

persons had access to this vault, and others might have had, while the tickets were in this condition, and that although visitors were usually accompanied by a clerk, the latter was in no case a sworn officer, and the entire election returns were thus in a legal sense not in the custody of any one. The undersigned are therefore of opinion that the re-count which gives the contestant a majority of thirty-five, is wholly unreliable, and can have no weight in invalidating the right of the sitting member to his seat.

The only remaining point which the undersigned deem it essential to discuss, is, the rejection of numerous ballots of registered, and it is therefore alleged, qualified voters, which would have been cast for contestant. They amount to thirty-one. They were offered by men who were not registered in 1865, being entered in the registry of voters as disqualified by reason of disloyalty, with the names of two or more witnesses against them, in most of the cases. But they were registered in 1866, and claiming that fact to be conclusive and binding on the Judges of Election, they refused to take any oath touching their qualifications under the Constitution as legal voters, and were accordingly rejected.

In the opinion of the undersigned, the fact of a citizen's being registered is but *prima facie* evidence of his right to vote, not conclusive and binding upon the Judges of Election and that the ballots of the thirty-one citizens aforesaid were legally and properly refused.

The language of section 4, Article 1 of the Constitution is explicit: "the Judges of Election at the first election held under this Constitution shall, and at any subsequent election may administer to any person offering to vote the following oath," &c.

It was the design of the framers of the Constitution to preserve the purity of the ballot box not only from the votes of rebels, their aiders and abettors, but also from those of aliens, minors, &c., hence they gave the Judges of Election not merely a temporary and transient, but a continuing power to be exercised from year to year.

The ingenious sophistry of professional quibblers has, for partisan purposes, endeavored to give to the Registry Law an interpretation wholly at variance with its spirit and intent. But if there be any ambiguity in that law, there is none in section 21 of Article 35 of the Code of Public General Laws, entitled, Elections; which never having been repealed, stands to day in its original force, and leaves the Judges of Election with powers unimpaired. And it is under the provisions of this law, that the proceedings in this contest are had.

The only official opinion directly in point, is that of the Attorney General of this State, which relieves the undersign-