

Is there an issue of fact raised by the pleading,

All issue of law is decided by the Law

All issue of fact requires evidence for its determination

The plaintiffs aver that the defendants refused to count the returns of an election held in Henderson Township, ~~the defendants deny that there~~

The defendants deny that there was any election held in said township

Therefore the defendants deny the existence of such returns

Can this question be decided without testimony?

If yes! it is an issue of Law

If no! it is an issue of fact.

An issue of fact or a question of fact.

An issue of fact is a difference with regard to a fact material to the controversy

A question of fact, is a difference with regard to a fact incidental to a controversy, and not material to its determination

Plaintiffs contend, that the defendants ought to have counted the returns of an election held in Henderson Township

The defendants contend that there was no such election and no such returns

Is the fact of the existence of such returns material in deciding whether they ought to be counted?

If yes! then it is an issue of fact
If no! then it is a question of fact.

The registration Books of each Township are kept in the custody of the Register of Deeds, and are delivered out by him to the Registrars of the various precincts on the eve of each election.

In 1875 The Henderson Book after election of August of that year, was returned to the Register of Deeds.

This spring Madison Hawkins a republican, a justice of the peace for Kitchell's Township in this county, and W. H. Belvin also a republican, a constable of Henderson Township, applied to the Register of Deeds for the registration Book, alleging that they wanted it for the purpose of ^{them} ascertaining the number & names of delinquent polls.

It was given them, and has never been returned by them to the register.

They can give no account of it, when asked about it, they merely "say it is lost".

The book has been seen since the election in the house of the Registrar of Henderson Township.

The registrar of election did not attend to his duty personally, ~~but~~ appointed a deputy for that purpose.

The Deputy was a boy of some 16 years, a son of an inland Revenue officer at Henderson named Clark.

The new blank registration Book was placed in this boy's custody and taken by him to an office in Henderson.

Persons desiring to register, who could write, were allowed by the boy to enter their own names.

Those who could not write had their names set down by the boy.

The oath was not administered to many of them.

It is said that there were some fifty people voted at Henderson who had been brought from Warren Co some 30 days before election.

Ruffin Fuller a Democrat says he registered his own name himself and also put down the name of some of his neighbours.

The Registrar is Brother to Col J. J. Young Astoria Revenue Collector.

The Registration Books were not opened until the 10th day of October.

Herndon Elections
75-6

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