him say he would not; he said he did not have to vote for Congressman.

Q. Was that all that was said?—A. That is about all. He said, "Well, what are you going to do about it?" And Sloan said, "I am the sole judge." And Owen said, "What are you going to do about it?" And I said, "Do you want me to give him a ticket?" Sloan said "Yes," and I said, "How many shall I give him?" And he said, "All three." And I gave him the ballots and he came back and gave them to the judge.

Q. And they picked up the ballot box and walked off?—A. Yes, sir.

Q. You didn't go with them?—A. No, sir.

Q. When you opened up your ballot box later in the day, did any white people vote?—A. Yes, sir.

Q. How many?—A. I couldn't say; about half and half; 10 or 12.

Q. Did you vote?—A. I did.

Q. Did you challenge any of the negroes who voted?—A. We made those that we didn't know could read and write take the test.

Q. You didn't reject any of them, did you?—A. No, sir.

Q. Did you ever receive a letter purporting to have been written by the United States attorney, Mr. Boardman, prior to the election?

(Objected to as not cross-examination.)

A. I believe I did.

Q. How long before election did you receive that?—A. Something like a week or 10 days.

Q. That was a printed letter, or was it typewritten?—A. Typewritten.

Q. United States attorney at the bottom, Boardman?—A. I believe so.

Q. Did that purport to state what the election law was and how to conduct your office at the election?—A. Well, I don't know as it did. We had our election laws to go by.

Q. It gave his opinion as to the grandfather clause, didn't it?—A. It gave the court's opinion, I believe.

Q. It gave what he stated was the court's opinion?—A. Yes, sir.

Q. Did you also receive a letter known as the penitentiary-warning letter, a circular unsigned, which began something like this: "Voter, do you want to go to the penitentiary? Talk it over with your wife"?—A. There might have been something in it of that kind.

Q. You did receive something of that kind?—A. Yes, sir.

Q. That unsigned, wasn't it?—A. I don't remember.

Q. Was that received in the same envelope as the Boardman letter?—A. Yes, sir.

Q. That was just a little slip 2 or 3 inches or 4 or 5 inches long?—A. Yes, sir.

Q. The word "penitentiary" appeared in that slip?—A. It seems to me like it did; yes.

Q. Didn't the slip also refer to the Gwinn and Beal prosecution and the governor's brother having appeared for them?—A. Yes; I believe it did.

Q. Did you show that letter to the inspector?—A. I did not.

Q. Do you know whether he got one?—A. I believe he did; he said he did.

Q. Did the judge get one?—A. I think so.

Q. Did you talk it over among yourselves?—A. No, sir.

Q. You understood pretty well, didn't you, that if you rejected any of the negroes you would be sent to the pen?—A. I did not.

Q. Well, you are a Republican; but you understood the Democrats would, didn't you?—A. No, sir.

Q. How many times have you acted as an election officer?—A. Once.

(It is admitted by counsel for the contestee that the unsigned certificate referred to, inclosed in the Boardman letter, is identical with the one identified in this record and described as the "penitentiary warning letter.")

#### Redirect interrogatories by Mr. BURFORD:

Q. Walter, do you know approximately what the number of voters was residing in your precinct in November, 1912?—A. I have got as good an estimate as anybody in the township, being assessor. There is something like 186 that could read and write. There is some voters in the township, some that we knew could not qualify as legal voters, but I have got the names of 186.

Q. About what number of these are Republicans and what are Democrats?—A. Well, I judge two-thirds Republican.

Q. About what proportion are colored and what proportion are white?—A. Something near half and half.

Q. Prior to the election did you hear any remarks or reports of disturbances provided the negroes were not allowed to vote, or against the enforcement of the grandfather clause?—A. I did not.

Q. Was there any hostile demonstrations prior to the election?—A. None whatever.

Q. Do you remember now what the result of the votes you took at the second election showed as to political preferences?—A. If I remember right, there were 16 Republicans, 2 Socialists, and the rest Democrats; but I wouldn't be sure.

Q. What was the political preferences as shown by the 27 votes cast before the polls were closed?—A. Mostly Republicans.

#### Cross-interrogatories by Mr. HOFFMAN:

Q. You have elected negro township officeholders in that township, have you not?

(Objected to as not proper cross-examination, does not prove any issue in this case, and incompetent, irrelevant, and immaterial.)

A. Why, not since I have had anything to do with the township.

Q. Well, that is, before your advent they did?—A. I believe they had some negroes hold office.

Q. Well, this two-thirds that you say are Republicans, what kind are they—standpatters or Bull Moosers?—A. I couldn't say.

Q. You don't know what particular brand they were?—A. No, sir.

Q. You couldn't say who they were supporting for Congress?—A. I don't know that I could.

Q. You don't intend to say that McGuire was getting both kinds?—A. I couldn't say.

Q. How did you get such an accurate poll of the voting population?—A. Because they are there.

Q. But how did you get it?—A. I was township assessor.

Q. And you took the politics?—A. Yes, sir.

Q. Did you just get them for your own satisfaction?—A. My own satisfaction.

Q. You were not assessor before election?—A. No, sir.

Q. You have since the election?—A. Yes, sir.

Q. And what you are talking about is since election?—A. Yes, sir.

LEWIS FUHRMAN being first duly sworn to tell the truth, the whole truth, and nothing but the truth, made answer as follows:

By Mr. BURFORD:

Q. State your name.—A. Lewis Fuhrman.

Q. Your age and residence.—A. Age, 50; residence, Union Township.

Q. How long have you been a resident of Kingfisher County?—A. Twenty-three years.

Q. What is your occupation?—A. Farmer.

Q. You are a qualified voter in that precinct?—A. Yes, sir.

Q. Were you at the polling place in that precinct at the November, 1912, election?—A. Yes, sir.

Q. What time did you go to the place?—A. Somewhere about 8 o'clock.

Q. Did you cast your vote prior to the time they closed the polls?—A. Yes; immediately on entering the polls.

Q. You may state whether or not there were any voters of the colored race on the grounds at the time you got there?—A. Yes.

Q. About how many did you see?—A. I judge 20, standing around there.

Q. Were you there when the polls closed?—A. Yes, sir.

Q. Had there been any disturbance or threats of disturbance up to the time the polls were closed?—A. No, sir.

Q. Did you see the inspector leaving with the ballot box?—A. Yes, sir.

Q. State whether there were any threats or demonstration of any character made at that time?—A. No, sir.

Q. There was no disturbance?—A. No, sir.

Q. Did anyone make any efforts to prevent or to persuade him not to take the ballot box away?—A. Not that I heard.

Q. Did you hear Mr. Hask speak to him when he came out?—A. No, sir; I think I was probably 20 feet away from the door when they came out.

Q. You may state whether or not there had been any rushing up of the voters on the outside toward the door of the building to get inside the ropes up to that time?—A. No, sir; I didn't see any; I, being one of the counters, was on the inside.

Q. You were one of the counters?—A. Yes, sir.

Q. How many votes had you canvassed when the polls closed?—A. As near as I can remember we made an estimate of about 30; but I couldn't tell exactly. We concluded it was about 30.

Q. Did they discuss the closing of the polls in your hearing?—A. No, sir.

Q. What was said to you as counter at the time the polls were closed?—A. One of the election board went to the counter and said, "It is all off," and commenced gathering up the ballot boxes. I made the suggestion that we had better stop to finish the counting, but he said it was all off and we are done.

Q. Who was it said that?—A. Mr. Beal.

Q. The same Beal who was under conviction for violating the Federal law?—A. Yes, sir.

Q. Did he give any reasons why it was all off?—A. Not to my knowledge, now.

Q. Just proceed and tell what was done.—A. I followed them up to the door, and they proceeded to put away the election paraphernalia—the boxes and all



the papers that were used in the election—and put them in the ballot boxes and locked them up. I heard the inspector—I believe Mr. Sloan—say to bring out his team because he was ready to take the ballot boxes to Kingfisher.

Q. What did he do then?—A. To tell the truth of the matter, I didn't notice anything more, for I was very busy with my farm work and I went right home. I didn't see them put the ballot boxes in the buggy.

Q. Did you go back to the polling place that day?—A. No, sir.

Q. Did you see any disturbance that day?—A. No, sir.

Q. Prior to the election, did you learn of any efforts or talk among the colored people that there would be any disturbance?—A. None whatever.

Q. Did you observe whether or not the inspector was requiring the grandfather test?—A. Yes, sir.

Q. Did you, at the time, know why they closed the polls and when did you find out?—A. I found out before I left the house.

Q. It was because they let that one negro vote who wanted to vote for Congressman who could not qualify?—A. Their reason was that they would either have to violate the Federal law or the State law, and between the two, they concluded they would violate the State law and let the negro vote and not get tangled up with the United States.

Q. And then close the polls and quit?—A. Yes; from their conversation I judged that was it.

Q. Up to the time you quit canvassing the tickets that had been turned over to you, do you remember about what your poll was as to political preferences?—A. Yes, sir.

Q. What was it?—A. Republican majority.

Q. How long have you lived in that township?—A. Ever since '89, with the exception of a year and a half I went to Missouri.

Q. Have you been acting with the precinct election board prior to that time?—A. No, sir; this is the first time I have served.

Q. Had you been connected with the political organization of the country?—A. No, sir.

Cross-interrogatories by Mr. HOFFMAN:

Q. What are your politics?—A. Republican.

Q. Always?—A. No, sir; I generally vote for the man. If the Republicans have the best man, I vote for him.

Q. When you elected negro officers, did you vote for the man?—A. Yes, sir.

Q. Negro or white?—A. Well, I couldn't tell you.

Q. You don't know whether you voted for a negro or not?—A. If there had been a white man on the ticket, I would have voted for him.

C. F. JEWETT, being first duly sworn to tell the truth, the whole truth, and nothing but the truth, testified as follows:

By Mr. BURFORD:

Q. State your name.—A. C. F. Jewett.

Q. Your age and place of residence.—A. Forty-two; northeast part of Union Township.

Q. How long have you been a resident of Kingfisher County?—A. Seven years the 20th day of this November.

Q. What is your occupation?—A. Farmer.

Q. Are you a qualified voter in Union precinct, Kingfisher County, Okla.?—A. Yes, sir.

Q. Been voting there ever since you resided in Oklahoma?—A. Yes, sir.

Q. Were you at the voting place last November, 1912?—A. Yes, sir.

Q. What time did you go?—A. I judge about 8 o'clock.

Q. Were you connected with the election board in any way?—A. No, sir.

Q. Did you vote prior to the time they closed the polls in the morning?—A. No, sir.

Q. Why had you not voted?—A. Well, I was there, but there was one man ahead of me, and I was the next man to vote. I was waiting on him.

Q. Who was the neighbor ahead of you?—A. Mr. Hash.

Q. Did he get to vote?—A. No, sir.

Q. Who was the last man to vote?—A. I think a colored man named Owens.

Q. Were you voting at the schoolhouse?—A. Yes, sir.

Q. Had you and Mr. Hash been admitted to the room before they closed the polls?—A. We were outside, where we were lined up by the wire.

Q. Did you hear any of the talk with Owens?—A. No, sir.

Q. You didn't hear what was said inside?—A. No, sir.

Q. You may state whether or not up to that time there had been any indications of violence or disturbance among the voters.

(Objected as calling for a conclusion.)

A. Nothing; everything was lovely, so far as I know.

Q. Was there any indication of bad feeling or bad humor?—A. Not a bit.

Q. Did you observe whether or not any other colored voters had voted before Owens offered to vote?—A. Yes, sir.

Q. Could you tell from the outside whether or not the inspector was requiring them to take the test?—A. Well, it appeared so. It took them so long—one especially, Wilson; I think he was in there an hour, and when he came out he said they had put him through the test.

Q. At the time they closed the polls, who was the first one who announced that to the voters outside?—A. Well, sir, that was Mr. Beal. He appeared to be kind of a stool pigeon there that day.

Q. What did he say?—A. That everything was off; that there was an illegal voter, and the polls would be closed. He was inside all morning.

Q. He was one of the counters?—A. I think so; he was there, I know.

Q. He announced, then, that it was all off?—A. Yes; and began to tear down the wire before the door was closed.

Q. When he did that was there any demonstration on the part of the colored voters outside?—A. Not a thing.

Q. Any offer to create a disturbance?—A. No, sir.

Q. Any protest made against their action?—A. No, sir.

Q. Did you hear Mr. Hash make any remark?—A. I did.

Q. What was it?—A. He said, "Come on, let's go up there and see what the confusion is about and the reason we are not going to get to vote. I don't think it is right," and we went up to the platform; and just then Mr. Sloan—Mr. Hash said: "Who has got the authority to close these polls?" And Mr. Sloan said: "I have." And he said: "Why?" And he said: "I have got it, and I am going to close." And they came with the ballot boxes and put them in a spring wagon. They had the wagon ready, and three men got in and drove away. Nothing at all happened.

Cross-interrogatories by Mr. HOFFMAN:

Q. What part of the county did you say you lived in?—A. Northeast.

Q. Any negroes in that part of the township?—A. Quite a few.

Q. Right around you?—A. No, sir.

Q. How long have you lived in the township?—A. A year the 27th of last February.

Q. Where did you reside prior to that time?—A. Just across the line east.

Q. How long did you live in that place?—A. Three years.

Q. There were quite a number of negroes congregated around this polling place when you got there in the morning?—A. No, sir; they were just beginning to come.

Q. Were many there at the time they closed?—A. I think so.

Q. They all came?—A. I think so.

Q. The yard was pretty well crowded?—A. Yes, sir.

Q. You don't pretend to say what they were doing, do you?—A. I would not unless I was among them.

Q. You don't pretend to say what they were planning—you don't associate or mix with them?—A. I don't know as I do, particular. If I have any dealings with them I deal with them.

Q. You pretty near have to deal with them if you live there, don't you?—A. No, sir.

Q. Isn't the majority of the township colored?—A. There are quite a few colored and quite a few white—good people, too.

Q. Do you mean to say there are some bad ones—you never saw any, did you?—A. Bad ones?

Q. Yes.—A. Well, I don't know as I have.

Q. What is your politics?—A. Well, sir, broken. I vote for the man.

Q. Who were you supporting for Congress?—A. Nobody.

Q. Do you mean to say you had not made up your mind who you were going to vote for?—A. It is quite likely I had.

Q. I am asking you if you had.—A. Yes; but after they acted that way, of course I voted the Republican ticket.

Q. You hadn't intended to vote it?—A. Not all of it. I had promised some of the neighbors to help them.

Q. You laid this all to the Democrats and you decided you would vote against the Democrats?—A. No, sir; not exactly I didn't. I did not lay it to anybody.

Q. Do you know whether there was any drinking there or not?—A. No, sir; I think not.

Q. This is the township where Beall and Quinn were acting in 1910 at the time they were indicted and convicted by the Federal authorities for violating the election laws?—A. I think so.

Q. You were aware of that prosecution?—A. I heard of it.

Q. Were you a witness in that case?—A. No, sir.

Q. Did you attend the trial?—A. No, sir.

Q. Do you know whether or not these negroes were armed about the polling place?—A. I think not. I never heard anything about it—quite a few of them. I know. I know all of them practically.

WILLIAM JETT, being duly sworn to tell the truth, the whole truth, and nothing but the truth, made answer as follows:

By Mr. BURFORD:

Q. State your name, age, and residence.—A. William Jett; 28; residence, Kingfisher County.

Q. How long have you been in Kingfisher County?—A. Ever since the opening.

Q. What is your occupation?—A. Farmer.

Q. Been living in Union Township during all that time?—A. No, sir.

Q. How long?—A. One year.

Q. Were you present at the polling place in Union Township last November?—A. Yes, sir.

Q. What time did you go there?—A. About 9 o'clock.

Q. Did you vote prior to the time when the polls were closed?—A. Yes, sir.

Q. About what time in the morning was it?—A. About 9 o'clock.

Q. Were many voters there at the time you voted?—A. Quite a few; yes.

Q. About how many would you estimate were on the grounds at the time the polls closed?—A. About 25 or 30.

Q. Had you been mixing around with them?—A. Not to amount to anything.

Q. Were you acquainted with the majority of them?—A. No, sir.

Q. Did you see or hear anything to indicate that there might be a disturbance?—A. No, sir.

Q. How were they acting?—A. Real quiet.

Q. Did you see anybody out of humor?—A. No, sir.

Q. Did you see any colored persons voting during the time the polls were open?—A. I saw some go in and I supposed they voted.

Q. At the time you were in there were any colored voters in the schoolhouse?—A. No, sir.

Q. Were you present when they closed the voting and announced the election was off for the day?—A. Yes, sir.

Q. Who made the announcement first to the persons on the outside that the election was off?—A. I think Mr. Beall.

Q. Did you hear him?—A. Yes, sir.

Q. When he made that announcement was there any demonstration of any kind? Did anybody say anything to him?—No, sir; not that I heard.

Q. At the time they took the ballot boxes and election paraphernalia and started, was there any demonstration by the negroes or whites which indicated trouble?—A. No, sir.

Q. All quiet and peaceable?—A. Yes, sir.

Cross-examination by Mr. HOFFMAN:

Q. What are your politics?—A. Democrat.

Q. You say you didn't mix with them and don't know what the negroes were doing?—A. No, sir.

Q. Nor what they were saying?—A. No, sir.

W. G. HAUGHEY, being duly sworn to tell the truth, the whole truth, and nothing but the truth, made answer as follows:

By Mr. BURFORD:

Q. You may state your name, age, and place of residence.—A. W. G. Haughey, 42, Union Township.

Q. How long have you been a resident of Union Township?—Three years this spring.

Q. Where did you reside prior to that time?—A. Garfield County.

Q. How long have you been a resident of Oklahoma?—A. Ever since '89.

Q. Where did you live before going to Garfield County?—A. Columbia Township.

Q. In this county?—A. Yes; Kingfisher County.

Q. You were a qualified voter in Union Township in 1912?—A. I suppose I was.

Q. Did you get to vote?—A. Yes.

Q. What time in the morning?—A. About 9 o'clock when I voted, I judge.

Q. How long were you on the ground before you voted?—A. I must have been there an hour.

Q. About how many voters were assembled?—A. Colored and all?

Q. Yes.—A. Well, I never counted them; there was quite a number.

Q. Estimate about the number.—A. At the time I voted there must have been about 50 or 60 on the ground.

Q. Were they voting successively, right along?—A. Yes.

Q. Up to the time the polls closed had you heard any evidence of commotion or disturbance?—A. No, sir.

Q. What was the character of the people?—A. They were talking among themselves and everything was peaceable as far as I know.

Q. Did you hear any threats?—A. No, sir.

Q. Were you present when they closed the polls?—A. I was on the ground.

Q. What did you hear at the time in the way of announcement of it?—A. Well, somebody announced it was all over, and I was back in the crowd, and when I looked around I couldn't tell who spoke the words.

Q. At the time of making that announcement did you hear anything to indicate that anybody would make a disturbance?—A. I didn't hear anything at all.

Q. Quietly submitted?—A. Yes, sir.

Q. Was anything said by anyone about making any efforts to prevent them taking the poll boxes away?—A. Well, I didn't hear anyone say anything except myself.

Q. Did you say anything so they could hear it?—A. I said I thought it was their duty to go to the nearest phone and tell the officials in Kingfisher about it; that is all I said. They didn't want to go to the phone and they went to town.

Q. How far is it from the nearest town?—A. Six miles.

Q. Hennessey?—A. Yes, sir.

Q. How did these people leave when they went away?—A. They left in a rig, but I was back in the crowd and couldn't see much.

Q. Did you notice who went away?—A. I think Quinn and Beal.

Q. Sloan?—A. I think, if I am not mistaken, one was Landaker and Sloan, and I don't remember who the third party was.

Q. Sloan was inspector?—A. Yes, sir.

Q. After they went away did you hear anything in the way of making a disturbance or making any trouble?—A. None whatever.

Q. What did the negroes do when this occurred?—A. Stood around there and then started home, and some one said—I think it was the Haymaker boys—said the darkies would return, and they got word the polls were going to be opened again and they came back and voted.

Cross-interrogatories by Mr. HOFFMAN:

Q. What are your politics?—A. I am a Republican.

FREDERICK PARNELL, being first duly sworn to tell the truth, the whole truth, and nothing but the truth, testified as follows:

By Mr. BURFORD:

Q. State your name, age, and place of residence.—A. Frederick Parnell, Kingfisher County, Lacey Township; 54 years.

Q. How long have you been a resident of Kingfisher County?—A. Since '89.

Q. Your occupation?—A. Farmer.

Q. Are you a resident voter of Lacey Township, Kingfisher County, Okla.?—A. Yes, sir.

Q. Did you vote in that precinct November, 1912, election—in Lacey Township?—A. Yes, sir.

Q. What time did you go to the polling place that day?—A. I got there about 7 o'clock, I judge.

Q. Were you acting on the election board?—A. Yes; clerk. Yes; I issued the ballots.

Q. Republican member?—A. Yes, sir.

Q. Who was the inspector?—A. A fellow by the name of Carr.

Q. Who was the other Democrat on the board?—A. A man by the name of Stiger, and Jones.

Q. What position did you occupy?—A. I issued the ballots.

Q. You were the Republican member of the election board?—A. Yes, sir.

Q. The law only provides for three?—A. Stiger was a counter.

Q. Had you ever served on the election board before?—A. Yes, sir.

Q. How long have you been a member of the election board?—A. Since August.

Q. Were you a member at the primary in August?—A. Yes, sir.

Q. Were the members of the board the same at that time?—A. Yes, sir.

Q. At the primary in August was there a very spirited contest?—A. Didn't seem to be that I could notice.

Q. Do you remember whether more voted at the August primary or in November?—A. More in November.

Q. At the primary in August did any colored persons vote?—A. Quite a few.

Q. Was any test applied to them under the grandfather provisions?—A. Yes, sir.

Q. Were any permitted to vote with the test?—A. No, sir.

Q. Did all pass the test that offered to vote?—A. No, sir; they didn't all pass the test; several were turned down.

Q. At the November election did the board require the colored voters to again take the test?—A. Yes; we didn't know who had taken the test at the primary. There were several that we were acquainted with that took the test in August.

Q. Those that passed the test in August you would not require them to take it again?—A. No, sir.

Q. Were there any that were not known to have taken the test at that time that did take it in November?—A. Yes, sir.

Q. Did they fail to pass the test in November?—A. There were several that we turned down, and they turned around and walked out.

Q. Did you observe any disturbance during the day at all?—A. None whatever.

Q. Did you see anything to indicate that any member of the election board was in any fear of discharging his duty?—A. I didn't see anything to cause anybody any fear.

Q. Prior to the election, did you hear any talk, reports, or rumors that there would be a disturbance if the negroes did not get to vote?—A. No, sir.

Q. Are you reasonably well acquainted?—A. Not as well as I might be, because I live in the southeast corner of the township and trade at Hennessey.

Q. Did you attend any campaign meetings prior to the election?—A. Just one.

Q. Was that attended by both negroes and whites?—A. Yes, sir.

Q. You say you never heard any talk in your precinct of any effort to vote against the law?—A. No, sir.

Q. Was there any discussion against members of the board or any talk of trouble during the time you were acting on the board?—A. No, sir.

Q. Were you present that day during the whole day?—A. Yes, sir.

Q. During the time the returns were being canvassed?—A. Yes; I took the box to Carr's house.

Q. Did you hear Mr. Carr make any complaint of being in fear of being intimidated, or anything of that kind?—A. No, sir; I did not.

Q. Did you see anything in the attitude of persons on the outside that might have a tendency to create fear?—A. No, sir.

Q. State whether or not the election went on peaceably and quietly.—A. Yes; until the final returns were made up. I didn't think at the time of anything at all turning up. There was one counter, the inspector, and clerk all rode home in my wagon.

Q. Was there any talk among any of you?—A. No, sir; we just jollied along.

Q. Was there any trouble or anticipated trouble?—A. No, sir.

Q. When did you first learn that some of your election officials had protested against counting the vote?—A. I think the second day after the election.

Q. Did you learn of certain affidavits?—A. Yes, sir.

Q. Did you see them?—A. No, sir.

Q. Did you see printed copies of them?—A. No, sir.

Q. About what number of votes, if you remember, were cast at your precinct that day?—A. Indeed, I couldn't tell you.

Q. Have you in your possession now any data to which you could refer showing the number of votes cast at that election in your precinct?—A. Well, I don't know. I think Mr. Carr has one, but he is not in the country now.

Q. Have you anything that you could refer to now to show what vote was cast for each candidate at that election?—A. No, sir.

Q. Have you a general recollection as to what the vote was in that township?—A. No, sir; I couldn't guess at it at all.

Cross-examination by Mr. HOFFMAN:

Q. How close were you to the inspector of the board?—A. I was in the front part of the schoolhouse. The room is 30 feet long, and he stayed down back by the door where they came in.

Q. How far away from him?—A. The room is 25 or 30 feet long.

Q. Don't you know that the negroes, after the election progressed there a while, crowded in past the inspector before he had time to challenge them?—

A. I don't think they did.

Q. Do you know whether they did or not?—A. I know they didn't.

Q. Have you ever testified in these election cases before?—A. No, sir.

Q. Were you watching the inspector all the time?—A. Most of the time, only when I was reading the ballots.

Q. What were you watching him for?—A. I was just facing him; that is all.

Q. Isn't it a fact that the negroes crowded in to within a short distance of the booth, inside the legal limit, and stuck their heads in at the windows?—A. There is nothing to keep them from it.

Q. And they did it?—A. They were up to the house; that is the only place they have to post our ballots.

Q. They didn't pay any attention to the lane?—A. I couldn't say.

Q. They crowded around the building?—A. Around the building, I suppose.

Q. Sticking their heads in?—A. They were up to the house.

Q. Did you hear the inspector make any challenges?—A. Yes, sir.

Q. Did you see any tests applied?—A. Yes, sir.

Q. Did you see any negroes rejected?—A. Yes, sir.

Q. Name one.—A. I don't think that I could name one. I saw him put the test, and this man Steele tried it—there were three or four voted under protest.

Q. He voted, did he? I am asking you to name one that was rejected, who didn't get to vote and walked out.—A. I don't know that I could name one now.

Q. Did you see any that endeavored to comply with the test?—A. Yes; and he turned them down that couldn't read.

Q. And they would continue to vote under protest?—A. No, sir.

Q. What do you mean by saying that voted under protest?—A. These men that voted under protest claimed they voted prior to 1886.

Q. Did they make affidavit?—A. Yes, sir.

Q. And he let them vote?—A. Yes, sir.

Q. Then what did you mean?—A. They were challenged, I suppose.

Q. Did you protest?—A. No, sir; he filled out the affidavit and I filled out their ballots.

Q. The negroes are in the majority in that precinct, are they not?—A. I don't know; about equally divided.

Q. Don't you know whether the blacks or whites predominate in your own precinct?—A. I never paid any particular attention.

Q. How long have you been here?—A. Since '89.

Q. They have elected negro officers?—A. Yes, sir.

Q. Any serving now?—A. Yes; on the township board.

Q. Did you vote for him?—A. No, sir.

Q. Are you a Republican?—A. Yes, sir.

Q. Which kind?—A. Straight Republican.

Q. Standpat or Bull Moose, or haven't you made up your mind? Did you support McGuire?—A. I would if I had had a chance.

Q. Did you vote for him?—A. I suppose I did; yes, I voted for him.

Q. Why did you say you supposed you did? You understand you are testifying under oath to things you know or do not know

Further examination by Mr. BURFORD:

Q. How many of those votes were there cast in that precinct in which the voter made affidavit that he had been a member of the United States Army and voted prior to 1866?—A. Four.

Q. Under the claim that they had voted as soldiers in the field prior to 1866, they were permitted to vote on affidavit?—A. Yes, sir.

Q. This four did not take the educational test?—A. No, sir.

Q. The other colored men that had not taken the test in August were required to take the test at that time before being permitted to vote?—A. Yes, sir.

Q. Where were the instructions to voters nailed up?—A. On the north side of the schoolhouse; that is the only place we save.

Q. Was that inside the wires or outside?—A. The wire comes from the north.

Q. This was to one side?—A. This was on the side of the building.

Q. There was no roping or wiring to keep them away from this place?—A. No, sir; nothing at all.

Q. Was there any other place where the officers could put up their instructions except by the house?—A. No, sir.

Q. Was there any roping or wiring to keep them away from the windows on the sides?—A. No, sir.

Q. Did you see any of them at any time crowding up into the chute?—A. No, sir; I couldn't see.

Q. Was the place you spoke of where they had their heads in the windows, was that on the side where they were voting from?—A. No, sir.

Q. That was not unusual?—A. It has always been that way in Lacey Township ever since they been voting there.

By Mr. HOFFMAN:

Q. When they were looking into the windows and crowding around the windows, it would be within a few feet of the counters?—A. Yes; the counters were right opposite the windows.

By Mr. BURFORD:

Q. Did the inspector make any request to stay back?—A. He made the request that he didn't want so many in the building.

Q. Did you see any one that didn't follow that instruction?—A. No, sir; of course from where I was sitting I couldn't see.

Q. He only allowed the legal number of voters in the building at one time?—A. That is all.

Q. Did the friends of these persons at the windows looking in interfere with the election officers on the inside?—A. I don't think I could—they didn't say anything.

A. W. RENSHAW, being first duly sworn to tell the truth, the whole truth, and nothing but the truth, testified as follows:

By Mr. BURFORD:

Q. State your name, age, and residence.—A. A. W. Renshaw, Lacey Township, Kingfisher County; 60.

Q. How long have you lived in Kingfisher County?—A. Since '89.

Q. What occupation?—A. Farmer and building contractor.

Q. Have you been connected with the precinct election board at any time recently?—A. Never was.

Q. Which precinct did you vote in at the November, 1912, election?—A. Lacey.

Q. How long had you been a voter in Lacey Township?—A. Ever since the opening in '89; they didn't vote that year, but since.

Q. Are you reasonably well acquainted in that precinct?—A. I know a good many; not all.

Q. What time did you go to the polls that day?—A. Between 9 and 10 o'clock.

Q. What time did you get to vote?—A. If I remember right, about 4 o'clock.

Q. Were you there all day?—A. All the time, until the vote was counted.

Q. What evidence of disturbance or confusion did you see that day?—A. None whatever.

Q. Did you see anything transpire that day that would lead anyone to have any fear or that would intimidate anyone?—A. Not to my knowledge.

Q. Were you in a position to see?—A. I was around in the crowd talking with the other men all the time until the polls were closed.

Q. About what was the greatest number of voters there at any time?—A. I judge 50 or 60 at one time.

Q. A number of colored voters?—A. Quite a number; probably half.

Q. The township is pretty well divided between colored and white?—A. At one time, years ago, there was perhaps more negroes, but not now.

Q. Did you hear any talk prior to the election among the colored voters of any effort to enforce their rights to vote or to make any trouble if not permitted to vote?—A. No, sir.

Q. You stayed until they closed the polls?—A. Yes, sir.

Q. You saw nothing, nothing at all, to indicate any trouble?—A. No, sir; I stayed long enough to see how the count stood.

Q. Did you learn what the result was before you went away?—A. Yes, sir.

Q. What was the result?

(Objected to as not the best evidence and incompetent, irrelevant, and immaterial.)

A. I know what the counters returned. I wouldn't say just the exact vote.

Q. Give your recollection.—A. I think 98 or 99 Republican votes, 28 or 29 Democrats, and 20 Socialists. That is the way the official count was.

Q. Do you remember whether the votes upon the candidates for Congress were about the same?—A. That is what I just gave. That is what I was interested in.

Q. When did you first learn that there had been an effort on the part of your precinct board to prevent the vote in that precinct being counted by the election board?—A. Two or three days afterwards.

Q. Did you hear any talk of that character at any time before the polls were closed and the returns made up?—A. None whatever.

Q. Did you hear any intimation they were dissatisfied?—A. No, sir; I stood right there by the inspector while the counters were counting and tallying, and we were talking. There was nothing said at all.

Q. Did you observe any persons crowding up into the chute going up to the door other than those entitled to be there for voting purposes?—A. No, sir. I remember one time the sergeant at arms came out and warned the people not to crowd up to the door. The chute was perhaps 50 feet long, and it was just full of people, and the ones behind would push up and that would crowd those in front up, but there was no more than what the man called for went in; that is, that I saw inside the door.

Q. Where were those instructions nailed up?—A. Some on the corner of the building and some on a tree near the end of the chute.

Q. Were persons permitted to go to the corner of the building to see those instructions?—A. Yes, sir; that is what they were there for.

Q. Did you see any person attempting to crowd into the building at any time other than the ones that were going in to vote?—A. No, sir.

Q. Did you see any disturbance of any character?—A. No, sir; in fact, it was the most quiet election I remember of in the township.

Q. Did you observe whether they were requiring the colored men to take the test under the grandfather clause?—A. I could not tell; I wasn't in the building. I inquired at one time. I said, "Has anyone been rejected?" and some one said, "Yes; three or four came back." Of course, he was not in the building when they voted.

Q. Were you at the primary in August?—A. No, sir.

By Mr. HOFFMAN:

Q. What are your politics?—A. Socialist.

Q. A candidate on the Socialist ticket?—A. Yes, sir; candidate for Congress.

Q. You say the white voters were in preponderance?—A. I say in my judgment. I never polled the vote, but in my judgment they are in the majority.

Q. They elected a negro township board last time?—A. Yes, sir.

Q. Do you elect negroes in preference to whites?—A. That would need an explanation. You see, the Socialists didn't have a candidate up, therefore they didn't vote. The Democrats are in the minority. A Socialist must vote for a Socialist, and they didn't have a candidate, therefore they didn't vote; and the Democrats being the minority, of course, taking it that way, the colored can elect their man.

Q. You are prepared to throw away your vote and let the negro be elected and run your affairs instead of voting for the white person?—A. I will not vote for anyone not on the Socialist ticket.



By Mr. BURFORD :

Q. You are a Socialist?—A. Yes, sir.

Q. Do you know this man Carr pretty well?—A. Not intimately; I have known him for years.

Q. Is Mr. Carr a Socialist or a Democrat?—A. I judge he is a Democrat.

Q. Did you hear him asking some of the negroes to shoot craps with him?—A. No, sir; I didn't hear it; I heard of it.

Q. Didn't Carr associate with the negroes pretty generally as much as he did with the whites?

(Objected to as incompetent, irrelevant, and immaterial.)

A. He associates with the colored people a great deal.

By Mr. HOFFMAN :

Q. So do you, don't you?—A. Not in the way he does.

Q. That is one of the cardinal doctrines of Socialism, isn't it?—A. No, sir; a Socialist has a right to choose his associates.

Q. What do you mean by stating in your testimony that there was a negro sergeant at arms?—A. I don't know what the legal name is, but the man that called more voters to be admitted.

Q. Was he a negro?—A. Yes, sir.

Q. He made this announcement?—A. I remember one time he said, "Men, don't crowd these people up."

By Mr. BURFORD .

Q. He was selected by that Democratic inspector, wasn't he?—A. I don't know.

Mr. PARNELL recalled to the witness stand and examined as follows:

By Mr. BURFORD :

Q. Did the election board have some person designated there as doorkeeper?—A. Yes, sir.

Q. Who selected him?—A. Well, I could not tell you that.

Q. Did you have anything to do with it; were you consulted?—A. No, sir.

Q. Was he acting under Mr. Carr's instructions?—A. I suppose so.

Q. Do you know Mr. Carr pretty well?—A. Yes; very well.

Q. What do you know, if anything, about him inviting some of the negroes to shoot craps with him?

(Contestant objects to bringing a crap game into a congressional contest.)

Q. Did you hear him invite three or four into a crap game?—A. Yes; I heard him invite three or four into a crap game and they turned him down.

Q. Isn't it a fact that Mr. Carr generally associates with the negroes in a social way?

(Objected to as incompetent, irrelevant, and immaterial.)

A. I guess it could be proven.

Q. Isn't it a fact?—A. I couldn't state positively, but the indications are that he does.

Q. Did he at the time of inviting these colored friends to engage in a crap game exhibit the dice?—A. Yes; he had them in his hand, and said: "Let's get into a game while they are making up these returns."

By Mr. HOFFMAN :

Q. Did you shoot craps with him?—A. No, sir.

Q. Did you receive a copy of what is know as the Boardman letter?—A. Yes, sir.

Q. Prior to the election?—A. Yes, sir.

Q. How long before?—A. I could not say.

Q. A short time, a week?—A. Yes, sir.

Q. That was in the same envelope with what is known as the penitentiary warning slip; you heard it described and you had one of those didn't you?—A. Yes, sir.

Q. Did the other members of the board there have the same thing?—A. I don't know.

Q. Did you hear them say?—A. I heard Mr. Carr.

Q. That is, one of these slips?—A. Yes, sir.

Q. Were any of the letters exhibited and talked about?—A. Not that I know of.

MILES W. JUDGE, being first duly sworn to testify to the truth, the whole truth, and nothing but the truth, testified as follows:

By Mr. BURFORD:

Q. State your name, age, and residence.—A. Miles W. Judge; 43; Kingfisher, Okla.

Q. What occupation?—A. Real estate, loans, and insurance.

Q. What official position do you occupy and did you occupy last November in relation to the county election board?—A. Secretary of the county election board.

Q. This forenoon I made the request of you, as counsel for the contestee, that you would produce at this time such portions of the election returns from Lacey Township as returned to the election board, as are not required under the law to be kept sealed and opened under order of the court only. Have you those returns present?—A. No, sir.

Q. Do you refuse to produce them?—A. Under the law the returns from the precincts are only to be opened after the board of canvassers have returned the election, only by order of the court, and I don't think I have any authority to bring them here.

Q. I do not desire to have any discussion upon the question of law, but the law requires the precinct election board to return certain portions of the election returns to the county election board, and other portions they are not permitted to open except under order of the court. I have only asked you to produce that portion from which the county election board was permitted to make their canvass.—A. I can not; the law says no part of the returns shall be opened except by order of the court.

Q. As a member of the county election board, how did you make a canvass of the returns from the several precincts if the law prohibits you from opening the returns?—A. Only when the county election board are in session.

Q. Hasn't the county election board been in session since the returns from Lacey were made?—A. They were at the time the returns were made but not since.

Q. Have you as secretary and custodian of the election returns from Kingfisher County, a tally sheet, poll book, and certificate returned to you by the inspector of that township which was not sealed up with the ballots in a secret package, which the law provides shall not be opened except on order of court?—A. I have, but they are sealed up in a separate package marked "Returned—special return." They are not in a vault at the court house.

Q. Under your custody and control?—A. Yes; that is what the law states, I think, and only to be opened under order of court.

Q. Why do you keep repeating that they can only be opened under order of court, when you have admitted that there is a separate package, which the board has the right to open?—A. I would like to read the law to you.

(Contestant objects to counsel cross-examining his own witness.)

A. I question my right to break the seal of that package.

Q. You refuse to produce before the notary, to be used in this contest, in a case pending in the Congress of the United States, the certificate of election, signed by the official counters of Lacey precinct, showing the number of votes cast for each candidate at that election?—A. I do without an order of court.

(Here counsel for contestant asks that the witness be permitted to state into the record that which he has just stated outside the record to Judge Burford.)

A. The reason for my refusal to break the seal of those packages from Lacey and Union Townships is that there is a contest on the office of sheriff in Kingfisher County, and if I should attempt to go there to the vault to obtain these returns, it might look to the parties in interest that I was trying to take advantage of them so far as those disputed districts are concerned, and I simply submit that I would present them to this court only on order of court, so that I might be protected under the law.

(Counsel for the contestee now requests the notary before whom these depositions are being taken, being an officer authorized by act of Congress, to issue a subpoena duces tecum for Miles W. Judge, secretary of the county election board of Kingfisher County, and custodian of the election returns made by the precinct election officers in Lacey Township, in the election held in 1912, to produce before the notary the counters' certificate required to be made by the State law, showing the number of votes counted for each candidate for office, voted for in that precinct, at that election as made up and certified to by the counters, which is not a return required by the law to be sealed in any package.)

GEORGE McCOY, being first duly sworn to tell the truth, the whole truth, and nothing but the truth, made answer as follows:

By Mr. BURFORD (Mr. McCartney being requested to examine for Judge Burford):

Q. You may state your name, age, and residence.—A. George A. McCoy, Okarche, Okla.

Q. You reside on the Kingfisher side?—A. Yes; Kingfisher County. My age is 46.

Q. Are you a member of the county election board?—A. Yes, sir.

Q. What member of that board are you?—A. Well, I am the Republican member.

Q. Who is president?—A. Mr. Lane.

Q. Who is secretary?—A. Mr. Judge.

Q. And you are the lay member?—A. Yes.

Q. Were you a member of the election board that canvassed the election held in 1912 in Kingfisher County—that canvassed the returns?—A. Canvassed part of the returns in that election.

Q. You may state when that board convened for the purpose of canvassing?—A. I came here on the day of the election, the 5th, I think, and we commenced working the morning of the 6th of November.

Q. Do you remember of the returns from Lacey Township coming in?—A. Well, I was there when a great many of those returns came in. I think I was there when Lacey Township came in.

Q. What time of the day did those returns come in?—A. I couldn't say just what time of day it was. I don't think there was any unnecessary delay. It seems to me—I don't know positively—that the Lacey Township was brought in on the following day, on the 6th. I would not say positively, but it occurs to me it was at that time.

Q. Were there any townships which made their returns after the Lacey return was made?—A. I couldn't say as to that. I didn't attach any significance to the returns coming in. They came in all day.

Q. Were the returns canvassed in the order in which they were brought in and received by the secretary?—A. I don't think so.

Q. When did you commence the canvass of the vote of Kingfisher County?—A. I think the morning of the 6th.

Q. When did you complete the canvass?—A. I don't think that canvass was ever completed.

Q. When did the board finally adjourn?—A. It seems to me on the evening of the 8th.

Q. You may state what occurred at the board meeting on the afternoon of the day you adjourned.—A. Well, in the afternoon—during the day we canvassed four or five precincts, and during the afternoon we got everything out of the way except Lacey Township and two returns from Union Township. It seems that they had been placed off in one corner of the room and held till the last. Mr. Lane seemed to assume the order in which these election returns were opened, and it was he that brought this up for canvass. Mr. Judge had his book and was keeping his records, and Mr. Lane opened the boxes, and I would go through and call the check, and Mr. Judge would make the record. The last day, after four or five precincts were completed, they came to Lacey and Union.

Q. What was done when you got to Union?—A. Mr. Lane opened the box and said that there was no returns in that box; that the ballots had not been placed in the envelope, and no official returns had been made to the board; and he opened the box and the ballots were stuck in there promiscuously.

Q. Just as polled?—A. I suppose so.

Q. What else was in the box?—A. I don't know that I know.

Q. Were there any other papers?—A. I saw what looked to be ballots. They might have been the other papers and election supplies that were sent out by the secretary. I don't know what else they could have been. Mr. Lane opened the lid of the box and said, "See here, Mr. McCoy; you can see what shape things are in."

By Mr. HOFFMAN:

Q. That was Union Township?—A. Yes, sir.

By Mr. McCARTNEY:

Q. What was done with the returns that came in from Union Township?—A. The returns were immediately made a subject of dispute. I made a motion

that the returns be sent back to the precinct election officers of Union Township to be canvassed by them and proper return made to the county election board. The motion was defeated upon vote, and a motion made to throw them out. There was nothing said of elections returns. Mr. Lane saw Walter Loch on election day, and it seems that Mr. Loch brought in some returns, claiming he organized an election board and submitted a sealed package, which purported to be the returns of this second board at the election in Union Township. I don't know whether I asked for that election to be counted or not. I believe I did. In all probability I did; I don't know whether I asked or not, but my judgment is that I did. However, it was not done.

(Here counsel for contestant objects to the testimony of the witness bearing on Union Township as incompetent, irrelevant, and immaterial, no issue in this case, and no part of the elections in this case; no proof was submitted by the contestant.)

Q. Now, Mr. McCoy, after you had canvassed Union Township, what was done by the board then?—A. Mr. Lane brought the Lacey box, the box that was supposed to contain the Lacey returns, and put the box on the table and said he had an affidavit that he wanted to read, and he produced the affidavit and read it—I believe he had two of them. I heard him read it, but really I couldn't repeat the contents of that affidavit, but my impression is that the members of the election board in Lacey Township had been intimidated by threats of violence on the part of some of the residents of Lacey Township.

Q. Do you remember whether that affidavit stated that they had been coerced by the Federal court?

(Objected to as not the best evidence of the contents of the affidavit and incompetent, irrelevant, and immaterial.)

A. It occurs to me that there was some reference to the Boardman letter. I have heard a good deal about that letter, but I never saw a copy of it.

Q. Just state what occasioned the talk in regard to the returns from Lacey Township.—A. Well, the board refused to count the returns from Lacey Township—that is, two members of the board—the majority of the board refused to count the returns, basing their actions on this affidavit.

Q. Were there any returns from Lacey Township examined except the affidavits?—A. I didn't understand the affidavits were part of the returns.

Q. Were the returns examined in any way at all?—A. The box was not opened in my presence.

Q. Were you there all the time?—A. Yes, sir.

Q. Was any vote taken in regard to what disposition was to be made in regard to Lacey?—A. Yes, sir.

Q. What was it?—A. It was to be thrown out.

Q. What did they base their right to throw it out on?—A. I understood it was the affidavit produced by Mr. Lane.

By Mr. HOFFMAN:

Q. You don't know where these affidavits are?—A. No, sir.

Q. The affidavits were made by some of the election officials in Lacey Township?—A. I understood Mr. Carr, as inspector, and it occurs to me there was another affidavit made by some citizens.

Q. And both of these affidavits related to intimidation occurring at the election?—A. My recollection is that they alleged certain threats of violence and intimidation.

Q. By the negroes?—A. Yes, sir; and by the Federal officers, if they didn't permit them to vote, and it was on the grounds that illegal votes were cast by the negroes.

Q. It was on those grounds that the polls were closed?—A. I believe that was the position taken by the board.

Q. You are a Republican?—A. Yes, sir.

Q. A stand pat?—A. Yes; you just got me right, you bet your life.

(It is stipulated and agreed between counsel for contestant and contestee that the certified vote, showing the certified vote of each county of the first congressional district, as canvassed by the county election board of each county, shall be made a part of the record.)

(It is stipulated and agreed that further testimony on the part of the contestant may be proceeded with at the office of Burford & Burford, before M. E. Terrel, notary public, at 10 o'clock, Wednesday, July 9, 1913.)

In the Congress of the United States. John J. Davis, contestant, *v.* Bird S. McGuire, contestee. Certificate.

I, Eva M. Bonnett, a notary public within and for the county of Kingfisher and State of Oklahoma, do hereby certify that each of the witnesses produced was by me duly sworn to tell the truth, the whole truth, and nothing but the truth; that the evidence of each witness was by me taken in shorthand notes and the same reduced to typewriting; that the foregoing is a full, true, and complete transcript of the testimony of each witness produced; that the signing of the depositions was waived by stipulation hereto attached. The said depositions were taken at the time and place specified in the notice for taking the same.

Dated July 7, 1913, at Kingfisher, Okla.

[SEAL.]

EVA M. BONNETT, *Notary Public.*

My commission expires March 9, 1914.

In the Congress of the United States, Sixty-third Congress. In the matter of the contest of J. J. Davis, contestant, *v.* Bird S. McGuire, contestee. Now, on this 19th day of June, A. D. 1913, in the city of Pawnee, Pawnee County, State of Oklahoma, before James H. Hale, a notary public in and for said county and State, as per stipulation heretofore made and entered into by and between the parties hereto, personally appeared J. J. Davis, contestant, by his attorney, Roy Hoffman, and also personally appeared Bird S. McGuire, and by his attorney, Fred A. Wagoner, and Carrie E. Ross, being selected and agreed upon by the parties hereto as the stenographer to take said testimony in shorthand and thereafter to reduce it to long hand in typewriting, and the said Carrie E. Ross being by the notary public first duly sworn to truly take and to transcribe the testimony of the various witnesses introduced and sworn in said hearing.

Wherenpon the following proceedings and things were had and done, to wit:

Whereupon BIRD S. MCGUIRE was by the notary public first duly sworn to tell the truth, the whole truth, and nothing but the truth in said matter.

Q. State your name.—A. Bird S. McGuire.

Q. What official position, if any, do you hold?—A. At the present time a Member of Congress.

Q. How long have you been a Member of Congress?—A. Well, I am serving my sixth term. That would be 10 years the 4th day of last March.

Q. From what district and from what State are you a Member of Congress?—A. The first district of Oklahoma.

Q. Mr. McGuire, Mr. J. J. Davis has filed a contest against you for your seat in the Sixty-third Congress. Have you read and are you familiar with the petition, notice of contest, which he filed against you?—A. I have read the notice of the contest, and I think I remember the allegations—in a general way at least.

Q. I will ask you to state in your own way your answers to these allegations and to any testimony that has been given by Mr. Davis which you have read.—A. One of the allegations—I am not certain whether it is the first one, but the first of which I will testify—is that I was not a resident of Oklahoma at the time of my election to the Sixty-third Congress. I came to Oklahoma and to Pawnee in June, 1894. I began the practice of law here and a permanent resident here in October, 1894. I have lived in Pawnee County since that time; have been a continuous resident of Pawnee since that time; was a resident of Pawnee at the last general election, when I was elected to Congress; am a resident of Pawnee, Okla., now; have been a resident of Pawnee, Okla., each time I was elected, and all the time since October, 1894. I have never had any other residence. I have never claimed any other residence; never thought of claiming any other residence. I am as much a resident to-day as I ever was since I came to Pawnee. All the taxes that I have ever paid in Oklahoma, except on some land I own in Osage County, I have paid in Pawnee, and there has never been a year since I came here that I didn't have property for assessment and property that was assessed. And, as I stated, I have never paid taxes anywhere else except on real estate in Osage County. And while I am testify-

ing with respect to taxes. I should like to refer to the testimony of Mr. Bagby, who testified, if you will put it in a form of a question.

Q. Are you acquainted with one A. H. Bagby?—A. I am.

Q. Have you read the testimony he gives in behalf of the contestant in this case?—A. I have.

Q. Do you know what official position, if any, he held in this county in the year 1911 or 1912?—A. Well, I do not know; but I think he was assessor. I think he was.

Q. In his testimony he states: "I was assessor last year and will be for this year and next."

"Q. As such county assessor, I will ask you to state if you assessed any personal property in this town belonging to Bird S. McGuire, Republican candidate for Congress at the last general election?"

His answer to that was: "Not to him; no, sir. If it belonged to him, we failed to assess it last year."

What do you know about that, if anything?—A. I was not assessed last year outside of my real estate and bank stock in the Pawnee National Bank. No one saw me to take my personal property, and I had but very little personal property at that time, probably not to exceed \$100 worth, and no one saw me; no one spoke to me about an assessment, I being in Congress at the time they were assessing. No one wrote to me; and the property, a small personal property, that I had was an oversight, because it was never called to my attention.

Q. At that time were you the owner of any real estate in Pawnee?—A. I was.

Q. Was that assessed?—A. That was assessed.

Q. Mr. Bagby was also asked this question: "Have you assessed any personal property to him lately?" His answer was: "Yes." The next question was: "State how." His answer was: "He met me and told me he wanted me to assess him." Now, Mr. McGuire, do you remember the circumstances surrounding your assessment to which this man is testifying at that time?—A. I will now relate it, if you will allow me.

Q. Just state it in your own language as it occurred?—A. About the only personal property that I had ever possessed in Pawnee County was my household goods and my law library, which was burned when my business buildings burned. At the time of the separation of Mrs. McGuire and myself it was agreed that she have, with a very few exceptions, all the household goods and the residence here in the city, which I owned for a number of years. The property, which was, you might say, only a few keepsakes, I took to the Globe Hotel, where I moved after I let my house go. These were just a few articles of little value. A few keepsakes and the property to which I referred awhile ago, the assessment which would have been very low. Mrs. McGuire became ill a year ago last May—about the middle of May—in Washington. She was sick—that is, confined to her bed—for about two or three weeks, when the physician told her it would be necessary for her to leave Washington on account of the heat. He gave her that instruction some time in June. I sent her to Marthas Vineyard, Mass., where she remained during the summer and during the hot weather. When I returned to Congress last summer Mrs. McGuire had only partially recovered. We stopped at the Raleigh Hotel from the 1st of December to the 1st of January, and she began to relapse and was confined to her bed. The physician advised me, also advised Mrs. McGuire, that it would be necessary for her to go to the sanitarium, or we might possibly avert that by keeping house and confining her strictly to a diet which he arranged for her, accommodations which the hotel could not furnish. Between the 1st and the 10th of January we purchased furniture for the purpose of keeping house. On the 10th day of January, I think it was, we began housekeeping, and we have been keeping house from that time up to the present time in Washington. After we had left the hotel, after I had purchased this furniture, and after we had begun housekeeping awhile in Washington, I returned to Oklahoma; I met Mr. Bagby on the street.

Q. Where?—A. Here in Pawnee; and told him that I wanted to have him assess my personal property; and he states there in his testimony, in effect, that they had put one over on me. He was testifying, of course, from memory, and his memory may be as good as mine; but a remark like that would be foreign to me, and I evidently would not make it in that way. I did jolly a little about the stories they started about no assessment. We went into the Pawnee National Bank, and I gave him what information was necessary as to what I had, and the property which I gave him is the property which I had purchased since January 1, and the household goods which we are now

using in keeping house, together with other material which I thought would be sufficient to include the other personal property which I had before. I gave the assessment, as I thought, a little high, because a year ago it was a little short, and I tried to equalize it, not wanting to dodge any taxes. You will observe from a copy of the testimony which you have in front of you that Mr. Bagby stated that I had told him in effect that this property was at the National Hotel. Either Mr. Bagby misunderstood me, or I misunderstood him. As a matter of law, personal property is assessable at the situs of the individual, and that is what I had in mind when I assessed the personal property which I had in Washington here in Pawnee, where my home is. It was the proper thing for me to do under the law. The assessment of it in Washington would have been improper, and I gave him that property because it was right to do so. I never said to him that it was at the National. It was not at the National, and was assessable whether it was there or not. There was absolutely no reason in the world why I should say that to him. He asked me some question, which I understood was where I made my home now. He might have meant to ask me where my property was, and that is why I said we might have misunderstood each other. I told him that my home now was at the National Hotel. I do not think of anything more.

I would like to make a few statements with respect to where I have lived since I let the house which I formerly lived in, go.

Q. Before you do that, Mr. McGuire, state what year it was that you and Mrs. McGuire separated, and you turned over to her the home in Pawnee and the household effects therein.—A. I can't recall exactly; but I think it was about four years ago, a little more than four years ago.

Q. You may state, then, after that time where you have had your residence up to the present time?—A. At the time immediately after our divorce I went to the Globe Hotel in Pawnee.

Q. Who was the proprietor of that hotel at that time?—A. Mrs. Bolton; I lived at the Globe until she sold it. It was always my home, just as much as my former residence had been my home when I lived there, and I was there as much or more than I was ever at my house, when I lived in the residence here in the city. That is since I have been in Congress.

Q. You may state at this time about what part of the year since you have been in Congress and prior to the time since you sold your home or gave it to Mrs. McGuire, that you spent here in Pawnee. About what per cent?—A. I have made some estimate of the length of time that I spent in that residence which I let go. From the time that I was first elected to Congress, about 11 years ago, and up to the time that I disposed of the house, I never spent to exceed, after I was in Congress, one month a year in that house, and probably not to exceed three weeks. I was in the State more than that, but was most of the time in campaign when I was in the State. I might say, further, the first summer after I was elected there was no extra session that year, and I became a Member of Congress on the 4th day of March, and I did not have to go to Congress until December, and I was here more that summer than I have ever been since. Now, as to how much time I have spent since in the city of Pawnee, I have given you my very best judgment. I have spent just as much time here I am very certain since I let my house go, as I had ever spent before and since I was elected to Congress, except, possibly, the first summer before Congress convened after I was elected. I made my home at the hotel, had such small furniture there as I possessed, and as I needed up to last October, when Mrs. Bolton sold the hotel, and I left there along about the 1st of October. I went to Mr. Scott as soon as I came home. I was out in the campaign. I came home and found Mrs. Bolton had sold, and it was very near the limit, under the statute, when I could change wards in the city. I went to Mr. Scott, the proprietor of the National, and told him that I wanted to make my home with him, and made arrangements to that effect, and moved my trunks to his hotel. I did not move bedsteads, mattresses, etc., and some small clothing that I had, and made arrangements with Mrs. Bolton to take those. So, since October 4, I think it was, I have made my home at the National Hotel in Pawnee, Okla. I want to make this statement, since I was elected to Congress, I have never taken but one vacation. That was in the summer of 1911. I was the ranking member on the Committee of Commerce and Labor. There had been a controversy over the seal fisheries of Alaska. Conflicting statements and a great deal of conflicting testimony. That was the long session of Congress, I believe. In any event, Congress was in session nearly all the summer. When it was estimated by the leaders that Congress would not last more than a week longer, I secured a leave with

the view of going to the Pribilof Islands. Instead of Congress adjourning within a week, as was expected by the leaders, it held on for something like nearly four weeks. When I got to Seattle, Wash., I found that it was too late, the storms would come on shortly after reaching the Pribilof Islands. I did not return home until I had been on the Pacific coast seven weeks, nearly seven weeks. Nearly four weeks of that time Congress was in session. Nearly three weeks of that time Congress was not in session. It had adjourned. That seven weeks is the only vacation that I have taken since I became a Member of Congress first. And when not in Washington attending Congress, as I now remember it, I was always in Oklahoma, either in Pawnee, my home, or somewhere in the district, and the best way to estimate the time and the only way I can estimate the time I have spent in Pawnee, my home, and the State, is to ascertain the times when Congress was not in session, I was in Oklahoma, barring possibly a few days at a time.

Q. When you returned from the Pacific coast, do you know where you went to?—A. I do.

Q. You may state.—A. Upon my return from the Pacific coast, I do not remember exactly the time, but only a short time, withing a month, maybe more, at the time when Congress was convened, I first returned to Pawnee.

Q. Who was with you, if anybody?—A. Mrs. McGuire; and I was going to say Pawnee Bill, when he had constructed his residence, had designated a room, the Bird McGuire room. When I had last seen him he complained that I had never occupied that room, and asked me if I would not, the next time I came to Pawnee, come out there and spend some time. I wrote him that upon my return—the return of Mrs. McGuire and myself—that we would come out and stop with him. And while we were here we stopped at Pawnee Bill's.

Q. That was upon your return from the Pacific coast?—A. From the West, yes. And she left here and went to her mother's in Kansas City a week or two before Congress convened to do some shopping so as to be ready to go East with me as soon as Congress convened. That summer before last when there was some time that I spent out of my district, the three weeks that I have mentioned when Congress was not in session.

Q. Where did you go after Mrs. McGuire left here?—A. When she left I came back to the Globe and remained there until it was time to go East, which was only a few days; but I had some work to do, and then went by to get her and went on East. Now, then, last summer, I have already stated that in June some time she went to Massachusetts for her health. During that campaign was the first time that I have heard it stated that I was not a resident of Pawnee. That was in the campaign of 1912, 1912 last summer. I had come home from Congress—in fact, before Congress adjourned—and came right here as I always did, went to the Globe, and went into that campaign. I had not been here many weeks until I learned by the Courier-Dispatch, edited here in Pawnee, in the statement that Bird McGuire of Kansas City was in Pawnee. Of course a man in politics can not be thin skinned, and I paid no attention to it. Finally, to my surprise, they began talking about it in different parts of the district. Everybody whom I heard say anything about it said, "I saw in the Courier-Dispatch that you lived in Kansas City." Well, there was some obstacles to overcome in the last campaign; more than usual. But this I would have paid no attention to, but I wanted to avoid, naturally, anything of that kind that I could, and I wrote to Mrs. McGuire that if she was sufficiently improved that I would like to have her come home as soon as she felt she could. In the letter I stated that there has been some statements—well, I stated in effect, that they had started the campaign falsehood that Pawnee was not my home. She came very quickly; wired me or wrote me—I do not recall now—that she would leave at a certain time and at a certain time arrive at her mother's. The day after she reached her mother's in Kansas City I arrived there from Oklahoma. Her physical condition was such that I would not think of taking her where she couldn't have the best of treatment. There was no hospital here and her mother had always nursed her, and she said to me that I must leave her there. I wanted, on account of being excited about her condition, I wanted to take her to Battle Creek, Mich., but her mother insisted that she nurse her for some time and that we watch results. I do not recall just that date when she came to her mother's. It was late in the fall, is my recollection, but several weeks before election day. I immediately returned—or within two days anyway—and I continued in the campaign until it was over. Now, as to the campaign story originated—that Pawnee is not my residence and that Kansas City is my residence—I think I made my first visit, I think I was first



in Kansas City when I was about 17 years of age. That has been 30 years since that time, barring two occasions when I was taken to Kansas City for treatment. I have not been in Kansas City 30 days in 30 years, or have not averaged one day a year there in 30 years, barring the two occasions when I was in the hospital for treatment. At one time when I was in the hospital, I lived in southern Kansas, and the other time was when I was assistant to the United States attorney in Oklahoma, and my official residence was Guthrie.

Q. Did you ever own or occupy a home in Kansas City, Mr. McGuire?—A. Never thought of such a thing—never did. I never had a such a thought.

Q. Did you ever own any personal property?—A. Not a penny's worth.

Q. Did you ever pay any taxes in Kansas City?—A. Not a penny's worth.

Q. Have you and Mrs. McGuire, your present wife, ever lived in Kansas City?—A. Never since we married on the 2d day of January two years ago. The 2d of January, as stated, we married and left Kansas City that night for Washington—left her mother's for Washington—and it has never been her home since that time; never was her home for a second.

Q. Since your first election to Congress, about 11 years ago, have you ever had any other residence than Pawnee, Okla., and your official residence in Washington, D. C.?—A. Never had any home anywhere else. Have had no other residence than Pawnee and my official residence, as you may say, in Washington.

Q. You say the matter was first questioned when, to your knowledge—what year?—A. The first time I ever heard it I came home one day and stopped in the Globe, and I think it was Mrs. Bolton, but I am not certain, handed me the Courier-Dispatch and said, "Hello! I see you live in Kansas City." or something to that effect.

Q. What year was that?—A. Last year, during the campaign.

Q. Do you know about how long that was before you left Mrs. Bolton's place?—A. No; I do not; it was rather early in the campaign.

Q. It was before you left Mrs. Bolton's?—A. Yes; long before.

Q. And you had been at her hotel ever since you gave up your residence here?—A. Ever since I gave up my dwelling, and have been there as much during the years since I have given up my residence as I had ever been at my former residence. With reference to my changing from the Globe Hotel to the National Hotel, I would say, as I have stated before, I took my trunks to the National after Mrs. Bolton had sold the Globe, and have made the National my home since that time.

Q. When you came from Washington last year, prior to the primary, did you come to Pawnee?—A. I did.

Q. Did you attend a convention in Pawnee last year, before the primary or during the primary, at which delegates were selected to the State convention?—A. I did.

Q. Were you selected by the Republicans as one of the delegates to the State convention?—A. It is my recollection that I was.

Q. Mr. McGuire, have you read the testimony of Mr. Scott in regard to your coming to the National?—A. I have.

Q. Have you any statements to make in regard to that testimony? Is it about right as to your arranging for a room there and time you would pay for it?—A. My recollection is that the arrangement between Mr. Scott and myself was about as he related in his testimony. At the time that I went to the National to live I found that I would be in another ward of the city and that it would be necessary for me to transfer my registration. I looked up the registration officer—Mr. James Teffertiller. He marked the transfer—indorsed the transfer, as I remember it, on my registration certificate.

Q. Do you know what position he held at that time as one of the election officers?—A. No; I do not know; but he was in charge of the registration books.

Q. Of what ward? He had charge of the one in which the National Hotel is located, did he?—A. I do not know; I do not know whether he has to be in charge of the books of the ward to which one moves or in the ward from which one removes, but he was the legal officer to make the transfer I ascertained, and he made it.

Q. Were you registered in any other ward prior to that time?—A. I did register in the second ward.

Q. You may state whether you ever were refused registration for the purpose of voting in the second ward.—A. I never was.

Q. Or in any other ward in the city of Pawnee in which you have lived since you have been here?—A. I never was refused registration in any ward in the

city at any time, at any election. Never had a vote challenged at any time at any election, and since Statehood we have had what we have known what is known as a partisan election law, and so far as I know—and I think I am right in the statement—the entire election machinery of the city as well as my own county, Pawnee, was controlled by Democratic officials.

Q. Now, you may state whether or not you voted at the last general election.—A. I did.

Q. In what place?—A. In the ward where the National Hotel is in, in Pawnee, Pawnee County.

Q. Were you judge?—A. I was not.

Q. Did you know the members of the board in charge of the election in that ward in which you voted?—A. I did know them.

Q. Do you recall their names now?—A. I can't recall who they were now, but I knew all of the fellows in the ward. Yes; I knew the politics of all the officials of the election.

Q. What was the politics of the inspector?—

Q. Of the clerk?—A. Democrat, and the judge was a Republican; yes, a Republican.

Q. Now, Mr. McGuire, is there anything else you care to state before you leave that subject in regard to residence?—A. I do not think of anything else.

Q. In the first paragraph of Mr. Davis's contest he raised the question upon your certificate of election. You may state whether or not you received such certificate of election as a member of Congress from the first congressional district and from the State of Oklahoma.—A. I did; I received a certificate of election, just the same as all other members of Congress elected from Oklahoma.

Q. Under that certificate, are you now serving in Congress at the present time?—A. Under that certificate I was sworn in as a Member of Congress on the 4th day of last March, have been serving ever since as a Member of Congress, and am at this time serving as a Member of Congress.

Q. You are acquainted with J. J. Davis, are you, personally?—A. I am.

Q. Known him for several years or known of him?—A. No; I have not. I never heard of Mr. Davis that I know of, until he announced as a candidate for Congress last summer.

Q. Mr. Davis in his contest raised the question that you spent more money to secure your nomination and election than the law provided. You may state whether or not you filed a statement under the law with the proper officer.—A. I did.

Q. Do you know whether Mr. Davis did or not within the time provided for? (Judge Hoffman objects as irrelevant and immaterial.)

A. He did not file his.

(Objected to further as not the best evidence.)

A. He did not file his expense account with the Clerk of the House of Representatives as required by law.

Q. How do you know that?

(Objected to as above; Judge Hoffman.)

A. I wired the Hon. South Trimble, Clerk of the House of Representatives, with whom such expense accounts under the law, as I understood it, are required to be filed.

Q. And to that wire did you receive an answer?

(Objected to as not the best evidence; Judge Hoffman.)

A. I did.

Q. In what way did you receive the answer, by letter or telegram?

(Objected to as above: Judge Hoffman.)

A. I received a telegram.

Q. Have you that telegram with you?—A. I have not.

Q. Do you know where it is?—A. No; I don't think I preserved it. I feel confident that I didn't.

Q. You may now state what that telegram was, in answer to yours, from the Clerk of the House of Representatives.

(Objected to as last above; Judge Hoffman.)

A. At the time I wired to Mr. Trimble and received his answer it was then too late for any candidate for Congress to get their expense account to him in the time prescribed by law, and he wired me that none were filed except mine.

Q. Mr. McGuire, in the fourth allegation they allege that on or about the 2d day of August, 1910, the people of the State of Oklahoma adopted an amendment to the constitution of said State, commonly known as the grandfather clause. I will ask you to state what you know of the enforcement of the

grandfather clause in any of the counties in your district in the election in 1910, and also in 1912. Also state what, if anything, was said and done by you in your speech, or what advice, if any, you gave to your campaign managers in regard to that amendment.

(Objected to as immaterial; Judge Hoffman.)

Q. In other words, just tell what you know about the enforcement of the grandfather clause—your attitude in regard to it.

(Question is objected to as compound, parts of it wholly irrelevant, incompetent, and immaterial. Objected to further as calling for hearsay and not the best evidence, calling for political campaign speech; Judge Hoffman.)

A. I was the Republican nominee for Congress in the first district of Oklahoma in 1910. After the enactment by the Oklahoma Legislature of what is known as the grandfather clause, I have some knowledge of the nature of the campaign of 1910, both by Republicans and Democrats. I have general information and knowledge as to the manner of the conducting of the election of 1910, particularly in the first congressional district and generally throughout the State. The election law, of course, speaks for itself; but it is, of course, partisan law. The governors elect a State board, the majority of whom are Democrats. The State board appoints county election officers in all the counties, the majority of whom are Democrats. The county election board appoints a precinct board, the majority of whom are Democrats, and I know of no case in the entire first congressional district where a majority of the board or precinct boards are not Democrats. In other words, so far as I know, the Democrats control absolutely every precinct in the district, and I think about every one in the State. It has always been contended by the State board in charge of elections that the inspector of elections in Oklahoma is the sole judge of the qualifications of the voter at the election precincts. And these inspectors have been instructed to that effect. I think universally, so far as I know. In the 1910 election the question arose as to the extent to which the so-called grandfather clause should be enforced. I took the position in my speeches and instructed my committee that a fair, reasonable, and honest test should be made wherever there were colored voters, and if otherwise a legal voter could not read and write paragraphs of the Oklahoma constitution he should not try to vote. But I appealed to the boards, which were partisan, to give a square deal. I did that in all my speeches. I wanted a square deal not only as to the colored voters but as to the white voters as well, because I thought it was dangerous at all times to have a purely partisan election machinery.

Q. What do you know, if anything, as to the manner of enforcement of the grandfather clause in 1910 by these various election officers?—A. In the 1910 election some of the election boards were fair and some were not fair. Some were honest and some were dishonest. I found that they cut out a great number of people who were well qualified under the law, and I also found that where there were negroes voting the Democratic ticket, in some precincts at least, they had, if any, little trouble in voting. In one county alone they threw out five precincts. That is in Logan County, and they took away from my vote, I think it was, between 400 and 500 votes. In other places, while the board in general were honest, there were exceptions sufficient that I was very uneasy when it came to the 1912 election, because of the experience I had in the 1910 election.

Q. Now, in the 1912 campaign, along about the 31st day of October, 1912, there was a letter written, and in the testimony taken by Mr. Davis it is referred to as the Boardman letter, a copy of which letter is in Mr. Davis's notice of contest, which I now hand you and ask you to examine and state when was the first time you ever saw that letter or a copy of it until this afternoon. When, if ever, did you first hear of such letter during the campaign of 1912?—A. I never heard of the so-called Boardman letter during the campaign of 1912, and not until some time after the election, when I heard that they were talking of contesting my seat, I saw a statement in the paper, something to the effect that there had been a letter written by Mr. Boardman.

Q. You may state whether or not that you, together with one J. A. Harris and one Geisler and Fred A. Waggoner, entered into a conspiracy and obtained this letter or caused it to be circulated in the campaign of 1912.—A. I never had any talk at any time with any of the gentlemen just mentioned about my letter, the Boardman or any other letter. I never discussed with any of these gentlemen the writing of any letter of any kind at any time for any purpose.

Q. In your campaign of 1912, in your speeches, what was your attitude in reference to the grandfather clause or in the enforcement thereto and in your

campaign generally?—A. I said to my audiences in all my speeches where I mentioned the subject at all—and I did mention it in a great many places—that with me it was not a question as to whether they believed in the grandfather clause, whether they favored it or did not favor it. It was a State law, and there had arisen a great many points one way or another with respect to the law, but sufficient had developed by reason of court decisions and otherwise to satisfy me that the precinct boards had a wide range of arbitrary power under the election law. They had arbitrarily thrown out precincts in the 1910 election, and I felt certain while an overwhelmingly majority of the election officers were honest there were places where I knew they were not honest, and I did not want to give them any chance or excuse to throw out precincts in the 1912 election. And in all my speeches I advised voters to be very careful and not try unless they were qualified under the State law. I instructed my committee and campaign management to be very careful in this regard and in all cases give the other fellow the benefit of the doubt, and I told them to appeal to the integrity, as I did myself, of election officers for an honest election and a fair count and to attempt to vote no person if he was black or had negro blood unless he could qualify under the State law. But I appealed to the precinct boards, inasmuch as they were in charge and the Republicans had little or nothing to say, to give us a square deal.

Q. I will ask you to state if you ever saw during the campaign, or have you seen since, a written circular called the penitentiary-warning circular.—A. I have never seen the circular nor copy of it.

Q. I hand you Mr. Davis's notice of contest in which there is a copy of what they called the penitentiary-warning circular and ask you to state if you ever saw that before or a copy of it.—A. This is the first time I have ever seen a copy of the circular just mentioned, and I have never heard of it until I was reading the testimony taken in this case within the last three days, when I observed that such a document was referred to.

Q. If that circular known as the penitentiary warning circular was circulated in the first congressional district, you may state whether it was done with your knowledge or consent or by your direction?—A. It was not done by my direction. Nothing of that kind or nature was done by my direction, and I knew nothing about anything of the kind until the dates I have just referred to.

Q. Is there anything else that you think of that you would like to state in regard to the campaigns of 1910 and 1912 that you have not already mentioned?—A. Before we leave the question of the election of 1910 and 1912, I desire to state that in Kingfisher County I am entitled to more than 100 votes that were not counted for me. In one precinct I had a majority of 72. The officers arbitrarily threw out that precinct after the votes had all been counted in the regular way. That, I think, is known as the Lacy precinct. I was deprived of those 72 votes wrongfully and arbitrarily. When I made investigation I was notified by the parties in that county that the election officers were not after me, but they wanted to beat a sheriff, so I suffered the loss of these 72 votes—I believe it was 72—for that reason. In another township, Union Township, I was deprived of a large number of votes by reason of the precinct officers deliberately closing up their books and going home before the time for closing. I suffered not less than 40 votes, from the best information that I could get, in that precinct, Union precinct. There was an extended lawsuit, and the trial judge a short time ago—was a Democrat in politics—severely criticized from the bench such outrages. I did not hear the trial, but talked to parties about it and saw the press reports.

(Comes now attorney for contestant to strike out all the last answer; incompetent, irrelevant and immaterial, and hearsay.)

Q. Do you know of any other precinct in Kingfisher County or any other county that the votes were thrown out in the election of 1912?—A. I do not think there were any, so far as I know.

Q. Do you know of any other county in the State, or do you know of any other county in your district, in which the legal voters, whether colored, white, or Indians, were prevented from voting by reason of the acts or statements of the election officials?

(Objected to this question unless the witness finds his answers of his own personal knowledge; Judge Hoffman.)

A. I only know from reliable information which I have gathered in the course of this contest.

Q. You may state what you have gathered.

(Objected to as not the best evidence, hearsay, incompetent, irrelevant, and immaterial; Judge Hoffman.)

A. I lost a great many votes in Logan County by reason of the arbitrary and unlawful acts of precinct officers in Logan County, by reason of persons taking advantage of the grandfather clause and not enforcing it honestly where negroes were voting the Republican ticket, but for abusing it by methods, unreasonable of test, and by reason of their notifying the negroes that they were not going to let them vote.

(Comes now the attorney for contestant and moves to strike out all the answer of the witness for the reason that the same is hearsay, none of it being the personal knowledge of the witness.)

Q. What, if anything, do you know in regard to the Indians in Pawnee County being prevented from voting in the last election, in 1912, unless that they would submit to the test under the grandfather clause?—A. When I reached Pawnee County, where I closed the campaign—my own county—I heard rumored Mr. Berry, the secretary of the board, was going to instruct the precinct boards that the persons of Indian blood were subject to provisions of the so-called grandfather clause. When I reached home I called up Attorney West, attorney general of Oklahoma, a Democrat, and asked for an opinion as to whether the Pawnee Indians should be subjected to the test under the grandfather clause. He told me they could not be subjected to any such test. They were, a large majority of them, Republicans, and I reported the information that I received from the attorney general to the Republican campaign managers of Pawnee County, at Pawnee. I did not talk to Mr. Berry myself, but I have sufficient information, having been told by one member of the precinct board, that they were instructed by Mr. Berry; that is, to submit the test and require them to take the test. There was a great deal of confusion and talk and rumor about it throughout the city and throughout the county the last day or two, and Mr. Vandervoort, a very good friend of the Indians and a very influential friend to them, came to me and stated, in effect, that the scare had gone out and that we would not get the Indians to the polls, or words to that effect.

Q. Do you know what effect that had upon the Pawnees?

(Same motion as that above; Judge Hoffman.)

A. We took some persons of Indian blood to the polls, and they were turned down, refused to let them vote, but I am not posted sufficient to testify as to how many places that was done, except what is known as the Jeffries precinct about 6 miles southeast of the town where they refused to let persons of Indian blood to vote and the managers refused to send any more to the polls because they could not vote.

Q. Do you know of your own knowledge how many Indian voters were in that precinct prevented by reason of these acts?—A. I do not know how many in that precinct, but we were entitled to from 50 to 75 votes of persons of Indian blood in this county, that were deprived of voting by reason of the things that were done to prevent them voting. That is my best judgment.

(Same motion as above; Judge Hoffman.)

Q. Mr. McQuire, do you recall anything else you wish to state with reference to the grandfather clause in Logan County?—A. I simply want to state that my headquarters were in Guthrie, political headquarters. I was very well posted as to conditions there. There were some negro Democrat clubs, and I made investigation to find whether in some precincts, where we had before had trouble, if these negroes who belonged to Democrat clubs had any trouble voting, and I have never found where they had any trouble voting. In fact Douglas Russel, one of the leading Democrat negroes of the State holds a position of trust in this State under the present administration, and there were other prominent negroes who had positions, some of them I know were working against me in the last campaign.

Q. Can you think of anything else at this time?

(Adjourned to 8 o'clock on the morning of the 20th of June, 1913, and that on that date we convened in the office of the notary and proceeded with the taking of the testimony and examination of Mr. McGuire, all parties being present.)

Q. Mr. McGuire, the seventh allegation of Mr. Davis's notice of contest alleges in substance that you used your franking privilege in sending out campaign letters just prior to the time of holding said election, and that you sent out something like 2,000 letters to various voters who were and who had been school-land lessees in the first congressional district of Oklahoma, which letter was in words and figures as follows. I now hand you a copy of said letter

attached to his petition, and ask you to examine the same and state whether you have ever seen it before and what you know about it, and if said letter was sent out by you. Give the circumstances surrounding it?—A. I have not with me one of the original letters, but a copy of which you hand me, I think is a correct copy of a form that I dictated to my secretary. Sections 16 and 36, in what is known in Oklahoma as the Cherokee Strip country was set apart in the statehood bill in enabling acts for common schools, and sections 13 and 33 were set apart for public buildings and educational institutions of higher learning. The statehood bill made certain provisions with respect to this land, known originally as school land, and practically all of it has been leased and is occupied for farming purposes. One morning when I reached my office I found a large number of letters from school-land lessees. From the reading of these letters it developed that some attorney at Guthrie, Okla., had advised that the Government of the United States still had jurisdiction over these lands and they wanted congressional action of various kinds. Some made one suggestion and some another. In the regular course of official business, I answered these letter. I then regarded it as official business, and I now regard it as official business. They continued to write me during the summer and fall and I continued to make reply. When I began the campaign—

Q. Which campaign do you speak of?—A. The campaign in 1912 in the first district for Congress, wherever I went—I would modify by saying nearly every place I went—a number of these lessees wanted to interview me, I presume through a misunderstanding which they had obtained. They got the impression that the Government still controlled the school land. I had no time to talk to all of them at the meetings, and I said to them to simply send to me the names of those people who might have been misinformed or who had had any information or who wanted information. When I reached my office at Guthrie I found that I had no time to answer letters—my official correspondence—and wherever I could I dictated forms of letters, and this is one of the forms of letters which I dictated to my secretary and told him whatever inquiry was made to answer them. I had no time to look up the law. I did not believe that the Government had any jurisdiction over these school lands. However, I had been told that Judge Bnrford had said that the Government was not without jurisdiction, and knowing his ability as a lawyer I did give it serious consideration; and my respect for his opinion was the cause of my giving it as much attention as I did.

Q. If this letter was sent to anyone who did not write personally and ask questions, do you or do you not know whether that was done?—A. I told my secretary to write to anyone whose names were given him as wanting to know who might have a misunderstanding, or to simply satisfy them that I would look into the matter whether or not the Government had any jurisdiction. That was the purpose of that letter as to whether Congress had any further jurisdiction or authority. And where I could not talk to them personally where there would be a number come to see me at my political meetings, I did state to them to send in the names and I would give them any information I could as to whether the Government did have jurisdiction. And this letter was sent out in response to that as a result of that condition. They were also writing other Members of Congress, and if it is not official business, then other Members are mistaken as well as myself, for the reason that I saw a number of letters where they had written to and received replies from Senator Owen. Several letters were sent me showing what the Senator had said about it.

Q. Can you think of anything else? In another allegation in his contest he alleges that illegal votes on account of illegal residence and citizenship were cast in Pawnee County. You may state what, if anything, you know in regard to that allegation.—A. I do not recall any illegal votes now. My experience has been since this partisan election law passed under its operation in 1910 and 1912. So far as I have ever been able to ascertain, whatever illegal votes there were were against me and not for me; that is the purpose of the law. I mean to say by this that a large majority of the people of both parties, or all political parties, perhaps, are honest, but in the contention and strife and anxiety of the campaign there is a strong pressure on officials, one way or another, to do wrong. It would operate the same way if the Republicans had the advantage. If the Republicans controlled everything, perhaps there would be the same pressure for dishonesty; but the Democrats controlled everything and the same pressure is found to dishonesty, and it is my honest judgment that if I had a fair count and fair election in the last campaign the majority would have been 1,200 to 2,000 more than what it was.

Q. In another allegation made in his contest he alleges in substance that by means of threats made in many precincts an effort was made to prevent an honest election and fair count in the State. What, if anything, do you know in regard to that as being alleged, and did you ever so advise or did your campaign managers advise that these things be done, and what they did, if you know?—A. As I have before testified to, all I could possibly hope for, under the most favorable conditions, was to get the votes that I was entitled to, or the Republican Party was entitled to. I instructed my election or campaign managers to appeal to the precinct boards to be honest with us and the county boards and to be square and give us an honest election and a fair count. I never suggested or directed any person to even try to secure anything but an honest election.

Q. In his petition for contest there is set out a copy of a letter, dated November 10, 1910, addressed to one A. P. Jordan, Guthrie, Okla., and is signed by John Embry, United States attorney. I now hand you a copy of that letter asking you to examine it and state what you know about it, if anything.—A. I have never heard of it, of this letter—a copy of which you have handed me—until last night in talking to you, my counsel. This is the first time I ever saw or heard of it. I knew nothing about it.

Q. Do you remember or do you now recall the time John Embry went out of the office of United States attorney?—A. I do not know when he went out. I know that he was United States attorney, and that within the last year or two he was relieved of the office—that is, he resigned, and Mr. Boardman was appointed.

Q. In their contest, and in their testimony, they refer to the prosecution of Guinn and Beal, in Kingfisher County, under the Federal statute and under the Federal court. Mr. Embry was United States district attorney at the time of that prosecution, was he not?—A. He was.

Q. What, if anything, do you know in regard to that case?—A. That is a case from Kingfisher County, in Oklahoma. Guinn and Beal were members of the election board. Under the direction and claim of the Democratic management in the State, the inspector was the sole judge of the qualifications of electors and the elections. In substance, the indictment was that they disregarded the grandfather clause, and, among other things, conspired to prevent men from voting who were qualified, and they were convicted not because they honestly tried to enforce the grandfather clause, but because they used the grandfather clause, or provision, to prevent men from voting who were qualified under the law to vote, the testimony in, at least one case being that a man who could read and write several languages was arbitrarily, wrongfully, and unlawfully prevented from voting by Guinn and Beal in their official capacity as election officers. I read a copy of the instructions of the court and my recollection is that the court instructed the jury that if the jury found that Guinn and Beal honestly tried to enforce the grandfather clause, they could not be convicted, but that is from memory, and I would rather not discuss that.

Q. I have in my hand a copy of the testimony taken in Kingfisher County in this case on behalf of the contestant, Mr. Davis, at which meeting, or hearing, one Miles W. Judge, appears to have been sworn and testified. A counsel for Mr. Davis asks this question: "It was at that election," referring to the election, 1910, "Guinn and Beal, in this county, did the acts as election officials in enforcing the grandfather clause for which they were convicted and sentenced to the penitentiary." Is that correct?—A. As I before stated, one of the issues, at least in that case, and I think the most prominent, was whether they did enforce the grandfather clause. This question implies that they did enforce it, or tried to enforce it, and the evidence shows in the case that they did not honestly enforce it, but that they were arbitrary and dishonest, and used it as to prevent men from voting who were qualified under the Oklahoma laws.

(Judge Hoffman asks that all the testimony of the witness relating to Guinn and Beal conviction be stricken out as being a mere expression of opinion, and his political opinion in fact, and being based upon no present law.)

Q. Now, Mr. McGuire, if you recall anything else that you desire to say politically in this contest, you may state it before we submit to the counsel for cross-examination.—A. Only one thing that I think of. I have been asked a number of times why I didn't purchase another house in Pawnee to live in. During the time that I lived in the house once owned by me, after my election to Congress, and while I occupied it and maintained it as a place to live in

while in Pawnee, in which house I had invested something like \$3,500, and the furniture about \$2,000, and my insurance and taxes, and, the fact that I could not rent it, because, when I was home from Congress I wanted to stop there, cost an expense of—in the neighborhood of—\$1,000 to maintain it in that way. Before I disposed of it, I thought of renting it permanently and living at the hotel because it was a plan that would be a saving to me and that condition is one of the reasons why I have not purchased or built a residence; because of my official position, and my being away from my home town. It is a great saving to me to be able to live at the hotel and not maintain a residence that I was not able to enjoy more than, at the most, five weeks in the year, and possibly three or four weeks would be more nearly the length of time that I have been able to spend there since in Congress.

Q. Is there anything else?—A. Nothing else.

Cross-examination by Judge HOFFMAN:

Q. Mr. McGuire, did you not attend the Guinn and Beal trial, did you?—A. I did not.

Q. Did you read the evidence?—A. I did not.

Q. All you have testified to then is merely your personal political opinion wrapped in accordance with your affiliation to a meager hearsay?—A. No; I read the indictments. I was familiar with the issue in the case just as much so as any one would be by reading indictments or the legal papers on file and talking to a counsel and discussing the law, and in that way being entirely familiar with the issues just as much as I had been on the ground, and I was concerned, because I talked to the people.

Q. What I am getting at is, your knowledge is merely political knowledge and not legal knowledge in any capacity.—A. No; not political knowledge in any sense, but legal knowledge.

Q. Well, that is from your viewpoint?—A. That is a fact.

Q. Do you consider that legal knowledge from hearing others talking about it and not getting in facts in the first hand or participating in the controversy?—A. Legal knowledge of the case is obtained from investigation of the legal documents or indictment together with the knowledge of the law bearing on the issues, and I was very much concerned in Guinn and Beal case, naturally under the circumstances, anyone else would be, because they had taken votes from me that I was certainly entitled to under the State law.

Q. As a matter of fact, Mr. McGuire, this prosecution was instituted and carried on in the interest of your political welfare, was it not?—A. It was not; but in the interest of common honesty and common decency in elections.

Q. Again, you are talking from your view point?—A. Again, I am stating facts.

Q. Do you mean Bull Moose facts or what facts?—A. I mean common, ordinary, every-day facts that even Democratic election officials ought to understand.

Q. Mr. McGuire, Mr. Embry was your personal friend, was he not?—A. Mr. Embry was appointed I presume on my recommendation.

Q. And he is your old and personal friend?—A. He is.

Q. Mr. Embry was the United States attorney who presented the evidence to the Federal grand jury on the indictment and against Guinn and Beal, was he not?—A. Yes.

Q. And Embry prosecuted the case?—A. He did.

Q. And the prosecution and conviction of these men and their sentence to the penitentiary for their acts as election officers in 1910 crippled our election, did it not?—A. It did not.

Q. Well the tendency was entirely in that direction, was it not?—A. It was not, in my judgment. That prosecution, in my judgment, had something to do with teaching dishonest men that they ought to obey the law, and I think that was the purpose.

Q. It had a tendency, did it not, and was so used, to intimidate the ordinary election official who was unskilled in the law and prevent him from enforcing the provisions of the grandfather clause?—A. On account of the abuse of the election law in 1910 by the election officials there was more or less strife and contention in the various counties in 1912. But in talking to the county candidates in the different of the districts, and Republican campaign managers, I never found any man who would have been entirely willing and satisfied with a square deal under the provisions of the State election law with respect to the grandfather clause and with respect to other provisions of that law. It is a most unfortunate law, one that large numbers of the Democrats



are not satisfied with, and one that has been denounced by many leading Democrats in the State as well as the Republicans and Socialists as unfair. I presume that if the Republicans absolutely controlled the elections as the Democrats do, there would naturally be some Republicans who would want to take more than the party was entitled to at the ballot box. I did not attempt to say that one party is more honest than the other where there is a temptation for dishonesty. The only thing is that the Democrats have the advantage and they are the ones who are tempted naturally.

Q. You are aware of the fact that our Supreme Court has passed on the so-called grandfather clause?—A. I am aware of the fact that the Supreme Court has passed on it, and that is why I instructed all my fellows to follow the provisions of the said law, and I am also aware of the fact that on account of said court decision I lost many votes.

Q. Do you charge to our Supreme Court any dishonesty which you say pertained to this election law?—A. I did not presume that it had anything to do with it that I know of. I know several members of the Supreme Court to be men of the highest integrity, and if I could leave it to them there would be no contention.

Q. Referring to another account in the indictment, the school-land letter. Is it not a fact that this school-land letter, a copy of which appears in the petition, was sent to all of the school-land lessees, or practically all in your district?—A. Not that I know of.

Q. Have you any list of the ones to whom it was sent?—A. I have not.

Q. I hand you here certain list of school-land lessees as the ones in your district at the time of the last election and ask you to state whether or not the letter was sent to the lessees whose names appear and whose addresses appear in the list which I now hand you and which I ask the stenographer to mark number, letter A, B, C, D, E, and F, for the purpose of identification.—A. I have heretofore stated the circumstances in connection with communications to the lessees, and all I know about it is the instructions that I stated and I gave to my secretary, and the letters that I dictated myself when I had time. I know nothing about this list and nothing about any of it, except as I have stated. I will ask the stenographer to attach this list to your testimony.

Q. So far as you know, letters similar to the one you have, may have been sent to each of these lessees; is that correct?—A. No; a letter might have been sent to one or all of them as far as I know; I do not remember who I did write to and do not know who my secretary wrote to where I did not dictate the letter personally.

Q. The letters went out under Government frank, did they?—A. So far as I know, all my official letters went out under Government frank. I was the author of the enabling act, and was so understood to be by the lessees, but only wrote and only instructed my secretary to write in the natural course of official business.

Q. Your secretary was so instructed?—A. He was so instructed to send official matter under frank and all unofficially he was particularly instructed to stamp, and I have been so careful in the last 10 years about unofficial mail that even when I receive a letter from constituents about an official matter and he incloses a stamped envelope I have always instructed my secretary to put that stamp on the letter, official or unofficial, or to reinclose the stamp to him.

Q. I believe that you stated that you knew at the time this matter was called to your attention that the school lands had passed out of the Federal jurisdiction and were exclusively under the control of the State. State your opinion why did you consider it necessary to use the Government franking privilege in replying to communications of that nature?—A. I was the author of the enabling act, and was so understood all over the State, and if when a constituent wrote me asking me if the Government still had jurisdiction over school lands, and wrote me as a Member of Congress and as the author of the enabling act, my position is that my answer was official; and that was on the theory on which I franked letters, and I am very certain that it was the theory of other Members from Oklahoma, because I have seen a number of letters written by at least one Member from Oklahoma—Senator Owen—for his letters were inclosed to me. I felt confident that he took the same view that I did. It is not always easy for a Member to tell what is frankable under the law, but I have always held that all letters of constituents which come to me by reason of my being a Member of Congress are official, or practically all of them official. It is not easy at all times to tell what is and what is not official.

Q. Did you receive a letter from Mr. W. H. Franks, R. F. D. No. 2, Brammon, Okla., to which you replied by the letter a copy of which is set out in the petition under date of October 31, 1912?—A. I can't remember, Mr. Hoffman, any single individual. There were times when I received hundreds of letters a day, and it is impossible for me to remember. Now, answering further your question a little while ago, personally I had no doubt but that the State absolutely controlled the school land after the enabling act and after we had become a State, but when I heard Judge Burford had raised the question, knowing of his ability as a lawyer and knowing that he was a very much better lawyer than I am, and perhaps ranks as high as any lawyer in the State, I thought it worth looking up, and that is what I had in mind when I was answering these people. The feeling was running high. They were selling the school lands and these lessees were frightened. In many places some communities seemed to be almost frantic.

Q. What was the name of your secretary whom you dictated this letter to?—A. Harry Maxwell, who is now my secretary.

Q. His whereabouts are in Washington?—A. Yes.

Q. Did you pay any personal tax here in the year 1911?—A. I was not assessed for a year or two, and perhaps 1911 was one of them, and I do not think I paid personal taxes. I paid real estate taxes. Whatever personal taxes I paid was through the Pawnee National Bank, by reason of stock which I hold in the bank.

Q. Your real estate was a tract of land in this country?—A. A farm right here.

Q. You were not living on that farm?—A. I was not.

Q. How about 1912?—A. 1912, perhaps the same. I haven't looked that up. I may have missed 1911 and 1912, but I had only the personal effects I spoke of last night. However, being in Congress and away at the time the assessments were made and no one ever speaking or writing to me about it, and the few personal effects I had, I overlooked it myself. I was somewhat disappointed. If I had only a dollar's worth of goods, I would have given it in. I was disappointed because my official duties called me away very much of the time. They should have written me or asked me about it, but that was not done. I would have only been too glad, and if I had more personal property I would have written them; but it was all so small that personally I overlooked it. It was as much their duty, however, as mine.

Q. Don't you consider, Mr. McGuire, that it might have been a fact of current report and general belief operating on the minds of the county officials that you are not a resident of Pawnee, but a resident of Kansas City, rather than of their duty that caused them not to write you?—A. No; I don't consider anything of the kind. There is no county official and no citizen of Pawnee County with even half sanity who did not know the facts with respect to my residence.

Q. You don't mean to say, Mr. McGuire, that these many prominent citizens who have testified in this regard, that you are not a resident here, as they understand it, are insane, do you? I mean including the editor of the Pawnee Courier-Dispatch and many other gentlemen.—A. I mean to say that those who testified did not testify that Pawnee was not my residence, and were not many, and were certainly not prominent, except in their own estimation.

Q. You say you had no personal property of any kind in 1912?—A. Not after I let my house and my household goods go. I told you about all there was—a few keepsakes.

Q. You knew J. McNeal, candidate for governor in 1910?—A. I did.

Q. He recently organized a bank at Tulsa?—A. He did.

Q. The first of this year?—A. He did.

Q. Did you not subscribe for 30,000 shares of bonds in his bank?—A. I did not. Here are the facts about that: Mr. McNeal was going to organize a bank, and I know him as a good safe banker; and I first thought that I would like some stock in his bank, if I could get hold of some money to pay for it; and I then changed my mind, and I did not take any stock in his bank.

Q. At the time that the application was passed on by Judge Poe your signature was attached to it as an applicant for 30 shares.—A. I first signed for—I don't know how much; maybe it was for 30 shares; and that application went to Washington; and so I did not feel able to undertake it; and when it went before the Comptroller of the Treasury I was talking to him when he was considering the names. I told him to take mine off. The facts are that Mrs. McGuire owns stock in some lumber companies—several lumber yards in

various States—and she did not sell her stock in time, and she would have been the party.

Q. You were merely subscribing for her, then?—A. That was my purpose.

Q. What was the face value of this stock per share?—A. I suppose \$100. I don't really know. It was either 3,000 or 5,000 I think that I intended for her to take; that she spoke of taking, rather.

Q. I believe you stated that Mr. Scott's testimony as to your residence was substantially correct.—A. That part which relates to our conversation; when I told him that I would have to change my place of residence from the second to the third ward, on account of Mrs. Bolton selling the Globe Hotel. That, as I remember it, is correct.

Q. And when you went from the Globe Hotel over to the National Hotel you transferred your goods which belonged to you?—A. Either one or two trunks and a box which is made for the Members of the House of Representatives. It is a cedar box with handles to it. The purpose of it is to transmit public documents back and forth.

Q. Mr. McGuire, you and Dr. Bagby are not friendly, are you?—A. We are, so far as I know.

Q. Do you mean to say that his testimony is not true or that it is wrongly reported as to the location of your furniture?—A. I mean to say that there is or was undoubtedly a misunderstanding between Mr. Bagby and myself; and there certainly was no inducement for me to say that I had \$800 worth of property at the National Hotel. It not being there was the first reason why I should not say; personal property being assessable where I lived, it would not make any difference where it was; and such a thing would have been false on my part. My own opinion is that the doctor intended to ask where I lived now, and if he intended to ask where my furniture was I misunderstood him. He asked where I lived, and, as I understood it, I told him at the National. My opinion is that doctor misunderstood me or I misunderstood him, or one of the two, at least.

Q. You spoke last night about some negro Democrat clubs in the last general election. Where was that place?—A. In Logan County there was a Democrat negro club at Guthrie. At Langston, a negro settlement, there were some negroes working for the Democratic ticket in 1912, and 1910 also. Douglas Russell, who lived at Langston, made speeches and worked against me; ran a paper and worked for the Democratic ticket. He is at the head of some institution, as I understand it now, in the State.

Q. He was not in Guthrie or Langston and did not work in the last general election?—A. I do not know whether he did or not, but you can easily find out. There were a number of them working for the Democratic ticket.

Q. Mr. McGuire, the time is so limited now it would be impossible to go into this cross-examination to the length I should desire. I would like also to consult Mr. Davis, who is not present, on some of these matters. Will you again submit this to cross-examination at any time before the conclusion of the taking of the testimony, provided we do not, of course, require you to come back here, but will consult your convenience as to time and place?—A. Any time, except that I do not want to have to come back to Oklahoma. I just want to make one remark about the prosecuting of Guinn and Beal and my information regarding that case. I was at least on two occasions in consultation with the United States Attorney Embry, whom I regard as one of the most able lawyers in the State and one of the square men in the State—and, by the way, when I went to recommend the man for United States attorney I looked around, and I had in mind, after consideration, one of the leading firms of the State; the firm was Hoffman and Embry; and I hated to recommend the other end of the firm, taking him away from the distinguished counsel for the contestant in this case.

BIRD S. MCGUIRE, recalled.

Q. Mr. McGuire, I will ask you to take the book known as the Register, from which Doc. Scott has just testified, and turn to the date of October 4, 1912, and state what, if anything, you find there as to the name of Bird McGuire.—A. I find here, in my own handwriting, "Bird McGuire, Pawnee."

Q. Was that made at the time on that date by you?—A. It was, just as it is here now.

Q. Is the name "Bird McGuire" and the word "Pawnee" in the same handwriting?—A. They are, and in my handwriting, and made by me. The other day I was reading a copy of the testimony given by Mr. Scott. Judge Burford

called my attention to it. He called me in his office. He said, "Bird, look here; this testimony is not as it was given, either by reason of the incompetency of the stenographer or for some other reason." He said, "When Scott testified I had him read from his book, his ledger, because I had looked at the book, and on examination found that you had always registered 'Bird McGuire, Pawnee,' and he said my question was as you see it here in each case where I said 'read it.'"

Judge HOFFMAN. Statement of Judge Burford objected to as hearsay; incompetent.

Mr. MCGUIRE. He said, "In each case Mr. Scott read in his testimony from the book 'Bird McGuire, Pawnee,' and we discovered in the testimony that Pawnee had been omitted in each case systematically, and that is the reason why I called Mr. Scott to-day to testify from his records."

Q. You say that since you read that testimony, or have you since you read Mr. Scott's testimony heretofore taken, examined the hotel register of October 5, October 18, November 2, November 15, and November 22?—A. I have.

Q. In whose handwriting is "Bird McGuire" and "Pawnee" written?—A. My own handwriting in each case, made at the time shown in the register. In each case I have registered in the same way, "Bird McGuire, Pawnee," and that is the way I always register in Oklahoma, when I am registering at a hotel in Oklahoma. I do not recall ever having registering differently. When I was assistant to the United States attorney and my official residence was Guthrie, I always registered "Bird McGuire Pawnee," leaving out the word, "Oklahoma," but outside of the State I sometimes registered "Bird McGuire, Pawnee, Okla.," and sometimes "Bird McGuire, Okla.," because in the address column it is generally short.

FRANK HUDSON, being first duly sworn, testifies in behalf of the contestee as follows:

Q. State your name.—A. Frank Hudson.

Q. Where do you live?—A. Pawnee, Okla.

Q. How long have you lived here?—A. Nineteen years.

Q. Do you know Bird McGuire, the contestee, in this case?—A. Yes.

Q. How long have you known him?—A. Nineteen years.

Q. Where has he lived during that time?—A. Pawnee, Okla.

Q. State whether or not you know whether he lived continuously in Pawnee or whether he is now.—A. Yes.

Q. State whether it has always been his residence.—A. Yes.

Q. How much of the time have you seen him here during that time and since his election to Congress?—A. Off and on during the recesses of Congress and at times during the holidays.

Q. For what purpose was he here during that time, do you know?—A. He was here during the elections, I remember he voted. He was here during the year and went hunting with us here, and was seeming to make his headquarters here.

Q. Did he make it his headquarters except hunting?—A. In speaking of it, he always spoke of it as his home.

Q. Do you know where he stayed while he was here?—A. Yes.

Q. Where was it?—A. At his home and at the Globe and at the National Hotel.

Q. How much of the time has he spent here in Pawnee during the year or two?—A. I can't say, Mr. Hoffman, as I never paid any attention to it particularly.

Q. Do you know if he spent any time here during the last two years?—A. Yes. I remember of seeing him here at different times during the last two years.

Q. At any other time except election time?—A. Yes.

Q. When?—A. Well, he was here awhile last summer and I believe he was here awhile last fall. I saw him here last fall.

Q. Last fall was election time, was it not?—A. Not at that time, exactly. He was here at that time, too, probably two or three weeks or something like that. I don't remember just how long.

Q. Was he here alone?—A. I think so.

Q. They are all the occasions that you remember of seeing him here are they?—A. I never kept track of that, but I saw him here two or three times at least in the last two years, at different times and for different lengths of time.

Q. State whether or not you have heard of his residence questioned until in the campaign last fall.

A. I don't remember of it.

(Judge Hoffman objects as incompetent and immaterial.)

By. Mr. MCGUIRE:

Q. Mr. Hudson, what are your politics?—A. Democrat.

J. S. BADGER, being first duly sworn, testifies in behalf of the contestee as follows:

Q. State your name.—A. J. S. Badger.

Q. How long have you lived in Pawnee?—A. About 23 or 24 years.

Q. How long have you known Bird McGuire, the contestee in this case?—

A. About 18 or 19 years.

Q. Do you know whether or not he has been a resident of Pawnee since that time and since you knew him?—A. Yes.

Q. State whether he has made this his continuous residence?—A. He has.

Cross-examination by Judge HOFFMAN:

Q. What do you mean by residence?—A. I mean he lived here.

Q. How do you know he lived here?—A. Because I have seen him here and noticed him here.

Q. In the last two or three years, has he had a home here?—A. I don't know whether he had a regular home to live in.

Q. What you mean then refers to prior to two or three years, is it not, by saying that he was a resident here?—A. I meant it continuously.

Q. Up to a period of two or three years ago?—A. I don't know whether he has considered it his home, but as far as I know, it is.

Q. How do you know about that?—A. I know he voted here.

Q. Did you see him vote?—A. No; I never saw him.

Q. You are just telling something that you heard about that, aren't you?—A. I suppose so.

Q. And that is what you are telling about his home here.—A. No; I seen him.

Q. Well, where is his home here?—A. His home is at the hotel where he stops, I suppose.

Q. Which hotel?—A. The National Hotel and Globe Hotel.

Q. You used to run the National Hotel, some time ago?—A. Yes.

Q. At the time he lived here and had his home here?—A. Yes.

Q. Then, in the last two or three years he sold his home and moved?—A. Yes; I think he sold it; I don't remember.

Q. You know nothing about it of your own knowledge?—A. I never saw the—

Q. Nor where his home is now, do you?—A. It is here.

Q. You have not seen him here since election?—A. Yes.

Q. When was that?—A. This spring, I think.

Q. How long did he stay here then?—A. About two or three days.

Q. Where did he stay?—A. I think he stayed at the National Hotel.

Dr. G. H. PHILLIPS, being first duly sworn, testifies in behalf of the contestee as follows:

Q. State your name.—A. G. H. Phillips.

Q. Where do you live?—A. Pawnee, Okla.

Q. How long have you lived in Pawnee?—A. Nearly 24 years.

Q. How long have you known Bird McGuire, the contestee in this case?—A. Since 1894.

Q. Do you know where his residence has been and where it is now?—A. I think I do.

Q. State where it has been since you have known him and where it is now.—

A. I have always considered that Pawnee, Okla.

Q. State whether that has been his continuous residence since he has been a Member of Congress—

(Judge Hoffman objects as calling for conclusion.)

Q. And whether he has always voted here and lived here, maintained his residence here.—A. I think he has.

Q. Doctor, when did you first hear it rumored that I (was) did not live in Pawnee?—A. About two years ago. I did not know as it was a rumor. I saw it in the Courier Dispatch, some little article indicating that you were not a citizen of Pawnee.

Q. That was the first?—A. Yes.

Cross-examination by Judge HOFFMAN :

Q. You have no personal recollection or having seen Mr. McGuire at any other time excepting election time have you?—A. Well, I have seen him. In the last campaign he was here, some time before it. At other times, I don't know that I could indicate the times, Mr. Hoffman, but I have been on hunting trips with him.

Q. When did you go hunting with him?—A. I went hunting with him this spring.

Q. When next preceding that?—A. I do not know; probably three years ago, and possibly it may be four years ago we went hunting.

Q. Outside of that, you do not remember of seeing him any time except election time?—A. I never counted his visits, or when I have seen him. He has always been my best personal friend.

Q. He always came to see you?—A. Always met him as a personal friend, and he came to me 19 years ago with a letter of introduction from a mutual friend, and I think I was the first person in the city of Pawnee that Mr. McGuire got acquainted with.

Mrs. B. A. BOLTON, being first duly sworn, testifies on behalf of the contestee, as follows :

Q. State your name?—A. B. A. Bolton.

Q. Where do you live?—A. In Pawnee, Okla.

Q. How long have you lived in Pawnee?—A. Well, I think about 21 or 22 years. I am not sure just how long I have lived here; ever since the strip opened.

Q. Do you know Bird McGuire, the contestee in this case?—A. I do.

Q. How long have you known him?—A. About 19 years.

Q. Where did you first know him?—A. I first met him in November. He came to my house for butter.

Q. In Pawnee?—A. In Pawnee.

Q. Was that when he first moved to town?—A. No; he had lived here a little while, maybe a month, but I am not sure.

Q. State whether you have known him continuously since then?—A. I have.

Q. State if you know where my residence has been in the 19 years.

(Judge Hoffman objects to this as calling for conclusion.)

A. Pawnee, Okla.

Q. State if you know where my residence has been in the town of Pawnee; that is, where I have lived and made it my home since I let my house go that I used to own?—A. You made your home at the Globe Hotel.

Q. Who was the proprietor?—A. I was myself.

Q. State whether or not my effects, trunks, and things were always at your hotel when I made my home there.—A. Always. Always kept in your room. I never thought anything more of Bird coming in, because he had his room there and it was his home.

Q. State when I left the Globe, if you know.—A. I think you left the Globe about the 4th or 5th day of October.

Q. In what year?—A. In the year—well, this last year, 1912.

Q. Do you know why I left the Globe?—A. Well, because I had sold the hotel, and you said that you felt you didn't want to be around there when there was no one around there you knew.

Q. State whether we have always been close neighbors and lived within two or three blocks since coming to Pawnee.—A. We have, and I have been to the house when Annie kept house up here. I was there two or three times a week, maybe every day sometimes.

Q. State whether in your judgment I have been in Pawnee as much more after I let the house go as I was before.—A. I think you have been as much at the hotel, and maybe more, because you have been there at times when you was during the election and times when there was no election. I remember you being here last March, and you was here last summer at one time. I can't just call the days.

Q. Well, in a general way.—A. In a general way, I think you were at the hotel more than you were at home.

Q. When I left the hotel after you sold out, what did I take away from there?—A. You took your trunks, a suit case, and things like that. I took some of your clothes. I have several of your things up at the house. Had your clothes there until you were here in March. Your summer clothes you took with you to Washington.

## Cross-examination by Judge HOFFMAN :

Q. You were running the hotel, were you?—A. Yes.

Q. Did you keep this room idle when he was not there?—A. No; I did not. I always let some traveling men, some men I knew was all right, have it. I did not keep it in idleness all the time, because he had the best room in the house, and any time he came he had his room.

Q. And you leased it out to the traveling men like all of the other rooms in your house, did you not?—A. No; I was a little particular who I put in there.

Q. Just a little more particular?—A. Yes; because he had his clothing in there, and I did not feel I wanted to put anyone in there who was not honest and all right.

Q. He did not keep many clothes there, did he?—A. He had quite a few clothes there.

Q. When?—A. When he was staying there at the hotel.

Q. When he did not stay there?—A. Yes; he had some then. I took some of those clothes up to my house, some of his best summer clothes, until he called for them.

Q. Did he keep his winter clothes?—A. I think there are some of his winter clothes up there.

Q. Is he still making his residence there?—A. No.

Q. What have you got his clothes for?—A. Well, Mr. Hoffman, I taken them up there. I had some of his winter clothes. He has taken some of his winter clothes, and there are still some up there, possibly a pair or two of pants. I don't know just what articles I had there.

Q. How much was he paying you for that room?—A. I do not know. We have always been friends. Whenever he wanted to give me any money he did, and when he did not I didn't pay any attention to it. It was his home.

Capt. VEATCH, being first duly sworn, testifies in behalf of the contestee as follows :

Q. State your name.—A. H. Veatch.

Q. Where do you live?—A. Pawnee, Okla.

Q. How long have you lived in Pawnee, Okla.?—A. Ever since a few days after the opening.

Q. Do you know Mr. McGuire, the contestee in this case?—A. Yes.

Q. How long have you known him?—A. I have known him 19 years, or right close to that time.

Q. Do you know where he has lived during the time you knew him and where his residence has been during that time?—A. Yes.

Q. State where his residence is and where it has been since you knew him.—

A. Always, since I have known him, in Pawnee.

Q. Captain, state where you first heard of his residence being questioned?—

A. I can't give the date, but it was published in the paper. I do not know just how long ago.

Q. During the campaign?—A. Yes.

Q. About that time, then, when you saw it in the paper that you first heard it discussed?—A. Yes.

Q. What paper?—A. That was the Courier-Dispatch.

Q. Was that paper opposed to me in the campaign?—A. I think it was.

Q. Do you know where I have made my residence since I let my house go?—

A. I think I do.

Q. State where.—A. You was living at Bolton's Hotel. Afterwards—I don't know just what date it was—but afterwards you went to the National Hotel, and that has been your home since, as far as I know.

Q. You stated that you first saw that article in the paper during the campaign?—A. Yes.

Q. That was last year—1912?—A. Yes.

Q. You know that I lived at Bolton's Hotel at that time?—A. Yes; you were living there at that time.

## Cross-examination by Judge HOFFMAN :

Q. You mean by that that he goes there and registers when he comes to town?—A. I never looked over the register, but I suppose so.

Q. What do you know, Captain, about his living there?—A. Why, because I have been to his room. I know he has been there.

Q. That is, he takes his grips there?—A. Well, there were other things there; and he received visits while he was there.

Q. As Bird McGuire's home?—A. I think his home was generally known to be in the Globe Hotel, then run by Mrs. Bolton.

Q. You do not know where his home is now?—A. I suppose he is at the National. I have called on him there.

Q. You presume that from hearing his name?—A. No; because I know people inquiring as to when Bird McGuire will be home; that is, some old soldiers; and I stand pretty well among them. And since the Globe Hotel was sold I called on Mr. McGuire at the National Hotel.

Q. You have not been doing that except for the last day or two?—A. I do not think I have had any calls in the last day or two.

Q. You are the head of the old soldiers' organization, are you not?—A. I am not; I am not the head of it, but I look after business matters when they come to me; look after their pension.

Q. Do you draw a pension?—A. Yes.

Q. How much?—A. \$30 a month.

Q. Did Bird McGuire get it for you?—A. No.

Q. Did he get any for you?—A. Back some years ago—I don't recollect how far back it was—he did.

Q. You are a particular friend of his, are you not?—A. Yes; I guess. Always have been good friend.

J. C. BENNETT being first duly sworn, testifies in behalf of the contestee as follows:

Q. State your name.—A. J. C. Bennett.

Q. Where do you live?—A. I live 2 miles west of Pawnee.

Q. How long have you lived in Pawnee County?—A. About 19 years.

Q. Do you know Bird McGuire, the contestee in this case?—A. Yes.

Q. How long have you known him?—A. Well, close to 19 years.

Q. Do you know where his residence has been and where it has been since you knew him?—A. Yes; Pawnee.

Q. Have you ever known of his living anywhere else except in Pawnee?—A. No.

Q. Do you know where he has lived since he let his house go that he used to maintain here?—A. At the Globe Hotel and the National Hotel.

Q. State when you first heard his residence questioned, if you can remember.—A. About 1912, I think, through the Courier-Dispatch, first I seen it.

Q. You regarded it as a joke?—A. I think it was a joke. Some one asked me about it and laughed about it.

Q. You knew that the Courier-Dispatch was opposed to me politically?—A. Yes.

Q. That was in the campaign when you saw the article?—A. Yes.

Q. And the first you ever heard my residence questioned?—A. Yes.

Cross-examination by Judge HOFFMAN:

Q. What is your business?—A. Farmer.

Q. You don't stay in town much do you?—A. I am in every day or two.

Q. What is your politics?—A. Republican.

Q. Which kind?—A. The right kind.

Q. What do you understand by residence?—A. Where a man lives.

Q. You don't mean that Bird McGuire has lived here nearly 23 years?—A. This is his home whenever he goes to Washington and comes back home.

Q. How do you know that?—A. Well, I consider it my home if I was away from here and came back.

Q. Yes; but you have a—A. He always had one here and he may have one yet.

Q. And when he comes here he claims this as his home?—A. Yes; everybody supposed that this is his home.

Q. Where is his home now?—A. At the National.

Q. Did you ever call on him there?—A. No.

Q. Do you stop at the National?—A. No.

Q. Did you see his name on the register there?—A. I never go to the register.

Q. Did you ever see him eat any meal there?—A. No.

Q. Did you ever see him?—A. Not lately; in early days.

Q. Well, that is 20 years ago. About that time was it not?—A. About that long time; yes.



DOC SCOTT, being first duly sworn, testifies in behalf of the contestee as follows:

- Q. State your name.—A. Doc Scott.
- Q. Where do you live?—A. Pawnee.
- Q. What is your business?—A. Hotel.
- Q. What hotel do you run?—A. The National.
- Q. How long have you been the proprietor of the National Hotel?—A. Almost two years now.
- Q. Do you know Bird McGuire?—A. Yes.
- Q. How long have you known him?—A. I think about 8 or 10 years, and maybe more.
- Q. You knew him last year, 1912?—A. Yes.
- Q. State whether you had a conversation with him at that time about moving his place from the Globe Hotel to your hotel.—A. Yes; I did. I had a conversation with him.
- Q. State what, if you remember, was said in that conversation by him and by you.—A. Well, as near as I remember, he stated that Mrs. Bolton was going to give up the Globe Hotel and he wanted to come and make his home with me: wanted a certain room in the hotel.
- Q. Have you the register of your hotel?—A. Yes.
- Q. You may produce it. Is that the register of your hotel that you have in your hand?—A. Yes.
- Q. Is that the register that you testified that you refreshed your memory at the time you testified in this case?—A. Yes.
- Q. You may turn to—Idon't know what page it is—but to October 4, 1912, of that register.—A. Yes, sir.
- Q. Is my name there?—A. Yes.
- Q. In my handwriting, if you know?—A. It is in your handwriting.
- Q. Read what you have there.—A. "Bird McGuire, Pawnee, October 4, 1912, room 45."
- Q. You say that is the same register which you refreshed your memory from before?—A. Yes.
- Q. Were you asked in your previous examination in this case to read over your register?—A. Yes.
- Q. And did you read over your register?—A. As I remember, I read just the same as it is registered each time.
- Q. Just as you did just now?—A. As I remember it, just as it is written.
- Q. Now turn to October 5.—A. I have it.
- Q. Do you see Bird McGuire registered again?—A. Yes, sir.
- Q. Read what is there.—A. "Bird McGuire, Pawnee, October 5, room 45."
- Q. Now turn to October 18, 1912.—A. I have it.
- Q. Do you see Bird McGuire there?—A. Yes.
- Q. Read it.—A. "Bird McGuire, Pawnee, October 18, room 45."
- Q. Is there any way you can tell how long I was at your hotel each time?—A. The only thing I have to tell anything about it is to know when your room was occupied after you left.
- Q. But you have no way immediate?—A. No; I have not. If you registered and should stay three, four, or five days or a week, the register would only show when you came.
- Q. Not except as you look it up and find somebody else might have taken the room?—A. Yes.
- Q. And that might have been immediately after I went out or some days after I went out?—A. Yes.
- Q. Turn to November 2, 1912.—A. I have it.
- Q. What do you find there?—A. "November 2, Bird McGuire, Pawnee, came in for dinner, room 45."
- Q. Now turn to November 15, 1912.—A. "Friday, November 15, Bird McGuire, Pawnee, room 45."
- Q. And you know of no way to tell how long I was there except as you have explained before?—A. No.
- Q. Now you may turn to November 22, 1912.—A. "Friday, November 22, Bird McGuire, Pawnee, reading room 45."
- Q. You say that is the same register you testified from?—A. Yes.
- Q. And you read from the register just as you do this time?—A. Absolutely the same as I have read.
- Q. You don't remember of your own knowledge, do you, Doc, or do you, as to how long I was here in November after electin?—A. No; I can't.

Q. I will ask you if you don't remember that I was there for some time; you remember of my hunting?—A. Yes; quite well. I remember very well. It was quite a while, because lots of times you were hunting.

Q. All these dates of registration show only where I have been away and come back, and the registration was for the purpose to help you and me to determine when I came in?

(Judge Hoffman objects as leading.)

Q. State whether I took a trunk and a box containing goods and effects to your place when I went and stayed. State what I took to your place, if you remember.—A. As I remember, there was a trunk or two and the box.

Q. State whether or not you remember what room you gave me when I went there.—A. Room 45.

Q. Was that the room I always occupied while I was there?—A. Yes; with the exception of one or two times when it was occupied when you came back.

Q. State whether or not you moved me into that room as soon as it was vacated.—A. I did.

Q. State whether I left anything there when I went last fall to Washington.—A. There was a box.

Q. Is it there yet?—A. It is there yet.

Q. State whether or not I took my trunks and grip with me; that is, if you know what I took with me.—A. I remember the trunk going and the grips.

Q. State whether or not I had any conversation with you about the box as to mail it, etc.—A. Yes; I remember very distinctly that you had some very valuable guns and hunting outfit in it and that you didn't want me to mail the box, but leave it there until you called for it. Which I did.

Q. Do you remember that later we had another conversation; that is, if you remember, in which I told you I was going to take my guns to the Pawnee National Bank?—A. I don't remember.

Cross-examination by Judge HOFFMAN:

Q. Is the box there now?—A. Yes.

Q. Still nailed up?—A. Yes.

Q. Was this in room 45?—A. Yes.

Q. Is that the room he is occupying now?—A. Yes.

Q. That is the same room J. Davis and myself occupied when I held a former hearing of this contest, is it not?—A. I don't remember.

Q. Corner room in southwest corner, is it not?—A. No; this room is in the southeast corner. I don't remember what room you did occupy at the time.

Q. You let this room to all comers, did you not?—A. When it is not occupied.

Q. Did you treat Mr. McGuire just like any other traveling man?—A. Yes.

Q. Now, you say that you have read from that register the same as you read at your former testimony.—A. I remember that I read just exactly as it was on the book.

Q. How does it happen that the testimony shows that you only read "Bird McGuire" at a former hearing?—A. I don't remember of reading just "Bird McGuire," if he asked me to read what was on the book.

Q. Judge Burford asked you in a former hearing, page 8 in your testimony, question, "Now your next day," referring to the dates when Mr. McGuire appears upon your register, "is October 18," to which you answer "Yes." He then asked you, "Is that in his handwriting?" You answered "Yes, sir." You were then asked, "Read it." To which you answered "Bird McGuire." Did you not?—A. Well, I don't remember whether I did or not.

Q. Well, if the young lady who took the testimony at that time has so recorded your testimony, is it correct?—A. Well, I don't remember what I said as far as that is concerned. If they asked me to read it, it seems to me I read it just as it is.

Q. Do you know whether Bird McGuire was on the register?—A. Every time.

Q. Then why didn't you read it?—A. Well, if I didn't read it, I don't know why I didn't.

Q. How do you know it was on there?—A. Because I could see it there just as it was registered.

Q. Well, you can see it there now, but how do you know how it was put there?—A. I know.

Q. How do you know it?—A. I was right there each time.

Q. Do you always watch and are you particular to be when your guests write their residence?—A. Absolutely.

Q. Every time?—A. Every time a man registers he is supposed to register where he is from?—A. Yes; he is supposed to.

Q. Suppose that he didn't do it. Have you any recollection of this register of the fact as to whether or not a guest writes the name under the column of residence on your register following his signature when he stops at your hotel? Outside of the book, do you recall that fact?—A. I recall just as well that it is natural for a man when he registers his name that he register his address or his home.

Q. Well, I see the name right above Mr. McGuire by G. W. Morse jr., registered on the same day, Friday, November 22, 1912, at your hotel. Now, did Mr. Morse write a name in the column of residence following his signature?—A. I don't remember.

Q. And you don't remember whether Bird McGuire did or not?—A. I do.

Q. What causes you to remember it?—A. Because it has always been his rule of registering the same way in the same handwriting each time as he has registered on my register.

Q. Well, every other guest when he writes his name writes his name and residence in the same way and in the same hand, don't he?—A. Yes.

Q. Then what is there to distinguish between Mr. McGuire and the others?—A. There isn't anything to distinguish between them.

Q. Then, as a matter of fact, you don't know anything about what his residence, if any was named on your register following Mr. McGuire's signature, except what that book shows, do you?—A. That is all.

Q. That is what I am trying to get—that you have no independent recollection of it, have you? You don't recollect the fact outside of that book that he wrote this residence on it.—A. I was there each time that he registered, and remember as well as can be of him registering his address just as it is on the book. I remember it just as well as can be.

Q. When Judge Burford asked you, on page 8 of the report, as follows: "Your next date is November 15," to which you answer, "Yes; he has registered on November 15." The question then follows: "Read it." To which you answer, "Bird McGuire." Why didn't you read his address in the address column if your book showed it at that time?—A. Well, I was sure I did, and if I didn't I don't know why I didn't read it, because it was there just as it is to-day.

Q. And you were asked next, on the same page of the report, "Your next date is November 22," to which you answer "Yes." You were then asked, "Did he register on that date?" to which you answered "Yes, sir." The question then followed, "Read it." and you answered, "Bird McGuire." Now, if his name appears, as you now testify, followed by the word "Pawnee" in the address column, why did you not read the word "Pawnee" at that time?—A. If I didn't read it I don't know why I didn't, just as it was on there. I would not be positive that I did not, as it was there just as it is now.

Q. Well, you say it was there because it is there now.—A. Yes.

Q. You don't keep this register in the safe, do you?—A. No.

Q. Anybody has access to them, have they not?—A. No.

Q. Well, anybody could go to the desk and look them over?—A. Yes.

Q. Well, you are not standing over them all the time, are you?—A. No.

Q. You say that you have no record by which you can tell how long he stayed there?—A. Not exactly; no sir.

Q. Do you charge him anything for it?—A. Yes.

Q. Where do you keep that record?—A. Well, just like any hotel. If you come a day or two, I check you off. The way I have telling is when you register in, and when you come in I register you in, and when you go out, if you stay a day or two, I just go and see where you register in and count up and check you out; but I don't keep any record of the time I check you out; I have no way of telling just the day they went out.

Q. Don't you keep any cashbook or daybook or memorandum of any kind to show how long a guest has stayed with you?—A. No, sir; I do not.

Q. Have you any other mark in your cash to show from whom it was received?—A. No.

Q. You don't make entry from any kind such as "Cash from J. Jones, so much"?—A. No, sir.

Q. It all goes into the cash drawer and is checked off on your register?—A. Yes.

Q. And no mark appears on the register to show how long a guest stays there?—A. No.

Q. Then when Mr. McGuire's name appears, as indicated for lodging there, so far as your record shows, it might not have been more than one or two nights?—A. Yes.

Q. And when his name appears on there as entered for dinner, so far as you know, that was as long as he was there?—A. That would be unless there was a room marked.

Q. And if a room was marked, so far as you know, it might not have been for more than one night?—A. Yes.

Direct-examination :

Q. Mr. Scott, are you familiar with my handwriting?—A. Yes.

Q. State whether all these entries, so far as that part (of) I made were made by me at the time that I registered.—A. That signature is made by you and all made at the same time.

Q. How about the address, "Pawnee," at the same time?—A. Made by Mr. McGuire.

Q. Is the book in the same condition as to these entries as when you testified before?—A. Just exactly.

FRED UHL, being first duly sworn, testifies in behalf of the contestee as follows :

Q. State your name.—A. Fred Uhl.

Q. Where do you live?—A. Two miles this side of Skedee.

Q. How long have you lived in Pawnee County?—A. Since 1894.

Q. Do you know Bird McGuire, the contestee in this case?—A. Yes.

Q. How long have you known him?—A. I guess about a year or so after I came here.

Q. Can you approximate the number of years?—A. About 15 or 16 years.

Q. Do you know where his residence has been during that time and where it is now?

(Judge Hoffman objects as calling for conclusion.)

A. I always considered Pawnee his home.

(Judge Hoffman asks that this answer be stricken out.)

Q. Did you ever hear his residence questioned until recently?—A. No, sir.

Q. When did you first hear any discussion about it that you recall?—A. Last year in the Courier Dispatch.

Q. During the political campaign?—A. Yes.

Q. And that was the first time?—A. Yes.

SADIE MANHEIMMER, being first duly sworn, testifies as follows :

Q. State your name.—A. Sadie Manheimer.

Q. Where do you live?—A. Pawnee.

Q. What is your business?—A. I am county clerk of the court, and stenographer.

Q. Were you the sworn stenographer in which you took the testimony some time ago in Pawnee in the case of J. J. Davis against Bird S. McGuire for seat in the United States Congress?—A. Yes, sir; I took the testimony.

Q. Did you take it in long or shorthand?—A. In shorthand.

Q. Have you your notebook there?—A. I have.

Q. Have you there the testimony and cross-examination by Judge Burford, I mean have you the notes of the cross-examination by Judge Burford of Mr. Scott?—A. Yes, sir.

Q. Turn to your notes. You may read your notes of cross-examination by Judge Burford of Mr. Scott.—A. "You first state that he was a guest on October 4? Yes, sir. What year? 1912. Was that the first time it is given in the register?" and I have a mark here. I don't have the mark for the days of the week, and I have "October 4." The answer is "Yes." "What year? 1912. Was that the first time Mr. McGuire had stopped with you? Yes, sir. How long? Over a day and half. Please turn to that day. Is he registered there? Yes, sir. In his handwriting? Yes, sir. Read it." I have, "Bird McGuire, Pawnee." I don't write the names. I just use initials. I have this, "Bird McGuire, Pawnee."

Q. Did you transcribe these notes?—A. Yes, sir.

Q. Did you omit Pawnee?—A. I did if the report does not show it, unintentionally, however.

Q. No one talked to you about it?—A. No.

Q. If you omitted it, it was just a mistake?—A. Yes, sir. I was rushed at the time. I am court stenographer, and I had cases to get out, and I did this work at home, and I may have omitted it.

Q. Drop down to the next place where Bird McGuire appears, and read what your record shows.—A. "Bird McGuire, Pawnee," just the same.

Q. That is under date of November 15?—A. Yes, sir.

Q. Now, turn to the next one, under date of November 18. What does your note show where he says, "Read it"?—A. "Bird McGuire, Pawnee."

Q. Now, the next date, please.—A. November 22.

Q. What does your note show where he says, "Read it"?—A. "Bird McGuire, Pawnee."

Q. These are your original notes, are they?—A. Yes, sir.

Q. And they are correct?—A. Yes, sir.

I, James H. Hale, a notary public within and for the county of Pawnee, in the State of Oklahoma, do hereby certify that the within-named Carrie E. Ross, of Pawnee, Okla., and Frank Hudson, J. S. Badger, Dr. G. H. Phillips, Mrs. B. A. Bolton, Capt. H. Veatch, J. C. Bennett, Doc. Scott, Fred Uhl, and Sadie Mannheim were by me first duly sworn to testify the truth, the whole truth, and nothing but the truth in the case aforesaid, and that the depositions were taken by Carrie E. Ross, a disinterested party, in shorthand and by her reduced to writing, and the same were taken on the 19th day of June, 1913, commencing at 5 o'clock p. m. of said day, as per stipulation, and continued from time to time, and closed at 10 o'clock a. m. on the 20th day of June, 1913; that said depositions were taken at my office in the city of Pawnee, in Pawnee County, and State of Oklahoma, and that I am not attorney or a relative of either of said parties or otherwise interested in the event of this action.

[SEAL.]

J. H. HALE, *Notary Public.*

My commission expires June 3, 1915.

EXHIBIT A.—LESSEES OF LINCOLN COUNTY.

D. A. Dickerson, Luther, No. 4.	B. P. Bloodworth, Meeker, No. 1.
Max Mielenz, Luther.	Wesley G. Hayles, Harrah, No. 3.
R. L. Donnell, Luther, No. 4.	Geo. Kirkman, Wellston, No. 1.
J. A. Bell, Meeker, No. 1.	R. B. Wilson, McLoud, No. 3.
R. H. Hoyl, Perkins.	N. A. Downing, Wellston.
J. Messinger, Wellston.	J. M. Williams, Taloga.
C. D. Stout, Wellston.	B. H. Bymaster, Wellston, No. 3.
S. J. Davis, Luther, No. 4.	John Petermann, Wellston.
C. N. Norris, Wellston, No. 3.	John T. Goggin, Wellston, No. 1.
W. F. Norris, Wellston.	J. M. Keener, Wellston.
Carl Stein, Wellston, No. 3.	Isaac Dukes, Jones, No. 3.
J. B. Braseil, Meeker, No. 1.	A. A. Hagar, Wellston, No. 4.
A. Lynch, Wellston, No. 3.	Wm. P. Hawkins, Oklahoma, Okla.
J. C. Young, McLoud, No. 2.	A. E. Patrick, Chandler.
J. B. Priddy, McLoud.	J. W. Caldwell, Fallis.
T. A. Davenport, McLoud, No. 2.	H. B. Fisher, Wellston, No. 2.
A. Potter, Warwick.	J. H. Grimstaff, Wellston.
T. B. Hayes, Warwick.	J. O. Peek, Wellston, No. 2.
J. E. Ezelston, Crescent.	Jacob Anurine, Wellston.
R. A. Caldwell, Meridian.	Jesse H. Carpenter, Perkins, No. 5.
J. L. Stanfill, Chandler.	Geo. Crume, Merrick, No. 1.
J. N. Evans, Wellston, No. 1.	Franze S. McDaniels, Perkins.
W. H. Rackley, Wellston, No. 1.	A. C. Graham, Merrick, No. 1.
Lloyd Grandstaff, Warwick, No. 1.	Emmet Wilson, Carney, No. 1.
Murray Knouse, Harrah, No. 3.	Luther D. Chilcote, Carney, No. 1.
Gottlieb Eckert, Harrah.	W. A. Shattuck, Carney.
J. L. Taylor, McLoud.	James W. Allen, Carney, No. 1.
Abraham L. Grem, Harrah, No. 3.	Gus Prough, Wellston, No. 4.
J. A. Walker, McLoud, No. 3.	Ella Silverman, Perkins, No. 5.
W. F. Glass, McLoud, No. 3.	H. H. Mapes, Perkins, No. 5.
Frances Sigler, McLoud.	F. M. Kirkpatrick, Tryon, No. 1.
M. H. Mullendorr, Wellston, No. 3.	Frederick Gerhardt, 825 North Beard Street, Shawnee.
Wm. Maier, Wellston, No. 3.	T. L. Hall, Meeker, No. 1.
W. H. H. Freeman, Wellston.	Benj. M. Varner, McLoud, No. 2.
H. F. Cook, Wellston.	

- Wm. T. Molder, Meeker.  
 J. J. Richardson, Meeker, No. 2.  
 Allen A. Smith, Meeker, No. 2.  
 E. C. O'Neal, Meeker, No. 2.  
 R. L. Forbes, Meeker, No. 2.  
 Stacy W. Taft, Meeker.  
 D. A. Stewart, Wellston, No. 1.  
 W. G. Hall, Rossville, No. 1.  
 J. W. Elliott, Wellston, No. 1.  
 Geo. W. Bowdre, Chandler, No. 7.  
 J. W. Bishopp, Sparks.  
 A. J. Gadlin, Payson, No. 2.  
 James S. Haun, Meeker.  
 Jonathan Swinford, Chandler, No. 9.  
 Rolla A. Burnham, Warwick.  
 A. Brown, Warwick.  
 Herman Pruss, Warwick.  
 G. G. Davidson, Midlothian.  
 Geo. W. Sweet, Chandler, No. 4.  
 W. A. Arbuckle, Chandler, No. 4.  
 J. C. Swinford, Chandler, No. 4.  
 W. J. Hagar, Chandler, No. 1.  
 Clarence Bassett, Chandler, No. 1.  
 Henry Chilcote, Chandler.  
 A. R. Beckes, Chandler, No. 7.  
 M. Z. Westover, Chandler, No. 9.  
 Luther D. Davenport, Chandler.  
 J. Q. Westover, Chandler, No. 9.  
 John W. McCuan, Chandler, No. 4.  
 John T. Hall, Tryon.  
 Sam'l Kane, Carney.  
 Ward C. Thornton, Carney, No. 1.  
 W. E. Dwyer, Tryon, No. 2.  
 S. Revis, Tryon, No. 2.  
 Amos Dobbs, Tryon.  
 John Stayton, Tryon, No. 2.  
 J. A. Smith, Tryon.  
 T. B. Nickelson, Tryon, No. 2.  
 Walter Shinn, Agra, No. 1.  
 B. F. White, Tryon, No. 1.  
 L. E. Pool, Tryon, No. 1.  
 John Gipson, Tryon, No. 1.  
 G. F. Lowry, Meeker.  
 Henry M. Gray, Meeker.  
 W. T. King, Meeker, No. 2.  
 Peter Marak, Meeker, No. 2.  
 Sam'l P. Spitler, Payson, No. 1.  
 Sam Young, Payson, No. 1.  
 Jos. H. Price, Payson, No. 1.  
 Flam See, Payson, No. 1.  
 H. M. Johnson, Chandler.  
 H. W. Sawyer, Chandler, No. 3.  
 J. M. Allenbaugh, Chandler, No. 3.  
 S. M. Maston, Chandler.  
 J. O. Frazier, Payson, No. 1.  
 Arch Hill, Payson, No. 1.  
 D. J. Norton, Chandler.  
 H. Callark, Chandler, No. 5.  
 Harold C. Brung, Chandler.  
 Geo. E. Burkett, Sparks, No. 2.  
 O. H. Hill, Sparks.  
 F. M. Stambus, Chandler, No. 2.  
 A. A. Mascho, Chandler.  
 Chas. M. Evans, Chandler.  
 G. W. F. Sawner, Chandler.  
 F. B. Shaffer, Chandler, No. 2.  
 Micheal Cull, Chandler.  
 Edgar L. Cobb, Chandler, No. 6.  
 W. H. Allenbaugh, Red Rock, No. 1.  
 Edward A. Wilkins, Tryon, No. 2.  
 T. R. Potter, Perkins, No. 1.  
 A. B. Hobson, Tryon, No. 2.  
 Walter E. Phelps, Agra.  
 Geo. W. Swigart, Agra, No. 2.  
 Chas. E. Weathers, Wellston.  
 James C. Weathers, Wellston.  
 C. Miller, Agra, No. 2.  
 F. N. West, Agra, No. 1.  
 A. L. Harmon, Cushing, No. 2.  
 Jacob F. Sollars, Agra, No. 1.  
 W. G. Tibbett, Agra, No. 1.  
 Frank Vilikens, Prague, No. 4.  
 James C. Andrew, Prague, No. 4.  
 Joe Pechacek, Prague, No. 4.  
 J. A. Bontty, Prague.  
 John K. Trachta, Prague.  
 Leonard J. Baker, Prague, No. 1.  
 A. J. Clark, Prague.  
 Ira D. Costner, Sparks, No. 3.  
 Ephriam D. Sorrells, Sparks, No. 3.  
 O. H. Frazier, Sparks, No. 2.  
 Henry Reilly, Sparks.  
 C. F. Huskinson, Sparks, No. 1.  
 Jos. F. Sefcik, Sparks.  
 W. W. Touser, Sparks, No. 1.  
 Geo. W. Hazen, Sparks, No. 1.  
 T. S. Watt, Davenport.  
 W. E. Wilkinson, Chandler.  
 William B. Ales, Chandler, No. 8.  
 S. R. Patterson, Chandler, No. 8.  
 Jeff Sawyer, Chandler.  
 Walter J. Preiss, Chandler, No. 5.  
 L. M. Cupps, Chandler, No. 5.  
 Peter Byrue, Stroud.  
 J. W. Purcell, Kendrick.  
 James I. Gunaer, Kendrick.  
 Wm. B. Karr, Chandler, No. 6.  
 Isaac Flynt, Kendrick.  
 Peter A. Musser, Stroud.  
 Willard Sowards, Stroud.  
 Fred Sowards, Stroud.  
 A. N. Hopkins, Davenport.  
 V. R. Fisher, Avery.  
 Victor Laughlin, Avery, No. 1.  
 Wm. Hogrefe, Avery, No. 1.  
 Hiram R. Ford, Avery.  
 Henry B. McCammon, Stroud.  
 P. L. Spurgeon, Stroud, No. 1.  
 Mary C. Partridge, Stroud, No. 1.  
 Wm. E. Paddock, Avery.  
 Wm. H. Grothier, Cushing, No. 1.  
 John A. Nolte, Cushing, No. 1.  
 Fritz Lenz, Avery, No. 2.  
 F. R. Vlasak, Prague.  
 Jos. A. Ruzicka, Prague.  
 Jos. Zajic, Prague.  
 Frank Spevacek, Prague.  
 Jno. Gobrois, Prague.  
 Anton Cerney, Sparks, No. 3.  
 J. L. Holland, Sparks, No. 3.  
 C. C. Ferris, Sparks, No. 3.  
 Geo. W. Bowen, Sparks, No. 1.  
 A. J. Hayes, Prague.  
 David E. Cundiff, Prague, No. 2.

Robt. Eversole, Chandler, No. 8.  
 A. L. Salyer, Stroud, No. 3.  
 J. D. Stewart, Enid.  
 Edw. L. Smith, Stroud.  
 J. R. Edwards, Stroud, No. 2.  
 Orville Hubbard, Stroud.  
 C. S. Lydick, Stroud.  
 Reason H. Newton, Stroud.  
 A. N. Creg, Stroud.

A. J. Ramsey, Stroud.  
 Charles Gaunt, Stroud.  
 Ernest Hamilton, Avery, No. 2.  
 S. B. Caves, Avery, No. 2.  
 G. M. Gaffney, Avery, No. 2.  
 T. J. Gaffney, Avery, No. 2.  
 I. C. Beard, Stroud, No. 4.  
 Phillip Sontag, Stroud, No. 4.  
 John D. Maitlen, Cushing, No. 3.

## EXHIBIT B.—LESSEES IN PAWNEE COUNTY.

C. S. Davis, Pawnee, No. 4.  
 D. R. Webbert, Pawnee.  
 H. S. Slead, Pawnee, box 273.  
 John C. Lawson, Pawnee, No. 1.  
 Lee Munson, Pawnee.  
 Benj. F. Harmon, Pawnee, No. 1.  
 Charles Lockwood, Pawnee, No. 1.  
 Sam A. Pershall, Blackburn.  
 Hiram Hicks, Skedee, No. 1.  
 Ousley Lonergan, Ralston.  
 James N. Wills, Ralston.  
 John J. Donahoe, Mulhall.  
 T. J. Donahoe, Ponca City.  
 Edw. L. Donahoe, Ponca City.  
 Wesley Strosnider, Valley, No. 1.  
 Sullivan Armstrong, Valley, No. 1.  
 B. F. Holler, Valley, No. 1.  
 Noah L. Benson, Valley, No. 1.  
 Cassius N. Marble, Blackburn.  
 T. B. Perkins, Jennings, No. 1.  
 L. A. Whitten, Jennings, No. 1.  
 Jim Amos, Terlton.  
 Wood T. Johnson, Terlton.  
 J. C. Byers, Cleveland, No. 1.  
 J. E. Clark, Cleveland.  
 Thomas W. Skinner, Cleveland, No. 1.  
 Otto V. Mullendore, Cleveland.  
 H. U. Bartlett, Mannford.  
 Wm. L. Eagleton, Pawnee.  
 James H. Sterling, Pawnee.  
 M. W. Fender, Keystone.  
 Jae Shaeffer, Keystone.  
 David Black, Keystone, No. 1.  
 J. Garrison, Keystone, No. 1.  
 A. R. Moebins, Glencoe, No. 2.  
 W. M. Moore, Meramac.  
 G. T. Morris, Pawnee, No. 3.  
 John Welker, Skedee, No. 1.  
 W. H. Wells, Yale.  
 John V. McCulloch, Yale, No. 3.  
 J. C. F. Clark, Valley.  
 M. F. Place, Valley, No. 1.  
 Mat Gainey, Blackburn.  
 E. L. Smith, Jennings.  
 John Hagle, Jennings, No. 1.  
 W. B. Wilson, Cleveland.  
 N. E. Jennings, Jennings, No. 1.  
 E. C. Niccum, Jennings.  
 T. W. Storm, Terlton, No. 1.  
 Anton Reister, Terlton.  
 Pairrish Sims, Terlton.  
 J. T. Gage, Douglas.  
 Perry Sewell, Cleveland, No. 2.  
 John C. Elwell, Cleveland, No. 1.  
 J. J. Pounder, Mannford.

Henry W. Long, Lela.  
 Franklin M. Porter, Pawnee.  
 Joel L. Comer, Pawnee, No. 4.  
 David W. Malcolm, Pawnee, No. 4.  
 I. C. Tannahill, Glencoe, No. 3.  
 J. E. Tannahill, Glencoe, No. 3.  
 M. S. Sneed, Pawnee.  
 Jasper N. Lizar, Pawnee, No. 5.  
 Arthur W. Sousley, Pawnee.  
 Bert Meador, Pawnee.  
 A. W. Gentry, Pawnee, box 85.  
 C. C. Cathers, Pawnee, No. 1.  
 Guian F. Sweet, Pawnee, No. 4.  
 S. W. Tucker, Jet.  
 John W. Barnes, Pawnee, No. 1.  
 E. M. Willard, Pawnee, No. 1.  
 Joshua H. Foulke, Pawnee, No. 1.  
 Geo. Bruns, Pawnee, No. 1.  
 Andrew Panther, Ralston.  
 Wm. L. McCollough, Ralston.  
 Jos. Panther, Ralston, No. 1.  
 Benj. Bates, Pawnee, No. 1.  
 J. L. Gowing, Maramec.  
 Samuel T. Belden, Maramec.  
 Robt. Nelson, Sapulpa, box 162.  
 Edw. E. Rogers, Quay.  
 Henry R. Beeler, Quay.  
 C. W. Skeen, Quay.  
 C. B. Haskins, Quay.  
 Thos. Brown, Pawnee, No. 3.  
 Charles A. LeGrande, Pawnee, No. 3.  
 G. N. Jeffries, Pawnee, No. 3.  
 Wm. M. Lowe, Pawnee, No. 3.  
 Frank C. Tensfield, Maramec.  
 S. Harris, Maramec.  
 John F. Farrer, Maramec.  
 J. W. Bell, Maramec.  
 R. E. Nuttle, Pawnee, No. 2.  
 E. H. Harvel, Pawnee, No. 2.  
 Jos. Walenciak, Pawnee, No. 2.  
 J. W. Deatherage, Pawnee, No. 2.  
 John Wedd, Ralston, No. 1.  
 John Wedd, jr., Ralston, No. 1.  
 Wm. Ousley, Pawnee, No. 2.  
 John L. Slead, Pawnee, No. 2.  
 Alvin Walker, Ralston.  
 W. F. McClain, Ralston.  
 Hosea B. Drake, Ralston, No. 1.  
 J. H. Duncan, Jennings, No. 2.  
 Willard W. Kline, Maramec.  
 Samuel V. Rimmer, Maramec, No. 2.  
 Charley Lynch, Jennings, No. 2.  
 W. E. Bently, Jennings, No. 2.  
 Robt. F. O'Keefe, Jennings, No. 2.  
 Martin Costello, Jennings.

Miles W. Galland, Jennings.  
 J. D. Gregor, Pawnee.  
 A. B. Zajic, Valley, No. 1.  
 John Znotany, Maramec, No. 2.  
 Elmer L. Neff, Afton.  
 Wm. T. Henry, Stillwater.  
 James F. Simmons, Maramec, No. 2.  
 Millard Grubb, Maramec, No. 2.  
 Samuel Prater, Maramec, No. 2.  
 J. A. Walker, Skedee, No. 1.  
 M. Peckenpaugh, Skedee, No. 1.  
 L. S. Peckenpaugh, Skedee, No. 1.  
 Henry D. Hunts, Ralston.  
 J. T. Pershall, Blackburn.  
 Henry E. Carter, Blackburn.  
 Thomas Morris, Valley, No. 1.  
 Simon Hammer, Valley, No. 1.  
 H. M. Buckles, Collinsville.  
 E. W. Lewis, Hallett.  
 C. H. Yeager, Jennings, No. 1.  
 Wm. Arnold, Jennings, No. 1.  
 Wm. P. Hunt, Terlton.  
 Geo. Reigel, Jennings, No. 1.  
 Jno. Hogan, Terlton.  
 Wm. Passamore, Bedford.  
 Robt. B. Adams, Valley, No. 1.  
 M. H. Wells, Cleveland.  
 H. R. Pinkstaff, Jennings, No. 1.  
 E. A. Peck, Cleveland, No. 1.  
 M. C. Kerr, Cleveland, No. 1.  
 H. E. Clark, Cleveland, No. 1.  
 John Coughlin, Tonkawa.  
 W. M. Edgar, Terlton, No. 1.  
 B. F. Jones, Cleveland, No. 1.  
 John F. Potts, Terlton, No. 1.  
 Daniel Nichof, Terlton, No. 1.  
 Ed. Walker, Terlton, No. 1.  
 Chas. V. Sample, Mannford.  
 Ed. Magann, Mannford.  
 Fred Cribley, Cleveland.  
 Chas. T. Orr, Cleveland.  
 David Connor, Cleveland.  
 J. S. Sewell, Cleveland.  
 G. L. Thomas, Cleveland.  
 O. H. M. Williams, Cleveland.  
 J. C. Sewell, Cleveland, No. 2.  
 H. A. Thomas, Cleveland.  
 Lincoln Delp, Keystone, No. 1.  
 J. H. Weyant, Keystone, No. 1.  
 W. A. Chastin, Keystone, No. 1.  
 T. A. Keith, Mannford, No. 1.  
 Thos. B. Andrean, Keystone.  
 Andrew S. Zickefoos, Keystone.  
 A. L. Ackley, Keystone, No. 1.  
 F. W. Tillock, Keystone.

## EXHIBIT C.—LESSEES IN GARFIELD COUNTY.

Geo. W. Moelling, Orlando.  
 Ameal Hansing, Hayward, No. 1.  
 Albert Boichter, Orlando, No. 1.  
 August Moelling, Lucien, No. 1.  
 Henry Schomaker, Lucien No. 1.  
 Jno. D. Vleck, Lucien.  
 J. E. Kluber, Lucien.  
 Lawrence E. Cook, Billings, No. 4.  
 Jos. Postischal, Garber.  
 Clarence M. Cook, Billings.  
 Lee Ridenour, Billings.  
 P. A. Peacock, Billings.  
 Fred. Kingery, Billings, No. 4.  
 Clint Kingery, Billings, No. 4.  
 Nelson Ensminger, Collinsville.  
 Chas. P. Seitz, Billings, No. 3.  
 R. F. Culp, Billings, No. 3.  
 Chas. Dickman, Billings, No. 3.  
 Johnson P. Teter, Marshall.  
 F. M. Ohls, Marshall.  
 W. E. Phres, Marshall, No. 4.  
 J. R. Butts, Marshall, No. 4.  
 Henry Luhrs, Covington.  
 C. C. Childers, Covington.  
 John C. Postier, Covington.  
 J. S. Parks, Covington.  
 Charles Walker, Covington, No. 1.  
 Charles G. Wolfe, Garber.  
 Burchard Denker, Garber.  
 Henry Walker, Covington, No. 1.  
 David J. Davis, Garber, No. 1.  
 Ed. Volin, Garber, No. 2.  
 Robt. L. Porter, Garber.  
 Gottlieb Woerz, Billings, No. 4.  
 Frances M. Hubbell, Hunter, No. 1.  
 Seth Anderson, Hunter.  
 John Mellies, Hunter.  
 Henry Mellies, Hunter, No. 1.  
 Charles Lundquist, Enid, 615 South  
 Grand Avenue.  
 Jos. Balk, Douglass, No. 1.  
 W. J. Parrack, Marshall.  
 Newton C. Edwards, Marshall, No. 1.  
 Charles P. Zirkle, Douglass, No. 2.  
 W. C. Kirk, Fairmont, No. 1.  
 V. F. Scherick, Douglass, No. 1.  
 Edgar O. Swains, Douglass, No. 2.  
 J. H. Gerken, Fairmont, No. 2.  
 Emil Maehr, Enid, No. 6.  
 F. Nobis, Fairmont, No. 2.  
 J. E. Niehus, Fairmont.  
 H. T. Mollinbrink, Breckenridge,  
 No. 1.  
 Fred Mueller, Breckenridge, No. 1.  
 John W. Evers, Breckenridge, No. 1.  
 Wm. T. Lang, Hunter, No. 3.  
 D. W. Fisher, Hunter, No. 2.  
 A. M. Morrison, Hunter.  
 Clark L. Thompson, Hunter.  
 Wm. B. Parker, Bison, No. 2.  
 Norman Bodes, Fairmont, No. 2.  
 Fred Fromholz, Bison, No. 2.  
 S. J. Talbott, Fairmont, No. 1.  
 J. B. Strickler, Waukomis, No. 2.  
 Arthur L. Strickler, Waukomis.  
 Wm. Lutke, Fairmont.  
 O. H. Epley, Enid, No. 7.  
 Andrew H. Overstreet, jr., Enid,  
 No. 6.  
 Daniel Criswell, Enid, No. 6.  
 Robt. H. Smith, Enid.  
 Abe C. Heinrichs, Enid, No. 8.



- Bernhard Kroeker, Enid, No. 8.  
 Henry Kroeker, Enid, No. 7.  
 H. H. Thesman, Enid, No. 7.  
 Nathan Johnson, Kremlin, No. 1.  
 Frank J. Zelenka, Kremlin, No. 1.  
 Patrick J. Coakley, Kremlin, No. 1.  
 Richard Richey, Kremlin.  
 Vaclav Semrod, Marshall.  
 Jos. Milacek, Waukomis, No. 3.  
 John Kokojan, Waukomis, No. 3.  
 Frank Pospispil, Bison.  
 A. Isbell, Waukomis.  
 C. B. Jewell, Waukomis.  
 Charles D. Ridenour, Waukomis.  
 Wm. J. Killoren, Enid.  
 F. E. Chappell, Enid.  
 O. D. Hubbel, Enid.  
 Geo. L. Mosher, Enid, No. 3.  
 James A. Lopeman, Enid.  
 H. J. Kester, Enid.  
 L. E. Tefft, Enid, No. 8.  
 C. F. Hart, Enid, No. 1.  
 John P. Regier, No. Enid.  
 A. T. Stewart, Enid, No. 1.  
 W. S. Yeager, Kremlin, No. 2.  
 Norman C. Momsen, Kremlin, No. 2.  
 Rollie O. Calvert, Kremlin, No. 1.  
 John H. Clark, Waukomis.  
 J. W. Henthorn, Bison.  
 W. F. Bullis, Bison, No. 1.  
 J. F. Sipe, Waukomis, No. 3.  
 Wm. Henneke, Drummond, No. 1.  
 Abraham Wiems, Drummond, No. 1.  
 Wm. Rodenberg, Drummond.  
 Henry Weims, Weatherford.  
 Jacob Martins, Lahoma, No. 1.  
 Wm. L. Haskew, Enid, No. 3.  
 Jacob Herth, Enid, No. 3.  
 Chester B. Riggs, Enid, No. 3.  
 John A. Bremmer, Carrier, No. 1.  
 Hugh Jordan, Enid, No. 2.  
 Geo. G. Schneider, Enid, No. 2.  
 A. C. Liming, Coldwater.  
 Nelse Person, Coldwater, No. 1.  
 F. A. Murphy, Coldwater.  
 Patrick A. Ryan, Ringwood.  
 S. W. Murphy, Marshall.  
 H. D. Murphy, Marshall.  
 S. L. Bishopp, Marshall.  
 Frank Groom, Hayward.  
 W. T. Butts, Hayward.  
 C. E. Eakin, Covington.  
 Klaus Schomaker, Covington, No. 1.  
 Chas. E. Woolser, Garber.  
 Chas. Blakeley, Lamont.  
 Geo. W. Mayberry, jr., Enid, No. 5.  
 John Voth, Enid, No. 7.  
 Gerhard Regier, North Enid.  
 Gerhard Fast, North Enid.  
 E. L. Miller, Enid, No. 7.  
 W. W. Van Duson, Hennessey.  
 I. C. Van Duson, Hennessey.  
 A. F. L. Baade, Enid, No. 2.  
 O. F. Crum, Lahoma, No. 2.  
 W. G. Olvey, Lahoma.  
 W. D. Harvey, Hayward, No. 7.  
 James B. McBride, Hayward, No. 2.  
 P. H. Branen, Orlando, No. 2.  
 W. E. Lamerton, Enid.  
 Gottlieb Korner, Orlando, No. 2.  
 C. C. Bebout, Orlando.  
 Gustav Ebinger, Orlando, No. 2.  
 Geo. B. Mewhorter, Orlando.  
 Christian Rasmussen, Hayward,  
 No. 6.  
 J. J. Moriarty, Hayward.  
 U. G. Goe, Hayward, No. 1.  
 J. M. Day, Covington.  
 Eugene Taylor, Lucien, No. 1.  
 Jacob Adam, Lucien, No. 1.  
 Henry Inselmann, Hayward, No. 1.  
 Gust Ewy, Lucien, No. 1.  
 Everett B. Hume, Garber, No. 3.  
 S. W. Kimmell, Covington, No. 1.  
 Thomas J. Cooper, Garber, No. 3.  
 R. N. Allen, Garber, No. 3.  
 E. H. Bircket, Mulhall.  
 Ernest Widman, Orlando.  
 John Pursley, Lucien.  
 Leo Rieger, Garber.  
 John Collinge, Garber, No. 1.  
 John Rieger, Garber, No. 1.  
 W. H. H. Goff, Billings, No. 4.  
 Martin Kingery, Billings, No. 4.  
 P. D. Dupy, Billings.  
 Wm. G. Cook, Billings, No. 4.  
 David Koons, Billings, No. 3.  
 Harry Koons, Billings, No. 3.  
 Frank S. McKeown, Hunter, No. 1.  
 J. E. Medley, Billings, No. 3.  
 Argyle Tippin, Billings.  
 C. A. Austin, Billings.  
 Roy E. Henry, Billings, No. 4.  
 A. D. Botts, Billings.  
 John L. Wolf, Marshall.  
 C. S. Cooper, Marshall, No. 1.  
 A. J. Brown, Marshall.  
 John R. Conklin, Marshall, No. 1.  
 Elija Bennett, Marshall, No. 4.  
 Thomas M. White, Marshall, No. 4.  
 George Vogel, Marshall.  
 August Zeller, Marshall.  
 Charles W. Gopfert, Covington.  
 Thomas C. Stout, Covington.  
 J. H. Lohse, Covington.  
 John Piper, Covington.  
 Andres Wershing, Marshall, No. 4.  
 John Bucholz, Marshall, No. 4.  
 W. H. Walker, Garber, No. 3.  
 Robert B. Murphy, Fairmont.  
 T. B. Gilbert, Fairmont.  
 S. Searcy, Garber, No. 3.  
 Deitrich Metcher, Covington, No. 1.  
 W. C. Heim, Covington, No. 1.  
 Moara Austin, Covington.  
 William Asher, Covington.  
 Frances R. O'Neal, Garber.  
 John O'Neal, Garber, No. 2.  
 Frank E. Campbell, Garber, No. 2.  
 J. B. Morgan, Garber.  
 George W. Sager, Garber.  
 Hugh A. Cernamon, Garber.  
 John W. Hayes, Garber, No. 3.  
 James Walter Askew, Hunter.

- Reuben Welty, Hunter, No. 1.  
 John H. Welty, Hunter, No. 1.  
 J. W. Hendrick, Hunter.  
 Ira L. Beeson, Hunter, No. 1.  
 Frank Noteware, Hunter, No. 1.  
 John Vokum, Garber, No. 2.  
 Terezio Vokoum, Garber, No. 2.  
 Orla R. Adams, Douglas.  
 David Payne, Bison.  
 F. E. Casteel, Marshall.  
 S. Collins, Marshall.  
 W. O. Baldwin, Marshall.  
 John Voskuhl, Marshall, No. 1.  
 H. H. Ward, Marshall, No. 2.  
 J. W. McGurn, Waynoka.  
 Robert Patterson, Fairmont.  
 A. C. Lundquist, Enid, 615 South  
 Grand Avenue.  
 James W. Beard, Waukomis.  
 C. B. Long, Douglas.  
 J. D. Hollar, Douglas.  
 Henry Wilshusen, Douglas.  
 Emil Mittelstadt, Enid, No. 6.  
 C. Leavengood, Enid, No. 6.  
 W. J. Foster, jr., Enid, No. 6.  
 Henry Helberg, Enid, No. 6.  
 Robert W. Miller, Fairmont.  
 Conrad Bodes, Fairmont, No. 2.  
 William Teil, Fairmont, No. 2.  
 Ernest Helberg, Fairmont, No. 2.  
 Edw. Bentz, Breckenridge, No. 1.  
 Andrew J. Hopwood, Enid, No. 7.  
 Peter Jakobi, Breckenridge.  
 Henry Steinert, Breckenridge.  
 Cyrus P. Walborn, Breckenridge,  
 No. 1.  
 Fred H. Sohl, Breckenridge, No. 1.  
 James L. Nelson, Breckenridge.  
 Rudolph Blaser, Breckenridge.  
 Henry F. Leierer, Hunter, No. 2.  
 J. W. Thomas, Kremlin, No. 1.  
 Moses H. Tingler, Kremlin, No. 1.  
 J. P. Kennedy, Hunter, No. 3.  
 A. J. Borenman, Hunter, No. 3.  
 Alber Johndrow, Hunter, No. 1.  
 John E. Birchfield, Hunter, No. 3.  
 Wm. E. Lafferty, Hunter, No. 3.  
 John Stejskal, Bison, No. 2.  
 Jos. Semrod, Bison, No. 2.  
 V. B. Beard, Bison, No. 2.  
 James Hromas, Hennessey, No. 2.  
 James Hanzlieck, Hennessey.  
 Frank Krejei, Hennessey, No. 2.  
 Geo. Marion, Hennessey, No. 2.  
 Jesse Gwynn, Marshall, No. 2.  
 John Lindell, Enid, No. 7.  
 R. N. Brittain, Waukomis.  
 J. L. Powell, Hunter.  
 Hans Mikkelsen, Waukomis, No. 2.  
 D. J. Dillingham, Waukomis, No. 2.  
 Mason E. Mathews, Bison.  
 W. B. Clark, Bison, No. 2.  
 S. W. Alfred, Enid, University post  
 office.  
 Frank L. Williams, Enid.  
 Willis B. Johnston, Enid, 612 West  
 Cherokee.  
 Martin W. Smith, Enid, No. 5.  
 W. H. Roush, Enid, No. 5.  
 Samuel Tobias, Enid, No. 5.  
 Geo. Voth, Enid, No. 8.  
 Robt. A. Tefft, Enid, No. 8.  
 Jacob Benke, North Enid.  
 Jos. E. Charlton, Enid, No. 7.  
 Samuel D. Meyers, Enid, 706 West  
 Main.  
 Roy D. Shaklee, Enid, No. 7.  
 Henry J. Krockner, Enid, No. 7.  
 John J. Hatcher, Kremlin.  
 G. A. Gumerson, Kremlin.  
 J. P. Stuard, Kremlin, No. 2.  
 Charles Leapy, Kremlin.  
 Stephen Dorian, Kremlin, No. 1.  
 John Wurflein, Kremlin, No. 1.  
 W. L. Phillips, Kremlin, No. 1.  
 Jos. Farrell, Enid, 414 West Broad-  
 way.  
 Ellis Nolan, Waukomis, No. 3.  
 W. A. Nolan, Waukomis, No. 3.  
 Earl Nolan, Waukomis, No. 3.  
 James Pribil, Waukomis.  
 A. L. Ullmark, Hennessey.  
 John Simunek, Bison.  
 Mathew Fuksa, Hennessey, No. 2.  
 Jan Taborsky, Waukomis, No. 1.  
 Jim Taborsky, Waukomis, No. 1.  
 W. E. Ashby, Waukomis, No. 1.  
 Randson E. Isbell, Waukomis, No. 1.  
 Jos. Young, Waukomis.  
 Jos. Shermock, Waukomis, No. 3.  
 Milton C. Ash, Enid, No. 3.  
 Milton M. Lake, Enid, No. 3.  
 Wm. Lamerton, Enid, 507 West Mar-  
 ket Street.  
 J. H. Jackson, Enid.  
 Arthur Brown, Enid, No. 4.  
 Geo. W. Mayberry, Enid.  
 Daniel M. Buckley, Enid, No. 4.  
 Frank Marach, North Enid, No. 1.  
 Charles G. Schultz, North Enid,  
 No. 1.  
 Ralph L. Riggs, Enid, No. 2.  
 W. B. Ogden, Enid, No. 2.  
 John A. Spalding, North Enid.  
 Jacob F. Kowalski, Enid, No. 1.  
 J. M. Ross, Enid.  
 Glen A. Walters, Enid.  
 Fremont Boyle, Anadarko.  
 Geo. M. Meyer, Hillsdale, No. 1.  
 Fred D. Reim, Kremlin, No. 2.  
 R. W. Buck, Kremlin, No. 2.  
 Jonathan M. Downie, Enid, No. 1.  
 Arthur Crabbs, Enid, No. 1.  
 O. P. Barnes, Hillsdale.  
 R. L. Donnell, Enid, No. 1.  
 Ira J. Long, Drummond.  
 Elmer A. Swart, Ames, No. 2.  
 Oscar Beckner, Ames, No. 2.  
 James Beckner, Bison, No. 1.  
 Oscar Cupps, Hennessey.

Charles E. Baker, Bison, No. 1.  
 L. O. Townsend, Hennessey, No. 4.  
 David O. Browner, Hennessey, No. 4.  
 W. R. Pierson, Drummond.  
 Perry B. Lincoln, Enid.  
 P. H. Patterson, Drummond.  
 J. E. Patterson, Drummond, No. 1.  
 John Matusak, Drummond, No. 1.  
 T. J. McFarland, Drummond, No. 1.  
 Warren Hardick, Drummond, No. 1.  
 Michael Goodnature, Enid, No. 3.  
 Alex Freeberg, Lahoma, No. 1.  
 Jacob Wassemler, Lahoma, No. 2.  
 John N. Courter, Enid, No. 4.  
 W. P. Hodgden, Enid, No. 4.  
 Frank B. Hodgden, Enid, 234 West Elm Street.  
 Clinton F. Clark, Enid, 217 West Maple.

William E. Brown, Drummond.  
 George Schneider, Carrier.  
 Charles M. Dyche, Lahoma, No. 1.  
 W. L. Vickers, Lahoma, No. 1.  
 Sebastian E. Lindimore, Carrier, No. 1.  
 Carl Teske, Enid, No. 2.  
 Gotlieb Luckert, Enid, No. 3.  
 William Benkendorf, Enid, No. 3.  
 Elmer B. Brainard, Enid, No. 8.  
 Samuel A. Schultz, Hillsdale.  
 C. G. Scarlett, Coldwater, No. 1.  
 John F. Kempf, Pond Creek.  
 Samuel Riffel, Carrier, No. 1.  
 George Heinrich, Carrier, No. 1.  
 Claduis H. Bremmer, Carrier, No. 1.  
 John C. Ryan, Carrier, No. 1.

## EXHIBIT D.—LESSEES IN GRANT COUNTY.

J. R. Dorsett, Tonkawa, No. 1.  
 B. L. Roberts, Salt Fork, No. 1.  
 S. A. Serviss, Salt Fork, No. 1.  
 W. M. Byers, Tonkawa, No. 1.  
 H. N. Princehouse, Eddy.  
 Russell L. Dobbs, Eddy.  
 Isaac M. Beck, Eddy, No. 1.  
 A. J. Miller, Eddy.  
 J. W. Coffelt, Nardin, No. 2.  
 Jacob Walters, Nardin, No. 2.  
 W. M. Haynes, Walter, No. 2.  
 John Grimsley, Nardin, No. 2.  
 Squire J. Almack, Nardin, No. 2.  
 S. T. Coffelt, Nardin.  
 David J. Corneil, Nardin.  
 A. Ingram, Salt Fork.  
 John B. Glover, Salt Fork.  
 A. T. Cross, Lamont.  
 P. V. Duvall, Salt Fork, No. 1.  
 Arthur Childers, Salt Fork, No. 1.  
 B. H. Ritter, Eddy, No. 1.  
 George A. Wellman, Lamont, No. 1.  
 E. R. Wellman, Lamont, No. 1.  
 J. G. Wellman, Lamont, No. 1.  
 William Summy, Deer Creek.  
 James C. O'Mera, Deer Creek, No. 2.  
 Alfred B. Beal, Numa.  
 John B. O'Mera, Deer Creek, No. 2.  
 R. W. English, Renfrow, No. 1.  
 Will French, Renfrow, No. 1.  
 T. T. Taylor, Renfrow, No. 1.  
 Samuel V. Mulkey, Lamont.  
 Charles Kitchen, Pond Creek, No. 1.  
 S. M. Tennant, Pond Creek.  
 George Goldsmith, Pond Creek, No. 1.  
 Chas. O. McCartney, Jefferson, No. 2.  
 S. F. Butcher, Jefferson, No. 2.  
 Henry W. Schewrmann, Jefferson, No. 2.  
 Jos. W. Schmitz, Jefferson, No. 2.  
 Isaac Fast, Medford, No. 1.  
 Nick Fast, Medford.  
 John F. Fuss, Medford.

Jerry F. Bohan, Numa.  
 W. C. McGanagle, Renfrow, No. 3.  
 E. E. Behan, Renfrow.  
 Bloomer Behan, Renfrow.  
 Thomas W. Parham, Renfrow, No. 2.  
 Winfield Harvill, Pond Creek, No. 1.  
 T. G. Gentry, Pond Creek.  
 Thomas McKee, Pond Creek, No. 4.  
 B. C. French, Pond Creek, No. 1.  
 Fred Cook, Jefferson.  
 Charles C. Paris, Jefferson.  
 Thomas S. Parris, Jefferson.  
 August Scheurmann, Jefferson.  
 John B. Cross, Medford, No. 5.  
 Eugene Harp, Medford, No. 5.  
 Frank J. Stehno, Medford, No. 5.  
 Wm. A. Keller, Medford, No. 5.  
 Alfred T. Hill, Medford, No. 2.  
 Edw. Smith, Medford, No. 2.  
 S. P. Shelburne, Wakita.  
 V. Melka, Medford.  
 Chas. M. Johnston, Wankomis.  
 G. A. Hergert, Pond Creek, No. 3.  
 O. L. Kuykendall, Pond Creek, No. 3.  
 G. W. Holcomb, Pond Creek, No. 3.  
 J. C. Holcomb, Pond Creek, No. 3.  
 Harry J. Le Force, Jefferson.  
 J. A. Haws, Jefferson, No. 1.  
 J. C. Haws, Jefferson.  
 B. L. Bates, Jefferson.  
 Oliver E. Criswell, Blackwell.  
 C. E. Moore, Wakita, No. 3.  
 C. A. Strecker, Pond Creek.  
 N. D. Fairchild, Wakita, No. 2.  
 John Ediger, Wakita, No. 1.  
 Herbert J. Green, Wakita, No. 1.  
 John D. Deveney, Wakita, No. 1.  
 Jos. Cink, Wakita, No. 1.  
 James A. Jacob, Wakita.  
 James Burle, Wakita, No. 5.  
 J. E. Gard, Wakita, No. 1.  
 Wm. T. Felix, Nashville, No. 1.  
 John Dunn, Nashville, No. 2.

- Albert Milligan, Nashville.  
 John C. Miller, Pond Creek, No. 3.  
 Walter B. Russell, Florence, No. 1.  
 Allen Biby, Nash.  
 Henry Walker, Florence.  
 M. Ransom, Sand Creek.  
 A. R. Stewart, Wakita.  
 H. E. Clark, Wakita, No. 3.  
 W. A. Thornhill, Gibbon, No. 1.  
 Frank C. Feist, Manchester.  
 J. C. Reneau, Gibbon, No. 1.  
 John E. Reneau, Gibbon, No. 1.  
 E. J. McMullin, Manchester.  
 Guy R. Meyer, Manchester.  
 Leicester M. Danford, Billings, No. 3.  
 Walter A. Milton, Salt Fork.  
 Jos. Zeleny, jr., Salt Fork.  
 Jos. Marston, Salt Fork.  
 J. D. Almack, Deer Creek, No. 1.  
 J. H. Hula, Medford.  
 Joe McClelland, Oklahoma City.  
 Willis S. Sells, Pond Creek, No. 3.  
 W. D. Ross, Wakita.  
 John Coburn, Nashville.  
 Edmond S. Coburn, Nashville.  
 John Dixon, Salt Fork, No. 2.  
 L. A. Dunn, Salt Fork, No. 1.  
 Frank Bocher, Salt Fork, No. 1.  
 W. H. Marsten, Salt Fork.  
 M. M. Burke, Billings, No. 3.  
 John J. Burke, Billings, No. 3.  
 Paul Breinhalt, Billings, No. 3.  
 Jens Breinhalt, Billings, No. 3.  
 John L. Coffman, Billings.  
 Frank M. Newkirk, Eddy, No. 1.  
 A. L. Lynch, Hunter.  
 F. S. Sherer, Lamont, No. 1.  
 W. S. Gilpin, Lamont, No. 1.  
 Jerry Tingley, Eddy, No. 1.  
 Geo. H. Cowan, Lamont.  
 T. A. Hill, Eddy.  
 Harrison Deisher, Eddy, No. 2.  
 Jos. W. Rees, Deer Creek, No. 2.  
 J. T. Stout, Deer Creek, No. 2.  
 August B. Menschke, Deer Creek, No. 1.  
 J. T. Stout, Deer Creek.  
 A. J. Hazlett, Nardin.  
 John L. Alberts, Deer Creek.  
 T. L. Thompson, Deer Creek, No. 1.  
 W. A. Armstrong, Renfrow.  
 Stephen W. Hiatt, Nardin.  
 John E. Dickerson, Blackwell.  
 Jonah P. Dungan, Nardin, No. 2.  
 Chas. F. Bennett, Nardin, No. 2.  
 O. V. Hall, Nardin.  
 Jno. R. Cox, Deer Creek.  
 Stephen Schulte, Okarche, No. 1.  
 J. M. Hardwick, Lamont, No. 2.  
 Conrad Balzer, Hunter, No. 2.  
 G. H. Balzer, Hunter, No. 2.  
 E. E. Dayton, Salt Fork, No. 1.  
 C. S. Stockwell, Salt Fork, No. 1.  
 John T. Meece, Salt Fork, No. 1.  
 Charles E. Milton, Salt Fork.  
 C. W. Haskins, Salt Fork.  
 A. W. Jennings, Lamont.  
 Henry Stockson, Medford.  
 Wm. Schmitz, Jefferson, No. 2.  
 Frank V. Smith, Lamont.  
 Thomas Nolan, Lamont.  
 W. J. Summerville, Lamont.  
 P. W. Allen, Lamont, No. 2.  
 Jos. Lark, Medford.  
 C. C. Winter, Medford, No. 3.  
 Jos. Soper, Medford.  
 Elmer I. Rogers, Numa.  
 Louis F. Webster, Deer Creek.  
 B. P. Bohau, Deer Creek.  
 C. J. Johnson, Deer Creek, No. 2.  
 E. G. Lyon, Deer Creek.  
 A. Schwertfeger, Renfrow, No. 1.  
 Elmer Van Zant, Renfrow, No. 1.  
 Stanley Lebeda, Renfrow.  
 Geo. W. Miller, Renfrow, No. 3.  
 Sylvester Patterson, Renfrow, No. 1.  
 Peter Frein, Renfrow, No. 3.  
 Herman Frederick, Renfrow, No. 3.  
 Wm. B. Moore, Renfrow, No. 1.  
 John Lukhart, Pond Creek.  
 C. E. Foster, Pond Creek.  
 Charles N. Smith, Marshall, No. 3.  
 E. Frank Smith, Pond Creek.  
 Jos. Cerney, Hunter, No. 2.  
 Wm. C. Cople, Pond Creek.  
 Geo. McKenney, Pond Creek.  
 Gus Wiens, Pond Creek.  
 August Schmitz, Jefferson.  
 Jacob Rath, Jefferson, No. 2.  
 C. H. Schuermann, Jefferson, No. 2.  
 B. R. Mulkey, Lamont, No. 2.  
 D. G. F. Burcham, Jefferson, No. 2.  
 Clyde TeBow, Lamont, No. 2.  
 Glen W. TeBow, Lamont, No. 2.  
 E. M. Moss, Medford.  
 J. H. Fuss, Medford.  
 D. L. Cline, Medford, No. 1.  
 Bernhard Fast, Medford, No. 1.  
 Royal A. Wilson, Medford, No. 3.  
 W. E. Bonifield, Medford.  
 O. S. Honeymann, Medford.  
 P. C. Elswick, Lamont, No. 2.  
 Geo. Hodges, Medford, No. 1.  
 J. J. Wiens, Medford, No. 2.  
 Roscoe Meador, Medford, No. 2.  
 J. H. Belmear, Medford, No. 1.  
 Jos. Urban, Medford.  
 Henry C. Froese, Medford.  
 Martin P. Reimer, Medford.  
 Peter P. Reimer, Medford.  
 John C. Nevermann, Renfrow, No. 2.  
 T. B. Canaday, Pond Creek, No. 3.  
 Geo. W. Collins, Pond Creek.  
 Edmund W. Smith, Pond Creek,  
 No. 3.  
 H. V. Van Fleet, Pond Creek.  
 W. D. Smith, Pond Creek, No. 4.

- J. G. Robbins, Pond Creek.  
 L. A. Tingler, Pond Creek.  
 Samuel Breckenridge, Kremlin,  
 No. 1.  
 Wm. Scherman, jr., Jefferson,  
 No. 1.  
 Amos B. Hawkins, Jefferson, No. 1.  
 Thomas Day, Jefferson.  
 Henry C. Hawkins, Jefferson, No. 1.  
 Conrad Strecker, Pond Creek.  
 T. L. Bonnett, Pond Creek.  
 J. J. Kubick, Pond Creek.  
 L. W. McGivney, Pond Creek.  
 Wm. H. Ohler, Medford, No. 5.  
 Clarence C. Vernon, Medford, No. 4.  
 B. F. Cline, Medford.  
 Samuel Archer, Medford, No. 4.  
 Mark Lynch, Medford, No. 4.  
 W. L. Underwood, Medford, No. 4.  
 A. C. TeBow, Lamont, No. 2.  
 Oury J. TeBow, Lamont, No. 2.  
 S. A. Switser, Medford, No. 2.  
 L. G. Smith, Medford, No. 2.  
 Leo B. Blubaugh, Medford, No. 5.  
 Chas. W. Davis, Medford.  
 Geo. Blubaugh, Tonkawa.  
 Charley Kaizer, Wakita.  
 James A. Worley, Wakita, No. 1.  
 Frank Kaizer, Wakita, No. 1.  
 Velav Kaizer, Wakita, No. 1.  
 Peter Sladek, Renfrow, No. 2.  
 J. M. Shiffner, Renfrow, No. 2.  
 Herbert G. Ancell, Renfrow, No. 2.  
 Leopold Reichter, Renfrow, No. 2.  
 W. B. Waggoner, Pond Creek, No. 3.  
 T. J. Gordon, Pond Creek.  
 Henry A. Hall, Pond Creek, No. 3.  
 E. F. Johnson, Pond Creek, No. 3.  
 W. W. Willard, Pond Creek, No. 4.  
 Ernest Gall, Pond Creek, No. 4.  
 Gris A. Shuyler, Pond Creek, No. 4.  
 John G. Hergert, Pond Creek, No. 4.  
 J. D. Butts, Jefferson.  
 G. J. Haws, Jefferson.  
 Eugene Trenton, Jefferson, No. 1.  
 W. T. Kent, Nash, No. 1.  
 John H. Pierson, Pond Creek, No. 2.  
 Andrew J. Steiger, Pond Creek, No. 2.  
 N. A. Danielson, Pond Creek, No. 2.  
 B. L. McCart, Pond Creek.  
 W. C. Burk, Wakita.  
 S. E. Hendricks, Wakita, No. 3.  
 A. D. Hopkins, Wakita, No. 3.  
 E. E. Martin, Wakita, No. 3.  
 J. F. Kirkpatrick, Jefferson.  
 H. B. Speldie, Jefferson.  
 S. J. Smith, Jefferson, No. 1.  
 Arthur Schuelke, Wakita.  
 J. L. Hodges, Carmen.  
 John S. Strasbaugh, Wakita, No. 2.  
 Floyd E. Strasbaugh, Wakita.  
 H. L. Seger, Wakita.  
 G. Y. Greenwalt, Wakita, No. 3.  
 Plat Huston, Wakita.  
 Campbell Lynch, Manchester.  
 Robert Biffle, Wakita, No. 2.  
 J. F. Gellispie, Manchester.  
 W. C. Long, Wakita, No. 2.  
 J. M. Harris, Wakita, No. 2.  
 Charles Mathews, Gibbon.  
 R. F. Schnelke, Wakita, No. 2.  
 C. M. Post, Gibbon.  
 Robert R. Riley, Nash.  
 Elsworth C. Kingsley, Nash.  
 J. W. Naylor, Carrier.  
 Frank Stephenson, Nashville, No. 2.  
 F. Krause, Pond Creek, No. 4.  
 R. M. Skaggs, Nashville, No. 2.  
 Geo. W. Leverton, Coldwater, No. 1.  
 Jno. S. Easterly, Coldwater.  
 Gurvis L. Hickok, Pond Creek, No. 3.  
 E. A. Shire, Florence, No. 1.  
 W. T. Shepherd, Florence, No. 1.  
 H. R. Haegert, Florence, No. 1.  
 Wm. Erlewein, Nashville, No. 1.  
 Thomas J. Kent, Nashville, No. 1.  
 J. H. Milligan, Nashville, No. 1.  
 Moses Overton, Nashville, No. 1.  
 Grant Goldy, Sand Creek.  
 J. R. Caywood, Sand Creek.  
 A. L. Terrell, Florence.  
 C. E. Kirkpatrick, Florence, No. 1.  
 James M. Embree, Wakita, No. 3.  
 H. S. Baughman, Wakita, No. 3.  
 Robt. L. Biby, Wakita.  
 Michael Ohl, Manchester.  
 Foster Miller, Manchester, No. 1.  
 John Hime, Manchester.  
 James Chapin, Manchester, No. 1.  
 Wm. J. Glick, Gibbon.  
 W. F. Barr, Wakita.  
 J. E. Wirick, Wakita, S. R.  
 J. A. Garrett, Wakita.  
 G. W. Warmock, Manchester.  
 E. E. Burdue, Manchester, No. 2.  
 C. J. Harding, Manchester.  
 J. R. Harding, Manchester, No. 2.  
 L. Feely, Manchester.  
 James A. Rule, Gibbon, No. 1.  
 David M. Thomas, Gibbon, No. 1.  
 P. F. Redding, Gibbon, No. 1.

## EXHIBIT E.—LESSEES IN KINGFISHER COUNTY.

- Charles M. Heckert, Cashion.  
 Fred H. Smith, Cashion, No. 1.  
 D. T. Simmons, Reeding.  
 Theo. G. Abercrombie, Cashion, No. 1.  
 J. W. Derr, Lockbridge.  
 P. P. McNeal, Lockbridge, No. 1.  
 C. D. McNeal, Lockbridge, No. 1.  
 S. M. Bocoek, Lockbridge.

- N. E. Bocoek, Lockbridge, No. 1.  
 G. K. Honeous, Kingfisher, No. 6.  
 H. A. Rennells, Cashion, No. 2.  
 Geo. B. McKee, Kingfisher, No. 6.  
 G. C. Marriott, Cashion, No. 2.  
 Isaac V. Sowards, Cashion, No. 2.  
 Geo. C. Eschwig, Cashion.  
 B. F. Woodworth, Cashion.  
 W. B. Patrick, Dover, No. 1.  
 J. S. Patrick, Kingfisher.  
 Fred A. Gentry, Dover.  
 L. R. Houck, Crescent, No. 2.  
 J. N. Stephens, Crescent, No. 2.  
 J. E. Tharp, Crescent, No. 2.  
 Jesse Tharp, Crescent, No. 2.  
 O. E. Acion, Lovell.  
 P. S. O'Hern, Lovell.  
 Joshua Mattocks, Lovell, No. 1.  
 S. J. Flickinger, Kingfisher.  
 F. Yenzer, Crescent.  
 Alfred Nail, Crescent.  
 Louis I. Richards, Crescent No. 1.  
 V. R. Kelso, Crescent.  
 James Thomas, Hennessey, No. 1.  
 J. H. Berkenbile, Hennessey, No. 1.  
 J. P. Benjamin, Hennessey, No. 1.  
 J. E. Crawford, Oklahoma, Okla.,  
 419 West Fourteenth.  
 L. C. Wright, Cashion, No. 1.  
 W. B. Johnson, Lovell, No. 1.  
 James E. Pollard, Lovell, No. 1.  
 I. W. Elrod, Lovell, No. 1.  
 Carl Hrdlicks, Kingfisher, No. 5.  
 Vclav Libecayt, Okarche, No. 1.  
 Frank Cerney, Reeding.  
 E. D. Miller, Cashion, No. 1.  
 A. J. Thompson, Okarche.  
 Ira Piatt, Okarche, No. 1.  
 P. B. Cook, Okarche, No. 1.  
 P. L. Wells, Kingfisher.  
 E. F. Finuf, Kingfisher, No. 6.  
 Chas. Emmerich, Kingfisher, No. 6.  
 Willis Brown, Kingfisher, No. 6.  
 C. H. Dalson, Oklahoma, 1724 West  
 Seventh.  
 Frank Lukarek, Kingfisher.  
 Ed. Ridgley, Dover.  
 A. L. Mayes, Dover, No. 1.  
 J. D. McIntosh, Dover, No. 1.  
 Clark Jones, Kingfisher, No. 1.  
 John Blattner, Kingfisher.  
 J. G. Jeffrey, Kingfisher, No. 1.  
 D. J. Stratton, Kingfisher, No. 1.  
 Albert Pipla, Hennessey.  
 W. T. Helms, Hennessey.  
 S. A. Rogers, Dover, No. 3.  
 Frances L. Carter, Hennessey, No. 6.  
 Alfred Perry, Hennessey.  
 W. E. Berkenbile, Dover, No. 4.  
 Carson Bailey, Dover, No. 4.  
 Clarence Bailey, Dover, No. 4.  
 August Kudlac, Hennessey, No. 2.  
 John Janky, Hennessey, No. 2.  
 John Harak, Hennessey, No. 1.  
 John Ricks, Hennessey.  
 J. L. Johnson, Hennessey, No. 1.  
 Hugh D. Roquet, Hennessey, No. 1.  
 John Cerney, Okarche, No. 1.  
 Jos. Skala, Kingfisher.  
 Peter Stein, Okarche, No. 1.  
 John Fador, Okarche, No. 1.  
 Wm. C. Newcomb, Okarche.  
 John Grellner, Okarche.  
 Jos. Yeck, Okarche, No. 1.  
 Geo. Ketler, Okarche, No. 1.  
 J. M. Britton, Kingfisher.  
 J. A. Shaw, Kingfisher.  
 Frank Jackson, Kingfisher, No. 4.  
 Geo. W. Christain, Kingfisher.  
 Wm. O. Cunningham, Kingfisher.  
 Peter M. Holstine, Kingfisher.  
 Thomas Ford, Kingfisher, No. 5.  
 Nick Schoelen, Kingfisher, No. 5.  
 W. D. Johnson, Kingfisher.  
 Jeff Mayfield, Kingfisher, No. 3.  
 Wm. Higgins, Kingfisher, No. 3.  
 Henry A. Long, Kingfisher.  
 James L. Blackford, Kingfisher.  
 C. S. Mounts, Kingfisher, No. 3.  
 Jos. W. Sain, Kingfisher, No. 3.  
 Herman H. Schaberg, Kingfisher.  
 John A. Thener, Kingfisher.  
 Wm. A. Goodspeed, Oklahoma, Okla.  
 J. C. Bennett, Hennessey, No. 3.  
 S. D. Holloway, Hennessey, No. 3.  
 M. A. Stockwell, Dover.  
 James B. Clark, Dover.  
 John Miller, Dover.  
 Geo. W. Miller, Dover.  
 A. F. Schutkesting, Hennessey, No. 4.  
 F. M. Sills, Hennessey, No. 4.  
 J. J. Greer, Hennessey.  
 C. C. Smith, Bison, No. 1.  
 P. J. Walterscheoit, Hennessey.  
 M. M. Smith, Hennessey, No. 3.  
 Ambrose W. Woods, Hennessey, No. 3.  
 Cliff Hutton, Hennessey.  
 T. J. O'Brien, Kingfisher, No. 4.  
 Preston B. Trindle, Kingfisher, No. 4.  
 Otto Bredel, Kingfisher, No. 4.  
 Anton Bergler, Owasso, No. 1.  
 Peter Schwarz, Okarche.  
 Herman Ludwig, Okarche.  
 Fred H. Smith, Okarche, No. 2.  
 Henry J. Marquette, Okarche.  
 Ollie H. Cuthbert, Kingfisher.  
 James A. Lindsey, Kingfisher, No. 4.  
 Emory D. Brownlee, Kingfisher.  
 Rudolph Chouber, Kingfisher.  
 Geo. Newer, Kingfisher.  
 Harry M. Newer, Kingfisher, No. 4.  
 Wm. G. Newer, Kingfisher, No. 4.  
 B. W. Van Horn, Kingfisher, No. 2.  
 W. T. Van Horn, Kingfisher.

G. W. Van Horn, Kiel, S. R.  
 Wilber F. Teter, Kingfisher.  
 S. L. Long, Kingfisher.  
 C. B. Gasaway, Kingfisher, No. 2.  
 Assaph Gutowsky, Komalty.  
 Henry P. Thomsen, Kingfisher.  
 R. Reynolds, Hennessey.  
 Fred Ehler, Hennessey.  
 John Jones, Hennessey.  
 Frank J. Stucke, Kiel.  
 Ed Homier, Dover, No. 2.  
 Wm. Homier, Kingfisher.  
 Frank Stucki, Kiel, No. 1.  
 Alvin Kneese, Hennessey, No. 4.  
 E. H. Gouher, Hennessey, No. 5.  
 John T. McCaleb, Hennessey, No. 5.  
 Willis F. Smith, Drummond, No. 1.  
 E. T. La Porte, Hennessey, No. 5.  
 Howard C. Craun, Hennessey, No. 5.  
 Ransom E. Crabill, Hennessey, No. 7.  
 G. B. Koger, Hennessey, No. 7.  
 Louis S. Major, Okarche, No. 2.  
 W. H. Meade, Omega.  
 H. L. Major, Omega, No. 2.  
 Julius E. Major, Okarche, No. 2.  
 G. C. Hinkson, Okarche.  
 Geo. Alig, Okarche, No. 2.  
 G. J. Schweitzer, Calumet, No. 2.  
 John Schulze, Okarche, No. 3.  
 W. W. Wise, Omega.  
 Jacob J. Reisweig, Omega, S. R.  
 J. M. Speice, Kingfisher.  
 W. R. Conley, Kingfisher.  
 W. A. Mitchell, Kingfisher.  
 V. J. Conley, Kingfisher.  
 A. B. Conley, Kingfisher.  
 Marvin A. Bellun, Hitchcock.  
 Samuel Blem, Hitchcock.  
 Gustav Boeckman, Kiel.  
 Johannes Shafer, Kiel, No. 2.  
 J. W. McClure, Kiel, No. 2.  
 J. W. Rodgers, Kingfisher.  
 Dan Schlober, Kingfisher, No. 7.  
 Henry P. Weber, Kiel, No. 1.  
 John Winter, Hitchcock, No. 2.  
 Henry Meier, Hitchcock, No. 2.  
 Fred Geis, Kiel.  
 H. H. Dohe, Kiel, No. 1.  
 Fred H. Dohe, Kiel, No. 1.  
 Emiel Wahling, Kiel.  
 Wm. M. Hawkins, Kiel, No. 1.  
 Bert Sturgeon, Hennessey, No. 4.  
 A. Breckenridge, Okeene, No. 2.  
 James Choate, Hennessey.  
 J. S. Choate, Hennessey, No. 5.  
 J. S. Bosworth, Hennessey.

## EXHIBIT F.—LESSEES IN KAY COUNTY.

Dennis H. Johnston, Ponca City,  
 No. 3.  
 John Rutter, Autwine.  
 P. W. Carter, Ponca City.  
 Geo. P. Witter, Ponca City.  
 Sylvester Corrigan, Ponca City, No. 5.  
 P. Alderman, Ponca City, No. 5.  
 Robt. A. Bowman, Ponca City, No. 5.  
 W. O. Williams, Kildare, No. 1.  
 Jaspas Buster, Kildare.  
 Wm. W. Smith, Kildare, No. 1.  
 C. E. Riney, Kildare.  
 J. M. Van Winkle, Ponca City, No. 1.  
 Edw. Bowman, Ponca City.  
 C. P. Crow, Blackwell.  
 Harry E. Davis, Ponca City, No. 1.  
 John T. Trenary, Peckham.  
 W. J. Krodz, Bramen, No. 2.  
 Anstin McCormick, Newkirk, No. 6.  
 Edw. L. Curtis, Newkirk, No. 6.  
 Victor Schmidt, Newkirk, No. 6.  
 Chas. A. Bode, Newkirk, No. 1.  
 Lawrence Keiffer, Newkirk, No. 2.  
 E. E. Bade, Newkirk.  
 Chas. A. Rawlins, Newkirk, No. 3.  
 Elmer Dickerson, Bramen, No. 1.  
 John L. Deibel, Bramen, No. 1.  
 Herbert J. Goodno, Newkirk, No. 3.  
 G. L. Bryan, Newkirk, No. 5.  
 Theo. C. Shuttleworth, Newkirk.  
 J. W. Carpenter, Newkirk, No. 5.  
 Willis K. Moore, Ponca City.  
 M. A. Dunlap, Ponca City, No. 3.  
 David Snyder, Ponca City, No. 3.  
 Henry Bucker, Ponca City.  
 H. E. Engelkeimer, Newkirk, No. 2.  
 Sylvester Spore, Newkirk.  
 Thomas S. Spore, Kildare, No. 1.  
 Davis Hayes, Kildare, No. 1.  
 James R. Evans, Kildare.  
 Enoch Vap, Kildare, No. 2.  
 Levi H. Thrman, Kildare, No. 2.  
 John Swalley, Kildare.  
 Albert Voegele, Newkirk, No. 4.  
 Henry Voegele, Newkirk, No. 4.  
 Peter Mitchell, Newkirk, No. 5.  
 J. W. Hawkins, Newkirk, No. 1.  
 L. S. Hilderbrant, Newkirk, No. 4.  
 Frank I. Hawkins, Newkirk, No. 4.  
 R. E. Grimma, Bessie.  
 Christain Schroeder, Newkirk, No. 1.  
 J. Z. Leathers, Ponca City, No. 2.  
 S. D. Simmons, Ponca City, No. 2.  
 P. J. Lewis, Ponca City, No. 3.  
 L. J. Mooter, Ponca City.  
 John B. Kygar, Ponca City, No. 2.  
 H. H. Kirby, Ponca City.  
 Christian Paulson, Kildare, Box 62.  
 Thomas Hornek, Kildare.  
 Frank Gabriel, Kildare, No. 2.  
 Geo. L. Paulson, Kildare, No. 2.  
 Daniel J. Helm, Kaw City, No. 1.  
 Ivy P. Holland, Uncas.  
 Henry F. Cooper, Isabella.  
 Don L. Patterson, Kaw City.  
 James F. Miurheid, Newkirk, No. 1.

- Luther J. Robinson, Newkirk, No. 1.  
 Milton M. Davis, Newkirk.  
 Christain Waldschmidt, Newkirk,  
 No. 1.  
 James A. Coleman, Newkirk.  
 E. C. Coleman, Newkirk.  
 Newell Pond, Uncas.  
 Amos Bush, Newkirk.  
 J. P. Anderson, Tonkawa, No. 3.  
 R. L. Johnson, Tonkawa.  
 K. H. Thompson, Tonkawa, No. 2.  
 Wm. H. Winternute, Tonkawa.  
 Frederick B. Sipe, Tonkawa, No. 2.  
 F. R. Richter, Tonkawa, No. 2.  
 Henry Koppenbrink, Tonkawa, No. 2.  
 Wm. C. Kester, Tonkawa.  
 D. G. Suiter, Blackwell, No. 3.  
 O. E. Criswell, Blackwell.  
 Chas. L. Walker, Tonkawa, No. 3.  
 J. D. Logan, Tonkawa.  
 Robt. Barr, Blackwell.  
 W. J. Barr, Blackwell.  
 John J. Bishopp, Bryon.  
 Lafe Mann, Blackwell.  
 Nels Griss, Blackwell.  
 E. B. Miller, Blackwell.  
 W. P. Kern, Blackwell, No. 3.  
 L. P. Moyers, Blackwell, No. 3.  
 T. F. Stevens, Bramen, No. 2.  
 J. W. Silver, Bramen.  
 Cal Brown, Bramen, No. 3.  
 W. P. Hall, Bramen.  
 Geo. E. Whipple, Blackwell, No. 1.  
 Wesley Wright, Blackwell, No. 1.  
 H. W. Wagman, Blackwell, No. 1.  
 H. J. Whipple, Blackwell, No. 1.  
 H. M. Chambers, Tonkawa.  
 J. W. Bourne, Bramen.  
 John Orr, Bramen.  
 Amos M. Thomas, Tonkawa.  
 H. O. Thomas, Tonkawa, No. 1.  
 James O. Thomas, Tonkawa.  
 C. S. Williams, Tonkawa, No. 2.  
 Aden O. Coyle, Tonkawa.  
 A. J. Esch, Tonkawa.  
 Alexander Durhams, Eddy.  
 Swam Olson, Eddy, No. 1.  
 Ray Spencer, Eddy.  
 R. F. Savage, Eddy.  
 J. D. Bain, Tonkawa, No. 3.  
 J. H. Murphy, Tonkawa, No. 3.  
 J. E. Charmichael, Nardin, No. 1.  
 L. W. Van Meter, Nardin.  
 De Laney O. Elliott, Nardin, No. 1.  
 Willis R. Hewitt, Blackwell, No. 2.  
 J. R. Wood, Blackwell, No. 2.  
 F. Miller, Bramen, No. 3.  
 Robt. C. Greenwade, Blackwell No. 4.  
 O. C. Ward, Blackwell, No. 4.  
 C. H. Benson, Blackwell, No. 4.  
 James E. McLaurey, Blackwell.  
 E. E. Sheets, Bramen, No. 1.  
 Samuel C. Miller, Bramen.  
 Elmer L. Miller, Bramen.  
 Andrew Gallagher, Ponca City.  
 Jos. Nathman, Ponca City.  
 John M. Trout, Ponca City.  
 Lawrence Keating, Ponca City, No. 3.  
 D. L. Hills, Newkirk, No. 3.  
 J. C. Hay, Blackwell.  
 J. N. E. Muret, Newkirk, No. 2.  
 Frank N. Muret, Kildare, No. 1.  
 James Witt, Newkirk, No. 5.  
 Thos. Reagan, Peckham.  
 K. J. Klos, Newkirk, No. 6.  
 G. M. D. Von Stein, Newkirk, No. 6.  
 Delbert McCormick, Newkirk, No. 3.  
 Willie L. Williams, Ponca City.  
 Anton Pfeifer, Ponca City.  
 Milton Caldwell, Ponca City, No. 2.  
 W. T. Jensen, Kildare, No. 1.  
 John B. Mans, Kildare, No. 1.  
 Tony Billingshausen, Newkirk.  
 E. D. Moore, Newkirk, No. 1.  
 Herman E. Bode, Newkirk, No. 1.  
 S. W. Mumey, Newkirk.  
 J. W. Hudsonfiller, Kaw, No. 1.  
 Edwin W. Walker, Kaw, No. 1.  
 Henry C. Seanor, Ponca City, No. 2.  
 N. C. Kenyon, Kaw, No. 1.  
 W. C. Williamson, Newkirk, No. 4.  
 John N. Brooks, Kildare, No. 2.  
 August Koehler, Newkirk, No. 4.  
 Wm. Koehler, Newkirk.  
 Chas. E. Foundray, Blackwell, No. 3.  
 Wm R. Gellispie, Blackwell, No. 6.  
 Alva A. Howell, Blackwell, No. 3.  
 W. E. Knapp, Autwine.  
 Milton H. Kern, Blackwell, No. 1.  
 G. P. Seabock, Blackwell.  
 Wm. Missel, Blackwell, No. 3.  
 Chas. Mayer, Blackwell, No. 1.  
 J. N. Fulton, Bramen, No. 2.  
 J. W. Hixon, Bramen, No. 2.  
 Albert Weber, Bramen, No. 2.  
 Clark Scott, Bramen, No. 2.  
 C. F. Scott, Bramen.  
 Ed Stuard, Bramen.  
 Chas. E. Johnson, Tonkawa, No. 1.  
 Peter J. Schmidt, Tonkawa, No. 1.  
 J. A. Creasey, Blackwell, No. 2.  
 T. G. McCulloch, Blackwell, No. 2.  
 Geo. L. Krier, Blackwell, No. 2.  
 F. E. Creagin, Guthrie, No. 2.  
 H. H. Green, Blackwell.  
 William A. Williams, Blackwell, No. 4.  
 Dave A. Meyers, Blackwell.  
 Aaron E. Bradford, Blackwell, No. 4.  
 Henry B. Scott, Bramen.  
 Harry C. Scott, Bramen.  
 Claud E. Hiatt, Bramen, No. 3.  
 W. H. Franks, Bramen, No. 2.  
 Thomas McQuirk, Poca City.  
 Oscar Tate, Blackwell, No. 2.  
 J. W. Ramsey, 408 East Seventh,  
 Oklahoma City.  
 A. M. Scott, Newkirk.  
 Wm. J. Carpenter, Newkirk, No. 3.



Louis L. Walker, Newkirk.  
 Wm. Keen, Kildare.  
 Thomas Pester, Kildare.  
 J. A. Rixse, Kildare.  
 Wm. E. Martin, Kildare, No. 2.  
 Albert E. Wood, Tonkawa.  
 Maro S. Russell, Tonkawa, No. 2.  
 Harmon Randall, Blackwell.  
 Charles Geiger, Blackwell.  
 John Bale Holland, Blackwell.

Samuel Orr, Bramen.  
 Worley Orr, Bramen.  
 James Alpha Orr, Bramen.  
 Wm. Orr, Bramen.  
 John Atchley, Owens.  
 John Combost, Eddy.  
 Louis Yount, Tonkawa.  
 Thomas A. McQuirk, jr., Eddy.  
 E. E. Fauchien, Nardin.

In the matter of the contest of John J. Davis *v.* Bird S. McGuire for a seat in the Sixty-third Congress of the United States.

Now, on this, the 11th day of July, 1913, the same being the time heretofore stipulated by and between said parties for the taking of testimony, in the city of Pawnee, Pawnee County, in the State of Oklahoma, the same to be taken before a notary public to be agreed upon by the said parties, and it is agreed that the same shall be taken before J. H. Hale, a notary public in and for Pawnee County, at his office in the city of Pawnee, and it is further agreed that the same shall be taken in shorthand and thereafter reduced to typewriting by Harry E. Pray, and the said stenographer, being by the notary sworn to truly take and transcribe the testimony, the contestant being present in person and by his attorney, Courtland Feuquay, and the contestee, Bird S. McGuire, being present by his attorney Fred A. Wagoner, whereupon the following witnesses were present, testified, and the following proceedings had and done, to wit:

ROY LIVERGOOD, being called as a witness and being first duly sworn to tell the truth, the whole truth, and nothing but the truth, testified as follows:

Examination by Fred A. Wagoner, for and on behalf of Bird S. McGuire.

Q. State your name.—A. Roy Livergood.

Q. Where do you live, Mr. Livergood?—A. About 4½ miles southeast of Pawnee.

Q. In what county and State?—A. Pawnee County, Okla.

Q. In what township or voting precinct do you reside?—A. Burnham Township.

Q. How long have you resided in that township?—A. About 17 years.

Q. Were you a resident of that township in the last election in November, 1912?—A. I was.

Q. How old are you, Mr. Livergood?—A. Twenty-five.

Q. Were you a voter at that election?—A. Yes, sir.

Q. And did you attend the general election in November, 1912?—A. Yes, sir.

Q. At what place or schoolhouse was that election held in Burnham Township, Mr. Livergood?—A. Capron schoolhouse.

Q. Who was the inspector that conducted that election at that precinct?—A. Mr. Jeffries.

Q. What are, or were his politics at that time?—A. He was a Democrat.

Q. Have you any Indian residents in that township?—A. Yes, sir.

Q. Do you know about how many that are voters above 21 years of age?—A. I would judge about 25, somewhere along there.

Q. You are acquainted in the township pretty well are you?—A. I am; yes, sir.

Q. Do you or do you not know most of the Indians of that township?—A. Yes, sir; I know all of them.

Q. Did you have any conversation yourself or were you present, and heard Mr. Jeffries say anything, about what he intended to do, as to letting the Indians vote on election day, a few days prior to the election?—A. I heard him say that he would not let them vote if he could help himself, if they could not read the constitution.

Q. Were you present on that day when this election was held in November, 1912?—A. I was; yes, sir.

Q. Were you there all or most of the day?—A. Most all of the day.

Q. Do you know whether or not of your own knowledge, that he required the Indians to read and write the constitution under the grandfather clause?—A. I think he did, the best I can remember.

Q. Did you see him submit any of them to the test?—A. No; I don't know as I did.

Q. Do you know of your own knowledge whether he refused any of them to vote?—A. Yes, sir.

Q. How many?—A. Three I know of.

Q. Can you give the names of those three?—A. Yes, sir; I think I can.

Q. Please state them.—A. Roan Chief was one of them.

Q. Is he the chief of this tribe?—A. No, sir.

Q. To what tribe of Indians does he belong?—A. Pawnee Tribe.

Q. The other Indians that reside in the township, which a moment ago you say was about 25, to what tribe of Indians do they belong?—A. Pawnee Tribe.

Q. How long have you known Roan Chief?—A. About 17 or 18 years.

Q. Where has he resided or lived during the time you have known him?—A. He joins places on the west with ours.

Q. Has he lived on that place during all of your acquaintance with him?—A. No not exactly, but the biggest part of the time he has.

Q. How long just prior to the election in November, 1912, had he lived on that place?—A. Continuously for the last three or four years. Sometimes they would camp out for three or four days at a time, but he lived there most of the time.

Q. Has he a family?—A. Yes, sir.

Q. Did they live on this place?—A. Yes, sir.

Q. Now, give the name of another one that was refused the right to vote.—A. Echo Hawk.

Q. How long have you known him?—A. I guess for 10 or 12 years.

Q. About how old a man is he?—A. I would judge he was about 50 or 55 years old.

Q. Is he a man of a family?—A. Yes, sir.

Q. How long has he lived in that township?—A. Well, I do not know exactly but I would judge 10 or 12 years.

Q. Had he lived there continuously for more than one year prior to the election in 1912?—A. Yes, sir.

Q. Now, did you say that he was refused the privilege of voting?—A. Yes, sir; he tried to vote three or four times.

Q. Now, why was he refused the right to vote?—A. Well, I could not say, because he could not read or write, I reckon; they sent him back three or four times to try to vote.

Q. Name the other one of the three they refused to let vote.—A. Little Son.

Q. About how old is he?—A. About 50; got children grown I know.

Q. Does he live in Burnham Township?—A. Yes, sir.

Q. How long has he lived there to your knowledge?—A. I have only been acquainted with him for about five or six years.

Q. Has he lived there all of those five or six years continuously?—A. Yes, sir.

Q. Has he a family?—A. Yes; he has a family.

Q. And they refused him the privilege of voting?—A. Yes, sir.

Q. How many Indians did they permit to vote there that day?—A. I would judge there was seven or eight; I don't think there was more than that.

Q. Do you recall now any others that they refused the right to vote that day?—A. No; I don't. Seems like there were others, but I don't remember.

Q. Are you acquainted with the politics generally of the residents in your township there?—A. Yes, sir; I think I am.

Q. The whites and the Indians; all of them?—A. Yes, sir.

Q. What is the political faith of the Pawnee Indians of your township?—A. Pretty nearly all Republicans.

Q. All you know are Republicans?—A. Yes, sir.

Q. Now, you say that out of the 25 Indians in that precinct not over 8 of them were permitted to vote?—A. I don't think there was more than 8; no, sir.

Q. Do you know whether those who were permitted to read and write were required to read and write the constitution?—A. I believe they were.

Q. I believe you said you heard Mr. Jeffries say a few days before the election that the Indians would not be permitted to vote unless they submitted to the test under the grandfather clause?—A. Yes, sir.

Q. Where was that conversation?—A. Down on the streets here in Pawnee; right there in front of Harvey's, I think; somewhere along there on the south side.

Q. Do you know how long that was before the election?—A. I think it was on Saturday before the election.

Q. Do you know whether that information was circulated or became known to the Indians before the election on election day and caused any of them to stay away from the polls and not come?—A. Yes, sir.

Q. It was known, then, over the township that they had to read and write the constitution?—A. Yes, sir.

Q. And that by reason of the statements of this inspector, as to his requiring the Indians to read and write, they did not come?—A. Yes; that was it.

Q. Were you at the election in that precinct in 1910?—A. Yes; the general election.

Q. Did they submit them to the test, if you remember?—A. No; not that I remember of.

Q. Do you know whether all three of these Indians that this inspector refused to vote voted in 1910?—A. Two of them did I know, and I would not say as to the other one.

Cross-examination by Mr. FEUQUAY:

Q. Mr. Livergood, I believe you say you were at the polls all day during the election in November, 1912?—A. Yes, sir.

Q. Were you a candidate for election?—A. No, sir.

Q. Hold any official position as representing the Republican Party that day?—A. No, sir.

Q. What time in the morning did you get to the polls?—A. About 9 o'clock.

Q. And stayed there all day?—A. Most of the day.

Q. Had a rope about 50 feet away from where they voted?—A. Yes, sir.

Mr. WAGONER. I object to that; the witness has stated that he did not see whether these parties were submitted to the test or not; that they were refused the right to vote. It is incompetent, irrelevant, and immaterial.

Q. Couldn't you see anything that was going on inside where they were voting, outside of the ropes?—A. No, sir.

Q. All you know is your opinion, based upon what you have heard since?—A. I know they did not vote.

Q. You are pretty well acquainted with the Pawnee Tribe of Indians; are there any freedmen in the Pawnee Tribe?—A. Not that I know of.

Q. You live right close to where these men got their allotments?—A. Yes, sir.

Q. Do they live on these allotments?—A. Most of them.

Q. Farm any?—A. Yes; some do and some rent their land out.

Q. Did Roan Chief have out any crop in 1912?—A. Yes; some. He lives on his allotment; he don't rent it.

Q. Now, this Indian, Echo Hawk, has an allotment out there, hasn't he?—A. Yes; I think he has.

Q. Do you know whether he farms it?—A. I don't know.

Q. This Indian, Little Son, do you live close to him?—A. Yes; it is not very far.

Q. Do all of these Pawnee Indians that you speak of speak English?—A. A majority of them do; yes, sir.

Q. These three you speak of in particular, do they speak English?—A. Yes, sir.

Q. These 25 that you speak of, do they speak English?—A. Most of them.

Q. Did you talk with these 25 Indians previous to the election in 1912?—A. I did with the most of them; yes, sir.

Q. You know that they expressed themselves at that time as being Republicans?—A. I know that they voted that way.

Q. Any of the Bull Moosers?—A. No, sir.

Q. Any of them tell you they were?—A. No.

Q. Well, now, you say there were no Bull Moosers among them. How do you know that they were old-line Republicans and going to vote for McGuire.

Mr. WAGONER. I object to that question. He has not testified as to their voting for anybody.

A. I know all I talked to were going to vote that way.

Q. There had not been any split in the Republican Party in this county in 1910, had there?—A. No, sir; I think not.

Q. Mr. Jeffries had lived in that precinct a good long time hasn't he, Mr. Livergood?—A. Yes; he has lived there quite awhile.

Q. He knows where all of these Indians live don't he?—A. Yes; I guess so, most of them. He don't live as close to them as I do. He lives out to one edge of them.

Q. Then, he lives on one side and you live with them?—A. Yes; there are a good many allotments in there where I live. Join places with some of them. The allotments are all around our place.

Q. Do you know of your own personal knowledge from having talked with these Indians that they did not come to the election because they thought that they would have to submit to this test on November 6, 1912?—A. Well, many of them did not come, because they thought that they could not vote.

Q. Now, did they tell you that that day?—A. No; I was down to the Indian camp.

Q. Was there any one present when you had this conversation with Jeffries concerning the right of the Pawnee Indians to vote?—A. He was not telling it to me; I think he was talking to Tom Brown and I overheard the conversation. I think Art Legrande was with me when I heard this conversation. I am not sure, but think Art was with me that day.

Q. Now, where did you say this conversation took place, Mr. Livergood?—A. Down here, I think, in front of Harvey's restaurant.

Q. How do you know that Roan Chief was required to take the grandfather test in the election of 1912?—A. They said he was.

Q. Who?—A. I forget; it was some of the Indians.

Q. You do not know anything about it of your own knowledge?—A. Yes, sir; I know he did not vote.

Q. Now, did he try to vote?—A. Yes; I think he did several times.

Q. Did he get inside the door?—A. Yes; I think he did.

Q. Did he ask for a ballot while in there?—A. I don't know as to that. I suppose he did. I could not hear what was said, but I could see that they did not submit him to the test.

Q. Could you see what they were doing?—A. No, sir.

Q. Now, how do you know that Echo Hawk was required to take this test?—A. He said he was.

Q. Did he try to qualify under the grandfather test?—A. They gave him a section to try to read and write.

Mr. WAGONER. I object to that. That is a law enacted by the Democrats and enforced by their own men, and Indians are not required to read or write any section of the Constitution.

A. Forget what he did say. I don't remember what he said.

Q. Do you know whether he asked for a ballot?—A. I think he did.

Q. Do you know that he did?—A. I could not say positively, but I suppose he did.

Q. Did you hear him?—A. No, sir.

Q. Did he say that he was a citizen of that precinct or not?—A. No, sir.

Q. Were you standing there when he went in?—A. No; not very long.

Q. Now, he just got inside the door and they put him out, did they?—A. Well, he made about four trips, and they sent him out each time. They would not let him give his reasons for wanting to vote.

Q. Were you there when Little Son wanted to vote?—A. Yes, sir.

Q. Do you know how long he was in there?—A. Not very long; he just got on the inside of the door and they put him out.

Q. Could you hear whether he asked for a ballot or not?—A. I could not hear; no, sir.

Q. Could not say whether he told them he was a resident of that precinct or not?—A. No, sir.

Q. Now, how many times did Little Son try to vote?—A. Just once, I think.

Q. He just got inside the door and they refused him, did they?—A. Well, he was not in there long enough to take the test.

Q. Then all you know of this grandfather test is just what you have heard?—A. I know that one of them—I forget his name—told me that they would not give him any test.

Q. Do you know of your own personal knowledge whether they were given a test?—A. I know one of them was not.

Redirect examination by Mr. WAGONER:

Q. This man Jeffries; how long has he resided there?—A. I suppose about 18 years.

Q. He knows each of these three Indians whom you have testified about, does he?—A. Yes, sir; has known them for a number of years.

Q. Two of them voted at that precinct before?—A. Yes, sir.

Q. Was Jeffries the inspector in 1910?—A. I could not say; he was on the board; I don't remember for sure.

Q. Mr. Feuquay started a few moments ago to ask you this question: "What did these Indians say, when they came out of the polling place, as to what they required of them or why they would not let them vote"?—A. They said they tried to make them read a certain part of the constitution, and they could not do it.

Q. Of your own personal knowledge, you know these three Indians you have testified with reference to, you know they could not read the English language to amount to anything?—A. No, sir; they couldn't.

Recross-examination by Mr. FEUQUAY:

Q. As a matter of fact, you don't know whether they were required to read it or not?—A. One of them said they tried to make him read. It was Echo Hawk, I think.

Q. How long did he stay in there?

Mr. WAGONER. I object to that, because that question has been asked and answered before.

A. I could not say just how long.

Q. Now, you say he tried to vote three or four times, and they would not let him. Now, which of the four times did he tell you?—A. I don't remember; it was after it was all over with.

Q. Was it the first time?—A. No, sir; I could not say.

Q. He did not tell you it was the second time?—A. He told me one of the times they asked him to read. I could not say which time it was; I know they did not let him vote; I could see that.

Redirect by Mr. WAGONER:

Q. And you know that neither of these three Indians voted?—A. They did not, and this man Jeffries prevented them from voting.

Q. Now, Mr. Livergood, don't you know of common knowledge, that it was commonly talked on the streets of Pawnee a few days before the election in 1912, that the Democratic inspectors were not going to permit the Pawnee Indians the right to vote unless they could read the Constitution?—A. Yes, sir.

Mr. WAGONER. That is all.

Mr. FEUQUAY. That is all.

GEORGE STAPLETON, being called as a witness on behalf of the contestee, and being first duly sworn to tell the truth, the whole truth, and nothing but the truth, testifies as follows:

Direct examination by Mr. WAGONER:

Q. State your name.—A. George E. Stapleton.

Q. Where do you live, Mr. Stapleton?—A. In Burnham Township, Pawnee County, Okla.

Q. How long have you lived in Burnham Township?—A. A little over three years.

Q. Were you a voter in that township in 1912?—A. Yes, sir; I was.

Q. Did you attend the election in November, 1912?—A. I did.

Q. How much of the day were you there?—A. I was there almost all day.

Q. Do you remember about what time you arrived there in the morning?—A. I would judge about 9 o'clock.

Q. Did you remain until the polls were closed?—A. No, sir; I stayed until about 11.30, and returned about 1.30 and remained until about 4 or 5 o'clock; something like that.

Q. What do you know, if anything, about them requiring the Indians of that precinct to submit to the test under the grandfather clause; that is, read and write the Constitution the same as they would require the negro?—A. I don't know. I know nothing in regard to their submitting them to the grandfather test.

Q. Do you know they required them to do that or not let them vote?—A. I don't know.

Q. Do you know whether they refused any of them the right to vote?—A. I do; I know they were refused the right to vote.

Q. Who?—A. I know two of them. One was Echo Hawk and the other Roan Chief.

Q. Did you get your information why they were refused to vote from the Indians themselves or from the officers there?—A. From the Indians.

Q. Did you hear it from any other source why they were not allowed to vote?—A. No, sir.

Q. Do you know how many Indians voted that day?—A. I think something like seven or eight.

Q. Do you know the number of Indian voters in that precinct, or that was in that precinct at the time the last election was held?—A. I know near the number. There is about 25 Indian voters in that precinct.

Q. Do you know whether there was any other Indians that came there that day that went away without voting?—A. I understand that there was one. I heard three were refused.

Q. You were there at the polls working for some of the candidates, were you?—A. Trying to.

Q. And what did the Republican workers do after they refused to let these Indians vote, or when they found out they were going to submit them to the test? What did you and the rest of them do?—A. Well, they didn't do anything. They concluded if they were not allowed to vote there was no use trying to get any of the other Indians out.

Q. Did you hear that day from any source why it was they were not going to let these Indians vote, and what, if anything, they were required to do before they could vote?—A. No, sir; I don't know.

Mr. WAGONER. That is all.

Cross-examination by Mr. FEUQUAY:

Q. What political party do you belong to, Mr. Stapleton?—A. I don't belong to any.

Q. What political party were you affiliated with in November, 1912?—A. Republican Party.

Q. During the election day of 1912 were you down at the Indian village?—A. No, sir.

Q. How do the Indians down in that precinct live, all together in one village?—A. Not all together; part of them do.

Q. You have heard Mr. Livergood's testimony about going to the village?—A. A good many live down in the village.

Q. Now, you don't know why these three Indians that you heard him testify about were refused the right to vote, do you?—A. I could not say why they were refused the right to vote.

Mr. FEUQUAY. That is all.

Mr. WAGONER. That is all.

CHARLES A. LEGRANDE, being called as a witness in behalf of the contestee, and after being duly sworn to testify to the truth, the whole truth, and nothing but the truth, testifies as follows:

Direct examination by Mr. WAGONER:

Q. State your name.—A. Charles A. Legrande.

Q. Where do you live, Mr. Legrande?—A. In Pawnee Comty, 3 miles southeast of Pawnee.

Q. In what voting precinct or township did you reside in November, 1912?—A. I lived in Burnham Township.

Q. Did you hold any official position that day in connection with the election?—A. I was one of the counters.

Q. Selected by what party?—A. Republican Party.

Q. Do you know a man by the name of Jeffries?—A. I do.

Q. Was he the inspector?—A. Yes, sir; supposed to be.

Q. Were you at the polls that morning at the time they opened?—A. Yes, sir.

Q. Had you received any information or heard any statements or rumors in Pawnee, say, Saturday before the election or afterwards, in regard to the election, in regard to the manner in which the Democratic inspectors of Pawnee County, and in those townships especially where there were Indians, how they were going to enforce it?—A. Yes, sir; I heard they were going to make them submit to the test under the grandfather clause.

Q. On the morning of the election in November, 1912, in Burnham Township, did you and the inspector, Jeffries, have any conversation in regard to the Indians and their right to vote that day?—A. We did.

Q. Now, Mr. Legrande, just state that conversation as you remember it, in your own language?—A. The best I remember it, I had an election-law book in my hand, and I turned to the place in it where I thought gave the Indians the right to vote and read it to Mr. Jeffries, and then we argued it, and I said the

Indians was entitled to vote, and he said they were not, and I read it to him again, and I said he was allowed to vote. He took out an envelope, and it had a slip of paper—looked like it was printed with a typewriter—and he says, "Here is my instructions what I have to go by," and also said it was furnished to him for that purpose, and that the Indians would have to submit to the test.

Q. What, if anything, do you know about him requiring the Indians to submit to a test that day? Tell just what you know and saw.—A. I saw him turn down some Indians.

Q. For what reason?—A. Well, I suppose because they did not submit to the test.

Q. Did they try it?—A. They went in without any interpreter and wanted to vote. He talked to them, but could not make them understand, and the Indians went out.

Q. What did he say to them?—A. Said they would have to submit to the test if they voted.

Q. Do you know how many he refused that day?—A. I know of three.

Q. Name the three.—A. Echo Hawk, Roan Chief, and Little Son.

Q. Do you know how many Indians he did permit to vote?—A. Not for certain, something like seven or eight I would judge.

Q. Do you know of him requiring Indians to read and write the Constitution, who could read and write?—A. Yes, sir.

Q. He permitted those to vote?—A. Yes, sir.

Q. Do you know of him allowing any Indian to vote that day that could not read and write?—A. I do not.

Q. Do you know how many Indians there are in that precinct of legal age, above 21 years of age, male citizens?—A. About 25 or 30.

Q. Are you pretty well acquainted with those Indians?—A. A part of them.

Q. Do you know what political party they affiliate with or vote in your township?—A. No, sir; I do not know with the exception of a few.

Q. Do you know of any Democratic Indians out here?—A. I don't know of any; no, sir.

Q. Do you know any of the Pawnee Indians as being Democrats?—A. No, sir; I don't.

Q. How long have you lived in that precinct?—A. About four years.

Q. At the time you and Jeffries had this conversation, and when he took out of his pocket this typewritten slip, did he state where he got that?—A. No, sir; he made the statement, he was furnished that to go by, and that they had to submit to the test or they could not vote.

Mr. WAGONER. That is all.

Cross-examination by Mr. FEUQUAY:

Q. What time in the morning did you arrive at the polls?—A. It was something like 6.30 or 7 o'clock. We were there early.

Q. When did you begin to count?—A. About 10.30.

Q. Where were you when you started to count; that is, with reference to the inspector?—A. I was supposed to be in the booth.

Q. Could you see the inspector?—A. Yes, sir.

Q. Toward his back or face?—A. I was sitting to the left of the inspector.

Q. How far away from him?—A. I was about 20 feet.

Q. What was your duty as counter?

Mr. WAGONER: I object to that as being irrelevant, immaterial, and incompetent. The law fixes his duties.

A. Well, I had no certain duty. We changed off; part of the time I would tally and part of the time I would write the tally.

Q. Did any of the three Indians you have mentioned—Echo Hawk, Roan Chief, or Little Son—speak English?—A. I think not.

Q. Did they have an interpreter there?—A. Yes; on the outside. They did not allow him in the building.

Q. Do you know whether Mr. Jeffries could speak the Pawnee language or not?—A. No, sir.

Q. Do you speak the Pawnee language?—A. No, sir.

Q. Jeffries did not know what they said there?—A. No, sir.

Redirect examination by Mr. WAGONER:

Q. You do know that Jeffries met the interpreter at the door and would not let him come in?—A. Jeffries met the interpreter at the door and did order him out.

Q. Didn't try to find out what the Indians could say?—A. No, sir.

Q. His attitude toward the Indians that day was to keep them from voting?—A. He wanted to make them submit to the test all day; yes, sir.

Mr. WAGONER. That is all.

Mr. FEUQUAY. That is all.

It is hereby stipulated and agreed by and between Fred A. Wagoner, attorney for Bird S. McGuire, and John J. Davis, contestant, that should there be any rebuttal testimony taken by said contestant in the city of Pawnee, Okla., that before said rebuttal testimony is taken the contestee will be allowed to take the testimony of Fred S. Bever and J. N. Lizar and one or two Pawnee Indians.

After the above stipulation the further hearing in this cause was dispensed with.

I, J. H. Hale, a notary public within and for the county of Pawnee and State of Oklahoma, do hereby certify that the within-named Roy Livergood, George E. Stapleton, and Charles A. Legrande were by me first duly sworn to testify the truth, the whole truth, and nothing but the truth in the case aforesaid, and that the depositions were taken by Harry E. Pray, a disinterested party, in shorthand and by him reduced to writing, and the same were taken on the 11th day of July, 1913, commencing at 5 o'clock p. m. of said day, as per stipulation, and closing at 6 o'clock p. m. on the same day. That said depositions were taken at my office in the city of Pawnee, Pawnee County, State of Oklahoma, and that I am not attorney or a relative of either of said parties or otherwise interested in the event of this action.

[SEAL.]

J. H. HALE, *Notary Public*.

My commission expires 3d day of June, 1915.

In the matter of the contest of John J. Davis *v.* Bird S. McGuire for a seat in the Sixty-third Congress of the United States.

Now, on this 25th day of July, 1913, the same being the time heretofore stipulated and agreed by and between the said parties for the taking of testimony in the city of Pawnee and State of Oklahoma, the same to be taken before a notary public to be agreed upon by said parties, and it being the time to take the rebuttal testimony for and in behalf of John J. Davis, the contestant, in said matter, and it having been heretofore stipulated and agreed by and between the parties on the 11th day of July, 1913, that at the time of the taking of the testimony in rebuttal for and in behalf of John J. Davis that Bird S. McGuire, the contestee, might, if he so desired, introduce the testimony of Fred S. Bever and other witnesses before the taking of the testimony in behalf of Mr. Davis, and it is agreed between the parties at this time the contestant, being present by Cortland M. Feuquay, his attorney, and the contestee, Bird S. McGuire, being present by his attorney, Fred A. Wagoner; that the testimony in behalf of Mr. McGuire shall be taken before James H. Hale, a notary public in and for Pawnee County, at his office in the city of Pawnee, and it is further agreed that the same shall be taken in shorthand and thereafter reduced to typewriting by Sadie Mannheim, and the said stenographer being by the notary first duly sworn to truly take and transcribe the testimony, wherenpon the following proceedings were had and done, to wit:

FRED S. BEVER, being called as a witness for and in behalf of Bird S. McGuire, and being first duly sworn to tell the truth, the whole truth, and nothing but the truth, testifies as follows:

Direct examination by FRED A. WAGONER for and in behalf of Mr. McGuire:

Q. State your name?—A. Fred S. Bever.

Q. Where do you reside, Mr. Bever?—A. Skedee.

Q. What county and State?—A. Pawnee County, State of Oklahoma.

Q. How long have you resided in Pawnee County?—A. Twenty years in September or October; will be 20; yes; 19 years; pretty near 20.

Q. During the year of 1912 did you hold any political position in either of the political parties in Pawnee County?—A. I was secretary of the Republican county central committee.

Q. As such secretary of the Republican county central committee did you, prior to the general election held in November, 1912, have any conversation with the secretary of the county election board of Pawnee County in relation to the Indians who resided in said county being entitled to vote at that election?—A. Yes; I don't know I—George Berry is secretary.

Q. Who did you have that with?—A. Mr. George Berry.

Q. What position did Mr. Berry hold in the county election board of Pawnee County, if you know; was he chairman or secretary?—A. I thought he was chairman; he was head man.



Q. You knew him to be one of the county election board?—A. The principal man on the election board.

Q. About how long before the general election was it you had this conversation with Mr. Berry?—A. It was not to exceed a week before the election, and I would think but a few days before election. Might be——

Q. In that conversation did Mr. Berry—did he or did he not—tell you that the Pawnee Indians were not entitled to vote under the Oklahoma election law?—A. He said those could not vote who could not qualify under the grandfather clause—just as colored people could not vote.

Q. Do you—did he not state at the time he had instructed the election officials to that effect or was going to do that to that effect, if you remember?—A. I don't remember, but he insisted simply they had no rights whatever to vote unless they could qualify as colored persons.

Q. Did he say he had given instructions?—A. We did not discuss what he would instruct; we just had a general argument. Several election officials were present.

Q. My question was. Did he say before he had instructed any of them not to let them vote unless they could read and write under the grandfather clause?—A. I could not answer that question, because I don't know. The fact is, I suppose he had instructed them. One came to me and wanted me to go to Berry. Said George instructed him that they had no right to vote.

Q. Who was that?—A. Lizar; Jap Lizar.

Q. And he was an election official in what voting precinct?—A. Lone Jack, No. 3.

Q. Did you hear him give—did Lizar go with you to Mr. Berry, and was he present when you were asking these questions?—A. Yes.

Q. Did you hear Mr. Berry give Lizar any instructions then or say to him what the officials of his precinct must and should do in regard to permitting the Indians to vote?—A. He certainly did. Yes; he insisted that they had no rights whatever, and I think there were other officials present. He did not come out and tell the officials in a formal way, but just insisted they had no rights whatever, and no form of government prior to 1864 and therefore could not vote unless they qualified.

Q. By reading and writing the same as the negro?—A. Yes.

Direct examination by Mr. FEQUAY for and in behalf of Mr. Davis.

Q. Where were you when this conversation took place?—A. In the rear of the building—I think belongs to George Reid—where the election officers have the supplies.

Q. What was Mr. Berry doing at the time you went in?—A. Why, I think they were getting some supplies ready for election. They were Mr. Barnes, of Jennings, and several others were there; seems to me four or five, but maybe three. Barnes, of Jennings, and Berry and Lizar.

Q. You asked if you would let the Indians vote?—A. Yes; I think I asked him that question if Lizar said to me that he said they had no right and I went with Lizar.

Q. And what did he say back to you when you asked the question?—A. He said that the law it did—the Pawnee Indians were—the grandfather clause applied to them as well as the colored people, and the Five Civilized Tribes were entitled to vote.

Q. Did he not ask you whether you had any law to show him on the subject?—A. I think I had the passage and Jap wanted me to show it to him—the law—we took him a copy of the grandfather clause and——

Q. You read the place where it said who was entitled and not entitled to vote?—A. Yes.

Q. Did he not say he had already read that and that the Pawnee Indians were not entitled to vote, because they had no form of government before 1866?—A. Yes.

Q. Was that not all that took place between you and Mr. Berry?—A. I don't think it was all of this, we had a little argument; he made other statements in regard to the Pawnee Indians, said they were illiterate, that they had no form of election of officers, insisted that they did have big and little chiefs. We had some little argument; yes.

Q. You had some little argument?—A. Yes; he was very positive and I was.

Q. All the argument was to whether the Pawnee Indian had a form of government in which their forefathers were entitled to voted before 1866?—A. I think that was all.

By Mr. WAGONER:

Q. Mr. Bever, you say you have lived in the county 20 years?—A. Yes.

Q. And do you know about how many Pawnee Indians of voting age are in the county, about?—A. I should judge 250—about 200—I don't know; somewhere around that. I have been connected with the Indians before five years ago and am well acquainted with them, but Berry was with them longer than I have been.

Q. Do you know whether or not the Indians of this county were required to submit to the test in the precinct where you reside?—A. I have no personal knowledge—hearsay. I heard——

Q. No Indians voted in your precinct?—A. There were several Indians voted, but were not challenged; I guess they could all qualify.

Q. Do you know, as secretary of the Republican central committee, what per cent stayed away on account of being required to submit to the test or were refused at the various precincts?—A. No; I could not answer that question only by hearsay; I have no personal knowledge.

Q. What is your best information as to that? What per cent of them voted, put it that way?—A. I don't presume there was more than 25 per cent of the Indians I don't think voted.

Q. Out of all the county?—A. Yes.

By Mr. FEUGUAY:

Q. You have been in the Indian service here?—A. Yes.

Q. You said 200 Indians—Pawnee Indians—of voting age here?—A. According to my judgment.

Q. I mean of voting age.—A. Yes.

Q. Is it not a fact that over half of the Pawnee Indians live in Payne County and are not allowed to vote in Pawnee County?—A. Very few live in Payne County that have land in Payne County, and they don't stay there, as it is valuable and they lease them out and live on the interest of their money.

Q. Then, when they reside off of the allotment they reside in camps and migrate from one place to another, do they not?—A. They generally remain in a certain place and camp in different places. I don't think there is but two or three in Payne County, for they don't live there.

Q. You think they live in this county?—A. They camp here, first one place, then another—upon the hill in summer and down in the lowland in the winter—and live collectively.

Q. They don't own the land on which they camp?—A. No; it generally belongs to friends or relatives—several families live together.

By Mr. WAGONER:

Q. Prior to the passage of the grandfather clause they voted in Pawnee County, did they not?—A. Yes.

Q. Never be questioned as to residence?—A. No. These, of course, when they were not entitled to vote; they lived for most of the year on their allotment, but would go off in the fall and camp, and in some other precinct, and they would challenge them.

Q. But the Pawnee Indian as a tribe, their residence has been in Pawnee County?—A. Most all of them.

Q. Unless otherwise disqualified?—A. Yes.

By Mr. FEUQUAY:

Q. You are acquainted with the Indians and know they always voted here of years past?—A. I could not make that as positive.

Q. Your supposition?—A. Yes.

(Witness excused.)

I, James H. Hale, a notary public in and for Pawnee County, State of Oklahoma, do hereby certify that the above-named Fred S. Bever was by me first duly sworn to testify the truth, the whole truth, and nothing but the truth in the matter aforesaid, and that the depositions were reduced to writing by Sadie Mannheimer, a disinterested person, and the same were taken on the 25th day of July, 1913, between the hours of 8 o'clock a. m. and 6 o'clock p. m. of the said day and at the office of James H. Hale, in the city of Pawnee, in the county of Pawnee and State of Oklahoma, and that I am not attorney or a relative of either of said parties or otherwise interested in the event of said action.

[SEAL.]

J. H. HALE, *Notary Public.*

My commission expires June 3d, 1915.

TESTIMONY OF CONTESTANT IN REBUTTAL.

It is hereby stipulated and agreed by and between the contestant and contestee, by their respective attorneys, that Lucy Adams, a notary public, is hereby authorized and agreed upon by parties hereto to inclose the transcripts of testimony of witnesses taken for and on behalf of the contestant on rebuttal, and that the said Lucy Adams's indorsement on the package containing the same will be accepted by both parties as official, and that no advantage will be taken by either party hereto of its not coming direct from the notaries before whom the same was taken or objection made to the same being received by the Clerk of the House and by him referred to the proper authorities in the usual way.

It is further agreed that the attorney for the contestee has been furnished a true and correct copy of said rebuttal testimony.

Witness whereof we have hereto signed our names this 6th day of September, 1913.

ROY HOFFMAN,  
*Attorney for Contestant.*  
FRED A. WAGONER,  
*Attorney for Contestee.*

Depositions on the part of John J. Davis, contestant, in rebuttal, before Marie E. Terrell, a notary public. The contestant is present by his attorney, Roy Hoffman, and the contestee is present by his attorney, John H. Burford, and the following proceedings were had:

FRANK HINDMAN, being called and sworn as a witness in rebuttal, testified as follows:

Direct examination by Mr. ROY HOFFMAN:

Q. What is your name?—A. Frank Hindman.

Q. Where do you live?—A. Guthrie.

Q. What official position, if any, do you occupy on the election board?—A. If I occupy any, it is secretary of the county election board.

Q. As such secretary have you in your custody the returns for the congressional election in this county for the 1912 election?—A. Yes, sir.

Q. And as such official have you in your custody the ballot box of precinct 2, ward 1, of this city?—A. I have.

Q. Do you remember, in computing the vote for Congressman in your official capacity, acting with the board for the last general election, whether you had any certified returns to act on for precinct 2 of ward 1 of this city?

Judge BURFORD. Objected to as not the best evidence, the records themselves in the custody of the witness as official clerk and the returns from the ward inquired about being the best evidence as to whether or not they are certified, and not of the manner they are certified.

Q. Will you produce here the envelope labeled "Returns," or any such returns in your custody, of precinct 2, ward 1?—A. They are in my possession, or in the possession of the board. All of the old election stuff has been lost; it has been destroyed, with the exception of the contents of this box. We never had any official contest or notice of holding the box; yet there was a question in dispute, and we held the box and this up there.

Q. Will you bring that box here and produce any returns which it contains, or any envelope containing labeled returns from that box, if I advise you that it is within your legal right to do so?—A. I can do so if there is no objections to it from any source. I don't want to violate any law in the matter, and I don't see how I would be violating it.

Q. I don't ask you to open or produce or in any way open any of the envelopes of voted ballots or tally sheets or the stub books of ballots which under section 30 of our election law can not be opened except by an order of the supreme or district courts or the judge thereof; but I do ask you to produce the returns

against which there is no legal objection to your doing so and producing the envelope marked "Returns" and opening it here. Are you willing to do that?—

A. As I said beforehand, if there are no objections.

Q. There being no objections, I will ask you to do so.

The further taking of depositions is adjourned until 1.30 p. m.

At 1.30 p. m. the further taking of depositions is resumed, with the witness Frank Hindman on the stand.

Mr. HOFFMAN. Have you in your possession here the ballot box of precinct 2, ward 1, for the last general election?

A. I have.

Q. Will you open the same?—A. Yes, sir.

Q. Please do so.—A. There don't seem to be any objections, so I guess I will just proceed. What do you want?

Q. Is this ballot box in the same condition that it had been at the time it was turned over to you as secretary of the board?—A. Yes, sir; it is in the same condition.

Q. Have you had it in custody all of that time?—A. Yes, sir; all the time.

Q. Where did you keep it?—A. In the office of the election board.

Q. How have you kept it?—A. Kept it with the other boxes.

Q. Double locked?—A. Yes, sir; they were kept in this box with two locks and keys.

Q. Where were those keys?—A. They were in a separate box that we have for keeping the keys in of that box.

Q. Who kept the key to that box?—A. I kept the keys to that box.

Q. Any other keys to it?—A. That is all; nobody else had any other keys.

Q. I will ask you to produce from this ballot box the envelope labeled "Returns."—A. That never was in any envelope. My recollection is there never was any envelopes; that they were never in any envelopes.

Q. Were you present when the return from this precinct was canvassed?—A. Yes; I was there.

Q. Were there any envelopes containing either the returns or the stub book of the voted ballots or the tally sheets?—A. I don't recollect them; I will find just the condition now. I don't remember everything about the details. Here is an envelope, unlabeled, marked voted ballots, tally sheets, and stub book of ballots. This envelope never was used for that purpose.

Q. It was in the condition it is now—ungummed and unsealed?—A. It never was used at all. That is one of them. Here is another envelope; that is on State questions, but it is of no importance, because it was never used. Here is another large envelope; this large envelope—I think this one was intended to be used for the State voted ballots; anyhow, that envelope was never used. State returns—that envelope never was used. That is all the envelopes.

Q. Do you find any envelope in there containing anything?—A. No. Here is a small envelope. I will explain now. There is no envelopes here that contains any returns.

Q. I call your attention here to a paper you took from the ballot box, styled certificate of vote, and ask you to state what these instruments are, if you know?

Judge BURFORD. The counsel for contestee objects to the introduction of the evidence now being offered by the contestant for the reason (1) the same is irrelevant and immaterial; (2) that it is not in rebuttal of any testimony offered in behalf of the contestee; (3) that it is not in support of any averment contained in the contestant's petition; (4) that the same, if competent for any purpose, was a part of the contestant's evidence in chief and is not proper evidence on rebuttal.

A. These are certificates that were made out, certified to by the official counters, and sworn to by one of the officials, and these are for the county. Now, then, they are not filled out or signed by anybody as counter except Charles C. Smith. He has signed them as a counter.

Q. I call your attention to four other blanks which you took from this box, called the certificate of vote, and ask you if those are in the condition at the time they were when you canvassed this vote?—A. They are the certificates for the State ballot.

Q. Do they include also the Representative in Congress?—A. They include those; yes.

Q. Are those certificates included in any envelope or signed up?—A. The precinct 2, ward 1, for that ward they are not filled out and not signed up, except by Charles C. Smith, one of the official counters. There is four of them.

Q. All the same?—A. Yes, sir.

Q. I ask the stenographer to mark one of them "Exhibit 1" of this witness's testimony and to attach the same and make it a part of your deposition.

Judge BURFORD. I object to this for the reason that the certificates referred to are part of the original files of the county election board and not permitted to be taken. If the contestant desires to have the same put in evidence he will have to have the election board or the secretary make a certified copy.

Mr. HOFFMAN. I only ask it for convenience, but if objection is made, I will ask the stenographer to make a copy.

Certificate is marked "Exhibit 1" to testimony of witness.

## EXHIBIT 1.

## CERTIFICATE OF VOTE.

We, the undersigned official counters for the election held at precinct No. 2, ward 1, of Guthrie, Logan County, on Tuesday, the 5th day of November, A. D. 1912, hereby certify that the correct number of votes cast at said precinct in said election for the various candidates and for and against State questions Nos. 40 and 45 voted on is herein set forth in written words.

For corporation commissioner: J. E. Love, Democrat; P. J. Loewen, Republican; C. E. Hedgpeth, Socialist.

For presidential electors, State at large: Robert A. Baird, Democrat; J. W. Bolen, Democrat; H. H. Brenner, Democrat; Joseph W. Foster, Democrat; W. W. Hastings, Democrat; Sam Massingale, Democrat; S. H. Mayes, Democrat; David Ratner, Democrat; J. D. Scott, Democrat; J. C. Thompson, Democrat; George M. Flick, Republican; Marshall W. Hinch, Republican; M. P. Howser, Republican; H. L. Hix, Republican; Lindsey L. Long, Republican; W. L. McWilliams, Republican; Ret Millard, Republican; George E. Nickel, Republican; Joseph G. Ralls, Republican; W. A. Williams, Republican; E. B. Barnes, Socialist; C. B. Boylan, Socialist; A. R. Bradshaw, Socialist; W. H. Davis, Socialist; R. E. Dooley, Socialist; Allen Fields, Socialist; Lewis B. Irvin, Socialist; I. N. Johnson, Socialist; A. W. Renshaw, Socialist; Thos. W. Woodrow, Socialist; M. Simpson Allen, Prohibition; J. E. Brewer, Prohibition; Chas. Brown, Prohibition; S. H. Brown, Prohibition; Taylor H. Ebersole, Prohibition; G. M. Hadduck, Prohibition; Chas. O. Jennings, Prohibition; J. H. Medaris, Prohibition; G. E. Rouch, Prohibition; H. E. Strickled, Prohibition.

For United States Senator: Robert L. Owen, Democrat; J. T. Dickerson, Republican; John G. Wills, Socialist.

For Congressman, State at large: Wm. H. Murray, Democrat; Joe B. Thompson, Democrat; Claude Weaver, Democrat; Alvin D. Allen, Republican; Jas. L. Brown, Republican; Emory D. Brownlee, Republican; Oscar Ameringer, Socialist; J. T. Cumble, Socialist; J. Luther Langston, Socialist.

For justice supreme court, first district: John B. Turner, Democrat; Charles Alston Cook, Republican.

For judge criminal court appeals, southern district: Henry M. Frumna, Democrat; George T. Ralls, Republican; E. S. Hurt, Socialist.

CHARLES C. SMITH,  
*Official Counter.*

Mr. HOFFMAN. Was P. V. Smith one of the counters?

A. It seems that he was.

Q. I call your attention to this blank here.—A. I think so.

Judge BURFORD. Objected to for the reason that it is not the best evidence; that the records of the county election board are the best evidence of who the officials of that precinct were.

Q. Was he one of the counters?—A. I only know from his signature there; the county election board doesn't appoint the official counters, and we don't know who they are really.

Q. I call your attention to an instrument, which I will ask the stenographer to mark "Exhibit 2" of your testimony, and ask you to state whether or not there is any other record of the oath having been administered to P. V. Smith as counter in your box?

Judge BURFORD. Objected to for the reason that the law does not require it to be kept in the box, but the record of the oath is required to be kept by the inspector of the precinct.

A. I don't see any other sworn to.

Q. I ask the stenographer to make that a part of your testimony and mark it "Exhibit 2."

Judge BURFORD. Objected to for the reason that it don't purport to be anything but blank, and there is no part of the records of the precinct election board, the precinct election board being the proper custodian of the oaths of official counters, the counters being appointed by the precinct election board and not by the county election board, and no requirement that the oaths be filed with the county election board.

Q. Now, Mr. Hindman, in canvassing the returns of this precinct, was there any envelope or any returns submitted to you from this precinct in an envelope containing the same?—A. There was not.

EXHIBIT 2.

APPOINTMENT OF OFFICIAL COUNTERS.

GUTHRIE, OKLA, *September 21, 1912.*

P. V. SMITH:

You are hereby notified that you are hereby appointed by the precinct election board of second precinct, ward 1 (or the township of \_\_\_\_\_), as an official counter in said election precinct for the primary and general elections to be held in said precinct during the year 1912.

Witness our hands at \_\_\_\_\_, Okla., this \_\_\_\_\_ day of \_\_\_\_\_, 1912.

\_\_\_\_\_  
*Inspector Precinct Election Board.*

*Official oath.*

STATE OF OKLAHOMA,

*County of \_\_\_\_\_.*

I, \_\_\_\_\_, do solemnly swear (or affirm) that I will support, obey, and defend the Constitution of the United States and the constitution of the State of Oklahoma, and will discharge the duties of my office with fidelity; that I have not paid or contributed, either directly or indirectly, any money or other valuable thing to procure my nomination or election (or appointment), except for necessary and proper expenses expressly authorized by law; that I have not knowingly violated any election law of the State or procured it to be done by others in my behalf; that I will not knowingly receive, directly or indirectly, any money or other valuable thing for the performance or nonperformance of any act or duty pertaining to my office; and I further swear (or affirm) that I will not receive, use, or travel upon any free pass or on free transportation during my term of office, and that I will perform the duties of my office impartially according to law.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, A. D. 191—.

\_\_\_\_\_  
*(Clerk (or inspector)).*

(To be returned to secretary of county election board as soon as oath is taken).

Cross-examination by Judge BURFORD:

Q. The returns were made to you locked in the ballot box?—A. They were.

Q. And in these returns you found the tally sheets and certificates showing the number of votes canvassed by the counters and precinct election board for each candidate voted for at that election?—A. We found the tally sheets and the certificate and the State book of ballots; that is, that one there.

Q. I will repeat my question: You found in that ballot box the tally sheet made up by the official counters of that precinct showing the vote by tallies and written out in writing and signed by each one of the official counters and sworn to by them, showing the number of votes voted for at that election, didn't you?—A. Yes; the tally sheets.

Q. And you also found in the back of the book of ballots the certificate required by law, duly filled out, showing the number of votes received for each candidate and properly signed up by the counters, didn't you?—A. Yes, sir. There is one that didn't sign; I don't know which one it is.

Q. Three of the counters had signed?—A. Three of the counters had signed it.

Q. And the county election board, of which you was a member, examined those tally sheets and certificates and found them to comply with the law, and canvassed the vote therefrom, didn't you?—A. Yes; they made the canvass, I believe, to the best of my knowledge, from the tally sheet, because I was awfully busy then with the books and other things, and they made the count and put it on the book.

Q. You was a member of the board?—A. Yes, sir.

Q. The irregularity which you have discovered was in the fact that the different blanks, certificates, and documents constituting the papers to be returned by the precinct election board had not been by them sealed up in the designated envelopes, wasn't it?—A. They were not sealed up in the envelopes.

Q. But were all placed in, or had been all placed in, the ballot box, locked, and properly delivered to the county election board?—A. Yes, sir.

Q. Have you present now before the notary the original official returns of the general election held Tuesday, November 5, A. D. 1912, State of Oklahoma, of Guthrie precinct No. 2, ward No. 1, properly filled out, signed, and certified by the officials of that precinct?—A. This is it; that is the tally sheet.

Q. That shows the vote cast and canvassed at that precinct on that day for Bird S. McGuire, Republican candidate for Congress, and John J. Davis, the Democratic candidate, and A. W. Renshaw, the Socialist candidate, and for Thomas P. Hopley, the Prohibitionist candidate?

Mr. HOFFMAN. We object to the question so far as it relates to the votes cast, the witness not having testified as to the vote cast and knows nothing of the vote cast.

A. The canvass was made, I believe, from that sheet.

Q. Was there ever any objection or protest offered to the county election board against canvassing the returns of that precinct as shown by the tally sheets and certificates now in your possession?—A. No; there wasn't any form of protest; if there had been—

Q. Your canvass was made openly and fairly, in the presence of numerous candidates on the several tickets, were they not?—A. Yes; we got all the tickets we could get up there in the basement of the courthouse and spread everything out there and asked everybody to be present.

Q. And was present during your canvass—several Republican and Democratic candidates?—A. Yes; they were all there.

Q. I am asking you if they didn't during that canvass attend and were present?—A. They were there.

Q. And were there when this ballot box was opened and the contents made known?—A. I don't know how many was there, but lot of them were there. It was during the canvass that this box was opened.

Mr. HOFFMAN. There was neither Mr. Davis nor any representative of his present at that time?

A. I don't recollect that Davis was present; I am sure he wasn't present at that time.

Q. And this matter wasn't called to his attention until after about the time this contest was instituted, was it?—A. I don't believe it was.

Q. What does your record show the vote in that precinct that you gave in your returns to the State election board for Congressman?—A. McGuire, 147; Davis, 35; Renshaw, 13; Hopley, 4.

Q. You never have had any returns certified and sealed and delivered to the board from which to make that canvass, did you, in that precinct?—A. The returns was just as I have stated.

Q. I am asking you if you had any returns certified and sealed and delivered to that board from which to make that canvass?—A. They were not in the envelopes provided for them. The envelopes are right here.

Q. You have no certificate of the vote at all in that precinct? I am asking you if you had any certificates of that vote turned over to your board?—A. No; except only in the back of the book of ballots.

Q. It is another certificate and not the certificate of the vote?—A. There is no others.

Judge BURFORD. There was one in the back of the ballot books?

A. I have stated that two or three times.

Q. Duly signed?—A. And aside from that there was no more certificates.

Judge BURFORD. How long have you been a member of the county election board?

A. I have been connected with it ever since it was a board, part of the time as secretary and part of the time assistant.

Q. You have since statehood and under the present law assisted in the canvass of the returns of three separate elections, haven't you?—A. Assisted at all the elections that has occurred since statehood.

Q. There was the regular election in 1910, the regular election in 1912?—A. Yes; I was a member of the board then.

Q. And then a special capital election and a constitutional amendment election held in August, 1910?—A. Yes, sir.

Q. I will ask you if it isn't a very common thing with the precinct election boards to make mistakes and errors in the way they seal up these returns and bring them in?

Mr. HOFFMAN. Objected to as incompetent, irrelevant, and immaterial.

A. It is a common thing.

Q. Don't you know, in canvassing the vote, that it is a rare thing in which the precinct election officers get these several blanks and certificates and tally sheets in the right envelopes?

Mr. HOFFMAN. Objected to for same reason as above.

A. A great many of the officers get them just about right. They don't get the certificates and things put in the right envelopes, and they come in that condition, but where there appears to be no fraud or objections of any kind they are simply canvassed just the same as if they was regular.

Q. In this precinct referred to in the 1912 election you found no evidence of any fraud or irregularity in the casting or counting of the ballots, did you?

Mr. HOFFMAN. Objected to for the same reason as above.

A. I didn't find any evidence of fraud at all.

Q. Simply an omission of making up the certificates in the manner provided by law?—A. Yes; that is all. Never heard any charge of fraud made at all.

Mr. HOFFMAN. I call your attention to the three blanks, appointment of official counters, asking the stenographer to mark them Exhibits 3, 4, and 5, respectively, and ask you to state if those were a part of the contents of this box you just now opened?

A. Yes, sir.

Mr. HOFFMAN. I ask the stenographer to attach them as a part of the evidence of this witness, referring to them by the numbers aforesaid.

(Exhibits marked "3," "4," and "5.")

Judge BURFORD. Objected to for the reason that there was no evidence that they were used in that election, and the custom and practice is to return all the unused certificates and papers sent out by the county election board, and the county election board always sent a number of certificates in excess of those required to be used, which are ordinarily returned to the election board.

#### EXHIBIT 3.

(Exhibits 4 and 5 are duplicates of Exhibit 3.)

#### APPOINTMENT OF OFFICIAL COUNTERS.

———. Okla., ——, 191——.

To ——.

You are hereby notified that you are hereby appointed by the precinct election board of ——, precinct, ward —— (or the township of ——), as an official counter in said election precinct for the primary and general elections to be held in said precinct during the year 1912.

Witness our hands at ——, Okla., this —— day of ——, 1912.

\_\_\_\_\_  
*Inspector Precinct Election Board.*

*Official oath.*

STATE OF OKLAHOMA, County of ——:

I, ——, do solemnly swear (or affirm) that I will support, obey, and defend the Constitution of the United States and the constitution of the State of Oklahoma and will discharge the duties of my office with fidelity; that I have not paid or contributed, either directly or indirectly, any money or other valuable thing to procure my nomination or election (or appointment) except for necessary and proper expenses expressly authorized by law; that I have not, knowingly, violated any election law of the State, or procured it to be done by others in my behalf; that I will not, knowingly, receive, directly or indirectly,



any money or other valuable thing, for the performance or nonperformance of any act or duty pertaining to my office, and I further swear (or affirm) that I will not receive, use, or travel upon any free pass or on free transportation during my term of office, and that I will perform the duties of my office impartially according to law.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, A. D. 191—.

\_\_\_\_\_  
Clerk (or Inspector).

(To be returned to secretary of county election board as soon as oath is taken.)

In the Congress of the United States, House of Representatives, Sixty-third Congress. John J. Davis, contestant, *v.* Bird S. McGuire, contestee. Certificate.

I, Marie E. Terrell, a notary public within and for the county of Logan and State of Oklahoma, do hereby certify that each of the witnesses produced was by me duly sworn to tell the truth, the whole truth, and nothing but the truth; that the evidence of such witness was by me taken in shorthand notes and the same reduced to typewriting; that the foregoing is a full, true, and complete transcript of the testimony of said witness; that the signing of the depositions was waived by stipulation; and that said depositions were taken at the time and place specified in the notice for taking the same.

Dated July 22, 1913.

[SEAL.]

MARIE E. TERRELL, *Notary Public*.

Commission expires November 27, 1916.

In the matter of the contest of John J. Davis against Bird S. McGuire for a seat in the Sixty-third Congress of the United States.

Now, on this 25th day of July, 1913, the same being the time heretofore agreed upon by and between said parties for the taking of rebuttal testimony in the county of Pawnee, city of Pawnee, State of Oklahoma, and hereby being agreed by and between said parties that it is to be taken before James H. Hale, a notary public in and for said county and State, at his office in the city of Pawnee; and it is further agreed that the same shall be taken in shorthand and thereafter reduced to typewriting by Sadie Mannheim, and the said stenographer being by the notary public first sworn to truly take and transcribe the testimony, the contestant being represented by his attorney, Courtland M. Feuquay, and the contestee by his attorney, Fred A. Wagoner.

It is further stipulated and agreed that notice, time of notice, and other requirements under the Federal statute for the taking of testimony are hereby waived. Whereupon the following witnesses were present, and, being first duly sworn to tell the truth, testify, and the following proceedings were had, to wit:

Examination by COURTLAND M. FEUQUAY, for and in behalf of John J. Davis, the contestant:

GEORGE N. JEFFRIES, being first duly sworn to tell the truth, the whole truth, and nothing but the truth, testifies as follows:

Q. State your name.—A. G. N. Jeffries.

Q. Where do you live?—A. In Burnham Township, Pawnee County, State of Oklahoma.

Q. Your age?—A. 55.

Q. State if you held any position, election position, in the general election held November, 1912.—A. Yes.

Q. What was it?—A. Inspector.

Q. Of what precinct?—A. No. 7.

Q. I will ask you if as inspector on that day did you see one Roy Livergood going about the polls?—A. Yes.

Q. State, if you can, what time he came in the morning.—A. I judge about 10 o'clock; might have been earlier, but I would say 10.

Q. What sort of a conveyance did he come in?—A. Buggy.

Q. Did he stay there all day?—A. No, sir.

Q. What was he occupied in doing, if you know, about the polls during election day in 1912?—A. He was transporting Indians, as I call it—bringing Indians from certain places in his buggy to the polls.

Q. Did he create any disturbance?—A. Yes; a little for a proposition of betting somewhere or another; I did not actually know.

Mr. WAGONER. Object to the above answer and ask the same be stricken out as not responsive; the same incompetent, irrelevant, and immaterial, and not rebuttal testimony.

Q. What did you see in back of the buggy on that day when you looked out of the windows where you conducted the election?—A. I did not see anything in the back.

Q. Was anything in the buggy?—A. I seen Livergood take a rifle up in the buggy and turn it around and put it in the front, in a different position in the buggy.

Q. Did Livergood, or did he not, attempt to instruct Indians how to vote on that day?

Mr. WAGONER. Objected to as leading and suggestive.

A. Yes.

Q. State in what condition the Pawnee Indian voters were at the poll from your own personal knowledge.—A. Drunk.

Q. Do you remember the condition, and, if you do, state the condition of one George Hayman, a Pawnee Indian?—A. He was very drunk; that is, to stand on his feet; could hardly stand; and he was coming into the voting building; I was attending to some business with the officials, counting, getting them straightened out, and did not notice until he was in the booth—had his ticket and was nearly in the booth; and he was staggering around a great deal, and I watched him so as not to create any disturbance, and he could not make his ticket, and he got around into the other booth, and I took him by the arm and said, "You mustn't cross over in voting," and stood him in the booth and let him stay there until he got through voting; and the other Indian was not quite so drunk, and this one came out and folded the ticket, put it in the box, and went out.

Q. Did you have any trouble of anyone coming in who had no business in there?—A. Yes.

Mr. WAGONER. Objected to as incompetent and irrelevant and immaterial, not rebuttal testimony; the law specifically provides the duty of the election officials as to the way of conducting the elections, and it has no bearing whatever in this contest.

Q. State what intrusion there was.—A. There was Mr. Grant, U. S., wanted to come in and be interpreter for some of the Indians.

Q. Did he come inside of the voting place?—A. Yes.

Q. What did you do with him?—A. I asked him what his business were.

Q. What did he say?—A. He told me.

Q. Then what did you do?—A. I told him we did not need any interpreter that day.

Q. Do you know who sent him in?—A. No, sir; I don't.

Q. Do you know an Indian by the name of Rome Chief?—A. I know that big Indian we call Rome Chief lives south of here.

Q. Does he speak Pawnee language; does he speak the English language?—A. No, sir; I have never been able to have him speak to me.

Q. Is he a civilized or blanketed Indian?—A. I call him a blanketed Indian.

Q. Did you see Rome Chief on election day in 1912?—A. I did.

Q. State what he did when you saw him on election day in 1912.—A. He came into the voting place and I offered him a seat, gave him a pencil, gave him a tablet, marked out three lines, a short piece, made it as light as possible on any who took the test and asked him to write it; he looked around and got up and went out.

Q. Did he ask you to vote?—A. No.

Q. Did he say any word in English while at the polls?—A. No.

Q. Do you know Littleson?—A. I would know him only by sight.

Q. Do you know Ekahaw?—A. He was there.

Q. Did he act as Rome Chief?—A. Yes; with the exception he did not try to write at all.

Q. Did he make any demand for a ballot?—A. No.

Q. Do you know where the Ekahaw allotment is?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial. His allotment does not establish his residence.

A. His allotment is in Payne County.

Q. Do you know where the allotment of Littleson is?—A. Payne County.

Q. Did Littleson ask you in the English language on election day in 1912 to be allowed to vote or speak any word to you in English?—A. I don't think he did. I can't answer positive either way; if he can speak is a question in my mind.

Q. How long have you been inspector in Pawnee County or connected with the board in Pawnee County?—A. Fifteen years.

Q. State from your own personal knowledge whether the custom has been to consider Indians, as residing on their allotment and allowing them to vote in person, whose allotments are the only way of finding residence?

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial; custom does not establish residence, and the allotment does not establish residence, the law provides what is necessary for one's residence to allow them to vote.

A. The custom for 15 years being inspector and judge of the election board, precinct 7, until the grandfather clause came in, the Indians had interpreters, and the interpreters voted by asking the Indians: Does he live in this township; how long, if he lived in the precinct 30 days. I believe, it is, and in the county 6 months, why he was allowed to vote, and in the State a year, same question was asked all the men, and if he could not qualify he was turned down. I seen more turned down before that than after the grandfather clause came in, and that is as near the custom as I know.

Q. You have lived in Burnham township about 15 years?—A. Ever since the strip opened.

Q. State, if you know from your own personal experience, that the Indians when camped together have no residence, and considered their residence as on the allotment.

Mr. WAGONER. Object to question as incompetent, irrelevant, and immaterial. Counsel knows, as a lawyer, that such a question would not be permitted to be asked in any court of record; the witness can't state those things.

Mr. FEUQUAY. Counsel states that this witness has lived in Burnham Township, Pawnee County, 15 years and is capable to testify as to the custom and habits of the Pawnee Indian tribe.

Mr. WAGONER. Counsel for contestee insists that the above question does not imply the statement of counsel.

A. They claim their home is on their allotment; that is, the claim the Indian holds is that he either lives on his own or his wife's allotment and leases the other out. I have leased a good deal of the land myself. That is the custom.

Examination by Mr. WAGONER:

Q. How many Indians live in your township have allotments in any other county?—A. I don't know.

Q. Do you know Ekahawk has any allotment in another county?—A. Yes.

Q. When did you discover it?—A. I saw it on the map to-day.

Q. The first time?—A. I wanted to be sure that I was right.

Q. Where is that allotment?—A. In Payne County.

Q. What part?—A. On a small creek; I could not give the number.

Q. How do you know his allotment is in Payne County other than what you saw on the map?—A. There is several I can cite you.

Q. How do you know his allotment is in Payne County other than what you saw on the map?—A. There is several I can cite you, there if it was not.

Q. So, of your own personal knowledge, you don't know Ekahawk had an allotment anywhere of your own personal knowledge.—A. Yes; because you can't tell me that there is an Indian, and that a man don't know that an Indian got an allotment. I know the Government.

Q. I am asking you of your own personal knowledge.—A. I am testifying.

Q. Littleson, you are acquainted with him?—A. I may by person, but by the names—

Q. A moment ago, when he asked you the question, you said you did not know him by name, or whether he came to vote you don't know positively.—A. I think I said I did not know.

Q. Did you not state a few moments ago that you did not know Littleson; did you make that answer?—A. Don't think I did.

Q. And also when Mr. Feuquay asked you about Littleson's allotment you said he had an allotment in Payne County?—A. Yes.

Q. How do you know?—A. Seen it on the map to-day.

Q. That is all you know about it?—A. No.

Q. What else?—A. I was told he has—

Q. I am speaking of your own knowledge. Do you know anything of his allotment other than what you saw on the map?

Q. You said a little bit ago it was the custom to refuse the Indian to vote; the custom to ask the Indian when he came to the polls on election day for a ticket if he lived in the township 30 days, the county 6 months, and the State a year?—A. Yes.

Q. That is your duty with every voter?—A. Yes.

Q. And if they have not lived in those various places for the time named they should not vote—not allowed to vote?—A. No.

Q. And your duty to refuse them?—A. Those Indians.

Q. I mean everybody?—A. Yes.

Q. They have to live in the township 30 days, State 1 year, county 6 months, regardless of who they are?—A. Yes.

Q. It is your duty to find that out and not permit them to vote and challenge them?—A. Yes.

Q. And let them swear they are a resident, if you don't know?—A. Yes.

Q. Roy Livergood—you are acquainted with him?—A. A little.

Q. Don't like him?—A. I have nothing against him.

Q. You had some trouble with him?—A. Yes.

Q. Roy did not do anything out of the way?—A. Yes.

Q. Brought some Indians there?—A. Drunk Indians, and if you know anything about law you know why they did

Q. Why did you not arrest them?—A. Did not want to raise any disturbance.

Q. What Indians were drunk?—A. Two young Indians and George Haymon; they was not real drunk, the other two.

Q. Did Roy Livergood bring him?—A. Yes.

Q. Did not Ekahawk and Littleson come with George and not the other?—A. They was with him.

Q. Did he bring them?—A. He was with them. He brought a load there.

Q. How many?—A. I reckon two, three, or four trips; he was gone two or three trips.

Q. Is it not a fact he brought these three I named, Ekahawk, Rome Chief, and Littleson; are the only ones Livergood had anything to do with bringing there?—A. I could not say as to that, but all were with him.

Q. But I want to find out: are you going to swear he did bring three drunk Indians there; is that what you want?—A. I don't want to swear anything that is not true, and his team and he was out with the Indians, and the Indians were there all day until he was gone.

Q. How many did he haul there that day?—A. I don't know.

Q. Do you know of your own knowledge he hauled any?—A. Yes; I seen him come with two.

Q. What were their names?—A. I could not tell their names.

Q. You did not see him bring three drunk Indians there?—A. No; I did not.

Q. You don't want to be understood that he did bring them there when you don't know?—A. I don't know he brought them there; I don't know he hauled them there, but it was my impression—

Q. I am asking you what you know. You did not see him bring them there?—A. No.

Q. You don't know the names of any he did bring?—A. No.

Q. How many Indians applied at your precinct that day to vote?—A. I could not answer that question.

Q. How many voted?—A. All but 3.

Q. How many was that?—A. I don't know.

Q. About how many?—A. I judge 5 or 6 more. I could go in the poll books and tell.

Q. Maybe 8, 9, or 10 voted?—A. Something like along there.

Q. Now, about the rifle; what is it you want to insert in the record was about that?—A. I don't know.

Q. Tell me again what he did.—A. If you want to know some more—

Q. Tell what he did with the rifle.—A. He just turned and placed it in the buggy and left it there.

Q. Was anything unusual about that?—A. No.

Q. Why did you want to tell that in the record if it was not unusual about it?

Mr. FEUQUAY. Objected to, because I asked the question and he merely answered it.

A. He and another man had some trouble and he left and came back with the rifle in the buggy.

Q. Who was the other man he had the trouble with?—A. Hick's son-in-law; lived right there; a young fellow about his age.

Q. Come back with the gun afterwards?—A. Yes.

Q. Did not have the gun before?—A. I did not see it.

Q. Do you know he got the gun?—A. He took the trip and brought an Indian.

Q. Do you know he got the gun then?—A. No.

Q. It might have been in there at first?—A. Yes.

Q. Do you know the Indian he brought—A. No.

Q. Do you know whether he went to his home when he left there?—A. No.

Q. Did you say anything about the gun?—A. The other officials saw the gun and George Stapleton—

Q. Did not use the gun on anybody?—A. No.

Q. You understand that if a man did have a gun there and have trouble you can have him arrested?—A. Yes.

Q. And you did not do that?—A. No.

Q. There really was no trouble; everything quiet outside of each side getting all the votes they could.—A. It was intimidating I called it.

Q. What was it?—A. Whenever a man come to a fellow and tell them they have to do a thing it is instructing voting.

Q. What caused that, do you know?—A. Yes; it was caused by fellows we talked about there.

Q. What?—A. Indians.

Q. What caused it?—A. Part claimed one thing and part another.

Q. About what?—A. The grandfather clause.

Q. Each side wanted to get a vote, one in the Republican way—and they get the Indians—and the others to get them?—A. That was the law we had to go by.

Q. What caused the fuss between Livergood, when he was disturbing and was about to go to blows? Was that under Indian voting?—A. Yes.

Q. What about?—A. It was over a bet.

Q. They had a few drinks and wanted to bet?—A. Yes.

Q. Was that within 50 foot of the voting precinct, was that?—A. No; I don't think it was.

Q. Mr. Grant came there and wanted to interpret for the Indians, and you told him you did not need him?—A. Said did not need any interpreter; that was all.

Q. That was all; the law did not let you know any interpreter.—A. Parties sent him in, and I had to say, "Stop it right now?"

Q. No more trouble than there has been?—A. Yes; more trouble this time than ever before.

Q. Never had any before?—A. No.

Q. Never tried to enforce the law?—A. I understand in the law, and I have had colored men to take the contest and come and take the contest and not vote their ticket.

Q. How many niggers in your precinct?—A. Five or six; I could not say exactly.

By Mr. FEUGUAY:

Q. How many Indians were turned down that day?—A. Three, I think.

Q. What three boys of the ones we have been putting in the record?—A. Rome Chief, Ekahawk, and one they called Littleson, I think.

Q. Littleson attempted to vote that day?

Mr. WAGONER. Objected to as having been asked and fully answered by the witness before in chief.

A. He presented himself; I don't know but what twice.

Q. Who were the parties who were sending Grant as an interpreter in the election precinct?—A. I don't know that.

Q. What was Roy Livergood doing about the polls all day long?—A. Nothing more than what I related.

Q. Did he attempt to get Indians to vote?—A. Yes.

(Excused.)

GEORGE M. BERRY, being first duly sworn to tell the truth, the whole truth, and nothing but the truth, testifies as follows:

Examination by Mr. FEUGUAY, for and in behalf of John J. Davis:

Q. State your name.—A. George M. Berry.

Q. Age.—A. Fifty-five.

Q. Where do you reside?—A. Pawnee.

Q. How long have you lived in Pawnee County, Mr. Berry?—A. Well, I lived here when it was Indian Territory, and a good portion of the time since the Strip opened.

Q. Since when did you know the Indian tribe?—A. 1887 was the first trip down here.

Q. State, if you can, whether the Pawnee Indian Tribe ever had any organized form of government in which the different members were allowed to vote in the selection of officers or making of the laws?

Mr. WAGONER. Objected to as being incompetent, irrelevant, and immaterial, and the information that he asked from the witness is not necessary to establish a tribal form of government as indicated under the grandfather-election law.

A. They had no form of government.

Q. How long have you known the Pawnee Indians?—A. Ever since the winter of 1877 and 1878.

Q. Were you ever connected with the Indian service?—A. Yes.

Q. Connected with what tribe?—A. Pawnees.

Q. State whether you have known the Pawnees ever since 1877?—A. Yes; I have.

Q. And have you been intimately acquainted with the method of government and ways of the tribe?—A. I have.

Q. From your experience with the Pawnee Indians, will you state as nearly as you can what form of government the Pawnee Indians had prior to 1866 and have at the present time?

Mr. WAGONER. Calling for a conclusion of the witness would be hearsay testimony as to the tribal form of government prior to 1866, witness showing that he knows nothing of his own knowledge until 1877.

A. I know they have had no form of government since my acquaintance with them and among them.

Q. State, if you can, how they were governed.—A. They lived in four bands when I come here, each band had a chief, and the chiefship was handed down to the boy, the relation, or the son only.

Q. Did they have any method of election of chiefs or was it hereditary?—A. They had no method at that time.

Q. Who made such certain laws that they were governed by?—A. They was governed by the advice of the agents—is all I know they had.

Q. From your experience in the Indian service in connection with the Pawnee Indians and your long residence in this county, state how many Indians voted, you think, that are in Pawnee County, Indians of 21 years—voting age.—A. I could not say to that; but at the present time, in the last election, something like 600 Indians in the tribe, and from the best I can find out from the foot of the ballot and different ones that go to the tribe, that there had been over 100.

Mr. WAGONER. Comes now the counsel for the contestee and asks that the above answer be stricken out as not responsive to the question, the question was, How many Indians in Pawnee County of voting age?—not how many voted.

A. I should think there was possibly 150.

Q. You have had a good deal of experience with the Pawnee Indians, have you not?—A. Some; yes.

Q. State, if you can, what method must be used to get the Indians to vote.

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial, not tending to prove any issue in this contest.

Mr. FEUQUAY. Evidence is offered for the purpose of showing it is necessary to offer the Indians something to get them to vote and to disprove the evidence in the defense of B. M. B., that the rumor that they would object to the grandfather test.

Mr. WAGONER. Counsel for contestee adds to the above by saying as to the first part of the counsel's statement for John J. Davis there is no allegation of their petition which would warrant any evidence whatever.

A. They were either influenced by the agent and by persons going among them and feasting them to get them to go and vote. They go among them—what I mean by feasting is that they promise to buy beef and give them grub and let them feast themselves—going among them and say they would buy them stuff to feast with.

Q. Do you know Littleson, the Indian?—A. Well, there has been two or three Littlesons, Chawee, and I think there was possibly a Littleson there.

Q. What county?—A. Payne.

Mr. WAGONER. Comes now the counsel for the contestee and objects to the question and answer as incompetent, irrelevant, and immaterial, and does not tend to show where the legal residence of Littleson or other Indians named is.

Examination by Mr. WAGONER:

Q. You stated a few moments ago the only way they would get the Indians to the polls was by buying them stuff?—A. But very few take any interest in election unless feasted.

Q. Do you have to feast them to get them to vote?—A. There is only about three that I know of, and sometime they go and sometime not.

Q. Do you know whether somebody feasted them?—A. Only what the Indians told me.

Q. You don't know of your own knowledge?—A. No.

Q. You say that the Pawnee Indians had no way of or form of government in the selection of their chiefs or officers?—A. At this time they do, but up until about the opening of Oklahoma they never; they never did.

Q. Since the opening of Oklahoma they have had?—A. Since the old chiefs died off in the last few years they called a council and decided who would be the chief, but up from the time I knew them to the past few years they did not.

Q. Prior to that did they not have a form of government known to themselves for voting for different men they elected their chiefs?—A. No.

Q. Or decided on a man to be their big man?—A. No.

Q. Did they not have different kinds of chiefs?—A. Had all kinds of names, but all bands had a head chief.

Q. And that came by heredity?—A. I don't know how it come till the time I come, but after I come it was handed down.

Q. Prior to 1866 they might have had a form?—A. I don't think they would advance backward that much.

Q. They would have had a way of selecting their chiefs and officers prior to that time?—A. My experience with them they were not intelligent enough to know anything about that.

Q. Have not other Indian tribes had a tribal form of government?—A. They were raised more with white people.

Examination by Mr. FEUQUAY:

Q. State, if you know, whether since statehood in Oklahoma it has been the custom for the intermigration of the Pawnee, of the Pawnee Indian Tribe, to consider them as having a residence on their allotment wherever it may have been.

Mr. WAGONER. Object to that as incompetent, irrelevant, and immaterial; he was calling for a conclusion of the witness and custom.

A. The allotment is considered the home, either the man or the wife at the time when the men live on the wife's allotment and unless the Indian is disabled they often would lease the allotment, take some part of it for a homestead, and in the early day here they figured a great deal as to where the allotment was as to whether qualified to vote. Of course there were exceptions, but that was the rule.

Q. State whether or not, when the Indians leased the allotment and camped with others and migrate from one place to another and intended to stay only a short time in a place where the tribe camped and moved about at will with the different ones of the tribe, where was home.

Mr. WAGONER. Objected to as incompetent, irrelevant, and immaterial; calling for a conclusion of the witness; asking him to state things he has not shown he has personal knowledge of.

A. Those that had homes and except where they went to camp with them and go and camp from one place to another and return to their allotment or where their house is.

Q. Do you know George Haymon, Pawnee Indian?—A. I knew his father and know the family pretty well; but don't think that I could pick him from any young Indian.

Q. Do you know where his allotment is?—A. His father's and his allotment, his is adjoining his father.

Q. Of what county is this father and son's allotment?—A. Payne.

Examination by Mr. WAGONER:

Q. You know where he lives?—A. No.

Q. May live in Pawnee County?—A. Possibly.

## Examination by Mr. FEUQUAY:

Q. Mr. Berry, do you remember an occurrence in the fall of 1912, where you were in a room with the ballot boxes, when you were approached by Fred S. Bever about the enforcement of the grandfather clause?—A. Yes.

Q. Please state what took place at that time.—A. Well, I was in the room that was rented by the county, filling the boxes several days before the inspectors and judges come after the supplies in order to get everything ready. Mr. Barnes and me was filling the boxes and Bever and Jack Nail come into the room and somebody else stood by the hallway, and he says, "Are you going to let the Indians vote?" I says, "What authority have you for them to vote?" And he turned to the election law and read the clause about having a form of government prior to 1866; and I says, "Is that all you have?" and he stammered; and I said, "I read that before, and if that is all you have there is no use to talk anything over; we are going to enforce the election law."

Q. Did you say anything else to Mr. Bever at that time?—A. I did not.

Q. Were there any election officials there when you made the statement to him?—A. No.

Q. Did you give any instructions to anyone in person?—A. No election officials except the county.

Q. Were there any written instructions sent out, except the letter from Cruce, with instructions for you to send out?

Mr. WAGONER. Object to the above, as there is no evidence that there was any letter sent out by Cruce.

A. There was no instructions sent out except those sent here with the State supplies.

Q. In your opinion, if there was a rumor among the Pawnee Indians that they would be subjected to the grandfather-clause test if they applied to vote in the November election of 1912, would such a rumor cause any number of Pawnee Indians to stay away from the polls at the general election in November, 1912?

Mr. FEUQUAY. Objected to as incompetent, irrelevant, and immaterial, calling for a conclusion of the witness, his answer would be based on hearsay.

A. Would not.

## Examination by Mr. WAGONER:

Q. Mr. Berry, did you talk with various persons of the precincts where there were Indian voters, that they should enforce the law by making the Indians read and write?—A. I don't remember of mentioning Indians. I told them to enforce the law. It was called about the Indians.

Q. How did you tell them to enforce it?—A. They had a copy of it.

Q. You say you told them to enforce the law; did they not then ask you how it should be enforced and about the grandfather clause?—A. Nothing more than they had had before.

Q. When?—A. Several elections since that in—

Q. How many general elections have they had?—A. Some two or three elections.

Q. The law was passed when?—A. I don't remember when.

Q. Was it not the first election under 1910?—A. We have had special elections.

Q. I am talking of general elections. Is it not a fact when these officers did come in you did discuss these matters and tell them to enforce the grandfather clause and require those Indians to read and write?—A. I don't remember telling those gentlemen. I told some before that, and that the Pawnees were not included in the Five Civilized Tribes, but I don't remember of telling them this election.

Q. And on the morning of election some one came to you, and they had just received a telephone message in regard to the enforcement of the grandfather clause from from Attorney General West?—A. Yes.

Q. He said they could not do it?—A. They told me what West's opinion was.

Q. Did you not say you did not have much respect for West's opinion and that you did not give a damn what it was?—A. I thought I said I would not pay much attention to West's opinion that was no election official; I believe it was Jim Hale.

## Examination by Mr. FEUQUAY:

Q. About the instructions from West—that was on election day?—A. When they asked me? Yes; it was in the morning, I think.

Q. In the morning of election day?—A. Yes.

(Witness excused.)



Whereupon Courtland M. Feuquay, attorney for John J. Davis, offers in evidence a certified copy of judgment in the police court of the city of Pawnee, and asks that it be marked "Exhibit A" and made a part of this deposition. Judgment against B. A. Bolton, No. 137.

Comes now Bird S. McGuire, the contestee in the above matter, and objects to the introduction of Exhibit A, offered by the contestant, for the reason that the witness B. A. Bolton was not asked on cross-examination by counsel for the contestant in regard to the case of the city of Pawnee against B. A. Bolton; for the further reason that said exhibit does not show the final disposition of said cause in the county court nor any further disposition of said cause in the police court in and for the city of Pawnee; nor does not show what, if any, action was taken in regard to the matter by the counsel of the city of Pawnee; and for the further reason that said exhibit is incompetent, irrelevant, and immaterial; and for the further reason not rebuttal testimony; and for the further reason it is offered as an impeachment of the witness B. A. Bolton; that no proper foundation was laid for said impeachment when the witness B. A. Bolton was on the stand and testified for and in behalf of Bird S. McGuire.

EXHIBIT A—JOHN J. DAVIS.

STATE OF OKLAHOMA, *Pawnee County, ss:*

In the police court of the city of Pawnee, before J. H. Sterling, police judge, August 19, 1910. Fine, \$50. Costs, \$8.50. No. 137.

The City of Pawnee *v.* B. A. Bolton.

And now on this day comes the defendant, arrested by J. W. Overstreet upon warrant issued upon a complaint in writing and under oath filed herein by I. L. Ground, alleging that said defendant did, within the corporate limits of the city, unlawfully, willfully sell, barter, give away, and otherwise furnish certain intoxicating liquors, to wit, beer, to I. L. Ground on or about August 12, 1910.

August 16, 1910, 9 o'clock a. m., the said defendant being arraigned at the bar and demanded of how she would acquit herself, for plea says she is "not guilty."

Defendant, by her attorney, withdraws plea and files plea in abatement. Plea overruled by court. Attorney for defendant filed motion to quash; overruled. Attorney for defendant asks to file demurrer on ground that complaint does not state facts. Consent of attorney for plaintiff is given to consider demurrer filed and same overruled by the court. Defendant then enters plea of "not guilty," and thereupon the court, after hearing all the evidence and being fully advised in the case, finds the defendant guilty.

Therefore the court finds that the defendant is guilty as charged. It is therefore ordered and adjudged by the court that the defendant pay to the city a fine of \$50, together with the costs of this suit, taxed at \$8.50, making altogether the sum of \$58.50, and that she stand committed until fine and costs are paid, and the further penalty of serving 30 days in the city jail.

Notice of appeal was then given, and, upon bond of \$500 being given, it was approved by the court.

Costs: City attorney, \$2.50; city marshal, \$2.25; police judge, \$2.75, and witnesses, \$1; total, \$8.50.

J. H. STERLING, *Police Judge.*

STATE OF OKLAHOMA, *Pawnee County, Pawnee City, ss:*

I, J. H. Sterling, police judge in and for Pawnee City, said county and State, do hereby certify that the above and foregoing is a true and correct transcript of my official docket in the above cause, this 10th day of November, 1910.

J. H. STERLING, *Police Judge.*

In the County Court of Pawnee County, State of Oklahoma.

STATE OF OKLAHOMA, *Pawnee County, ss:*

I, Sadie Mannheimer, clerk of the County Court of Pawnee County, State of Oklahoma, do hereby certify that the foregoing is a true and correct copy of the original transcript on file and of record in my office in Pawnee County, Okla.

In testimony whereof I have hereunto set my hand and affixed the seal of said court at Pawnee County, Okla., this the 25th day of July, 1913.

[SEAL.]

SADIE MANNHEIMER,  
*Clerk of the County Court.*

I, James H. Hale, a notary public in and for the county of Pawnee, State of Oklahoma, do hereby certify that the above witnesses, who were by me first duly sworn to testify the truth, the whole truth, and nothing but the truth in the matter aforesaid; and that the depositions were reduced to writing by Sadie Mannheim, a disinterested person, and the same were taken on the 25th day of July, 1913, between the hours of 8 o'clock a. m. and 6 o'clock p. m. of the said day and at the office of James H. Hale, in the city of Pawnee, State of Oklahoma, county of Pawnee; and that I am not attorney or a relative of either of said parties or otherwise interested in the event of said action.

[SEAL.]

J. H. HALE, *Notary Public*.

My commission expires June 3, 1915.

# INDEX.

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	Page.
Notice of contest-----	3-14
Letter from Homer N. Boardman, United States attorney, to Fred A. Wagoner, deputy county attorney, Chandler, Okla-----	6-7
Campaign circular-----	7
Letter from John Embry, United States attorney, to A. P. Jordan, Guthrie, Okla-----	7-8
List of townships in Lincoln County-----	10
Letter from Bird McGuire to W. H. Franks-----	13
Affidavit showing delivery of notice of contest-----	14
Answer to notice of contest-----	15-20
Affidavit showing service-----	20
Affidavit of Belle Henry-----	287
Affidavit of Augusta Ellis-----	278
Affidavits of challenged voters-----	250-267
Appearances for contestant:	
Davis, John J-----	23, 208, 232, 241, 288, 360, 389, 420, 451, 487
Feuquay, Courtland M-----	23, 278, 288, 289, 487, 404, 503
Hoffman, Roy-----	23, 208, 232, 241, 271, 276, 360, 389, 420, 451, 497
Appearances for contestee:	
Burford, John H-----	208, 232, 241, 420, 497
Burford & Burford-----	288, 360
McGuire, Bird S-----	451
Wagoner, Fred A-----	23, 271, 276, 278, 288, 389, 451, 487, 494, 503
Extracts from newspapers-----	91-94
Notary's certificate-----	21, 270, 275, 278, 287, 288, 388, 451, 475, 494, 496, 503, 512
Notary and stenographer fees-----	274, 287
Notary's subpoenas-----	269-270
Notices to take depositions-----	22, 209, 288
Officers before whom depositions were taken:	
Adams, Lucy-----	23, 389, 420, 497
Bonnett, Eva M-----	420
Grubbs, J. M-----	241
Hale, James H-----	451, 487, 494, 503
Judge, Miles W-----	208
Lewis, James G-----	145
McCarthy, A. J-----	275
Rexroad, H. A-----	241
Terrell, Marie E-----	288, 497
Woodruff, William F-----	271
Stipulations-----	21, 22, 77, 87, 95, 145, 191, 199, 208, 360, 376, 388, 420, 450, 494, 497, 503
Testimony for contestant-----	21-286, 497-512
Testimony for contestee-----	288-496
Testimony submitted before Oklahoma House of Representatives in the contest of Riley <i>v.</i> Prentiss and minority and majority reports of the committee-----	95-145
Witnesses for contestant:	
Abercrombie, G. D-----	233-236
Allen, Miles-----	147-160
Bagby, Dr. A. H-----	244-246
Barr, J. W-----	224
Berry, G. M-----	248-250
Bezanson, M. V-----	227
Blackburn, W. R-----	230
Bradfield, I. N-----	23-32, 34-35

## Witnesses for contestant—Continued.

	Page.
Brown, William	189-190
Buchanan, J. L	247-248
Christy, J. K	42-44
Collar, J. F	79-84
Dixon, W. G	219
Ehler, Fred	229
Fallis, W. H	44-47
Farrell, J. P	37-40
Gilstrap, H. B	75-76
Goggin, J. T	42
Greenway, G. W	171-178
Grimes, T. B	215-219
Hall, D. F	238-240
Harlow, G. W	78-79
Hayes, J. M	267-269
Hindman, Frank	195-198, 199-200
Hopkins, J. E	180-182
Johnson, H. M	51-52
Judge, Miles W	219-223
Justice, J. A	36-37
Kerr, D	48
Lee, C. H	182-183, 185
Le Grande, C. M	179-180
Lewis, J. G	198-199, 200-201
Little, Corland	278-286
McCord, Mrs. Juliette B	271-273
McCutchan, J. E	246-269
McDaniels, J. I	160-163
McNulty, James	145-147
Martin, J. A	188-189
Martin, J. P	186-188
Mayfield, Jeff	228
Means, B. F	246-247
Merritt, George E	241-242
Morris, N. B	240-241
Nichols, L. B	56-59, 75
Norcom, Fred H	77
O'Donnell, M. A	273-274
Olsmith, Frank	190-191
Overhold, R. L	236-238
Porter, Henry	191-195
Prough, G. A	40-42
Pulliam, S	169-170
Rawdon, P. G	52-56
Rice, J. J	223
Riley, Henry	49-51
Rixse, Ed C	276-278
Sanders, J. M	228
Scott, Doc	242-244
Scott, George W	35-36
Scott, Hugh	169
Shipman, F. L	248
Smith, G. A	84-87
Smith, J. A	209-215
Stettmund, H. G	59-74
Stovall, R. E	183-184
Thomas, M. G	185-186
Thompson, U. D	47-48
Timbers, A. E	165
Towle, Walter	170-171
Wagoner, Fred A	32-34
Waldman, John G	163-165
Wells, R. B	76-77
Wilson, Walter S	165-169
Wisby, Joseph	178-179
Woodworth, D. G	224-227

	Page.
Witnesses for contestant in rebuttal:	
Berry, George M-----	507-510
Hindman, Frank-----	497-502
Jeffries, George N-----	503-507
Witnesses for contestee:	
Ables, Sam-----	382-386
Allenbaugh, S. F-----	398-399
Ayers, J. F-----	296-298
Badger, J. S-----	467
Bailey, A-----	294-296
Barde, F. S-----	335-340
Beasler, A. A-----	393-398
Bennett, J. C-----	470
Bever, Fred S-----	494-496
Bolton, Mrs. B. A-----	468-469
Bonner, F. A-----	311-313
Bright, Wallace-----	386-388
Briscow, Albert-----	298-299
Capers, John-----	340-347
Cress, A. J-----	313-315
Crossley, A. C-----	292-294
Crute, L. C-----	289-292
Dobson, Ben-----	365-370
Dodd, E. C-----	370-374
Embry, James A-----	402-407
Gayman, John J-----	389-393
Gilstrap, Harry B-----	407-411
Gould, Ed-----	432-434
Haughey, W. G-----	441-442
Hornaday, W. H-----	327-335
Hudson, Frank-----	466-467
Humphrey, Neil-----	317-321
Humphrey, W. M-----	321-323
Judge, Miles W-----	448
Jett, William-----	441
Jewett, C. F-----	439-441
Legrande, Charles A-----	492-494
Lewis, Fuhrman-----	438-439
Livergood, Roy-----	487-491
Loch, Walter-----	434-438
McCoy, George-----	449-450
McGuire, Bird S-----	451-466
Manheimmer, Sadie-----	474-475
Miles, Henry-----	374-376
Mitchell, W. H-----	357-360
Moore, Gov-----	323-327
Nagle, P. S-----	420-432
Nichols, L. B-----	399-402
Olson, Charles S-----	354-357
Parnell, Frederick-----	442-445, 447
Phillips, Dr. G. H-----	467-468
Rankin, John A-----	307-311
Renshaw, A. W-----	445-447
Scott, Doc-----	471-474
Smith, L. D-----	299-303
Stapleton, George-----	491-492
Teal, Roy-----	361-365
Timpey, Cliff-----	315-317
Uhl, Fred-----	474
Veatch, Capt-----	469-470
Wagoner, Fred A-----	412-416
Wenner, Fred L-----	347-351
Wolf, Frank-----	351-353
Young, C. R-----	303-306

## EXHIBITS.

	Page.
Exhibit 1—Letter from Homer N. Boardman, United States attorney, to Fred A. Wagoner, deputy county attorney, Chandler, Okla.....	87
Exhibit 2—Campaign circular.....	88
Exhibit 3—Replevin bond.....	88
Exhibits 4 and 5—Undertaking for costs.....	89
Exhibit 6—Criminal complaint.....	89
Exhibit 10—Petition of W. M. Rankin to J. P. Farrel, inspector for North Wichita Township, Lincoln County, Okla.....	91
Exhibit 19—Letter from Bird McGuire to W. H. Franks.....	91
Exhibit A—Guthrie.....	188
Exhibit C—Guthrie.....	201-208
Exhibit 50—Kingfisher.....	231
Exhibit 51—Kingfisher City—Copy of article published in the Daily Mid-get, July 31, 1912.....	231
Exhibit 52—Kingfisher—Letter from Homer N. Boardman, United States attorney, to Fred A. Wagoner, deputy county attorney, Chandler, Okla.....	231-232
Exhibit 53—Kingfisher—Campaign circular.....	232
Exhibit A of Abererombie's testimony.....	236
Exhibit A—Assessment list, 1913.....	244
Exhibit A, April 9, 1913.....	275
Exhibits A and A-1 of the testimony of Corland Little.....	286-287
Exhibit A to Mr. Bommer's testimony.....	313
Exhibit B to testimony of John Capers.....	342
Exhibits A and B to testimony of Ben Dobson.....	368
Exhibit C—Vote for Congressman, first district, Oklahoma, November, 1912.....	376-381
Exhibit A—C. M. Legrand.....	384
Exhibit B—Walter Towle.....	385
Exhibit A—Election returns of votes for governor and Congressman in 1910 and the vote of Davis and McGuire for Congress in 1912, in Lincoln County.....	416-417
Exhibits 11-17—Petitions for suffrage.....	417-420
Exhibit A to testimony of P. S. Nagle.....	431
Exhibit A—Lessees of Lincoln County.....	475-477
Exhibit B—Lessees in Pawnee County.....	477-478
Exhibit C—Lessees in Garfield County.....	478-481
Exhibit D—Lessees in Grant County.....	481-483
Exhibit E—Lessees in Kingfisher County.....	483-485
Exhibit F—Lessees in Kay County.....	485-487
Exhibit 1—Certificate of vote.....	499
Exhibit 2—Appointment of official counters.....	500
Exhibits 3, 4, and 5—Appointment of official counters.....	502
Exhibit A—John J. Davis.....	511













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