Public Notices.

OFFICIAL CANVASS.

PROCEEDINGS OF THE BOARD OF COUNTY CANVASSERS.

November 24, 1871—4 o'clock P. M.

Supervisor Coman in the chair.

Supervisor Plunkitt presented the following report from the Committee on Protests:

The Committee on Protests, to whom was referred the annexed protest of Peter Gilsey and others against the returns of the Inspectors and Canvassers in any election district being altered, changed, corrected, or in any aspect varied, except in open view of the said Board of Canvassers, when organized as a Board, and in the presence of the counsel for the protestant, and also protesting against the Inspectors and Canvassers altering any decision heretofore made by said Inspectors and Canvassers in regard to the votes cast for Aldermen, respectfully report:

That the proviso of law relating to the correction is contained in section fifteen of article one of title five of the Revised Statutes, and is as follows:

"§ 15. If, upon proceeding to canvass the votes, it shall clearly appear to the canvassers that in any statement produced to them, certain matters are omitted in such statement which should have been inserted, or that any mistakes which are clerical merely exist, they shall cause the said statement to be sent by one of their number (whom they shall detain for that purpose) to the town or ward inspectors, and town or ward canvassers of the town or ward from whom they were received, to have the same corrected; and the said canvasser so deputed shall immediately proceed and give notice to the said town or ward inspectors and canvassers, whose duty it shall be forthwith to assemble together and make such correction as the facts of the case require. But such town or ward inspectors and canvassers shall not at such meeting change or alter any decision before made by them, but shall only cause their canvass to be correctly stated; and the Board of County Canvassers are authorized to adjourn from day to day, for the purpose of obtaining and receiving such statement, such adjournment not to extend beyond three days."

This proviso on the law has been strictly and faithfully followed by the Board of Canvassers at the present canvass. Whenever it has clearly appeared to the Board that in any statement produced certain matters are omitted which should have been inserted, as where a ticket is attached to the returns as having been voted, and no votes are returned by the canvassers for the proposition named on such ticket, or where no votes whatever are returned in any district for an office for which votes were cast at the late election, or where it appears that any mistakes which are clerical merely exist, as where duplicate votes are returned upon the statement than are called for by the poll list, the Board have caused any such statement to be sent by the supervisor of the ward entitled to canvass the votes of the ward, to the district canvassers of the district where the omission or clerical error occurred. The execution of the district canvassers has then been called to such omission or clerical error, and the district canvassers have been afforded an opportunity to correct the same. In no case has any return been corrected except by the district canvassers in the presence of the supervisor, deputy, to canvass the ward, and only to supply an omission or to correct a clerical error.

In the counsel for the protestants show that in any district any more has been done than to supply an omission or correct a clerical error, your Committee will recommend that such corrections be rejected by the Board, and the statement as originally produced canvassed.

All which is respectfully submitted,

GEORGE W. PLUNKITT,
EDWARD CUDDY,
Committee on Protests.

Which the Clerk read on motion.

The same was received and adopted.

Supervisor Chatrock moved to take the Twelfth Ward and read corrections made by the District Inspectors and Canvassers.

Supervisor Wolfman moved that the wards be taken up in numerical order.

Supervisor Charlock objected, when

The first resolution was adopted on vote.

Supervisor Hall moved that the Board permit Supervisor Charlock to take up the Twelfth Ward corrections out of their order, as he was desirous of leaving early.

Which was carried.

Ninth and Sixteenth Districts of Twelfth Ward—The Supervisors' returns were read, on motion of Supervisor Charlock, which were received before.

Supervisor Hall took up the Sixteenth District corrections, and completed same.

Supervisor Cuddy canvassed the corrections in the Sixth and Fourteenth Wards.

Eighth Ward corrections:

Supervisor Mitchell canvassed the corrections in Twenty-second District, McLaren, 66, changed to 19, on his motion.

The returns received by the County Clerk, on Dilger's vote, were substituted, on motion of Supervisor Mitchell.

Ninth Ward corrections:

Seventh District canvassed from Supervisors' returns, on motion of Supervisor Cuddy.

Seventh District on Atsilat Alderman canvassed from Supervisors' returns, on motion of Supervisor Mitchell.

Eighteenth District—The vote was changed as follows: Gilsey was 134 corrected to 203; Cochrane, 131, corrected to 205; Fitzgerald, Walder, Van Schaick, Fagan, Meehrbach and McLaren, 0, corrected to 69; Radde, 134 to 270; Conover, 134 to 269; Vance, 131 to 203; Carroll, 134 to 205; Dilger, 129 to 205; Joyce, 129 to 205; Martin, 129 to 205; Wright and Kelly (stricken out); Foley, Jerome, Varian and Faber, changed from nothing to 5; Burghard 34; Shaffer to 55. Eighth District—Jerome from 26 to 107.

Tenth Ward corrections:

On motion of supervisor Wolfman, Supervisor Cuddy was assigned to canvass the Tenth Ward, in absence of Supervisor Wilde.

First District canvassed from Clerk's returns.

On motion of supervisor Cuddy, the correction in Tenth District was read, giving Cochrane the vote for Cochrane and McLaren (140). Sixth District.—Same correction.

Tenth Ward, Seventh District, as follows: Jerome from 161 to 101, Cochrane from 161 to 99, McLaren and Cochrane from 135 to 33, Carroll 141 to 41, Dilger 138 to 41, Joyce 138 to 38, Kelly (struck out), Burghard 41 to 101, Zellkoffer nothing to 101.

Eleventh Ward corrections canvassed by Supervisor Cuddy in the absence of supervisor Irving, on motion.

Supervisor Cuddy stated that inspectors of Eleventh District of said ward appeared and stated that they had no corrections to make.

Twelfth Ward—Supervisor stated that the Inspectors appeared and made the corrections to make in the returns as read by the Secretary were allowed, no alterations having been made on vote.

Eighteenth Ward Corrections—In absence of Supervisor Cuddy, Supervisor Mitchell canvassed said Ward in the absence of Supervisor Irving.

Ninth District canvassed from Supervisors' returns, on motion of supervisor Mitchell; the Clerk's returns not corrected.

Twelfth District, vote as read from Supervisors' returns being altered as follows: Gilsey from 142 to 106, Cochrane 141 to 107, McLaren 141 to 107, Conover 141 to 107, Irving 141 to 107, Dilger 141 to 107, Joyce 141 to 107.

Eleventh District, result from Clerk's returns.

Twelfth District, vote for Jerome down to Welch nothing to 107, Gilsey to Martin from nothing to 222, Cooper to 105.

Eighteenth District not corrected on either Supervisors' or Clerk's returns, same adopted by the Board, on motion of supervisor Mitchell.

Nineteenth Ward corrections—Third District, no corrections made, but the returns as read by the Clerk were ratified, on motion of supervisor Plunkitt, as follows: from Jerome to Welch from 114 altered to 144, Plunkitt to Irving from nothing to 144, from Gilsey to Schultz from blank to 96.

Sixteenth, Twelfth, Eighteenth and Fourteenth Districts corrected on Assistant Alderman.

Eighth District—Conover's votes allowed at 147 instead of 17, on motion of Supervisor Plunkitt.

Eighth District canvassed from Supervisors' returns, on motion of Supervisor Plunkitt, on Assistant Alderman, and so ordered.

Eighteenth District canvassed from Supervisors' returns on Assistant Alderman and adopted, on motion of Supervisor Plunkitt.

Twenty-seventh District not corrected on Assistant Alderman.

Twenty-fifth Ward corrections:

First District was read over; returns made to Chief of the Bureau of Elections on Alderman only (no vote being returned on Assistant Alderman), and same was adopted, on motion of Supervisor Plunkitt.

Second District (Cochrane, McLaren, Conover, Carroll, Dilger, Joyce)—Dilger allowed 118 instead of 207, on motion of Supervisor Plunkitt (Clerk's returns 197). Supervisors' returns, 118. Twenty-fourth Ward, Key, Burgnard, Cooper, Havemeyer, and Schultz (79) being stricken out.

Seventh District, as read by the Secretary, was adopted, on motion of Supervisor Plunkitt.

Fifteenth District canvassed from Supervisors' returns on Assistant Alderman, and, on motion of Supervisor Plunkitt, the same was adopted.

Thirteenth District corrected as follows: Gilsey from 111 to 112, Fitzgerald and Van Schaick from 111 to 112, Meehrbach from 175 to 181, Radde from 175 to 180, Vance from 175 to 177, Carroll from 168 to 175, Dilger and Joyce from 168 to 175. Varian from 114 to 179, Burghard from 174 to 175.

Seventh Ward, Seventeenth District—Carroll from 190 to 11, Dilger and Joyce from 190 to 11, Martin from 31, Wheeler, E. Kelly, Brickmeier (6), Kirtzer (0), Zellkoffer from 190 to 209, Cooper, Havemeyer, and Schultz, 0.

Eleventh District—Jerome from 199 to 99, Reilly 199 to 210.

Twenty-first Ward—First District only corrected on Assistant Alderman, and, on motion of Supervisor O'Neill, was adopted.

Twenty-second Ward—Second District, on vote of Assistant Alderman, as read from Supervisors' returns, was adopted, on motion of Supervisor Plunkitt; no alteration on Clerk's returns.

Fifteenth District no corrections.

Supervisor Wolfman moved that the Inspectors from the Twelfth District, Fifteenth Ward, Twenty-fourth District, Eighteenth Ward, Ninth Ward, Fifteenth District, Eighth Ward, be allowed to correct their returns.

Which was carried; all the supervisors present voting in the affirmative.

Supervisor Wolfman further moved that the Inspectors from the Fourth, Fifth, Twelfth, Nineteenth, Twelfth, Seventh, Twenty-third, Twenty-fourth, and Twenty-seventh Districts of the seventeenth Ward be sent for to correct their returns.

Which was carried; all the supervisors present voting in the affirmative.

Supervisor Coman here stated that Supervisor McKiever informed him that the Inspectors in several of these districts had appeared and stated that they had no corrections to make.

Thirteenth and Seventh Wards canvassed by Supervisor Mitchell in the absence of supervisor Reilly, on motion of supervisor Wolfman.

Seventeenth Ward canvassed by Supervisor McKiever. No corrections whatever were made either in the Supervisors' or Clerk's returns, but the districts, as read by the Clerk, were allowed. Twenty-seventh District, vote on Cochrane, as read by Clerk, was allowed at 68 instead of 59.

Supervisor Cuddy offered the following preamble and resolution:

Whereas, The district canvassers in the districts that have not been canvassed have been sent for, and have either neglected or refused to meet the canvassers deputed to have the defective returns corrected, or having appeared, have neglected or refused to correct the returns submitted to them for correction, and the Board having canvassed all the statements of votes presented to them;

Resolved, That the canvass of votes for Aldermen and Assistant Aldermen be now closed.

The Chair put the motion, which was decided in the affirmative.

Supervisor Wolfman moved that this Board take a recess until to-morrow at 12 o'clock.

Which was carried.

November 25, 1871—12 o'clock.

The Board reassembled after recess. On motion of Supervisor Mitchell, supervisor Plunkitt was called to the chair.

The Clerk proceeded to call the roll. The following members answered to their names:

Cuddy, Coman, McKiever, Mitchell, O'Neill, Plunkitt, Welch, and Wolfman—8.

A quorum not appearing, the Board took a recess until 3 o'clock.

November 25, 1871—3 P. M.

The Board reassembled after recess, Supervisor Coman in the chair.

Present—Supervisors Cuddy, Charlock, McKiever, Mitchell, O'Neill, Plunkitt, Reilly, Schlichting, and Wolfman—10.

The Clerk not being ready with the declarations and statements on Aldermen and Assistant Aldermen, Supervisor Wolfman moved that the Board take a recess until half past 4 P. M.

November 25, 1871—4:30 P. M.

The Board reassembled after recess, Supervisor Coman in the chair.

Present—Supervisors Charlock, Cuddy, McKiever, Mitchell, O'Neill, Plunkitt, Reilly, Schlichting, and Wolfman—10.

Supervisor Plunkitt, from Committee on Protests, presented the report in the cases of protests of Kilian Frear, which the Clerk then read as follows:

The Committee on Protests, to whom was referred the annexed protest of Frederick Kilian, candidate for member of Assembly in the Fifteenth Assembly District, respectfully report:

That the said protest sets forth that in the First Election District of the twentieth Ward, being one of the Election Districts in said Assembly District, the number of persons voting therein, as shown by the poll list, was 567, and that the number of votes returned for the various candidates for member of Assembly in said district amount to 430.

That in the Third, Fifth, and Seventh Assembly Districts of the Twentieth Ward, three other Election Districts in said Assembly District, persons who were neither Inspectors nor poll clerks took part in canvassing the ballots cast for the member of Assembly.

That in the Eighth Election District of the Twentieth Ward, another Election District in said Assembly District, a person who was not an Inspector of Election received and deposited in the ballot-boxes ballots for Member of Assembly and other candidates; and that a person who was neither an Inspector nor a poll clerk took part in canvassing the ballots cast for Member of Assembly; and that during a portion of the time of the receipt as well as of the canvass, of said ballots for Member of Assembly, only one Canvasser was present.

That in the Eighteenth Election District of the Twentieth Ward, another Election District in said Assembly District, a person who was neither an Inspector nor a poll clerk took part in canvassing the ballots cast for Member of Assembly; and that ballots were cast in said district for Member of Assembly which were not canvassed or estimated.

That in the Twenty-fifth Election District of the Twentieth Ward, another district in said Assembly District, a person who was neither an Inspector of Election nor a poll clerk took part in canvassing the ballots cast for Member of Assembly; and that the return of the votes in each box in the order prescribed by law, and failed to make proclamation of the result, to complete the figures or certificates of the votes in each box before proceeding to the estimate and canvass of the box or boxes next thereafter to be canvassed; and the whole number of votes given for Member of Assembly in such box, or of the whole number of votes in such box, or of the whole number given for each person voted for, with the name of the office to which such person was named on the ballot, as required by law; and that votes were cast in said district for the candidates, none of whom were counted, and a large number of which votes were not returned for the contestant, but were counted or returned for some other person.

And the protestants ask that the several votes for the office of Member of Assembly in the districts above named may not be canvassed by the Board of County Canvassers.

Upon the hearing before your Committee, the Committee having decided to hear the case upon affidavits read and submitted, the counsel for Mr. Kilian produced the affidavit of Philip Loewenthal, one of the poll clerks in the First Election District of the Twentieth Ward, as to the alleged discrepancy between the number of names upon the poll list and the number of votes given upon the return for Member of Assembly; the affidavit of William Sutherland, as to the effect that votes were cast in the Fourth Assembly District for Mr. Kilian, and that votes were allowed to take part in the canvass of the votes for Member of Assembly in the Seventh Election District of the Twentieth Ward, the affidavit of Frederick Roy, a challenger and watcher, that he himself, the deponent, in violation of law, received votes from voters in the Eighth Election District of the Twentieth Ward and deposited them in the ballot-box, and that during a portion of the time that the votes were received and deposited only one Inspector of Election was present; the affidavit of John M. Farrell, that persons other than the Inspectors of Election and poll clerks took part in the canvass of the votes for Member of Assembly in the Eighteenth District of the Twentieth Ward, and that ballots were cast labelled for Member of Assembly which were not canvassed or estimated, but not stating how many, or for whom the said ballots were cast; the affidavit of Ralph I. Schainwald, as to the manner in which the votes were canvassed for Member of Assembly in the Twenty-fifth Election District of the Twentieth Ward, and also the affidavit of Frederick Kilian, made on information and belief, as to the manner in which the votes in the Twenty-fifth Election District were canvassed, which affidavits are hereto annexed.

The counsel for Mr. Kilian also submitted the affidavits of eighty residents and voters in the said Twenty-fifth Election District, to the effect that they had voted for Mr. Kilian for Member of Assembly, and that Assembly in said Twenty-fifth Election District, and offered to produce the affidavits of many other residents and voters of said district to the same effect.

No affidavits were produced as to the alleged irregularities in the Third and Fifth Election Districts, and the counsel for Mr. Kilian submitted that as to those districts the protest was withdrawn.

Upon this statement of the case the Committee concluded that the first point to be determined was whether the Board of Canvassers possessed the power or authority to reject the return of any district, regular upon its face, upon the ground that the election officers had failed to comply in any particular with the requirements of law as to the mode of holding the election, and after having heard counsel at length upon this point, and having given the matter their most serious consideration, your Committee have come to the conclusion that the Board of Canvassers have no power whatever to reject any such return.

The Revised Statutes define the duties of the County Canvassers from which alone they derive their authority, after providing for the meeting and organization of the Board, proceeds to define the duties of the Board, as follows: "The canvassers shall then proceed to canvass the votes produced and from them the Board shall proceed to estimate the votes of the county, and shall make such statements as required by the laws of the state, and require; such statement shall then be delivered to and deposited with the County Clerk."

This provision is sufficiently clear and explicit to show that the duty of the County Canvassers was intended by law to be merely to estimate the votes as returned to them, and that in this respect their acts are purely ministerial. No power is given to them to reject any regular return.

But, as if to make this matter still more certain, a subsequent section of the law contains the following proviso:

"If, upon proceeding to canvass the votes, it shall clearly appear to the canvassers that, in any statement produced to them, certain matters are omitted in such statement which should have been inserted, or that any mistakes which are clerical merely exist, they shall cause the said statement to be sent, by one of their number (whom they shall detain for that purpose), to the town or ward inspectors, and (town or) ward canvassers of the (town or) ward from whom they were received, to have the same corrected; and the said canvasser so deputed shall immediately proceed and give notice to the said (town or) ward inspectors and canvassers, whose duty it shall be forthwith to assemble together and make such correction as the facts of the case requ. ire."

And the decisions of the courts on this subject are as clear and decisive. In the case of Rule, as reported by the Court of Appeals of this State, in the case of The People ex. rel. Cook, 4 Selden, page 97, that "the County Canvassers, with a view of return from the District Inspectors before them, which is to be conclusive, have no right to go behind it and prove that its estimates are false, by reason of rowdyism at the polls, or irregularities in the election, or other causes. They must so in a regular return, and leave the parties aggrieved to their remedy through the courts of justice."

To the same effect is the decision of Justice Gilbert in the Supreme Court, delivered at Brooklyn only few days ago, *To re* the public ion of Chauncey M. Felt against The Board of County Canvassers of Kings county.

Your Committee consider that, under the law and the decisions of the courts of this State, the Board of County Canvassers possess no power to reject a return from an election district on the mere ground of the irregularities of the inspectors of election officers or that the votes were not cast in the room in the correct principle to be that when a return is presented to the Board, regular upon its face, and there is no evidence of any fraud which would vitiate the return to such an extent as would leave the Board in doubt as to the fact that the Board of Canvassers are bound to receive and canvass the returns as presented by the district canvassers, and that the principle laid down and followed by the county and city canvassers of this city. Your Committee are aware that this principle was deviated from in the case of Frear against Wembley, but your Committee are satisfied that, although cited and relied on in that case was justified by a decision of the supreme Court, the decision in that case was wrong, and as such has been overruled by subsequent decisions. The Committee, although urged to do so by the counsel for the contestant, believe that they would be guilty of a gross violation of their duty if they should follow the precedent established in that case, and to decline to count the voters of any election district, through the negligence, ignorance or misconduct of the officers of election, should be deprived of their right of suffrage. But if the contestant endeavored to establish the principle that unless all the provisions of law relating to the election of voters shall be followed, the return made is, in reality no return whatever, as, for instance, if the Inspectors failed to make oral proclamation of the result of the vote of each District, such proclamation being by the law *prima facie* evidence of the vote cast, that then the return subsequently made by the Inspectors was no return whatever. Your Committee cannot in any manner concur in this view of the law. Your Committee regard the various enactments and requirements of the election laws as designed to secure fair and honest voting and canvassing, not as traps to deprive voters of their suffrages. The law provides that no person other than an Inspector of poll clerk shall interfere or take part in the receiving or canvassing of the votes, the object being to prevent irresponsible persons from tampering with the ballots, and an Inspector who allows any such person to interfere with the voting or canvassing is guilty of a misdemeanor. The law provides that the Inspectors of Election shall keep a clear space around the Chairman of the Board of Inspectors shall make public oral proclamation of the whole number of votes, and the number of votes given to each candidate, naming the office for which he is voted for, which proclamation is by law made *prima facie* evidence of the votes cast in that district, a provision intended to prevent the alteration of the votes after they have been canvassed, and for a failure to comply with which the Inspectors may be duly punished. But it would be a strange construction of your Committee to pronounce, because the Inspectors either allowed a person other than a poll clerk to canvass the votes, or failed to make the oral proclamation of the result of the vote, to say that the citizens voting in that election district should be disfranchised.

Your Committee find that some irregularities on the part of the election officers did not deter the Board of Canvassers in rejecting the vote of any election district, your Committee did not deem it necessary to investigate the irregularities of the Inspectors and poll clerks had or had not taken part in the receipt or canvass of the votes in the Seventh, Eighth, and Eighteenth Election Districts of the Twentieth Ward, as alleged in the affidavits of the contestant, and your Committee refrained from having any opposing affidavits as to these districts, not believing that the affidavits of the contestant could be in any way or in any manner to justify the Board of Canvassers in rejecting the vote of these districts.

Your Committee, before leaving the consideration of these three districts, cannot refrain from expressing their surprise at the coolness and unblushing effrontery of the deponent, Frederick Roy, a challenger and watcher in the Eighth Election District, and a candidate for Inspector of Election in that District, who, in his affidavit, swears that he alone received upward of three thousand votes in the Twentieth Ward, and, in office, who voluntarily and deliberately makes affidavit that he violated the Election law, as one of the results of the frequency of the exercise of the elective franchise and of the recklessness with which electors cast their ballots for election officers, and of the danger of allowing the slightest omission or fault of form to deprive the citizens of this city of their franchise.

In regard to the vote of the first Election District of the Twentieth Ward, there being an apparent discrepancy between the number of votes on the poll list and the number of votes returned for the office of Member of Assembly, your Committee deemed it proper that the Inspectors in this district should be sent for to explain the discrepancy.

The Inspectors appeared before your Committee and stated that the poll list showed some registered, and that 493 persons voted in the district, but that the reason why the names of all the persons did not appear on the poll list was that there was no Four poll clerk present at the opening of the polls, and that during part of the time he did not write the names on the poll list, but merely checked them on a registry book which he kept for that purpose, and that Mr. Loewenthal, the poll clerk who made the affidavit as to the discrepancy, did not arrive at the polling place until after 12 o'clock on the day of the election. The affidavit of the Inspectors to the effect that the above statement made by them is true is hereto annexed. The counsel for the contestant produced in addition to affidavits one of Philip Loewenthal, the poll clerk in said district, who affirms that he did not reach the polls of the First Election District until about half past eleven o'clock on election day, and another of Charles E. Jessup, a challenger in the district, neither of which show that there were not 493 votes polled in the district on the day of election, or in any manner contradict or impeach the statement and affidavit of the Inspectors in that respect. As the registry list filed with the County Clerk and the Supervisor shows that 493 persons voted in the district on the day of the election, and as the returns on the vote for member are entirely regular, and are in no manner impeached, your Committee are clearly of the opinion that the failure of the poll clerks to enter on the poll lists the names of some of the persons cannot and ought not to invalidate the returns, and that the returns of the Inspectors of Election of the First Election District should be canvassed as sent to this Board by the district Inspectors.

The vote of the Twenty-fifth Election District of the Twentieth Ward, as returned by the district canvassers, Mr. Frear and Mr. Kilian, is as follows: Alexander Frear, 228; Frederick Kilian, 69; and the counsel for Mr. Kilian claim that this is not the correct vote of the district, and, in support of this claim, produced before your committee the affidavits of eighty citizens and voters of this district who voted for Mr. Kilian at the late election. Your committee consider that, whether the votes as returned by the district canvassers is the correct vote of the district or not, it is a matter that cannot, in any case, be inquired into by the Board of County Canvassers. The law provides that the vote of each election district shall be canvassed and returned to the Board of County Canvassers and that such returns so made shall be estimated. There is no provision which either directly or by implication gives the Board of County Canvassers any power to inquire into or pass upon the correctness of any return made to them by the district canvassers. Your committee are, therefore, of the opinion that the return from the Twenty-fifth Election District is a correct return of the vote of the district or not. The Board of Canvassers must receive and estimate it as returned by the district canvassers.

Your Committee therefore recommend for adoption the following resolution:

Resolved, That the returns of votes for Member of Assembly from the First, Seventh, Eighth, Eighteenth, Third, Fifth and Seventh Districts of the Twentieth Ward be canvassed and estimated as presented to the Board of Canvassers from those districts.

All of which is respectfully submitted,

O. W. PLUNKITT,
EDWARD CUDDY,
Committee on Protests.

The Committee on Protests, to whom was referred the annexed protest of Peter Gilsey and others, by A. L. Lawrence and Henry L. Clinton, their counsel, asks that any corrections made in the returns of the ballots or votes cast for the office of Alderman at the election held in the city of New York on the seventh day of November, by the inspectors or canvassers of any of the Election Districts in said city, or when all the inspectors and canvassers of all the district or in person, also in open view of the canvassers while in session as a Board of County Canvassers:

That the said protest has evidently been made under a misapprehension of the law relating to the power of a majority of Inspectors to take any action or perform any duty required by law.

Section 7 of chapter 138 of the laws of 1870, as amended by chapter 527 of the laws of 1871, enacts the following provision: "The inspector of Election for each Election District of said city and county, who shall be thus appointed, together with the two elected, shall form such Board of Inspectors of Election in such District. For any action required of any such Board, or of the Inspectors of Election of any Election District, the presence and concurrence of a majority shall be necessary and shall be sufficient."

It will thus be seen that the action of two of the Inspectors of Election is sufficient to correct any returns made by their colleagues, and that it is not necessary that all the Inspectors should be present, as claimed in the Protest, and that this Board of Canvassers, in allowing the returns to be corrected by a majority of the Inspectors, have acted in this respect, as in every other, in strict accordance with law.

Your Committee have carefully shown in a prior one report, that there is no provision of law requiring the corrections of returns to be made in open view of the Board of Canvassers, or do not deem it necessary to make any further reports on the subject.

All of which is respectfully submitted,

GEORGE W. PLUNKITT,
EDWARD CUDDY,
Committee on Protests.

To the Board of County Canvassers of the County of New York:

The undersigned hereby protest against any corrections made in the returns of the ballot or votes cast for the office of Alderman, at the election held in the city of New York on the 7th day of November, 1871, by the inspectors and canvassers of any of the election districts in said city, or when all the inspectors and canvassers of said districts are present, and also in open view of the Board of Canvassers while in session as a Board of County Canvassers, in favor of the Aldermen voted for upon the ballot cast, protest against the canvassing of the votes returned for Peter Gilsey and others against the canvassing of the votes returned for Aldermen in the Fourth, Sixth, Seventh, and Eighth Wards; and Edward Stack, candidate for Assistant Alderman in the second Assembly District against the canvass of certain districts in said Assembly District; of Thomas Shilligan, candidate for Assistant Alderman in the Third Assembly District, against the canvassing of the votes of certain districts in the Sixth Ward; of Christopher Flecke, candidate for Member of Assembly in the Tenth Assembly District, against the canvassing of the votes in said District, on the ground of irregularities and fraud; of Henry Weber, a candidate for Assistant Alderman in the Fifth Assembly District, against the canvassing of the votes in certain districts of the Eighth Ward; of William Ferguson, a candidate for Assistant Alderman in the Fifteenth Assembly District, against the canvassing of the votes in certain districts of the Twentieth Ward, respectfully report:

That the duties of the Board of Canvassers being ministerial, and merely to estimate the votes returned to them from the several election districts by the District Canvassers, it is the duty of the Board to canvass and estimate the votes as returned to them by the district Canvassers from all the districts relative to which no protests have been made, and they accordingly recommend the same course be pursued by the Board of Canvassers.

All of which is respectfully submitted,

O. W. PLUNKITT,
EDWARD CUDDY,
Committee on Protests.

The Committee on Protests, to whom was referred the annexed protest of Peter Gilsey and others, by A. L. Lawrence and Henry L. Clinton, their counsel, asks that any corrections made in the returns of the ballots or votes cast for the office of Alderman at the election held in the city of New York on the seventh day of November, by the inspectors or canvassers of any of the Election Districts in said city, or when all the inspectors and canvassers of all the district or in person, also in open view of the canvassers while in session as a Board of County Canvassers:

That the said protest has evidently been made under a misapprehension of the law relating to the power of a majority of Inspectors to take any action or perform any duty required by law.

Section 7 of chapter 138 of the laws of 1870, as amended by chapter 527 of the laws of 1871, enacts the following provision: "The inspector of Election for each Election District of said city and county, who shall be thus appointed, together with the two elected, shall form such Board of Inspectors of Election in such District. For any action required of any such Board, or of the Inspectors of Election of any Election District, the presence and concurrence of a majority shall be necessary and shall be sufficient."

It will thus be seen that the action of two of the Inspectors of Election is sufficient to correct any returns made by their colleagues, and that it is not necessary that all the Inspectors should be present, as claimed in the Protest, and that this Board of Canvassers, in allowing the returns to be corrected by a majority of the Inspectors, have acted in this respect, as in every other, in strict accordance with law.

Your Committee have carefully shown in a prior one report, that there is no provision of law requiring the corrections of returns to be made in open view of the Board of Canvassers, or do not deem it necessary to make any further reports on the subject.

All of which is respectfully submitted,

GEORGE W. PLUNKITT,
EDWARD CUDDY,
Committee on Protests.

To the Board of County Canvassers of the County of New York:

The undersigned hereby protest against any corrections made in the returns of the ballot or votes cast for the office of Alderman, at the election held in the city of New York on the 7th day of November, 1871, by the inspectors and canvassers of any of the election districts in said city, or when all the inspectors and canvassers of said districts are present, and also in open view of the Board of Canvassers while in session as a Board of County Canvassers, in favor of the Aldermen voted for upon the ballot cast, protest against the canvassing of the votes returned for Peter Gilsey and others against the canvassing of the votes returned for Aldermen in the Fourth, Sixth, Seventh, and Eighth Wards; and Edward Stack, candidate for Assistant Alderman in the second Assembly District against the canvass of certain districts in said Assembly District; of Thomas Shilligan, candidate for Assistant Alderman in the Third Assembly District, against the canvassing of the votes of certain districts in the Sixth Ward; of Christopher Flecke, candidate for Member of Assembly in the Tenth Assembly District, against the canvassing of the votes in said District, on the ground of irregularities and fraud; of Henry Weber, a candidate for Assistant Alderman in the Fifth Assembly District, against the canvassing of the votes in certain districts of the Eighth Ward; of William Ferguson, a candidate for Assistant Alderman in the Fifteenth Assembly District, against the canvassing of the votes in certain districts of the Twentieth Ward, respectfully report:

That the duties of the Board of Canvassers being ministerial, and merely to estimate the votes returned to them from the several election districts by the District Canvassers, it is the duty of the Board to canvass and estimate the votes as returned to them by the district Canvassers from all the districts relative to which no protests have been made, and they accordingly recommend the same course be pursued by the Board of Canvassers.

All of which is respectfully submitted,

O. W. PLUNKITT,
EDWARD CUDDY,
Committee on Protests.

City and county of New York, ss.:

William Doyle, James L. Martin, and Michael M. Conroy, being severally duly sworn say, that they were the poll clerks of Election for the First Election District of the Twentieth Ward, at the election held in the seventh day of November instant; that there were five hundred and sixty-six registered voters of the said district, and that the votes were registered and poll clerks about canvassing the votes cast for the several candidates for member of Assembly from said Assembly District; that when the ballots were emptied from the box containing the votes cast for the general ticket and were opened, which were opened without being counted, deponent observed that a great number of said tickets were scratched, and when said general tickets were counted deponent kept the tally of said count, and the poll clerks separated also to keep the tally; that after all of said votes had been counted, the poll clerks appeared to make an effort to foot up their tallies, but the marks made by them for tallies being spread in confusion over the paper on which they had been kept, said poll clerks seemed to be unable to foot up said tallies correctly. Whereupon one of said poll clerks, named Jenkins, said to the other poll clerk, "I'll tell you what we'll do, we'll give the Republicans one hundred and ten all round, and the Democrats one hundred and twenty-five all around, that will make it about an even thing;" that the poll clerk to whom this was said laughed, and began to make with the police and official returns of said Inspectors of writing in the figures as thus agreed upon, and when the Inspectors had finishing said return, one of said poll clerks turned to the Inspectors and said, "Now, boys, we have fixed it all right;" whereupon said returns were signed by said Inspectors as filled out by said poll clerks, and without any examination of the number of the votes or of the number cast for each candidate.

Deponent further says: That said inspectors became satisfied that they had been made the tools of the poll clerks, and finished the canvass of the votes cast for the office of Alderman, and delivered they had signed any returns of the said votes.

That when the votes cast for Member of Assembly were taken from the box and opened, deponents stood behind H. P. Barker, one of said inspectors, and observed the canvass of the same over the shoulder of said Barker.

That said Assembly ticket, so far as it was canvassed at all, was canvassed as follows: The votes cast for Alexander Frear were announced, and put on file; the cast for Frederick Kilian were assorted and put on a different file; those cast for Seth M. Harris were assorted and put on a different file; those cast for Patrick Logan were put by itself, lying on the table; that when the ballots were thus filed, deponent observed that two of said files were put in a drawer of the table instead of ballots over them; that Barker began the count of said votes as if by rote, and made marks upon a piece of paper before him, and handed the bundle of said ballots to another of said inspectors who would proceed to count them; that no other inspector, and neither of the poll clerks kept the tally of said votes, which kept the organ; that the ballots, as thus filed, contained several times, which is not supposed to contain ten votes, was handed by said Barker to one of the other inspectors, the latter, after counting them, said, "Three, you have got two votes here, give him all he is entitled to, or all he got."

That after all of said vote for Assembly had been gone over in the manner before described, the said Barker footed up the marks made for tallies on his piece of paper, and marked in figures as the foot thereof the figures 880, although the total vote cast on said day was announced as 802.

That when the deponent saw that the footing amounted to 880, he turned around to a man whose name is unknown to the deponent, and began talking in a low tone of voice, so as not to be heard by the inspectors or canvassers, and said to the man, "Here, I have made a mistake in adding up the vote, I have added in the last column of figures;" and said to the poll clerks said to said Barker, "Well, what votes did those footings get?" And said Barker, answered, "Frear, 228; Kilian, 69; Harris, 83; Logan, 10."

That no announcement, either of the whole votes cast for Member of Assembly, or of those cast for each candidate, was made to the inspectors who were sitting and by them, or either of them, in reference to said votes cast, except what was so spoken by said Barker.

RALPH I. SCHAINWALD.

Sworn to before me this 11th day of November, 1871.

MONTAGUE L. MARKS,
Notary Public, county of New York.

City and county of New York, ss.:

William Doyle, James L. Martin, and Michael M. Conroy, being severally duly sworn say, that they were the inspectors of Election for the First Election District of the Twentieth Ward, at the election held in the seventh day of November instant; that there were five hundred and sixty-six registered voters of the said district, and that the votes were registered and poll clerks about canvassing the votes cast for the several candidates for member of Assembly from said Assembly District; that when the ballots were emptied from the box containing the votes cast for the general ticket and were opened, which were opened without being counted, deponent observed that a great number of said tickets were scratched, and when said general tickets were counted deponent kept the tally of said count, and the poll clerks separated also to keep the tally; that after all of said vote had been counted, the poll clerks appeared to make an effort to foot up their tallies, but the marks made by them for tallies being spread in confusion over the paper on which they had been kept, said poll clerks seemed to be unable to foot up said tallies correctly. Whereupon one of said poll clerks, named Jenkins, said to the other poll clerk, "I'll tell you what we'll do, we'll give the Republicans one hundred and ten all round, and the Democrats one hundred and twenty-five all around, that will make it about an even thing;" that the poll clerk to whom this was said laughed, and began to make with the police and official returns of said Inspectors of writing in the figures as thus agreed upon, and when the Inspectors had finishing said return, one of said poll clerks turned to the Inspectors and said, "Now, boys, we have fixed it all right;" whereupon said returns were signed by said Inspectors as filled out by said poll clerks, and without any examination of the number of the votes or of the number cast for each candidate.

Deponent further says: That said inspectors became satisfied that they had been made the tools of the poll clerks, and finished the canvass of the votes cast for the office of Alderman, and delivered they had signed any returns of the said votes.

That when the votes cast for Member of Assembly were taken from the box and opened, deponents stood behind H. P. Barker, one of said inspectors, and observed the canvass of the same over the shoulder of said Barker.

That said Assembly ticket, so far as it was canvassed at all, was canvassed as follows: The votes cast for Alexander Frear were announced, and put on file; the cast for Frederick Kilian were assorted and put on a different file; those cast for Seth M. Harris were assorted and put on a different file; those cast for Patrick Logan were put by itself, lying on the table; that when the ballots were thus filed, deponent observed that two of said files were put in a drawer of the table instead of ballots over them; that Barker began the count of said votes as if by rote, and made marks upon a piece of paper before him, and handed the bundle of said ballots to another of said inspectors who would proceed to count them; that no other inspector, and neither of the poll clerks kept the tally of said votes, which kept the organ; that the ballots, as thus filed, contained several times, which is not supposed to contain ten votes, was handed by said Barker to one of the other inspectors, the latter, after counting them, said, "Three, you have got two votes here, give him all he is entitled to, or all he got."

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That when the deponent saw that the footing amounted to 880, he turned around to a man whose name is unknown to the deponent, and began talking in a low tone of voice, so as not to be heard by the inspectors or canvassers, and said to the man, "Here, I have made a mistake in adding up the vote, I have added in the last column of figures;" and said to the poll clerks said to said Barker, "Well, what votes did those footings get?" And said Barker, answered, "Frear, 228; Kilian, 69; Harris, 83; Logan, 10."

That no announcement, either of the whole votes cast for Member of Assembly, or of those cast for each candidate, was made to the inspectors who were sitting and by them, or either of them, in reference to said votes cast, except what was so spoken by said Barker.

RALPH I. SCHAINWALD.

Sworn to before me this 11th day of November, 1871.

MONTAGUE L. MARKS,
Notary Public, county of New York.

City and county of New York, ss.:

Charles E. Jessup, being duly sworn, saith that he resides at No. 520 West Twenty-ninth street, in said city. That he was a challenger at the polls of the