

ROBERT SMALLS vs. WILLIAM ELLIOTT.

DECEMBER 7, 1888.—Referred to the House Calendar and ordered to be printed.

Mr. CRISP, from the Committee on Elections, submitted the following

**REPORT:**

The Committee on Elections have had under consideration the contested-election case of Robert Smalls vs. William Elliott, from the Seventh district of South Carolina, and report as follows:

Robert Smalls and William Elliott were opposing candidates for a seat in the Fiftieth Congress from the Seventh district of South Carolina at the November election, A. D. 1886.

By the returns of said election William Elliott received 6,493 votes and Robert Smalls received 5,961 votes, showing a majority for the former of 532 votes.

Within the time prescribed by law Robert Smalls caused to be served upon William Elliott notice of his intention to contest said election.

Contestant in said notice specifies as grounds of contest substantially, that the board of county canvassers failed and refused to count and include in the returns made by them to the State board the whole number of legal votes cast at said election, and that thus he was deprived of 1,216 legal votes which were cast for him; that the persons appointed managers at certain precincts neglected and refused to open the polls, whereby he was deprived of 2,000 votes; that irregularities affecting the election at certain precincts were designedly and deliberately committed by the partisans of Elliott in order to have the returns thrown out; that at certain precincts a much larger number of votes were cast for him than were counted and returned; that the supervisors of registration in certain counties refused to discharge their duties in the registration of voters; that the managers of election in the county of Sumter illegally rejected ballots of voters who desired to vote for him, and that the managers at certain precincts named made a fraudulent and illegal count of the ballots actually cast.

William Elliott answered this notice of contest, denying generally and specifically the various allegations of the contestant, and charging that the contestant and his partisans inaugurated and practiced bribery; that by the threats and violence of contestant and his partisans a large number of colored people who desired to vote for him were prevented from doing so; that at some of the precincts the managers were unable to legally and properly conduct the election by reason of the riotous conduct, the threats, and violence of the partisans of contestant in intimidating and preventing colored voters from voting for him; that by a system of undue influence and social and religious ostracism inaugurated by contestant large numbers of colored people who desired to vote for him were prevented from doing so; and that a large number of the colored voters of the district who might otherwise have voted for a

colored Republican candidate refrained from voting for contestant because he, contestant, had been convicted by a jury of his country of receiving a bribe while State senator from Beaufort County.

On the issues thus presented much testimony was taken by both parties. Within the proper limits of a report it is impossible to present all, or even a large part of the evidence bearing upon the various questions made, but your committee will endeavor to deal with every point of any importance presented in the case, and to submit its conclusions thereon.

So much of the election laws of South Carolina as bear upon the questions made in the case accompany this report, marked Exhibit A.

#### POCOTALIGO.

Contestant claims that there was an excess of ballots in the box when the count began of 105 or 148 votes; that only 143 votes were cast at the precinct; that the managers, after drawing out the excess in accordance with the law, returned to the commissioners of election, who are the county canvassers, the vote of this precinct as follows: Elliott, 87 votes; Smalls, 56 votes; and that the county board of canvassers in canvassing the vote of Beaufort County so counted it. Contestant then examined 118 witnesses, each swearing that he voted for Smalls, and claims from this that there was fraud on the part of the managers; that the return is impeached and should be disregarded, and that he should have counted for him the 118 votes of those sworn, and Elliott should have the remainder of 143, which he says was the total vote cast.

Devaux, the Republican supervisor, and Bampfield, the son-in-law of contestant, swear they were present at the count by the managers, and that there was an excess of ballots, that is, more ballots in the box than on the poll list. Bampfield says that he suggested to the managers that the proper way to do was to ascertain the number of ballots in the box, then mix them up and draw out enough to reduce the number in the box to the number on the poll list. This was done. Bampfield says the excess was 148. Devaux says the excess was 105. Devaux says that of the 105 drawn out 47 were Smalls ballots. That would leave 58 Elliott ballots drawn out. There is no evidence as to who put the surplus ballots in the box. The managers were not examined. The law of South Carolina provides, "If more ballots shall be found on opening the box than there are names on the poll list, all the ballots shall be returned to the box and thoroughly mixed together, and one of the managers or the clerks shall, without seeing the ballots, draw therefrom and immediately destroy as many ballots as there are in excess of the number of names on the poll list." The drawing out of the excess of ballots seems to have been done in accordance with the law, in the presence of the Federal supervisors of election and the son-in-law of contestant, and at the suggestion of the latter.

Contestee denies that there is any evidence as to what vote was counted by the county canvassers from this precinct.

The law of South Carolina requires one of the managers of election, within three days after the election, to deliver to the commissioners of elections the poll list, the boxes containing the ballots, and a written statement of the result of the election in his precinct. The commissioners of elections, who are the county board of canvassers, on the Tuesday next following the election, after being duly sworn shall proceed to canvass the votes of the county, shall make such statement thereof as the nature of the election requires, and shall transmit to the

board of State canvassers any protest, and all papers relating to the election, and finally, after adjournment, shall by messenger transmit to the governor and secretary of state the returns, poll lists, and all papers appertaining to the election. These papers remain in the office of the secretary of state, who is the custodian thereof.

It appears in the record that contestant offered in evidence a paper claiming it to be a copy of the poll list and return kept by the managers of election at Pocotaligo precinct. Contestee objected to its introduction because it was not certified to be a copy of the poll list and return by any official, and not proven by any one to be such. We have this paper before us; it is clearly not the original, and is not certified by any one as a true copy. There is no evidence in the record tending to prove that it is a correct copy. Under the circumstances your committee do not think this paper should be considered.

The only evidence in the record as to the vote cast, counted, and returned at this precinct is that of Devaux and Bampfield. The highest and best evidence of the return, which is presumed to be on file in the office of the secretary of state, is a certified copy thereof, which was easily accessible. Your committee are of the opinion that, in the absence of any evidence of the loss, destruction, or inaccessibility of the returns, parol evidence as to what the vote was should not be considered. This is the established rule of law, and the propriety of the rule is well illustrated in this case by the conflict in the testimony of the two witnesses by whom the number of votes cast is sought to be proven. In the absence of any legal evidence as to how the vote was counted from this precinct by the county canvassers in canvassing the vote of the county, the evidence of the voters as to how they voted is immaterial.

In the foregoing and one other precinct an excess of ballots was found. In South Carolina the voter deposits his own ballot in the box. The law says the opening in the box shall only be large enough to admit of the entry of one ballot at a time; but it is difficult to see how it could be so arranged as to prevent the voter from depositing two or more ballots at the same time if he desired to do so. The presumption is that the managers complied with the law in seeing that no ballots were in the boxes at the beginning of the election. There is nothing in the evidence that throws any light on the matter.

#### FORT MOTTE AND ADAMS RUN.

At these two precincts the election appears to have been properly held, the returns made out regularly and signed, the boxes locked and sealed, and in each case delivered to one of the managers to be carried to the county board. The Fort Motte box was carried to the office of Dr. Hydrick, a Democratic county politician, who was not one of the county canvassers, and in his absence left with a young medical student therein. Dr. Hydrick, upon his return, refused to take charge of the box. The young gentleman who had received it in his absence then carried the box to the president of the county board of canvassers, who refused to receive it because it was not delivered to them by one of the managers. The box was then deposited in the office of the probate judge of the county, where it now remains. The Adams Run box was taken by one of the managers to Waterboro, and left in the store or office of one Gruber, a man who had nothing to do with the election officially, and since that time the box has been lost sight of. The county canvassers in making up the returns counted no votes from either of

these precincts. It appears from the evidence that the supervisors at each of these precincts, at the time of the counting of the vote, made and mutually signed a paper showing the vote cast thereat. These returns or statements are in evidence and are here copied.

FORT MOTTE, ORANGEBURGH CO.

Robert Smalls :	
v v v v v v.....	30
v v v v v v.....	30
v v v v v v.....	30
v v v v v v.....	30
v v v v v v.....	30
v v v v v v.....	30
v v v v v v.....	30
v v v v v v.....	30
v v v v v i.....	26
William Elliott :	
v v v v v iiii v v v v v iii.	

*Return of the election held at Fort Motte precinct, Orangeburgh Co., November 2, 1886.*

The whole number of votes given for member of Congress was 304, of which Robert Smalls received 236; of which William Elliott received 58.  
 We, the undersigned supervisors, certify that the above is a correct return of the votes cast at the election held at Forte Motte precinct of Orangeburgh County, on the 2d day of November, 1886.

HORACE KEITT,  
 S. J. MURRAY,  
*Supervisors.*

*Return of the election held at Adams Run precinct, Colleton County, November 2, 1886.*

The whole number of votes given for member of Congress was 214, of which Smalls received 177; of which Elliott received 37.  
 We, the undersigned supervisors, certify that the above is a correct return of the votes cast at the election held at Adams Run precinct, of Colleton County, on the 2d day of November, 1886.

M. W. SIMMONS,  
 C. R. BAILEY,  
*Supervisors.*

Your committee are of the opinion that under the circumstances of this case these returns should be received and counted. At Fort Motte precinct Robert Smalls received 236 votes and William Elliott received 58 votes. At Adams Run precinct Robert Smalls received 177 votes and William Elliott received 37 votes.

GREEN POND.

Contestant charges that 195 votes were polled at this precinct, of which the county board of canvassers credited to Elliott 160 votes and to Smalls 35 votes; charges fraud upon the managers of election because eight or ten minutes elapsed between the closing of the polls and the beginning of the count, during which the public could not see the ballot-box, and charges that 130 witnesses swear they voted for Smalls. There is no legal evidence of what vote was counted by the canvassers from this precinct. Neither the returns or any certified or uncertified copy thereof appears in the record. These returns were easily accessible. The irregularity complained of was this: The polling place was the back room of a store; in the partition which separated this room from the store was a door which was open during the day. When the polls closed the managers went into the store, where there was a

counter, and proceeded publicly to count the vote. No charge or intimation of fraud or impropriety was made at the time, and the evidence now relied on to establish fraud is that of 130 witnesses, who, it is claimed, each testify that he voted for Smalls. Nearly all of these witnesses are very ignorant; can neither read nor write. They do say they voted for Smalls, but when cross-examined many say they could not tell whether their tickets were Smalls or Elliott tickets. Many of them did not know for what office Smalls was running, and the cross-examination shows that some of them did not vote but only thought they had. The testimony of some of these witnesses is here given:

[Edwards, on page 475.]

MATTHEW EDWARDS (colored), a witness of legal age, produced by contestant upon due notice to contestee, deposes as follows in reference to questions propounded by counsel:

Q. What is your name, age, residence, occupation, and where were you on the second day of November last?—A. Matthew Edwards; about 30, I reckon; live at Green Pond precinct; farmer; I was at Green Pond.

Q. Did you vote there for Congressman on the 2nd day of November last? If so, state of your own free will for whom you voted.—A. Robert Smalls.

Q. From whom did you get your ticket?—A. Didn't have nary one; wouldn't give me no ticket.

Q. Then you did not vote?—A. No; no more than put my name down.

Q. What did you mean when you said you voted for Smalls?—A. Because I intended to vote for him.

Cross-examined by Mr. HOWELL:

Q. Who was it that would not give you a ticket?—A. Jacob White; because I didn't have a registered certificate.

Q. Then you did not vote?—A. No, sir.

Q. Is Jacob Smalls a Republican?—A. Yes.

MATTHEW (his x mark) EDWARDS.

[Manigault on page 494.]

Q. Can you read and write?—A. No.

Q. Who told you that you voted for Smalls?—A. April Singleton.

Q. Do you know the solemnity of an oath?—No, sir; I don't.

Q. If you were to tell a lie would you stick to it?—A. No, I'm not going to try to tell any.

Q. What time did you get to the polls, and what time did you leave?—A. I got here in the morning a little after sunrise, and left between 1 and 2 o'clock in the afternoon.

Q. Were you present when the managers opened the polls?—A. Yes, I do.

Q. Who was present besides yourself?—A. Black and white was here, but I don't know none.

CUFFY (his x mark) MANIGAULT.

[See also Jack Mitchell, page 500.]

JACK MITCHELL, being duly sworn, deposes as follows:

Q. Give your name, age, residence, occupation, and state where you were on the 2nd day of November last.—A. Jack Mitchell; near 50; Green Pond precinct; farmer; Green Pond poll.

Q. Did you vote there that day for Congressman? If so, state of your free will for whom you voted and from whom you got your tickets.

(Objection same as when same question was asked Sampson McNeill, first witness sworn this day.)

A. Yes; for Robert Smalls; got my ticket from Daniel Fields.

Q. How many tickets did you vote that day for Congressman?

(Objection same as when same question was asked Sampson McNeill, first witness sworn this day.)

A. One.

Q. Did any one read your ticket for you before you voted?—A. No, sir; I read it myself.

## Cross-examination :

(Counsel handed witness the name of Robert Smalls in print and witness could not read it.)

JACK (his x mark) MITCHELL.

[See also Billy Mitchell, page 528.]

Q. How do you know, then, that you voted for Robert Smalls?—A. By Chapman read my ticket, and I can read Robert Smalls' name in print.

(The name of Robert Smalls in print shown him, and he said it was Elliott's name.)

BILLY (his x mark) MITCHELL.

It is submitted that even if there was legal evidence as to how the return for this precinct was counted, the sworn returns of the managers and county canvassers should not be overturned by such evidence as this.

## BRICK EPISCOPAL CHURCH.

County and State boards both rejected this poll. The reason assigned for this rejection is because none of those offering to vote held or produced registration certificates.

The law requires registration for the particular precinct at which a party votes.

All electors of the State shall be registered as hereinafter provided; and no person shall be allowed to vote at any election hereafter to be held unless registered as herein required.

The supervisor of registration shall determine as to the legal qualifications of any applicant for registration by summary process, requiring oath, evidence, or both, if he deems proper, subject to revision by the assistant supervisors and himself in all cases where he has refused to register an applicant. From the decisions of the supervisors of registration, any applicant who is rejected shall have the right to a review thereof by the circuit court, provided he gave notice in writing to the supervisor of his application for such review, and the grounds thereof, within five days from the date of his rejection, and commence his proceedings within ten days from the service of said notice.

Each elector registered as aforesaid shall thereupon be furnished by the supervisor with a certificate, which shall contain a statement of his age, occupation, and place of residence, as entered in the said registration book, and which certificate shall be signed by the said supervisor; and no person shall be allowed to vote at any other precinct than the one for which he is registered, nor unless he produces and exhibits to the managers of election such certificate: *Provided*, in case there shall be no election precinct within any township or parish, the supervisor shall designate in the certificate at which of the neighboring precincts the elector shall vote; and in case there be more than one precinct in any township or parish, the supervisor shall likewise designate in the certificate at which of the said precincts the elector shall vote. The certificate of registration shall be of the following form

Registration certificate number —.

County, — Township or parish.

Election precinct —.

The bearer, —, is a qualified voter in the above precinct, and resides at —, in — Township, or — Parish, and is — years of age, and entitled to vote at such precinct.

Registered on the — day of —, A. D. 18—.

\_\_\_\_\_  
Supervisor of Registration.

That every elector shall have the right to a renewal of his certificate without fee or charge, when the same becomes defaced by time or accident, upon his surrendering such certificate, so defaced, to the supervisor of registration.

In case of the removal of an elector from one residence to another in the same precinct, such elector shall notify the supervisor of registration, and shall surrender his certificate of registration to the said supervisor of registration, who shall enter the fact upon the registration book, and shall give such elector a new certificate in accordance with such change of residence.

The testimony of the supervisor of registration for Berkeley County is given:

ETSELL GAILLARD, being sworn, says:

Q. 1. State your name, age, occupation, and place of residence.—A. Etsell Gaillard; 37 years old; planter; Belmont plantation, Berkeley County, S. C.

Q. 2. Do you hold any office; if so, what?—A. I do; supervisor of registration for Berkeley County, S. C.

Q. 3. How long have you been supervisor of registration?—A. One year and two weeks.

Q. 4. During your term of office have you held your books of registration open for the purpose of registering voters at the court-house, as required by law?—A. I did.

Q. 5. Did you ever refuse to register and give certificate of registration to any voter who applied for registration?—A. I never did.

Q. 6. Did you ever refuse to change the certificate of registration of any voter or to issue a certificate of renewal upon being applied to for either of those purposes?—A. I never did.

Q. 7. Did you ever issue a certificate of registration for Brick Episcopal Church, about 6 miles from Mt. Pleasant?—A. I never did, for the simple reason that I had no application for any.

Q. 8. Do the books of registration show for what precinct a certificate of registration is issued?—A. They do.

Q. 9. State whether or not any certificate of registration has ever been issued for that precinct.—A. They have not.

Q. 10. Is Berkeley County divided into townships or parishes?—A. Into parishes.

The foregoing extract gives all he says on the subject in his examination-in-chief. On cross-examination he says:

Q. 6. Did you prepare a registration book for the voters of Brick Episcopal Church precinct?—A. I opened the books, but there is not a name on it, there being no applicant; no one applied for an original or a transfer certificate.

Q. 7. Did you notify the voters that a transfer was necessary under the law creating that new voting precinct?—A. I did not, it not being my duty to do so.

Q. 8. Was any book prepared and sent to the commissioner of election for that precinct?—A. I had a blank-book with the heading for "Brick Episcopal Church," but no name being on it, I did not hand it in.

ETSELL GAILLARD.

Sworn to before me the 24th day of March, 1887.

[L. S.]

D. C. WEBB,  
Not. Pub., S. C.

This was a new polling precinct.

Section 5 of the act of the general assembly, No. 719, approved July 5, 1882 (17 Statutes of South Carolina, page 1172), provides as follows:

Whenever a new polling precinct is established by law, it shall be the duty of the supervisor of registration to transfer from the books of registration the names of such qualified voters registered at other precincts as should, under this act, register and vote at the new precincts so established, and *who may request such transfer*, and to make such changes as may be necessary in the certificate of registration issued to such voters, and such voters shall thereafter vote only at such precincts to which they have been thus transferred.

The chairman of the board of county canvassers says in his testimony that he refused to count the vote of this precinct "on the ground that the voters voting at that precinct were not registered there." This poll we think was properly rejected.

#### GRAHAMVILLE.

The contestant claims that 48 votes for Smalls and 1 for Elliott, which were excluded from the count by the managers because they were scratched and mutilated, should be counted. The election law of South Carolina provides that—

The voting shall be by ballot, which ballot shall be of plain white paper, two and one-half inches wide by five inches long, clear, and even cut, without ornament,

designation, mutilation, symbol, or mark of any kind whatsoever, except the name or names of the person or persons voted for and the office to which such person or persons are intended to be chosen, which name or names and office or offices shall be written or printed, or partly written and partly printed thereon in black ink; and such ballot shall be so folded as to conceal the name or names thereon, and so folded shall be deposited in a box to be constructed, kept, and disposed of as hereafter provided; and no ballot of any other description found in any election box shall be counted.

It appears from the evidence that the managers of election refused to count these votes because they were marked and mutilated. Such ballots were forwarded with the other returns to the county board of canvassers, who also rejected them for the same reason, and under the evidence submitted your committee do not feel authorized to overrule the action of the managers of election of the precinct and the county board of canvassers, all sworn officers of the law.

#### PROVIDENCE.

Contestant claims that this poll should be rejected because of fraud on the part of the managers in drawing from the box an excess of ballots. We have heretofore referred to the statute of South Carolina providing for the method of disposing of any surplus of ballots found in any box used at an election. The claimed surplus in this case was 80. There is no legal evidence in the record of what the vote was at this precinct or how it was counted. If there was a surplus of ballots the preponderance of evidence satisfies your committee that the law of the State was exactly complied with in drawing them from the box.

#### CEDAR CREEK.

The county board rejected this box because only one of the managers was sworn. The others were present acting as managers, and contestee admits that the return should have been counted. The vote here was: Smalls, 18; Elliott, none.

#### SANDY ISLAND.

This precinct was not included in notice of contest, and hence the evidence referring to it should not be considered. It is well settled that a contestant can not make any points in his contest which are not in his notice of contest. (McCrary on Elections, sec. 343.)

#### GREERS.

This poll was opened by Jenkins, one of the managers, and two other persons appointed by the Federal supervisors. Greer was a regularly appointed manager, and reached the poll at 7 o'clock a. m.; the poll was then opened, he took the place of one of the managers appointed by the Federal supervisor, and the election was thus managed to the close. The county canvassers rejected the poll because of this irregularity. It is not perfectly clear that this was wrong, but your committee are inclined to think that this poll should have been counted.

The vote was William Elliott, 4; Robert Smalls, 65.

#### SANTREE.

This box was rejected because only one manager held the election. The law was entirely disregarded. Poll was in open air under a tree,

no space railed off, and every one allowed to vote whether a legal voter or not. The evidence shows that the one manager allowed 25 men not registered and 34 who had changed their residence to vote. This box was properly rejected.

As to the precincts of Cedar Creek, Sandy Island, Greer's, and Santee, all in Georgetown County, we may remark that the county board of canvassers was composed of two Democrats and one Republican, the latter the Republican county chairman since 1876 and also the State senator, and upon his motion these precincts were rejected by the board.

#### MUDDY CREEK.

Contestant claims that at this precinct there were 83 votes for Dargan, 9 for Elliott, and 1 for Smalls, and that the 83 Dargan votes were counted for Elliott, and he was given by the managers 92 votes, when he was only entitled to 9. There is nothing in the record to show how this precinct was reported and counted by the county board. The only evidence is that of one Cooper, who himself says that he was not present at the canvass by the county board, and his only knowledge is derived from a paper shown him by one Swails, Republican Congressional chairman, which paper was not signed by the canvassers or any one else. It is submitted that election returns can not be set aside on such flimsy and worthless evidence as this.

#### SALTERS.

Contestant claims that the polls were not opened until 10 o'clock. The supervisor refused to act because the polls were not opened according to law, and in his brief (page 115) contestant says, "We infer that 86 votes were returned from this precinct for Elliott and none for Smalls," whereupon he gravely asks that we deduct from the vote of Elliott 86 votes. There is nothing in the record that shows how many votes, if any, were counted from this precinct, and your committee submit that it would hardly be a safe rule, in the absence of all evidence, to "infer" a given number of votes were cast and counted for a candidate, and then proceed to deduct that number from his returns.

#### LAKE CITY.

Contestant claims that this precinct is in the Sixth Congressional district, and that the vote cast there for Elliott should be deducted from the count. There is absolutely no evidence in the record to sustain this claim. The precinct is what is called a "Line precinct," and ballots were there received in separate boxes both for the candidates in the Sixth and Seventh districts. This was done in accordance with the law of the State.

#### FAILURE TO OPEN POLLS.

It appears from the evidence that at several of the precincts in the district the polls were not opened, and contestant claims that such failure was designed by the political friends of contestee for the purpose of depriving him, contestant, of a large number of votes. Indeed, he claims that he was thus deprived of about 2,000 votes, and while contestant does not aver that this number of votes should be counted for him, he does insist that in the event that the committee finds that

he has not a majority of the votes cast, that then a new election should be ordered. Out of the whole number of precincts in the district there was a failure to open the polls at only four.

The registered voters of these precincts were but an inconsiderable part of the voters of the entire district, and unless the failure to open the polls there can be traced to the contestee, or it appears that such failure was the result of a design on the part of his political supporters to thus deprive legal voters of an opportunity to vote for contestant, under no rule of law with which your committee is acquainted could such failure of itself justify the ordering of a new election. We have very carefully considered the evidence bearing upon the points made, and find that contestee, the Democratic executive committee, and the appointing officers did all they could to secure the opening of the polls at each precinct. We further find that at some of these precincts there appear to be as many Democratic as Republican voters who were deprived of an opportunity to vote, and there is no satisfactory evidence of the number of either class who were thus deprived of the right of suffrage. We submit some of the evidence bearing upon these points.

J. Q. MARSHALL, being first duly sworn, in answer to following questions, says (p. 778):

Q. Where do you reside?—A. In the city of Columbia, S. C.

Q. What is your age and occupation?—A. I am thirty-seven years old, and am a lawyer.

Q. Where were you residing in the year 1886?—A. In the city of Columbia, county of Richland, S. C.

Q. What position did you hold in the Democratic party in the general election of '86?—A. I was chairman of the Democratic executive committee for the county of Richland, and also chairman of the Democratic executive committee for the Seventh Congressional district of South Carolina.

Q. Did you hold a meeting of the ex. com. of that Congressional district to consider the conduct of the campaign therefor?—A. I did, at Charleston, S. C., about the time of the opening of the campaign in that district, I think about 1st Oct., '86.

Q. Was any instructions passed at that meeting in regard to having all the polls opened at the election?—A. Yes; there were such instructions. There being great difficulty in getting managers to act for the Federal boxes in the year 1884, some polls were not opened at the election that year on that account. The committee determined to prevent the recurrence of that, if possible, at the election of 1886, and to do all in their power to have all the polls opened in the Seventh Congressional district. All the county chairmen of the committees composing the Seventh Cong. district were instructed to endeavor to see or assist in getting managers to serve at the various precincts.

Q. Did you extend such instructions to the commissioners of Federal elections for this county?—A. I did, and endeavored to assist the chairman in getting managers, and used my influence to get gentlemen to serve at Gadsden and Eastover precincts.

Q. You found it difficult to get persons to consent to act as managers at these two precincts?—A. Yes.

Q. It was the desire of the Democratic party or managers to hold an election for Congressman at Gadsden at the regular election for 1886, was it?—A. Yes, and I did all I could to have the polls opened; I thought I had gotten parties who would act as managers, and was surprised when I heard they had not called for the ballot-box.

JOHN H. PEARSON, who being first duly sworn, in answer to the following questions, says (p. 780):

Q. Where do you reside?—A. Columbia, Richland County, S. C.

Q. What is your occupation?—A. Lawyer.

Q. What is your age?—A. Thirty.

Q. What office do you now hold?—A. I hold two; probate judge for Richland County, and chairman of the board of commissioners of Federal elections in this county.

Q. Were you prior to and during the last general election a com'r of Federal elections?—A. I was.

Q. Who were the other commissioners associated with you at that time?—A. Thos. D. Hopkins and Pringle T. Youmans.

Q. Where are they now?—A. Mr. Hopkins is living in this county, and I am informed that Mr. Youmans is in Birmingham, Ala.

Q. Mr. Youmans has removed then permanently from this county?—A. So I understand; I know he so stated to me.

Q. What is Mr. Youmans' profession?—A. Lawyer.

Q. Has Mr. Youmans ever held any political position?—A. Not to my knowledge, except that of commissioner of election aforesaid.

Q. Did you, as chairman of the board of commissioners, receive any suggestions from any officer of the Democratic organization or party as to procuring managers to open the polls at Eastover and Gadsden precincts, and, if so, from whom? State fully what was said and done.—A. I don't know that I received any suggestions, but I did hear Colonel J. Q. Marshall, the chairman of the executive committee of Democratic party of this county, and chairman of the executive committee of the Seventh Congressional district, state that it was the wishes of the Democratic party to have a full board of managers at Gadsden and Eastover precincts, and he gave as his reasons that at the preceding Congressional election there were no managers at Eastover precinct. I did not consider any suggestions.

Q. Did you appoint managers for those two places?—A. I did.

Q. Will you state how you appointed them, and when, and who they were?—A. We appointed them at a meeting of the board of commissioners; we held a meeting of the board, I think, about one week prior to the election, and appointed, I think, for Gadsden precinct, Harry L. Adams, W. W. Ray, and E. McC. Clarkson. Mr. Hopkins wrote each gentleman a letter apprising them of their appointment, and those names were published, I think, the following day in a daily newspaper published in this county.

Q. Did those gentlemen act?—A. They did not.

Q. When did they notify you of their refusal to act?—A. I received notification of all of them, except possibly Adams, personally, and we knew within two days after that none of them would act.

Q. Did you fill their places?—A. On finding they would not act we immediately filled their places that day.

Q. Who did you appoint in their places?—A. My recollection is Jno. H. Adams, Williams, and T. A. Scott.

Q. Were those parties notified in same way?—A. Yes, in same way; one or two of them immediately refused to act. T. A. Scott did not immediately. We then appointed one or two more; not positive whether it was one that declined immediately to act with Mr. Scott. These were the last appointments that were made. Trumble was one last appointed to act.

Q. Did you publish in the papers these names appointed?—A. Yes, by special advertisement, containing names of managers appointed for the Eastover and Gadsden precincts.

Q. When did this special advertisement appear?—A. I think on Sunday morning preceding Tuesday of election; not positive, but I know it was last opportunity I had to publish it.

Q. Were you notified by Mr. Adams, Trumble, or Scott at any time before Tuesday, day of election, of their refusal to act, and, if so, at what time?—A. I was; Mr. T. A. Scott came to my office just before dark on Monday preceding day of last election and stated that he couldn't serve because the other managers had refused to act, and that he didn't intend to serve anyhow, as he didn't care to risk a trial in the U. S. court, and he went on to say he had served before and decided not to serve any more.

Q. What did other managers appointed who declined assign as reasons for so doing?—A. I can only give Mr. Ray's reasons: he said he was a practicing physician and didn't have time.

Q. The only information you had that these other last managers would not serve was what Mr. Scott told you?—A. That was my only source.

Q. What then did you do when Scott told you they wouldn't serve?—A. I remained in my office until the last moment to see if I could do anything, and after I left there I went on the street and offered five dollars to Dr. Butler if he would be one of three to go to Gadsden and be managers; but he refused to go. My reason for offering Dr. Butler \$5.00 was that he stated he would go down, and I then told him I'd give him \$5.00 and his expenses if he would go. He then declined. This conversation took place in the presence of Mr. Moore, on Main st.

Q. Did you make application to any other person than Dr. Butler?—A. I did not; it was then late at night; I was waiting on Dr. Butler.

Q. Had you previous to that experienced any difficulty in getting parties to act as managers?—A. I had; I so stated in that special advertisement.

Q. All those persons you appointed were residents in or near Gadsden precinct?—A. I think they were.

Q. Did you experience any difficulty in getting managers for the Eastover box, and, if so, what difficulties?—A. Yes; there were two sets of managers appointed for East-

over—three at each time. Paul H. Joyner was among the first set named, and four of those who were residents around there, and of the six appointed refused to act, and we then appointed C. O. Marshall at the last moment, just before the train left. Mr. Marshall was living here in Columbia, and he carried the ballot-box down to Eastover.

Q. Had Mr. Marshall not accepted and carried the box with him there would have been no election at Eastover?—A. There would have been no election at Eastover.

Q. Did any one come for or send for the box for Gadsden precinct?—A. I was informed that Mr. Scott would come for it during the first part of the day, but he came and declined to serve or take box, and no box was sent to Gadsden, and none of those appointed as managers for Gadsden qualified.

Q. Were any returns ever made to your board of commissioners from Gadsden for the election of Congressman?—A. No.

Q. Did the supervisor of Federal elections for Gadsden send up or return to you any box of votes for or at an election held for Congressman?—A. No.

Q. Do you know anything of an attempt at holding an election for Congressman at Gadsden?—A. No.

L. S. EHRICH sworn, testified (p. 661):

Q. State your name, age, occupation, and residence.—A. L. S. Ehrich; 32; merchant; reside at Georgetown, S. C.

Q. Where were you born?—A. City of New York.

Q. How long have you been in this State?—A. 12 years.

Q. How long in this county?—A. Not quite 11 years.

Q. What were your political proclivities while at the North?—A. My sympathies were with the Republican party, but I never cast a vote until I came South.

Q. You were not of a legal age to vote, then, before you came South?—A. No; I was not.

Q. As the Democratic county chairman at the last election, did you make any effort to throw any obstructions in the way of opening the polls at any precinct in the county?—A. I did not; that matter being entirely with the county canvassers.

Q. Did you receive from Col. Elliott any expression of his wishes as to the opening of the polls?—A. I did. I received a letter from Col. Elliott in which he wrote me as county chairman, that he desired an election held at every precinct in the county.

Q. Did you acquaint Dr. Sparkman with Col. Elliott's wish?—A. I handed him the letter to read.

Q. Was there any conspiracy or preconceived plan on the part of the Democracy, so far as you know, to fail to open any of the polls, or to prevent by any other means a free, full, and fair election in this county?—A. None.

STATE OF SOUTH CAROLINA, *County of Beaufort*:

Personally appeared before me, Thomas Talbird, a notary public in and for the county and State aforesaid, W. G. ALLEN, white, a witness on behalf of contestee, and of legal age, who, being duly sworn, deposes and says (p. 772):

Q. Col. Allen, where do you reside?—A. Bluffton.

Q. Were you in Bluffton on the second day of November last?—A. Yes, sir.

Q. Did you see Joe Robinson, alias Red-Hot Joe, on that day?—A. Yes, sir.

Q. Did you have any conversation with him in regard to the polls?—A. Yes, sir.

Q. State the conversation, please.—A. I went up to the polls, as I heard there was some little excitement and disappointment at the polls not being opened, and suggested to Robinson that it would be better to wait awhile longer, as I expected Barres every moment from the country. After waiting awhile I proposed to Robinson to have the polls opened; that the supervisor would swear in managers, and it would be perfectly legal, late as it was.

Q. Did Joe Robinson accede to your proposition?—A. He did not decline at first, but said he would go and consult Captain John Lindsey, and F. C. Johnson, and agreed to meet me in half an hour on the grounds. At the appointed time we met and he declined the offer. I told him I was very sorry he did, as he had everything to gain by it.

Q. About what time a day did that conversation take place?—A. Between ten and eleven.

Q. Were there many white men in Bluffton on the second of November last?—A. They were coming in pretty early, and a great many turned back when they met the managers, who went off quite early.

Q. What managers did they meet?—A. Those from the west of Bluffton met Preacher, who, I think, was a manager.

Q. How did the number of white men compare with the number of colored men on that day?—A. The turnout was very small on the part of the colored men, and between eleven and twelve I think the number of colored men and white men were about equal.

Q. How did the number of colored people compare with former elections?—A. Wonderfully small.

W. H. NIVER (white):

Q. Were you present at a conversation between Col. Allen and Joe Robinson on the second of November last, at Bluffton?—A. I was.

Q. State what the conversation was.—A. To the best of my recollection, Col. Allen said to Robinson, that he thought it would be perfectly legal to have the supervisors sworn in managers of election.

Q. Did Joe Robinson agree to the suggestion?—A. I don't recollect.

Q. If you had voted at the last election, where would you have voted?—A. Bluffton.

Q. How did the number of whites and colored compare at Bluffton on election day?—A. They were about equally divided, about as many of the one as of the other, that is my recollection.

Q. From what you observed, did the colored people exhibit the same interest concerning the last election as at previous elections?—A. I think not; they seemed very indifferent.

The difficulty of getting managers to act is illustrated by the experience of E. W. Fripp, manager at Brick Church, Saint Helena Island:

Q. What, if any, official position did you hold in reference to the election for Congressman, held in Brick Church precinct, on St. Helena Island, on the 2nd day of November last?—A. I was appointed one of the managers with John Brown and William Pritchard. I went to hunt up John Brown; he was sick and would not serve. I then saw Pritchard, and he said he would not serve because he was afraid of the people mobbing him; that the people were threatening all the white Democrats, and he would not have anything to do with it. I then went to Beaufort and got authority to appoint some one in their place; then I went to McDonald and tried to get him; he would not serve because it interfered with his trade as a storekeeper. I then appointed Gabriel Edings, a Republican and a good man, to serve with me. We two conducted the poll; we appointed Jackson W. Brown as clerk; he was also Republican supervisor.

We have thus carefully examined all the questions made by the contestant except his claim that Brick Church precinct, St. Helena Island, which was rejected by the managers of election and canvassers, should be counted. For convenience and to avoid repetition the question made by the contestant as to this precinct will be considered with the question made by the contestee as to Beaufort precinct, Ladies Island precinct, and Central School-House precinct.

We come now to examine the points made on the other side.

Contestee charges that contestant was not the free choice of his party for the nomination for Congress, and that the contestant had been convicted of receiving a bribe while State senator from Beaufort County, which facts caused a large number of Republican voters to give their support to him, contestee. It appears from the evidence contained in the record, Exhibit B, that on the 22d day of October, 1877, at a court of general sessions for the county of Richland, in the State of South Carolina, Robert Smalls was indicted for the offense of accepting a bribe while State senator of South Carolina. Upon this indictment Smalls was duly tried by a jury of his country, six of whom were colored men, convicted, and sentenced to the State penitentiary for the term of three years. Smalls sued out a writ of error to the supreme court of the State, and before the case was heard in that court he was pardoned by the governor.

It appeared in evidence on the trial of that case that while Smalls was State senator and chairman of the senate committee on printing he accepted a bribe of \$5,000 to aid in the passage of a resolution to make appropriation for expenses of printing. An examination of the evidence had on that trial will satisfy any one beyond all reasonable doubt of the guilt of Smalls. It appears from the evidence in the record before us that this conduct of Smalls was discussed throughout the district, and

that a large number of the colored people realized that he was an unfit person to be elected a Representative to the Congress of the United States. Your committee can not incorporate in this report all the evidence bearing upon this point. Some portion of it, however, is presented, so that the House may understand its character and scope. Z. E. Sautelle, a Republican, on pages 712, 713, and 714, testifies as follows:

Q. 1. What is your occupation?—A. Superintendent of Bulow Phosphate Mines.

Q. 2. Where were you born?—A. In the State of Maine.

Q. 3. How long have you been residing in South Carolina?—A. Eight years and six months.

Q. 4. Have you been connected with the Bulow works during the whole time you have resided in South Carolina?—A. Yes.

Q. 5. In what county of this State and what Congressional district are the mines? (The counsel for contestant objects to further examination of this witness on the ground that no notice has been given of his examination.)

A. In Berkeley County and Seventh Congressional district.

Q. 6. What are your politics?—A. Republican.

Q. 7. Do you know anything concerning the last Federal election for Congressman from the Seventh Congressional district in regard to intimidation of colored men, and, if so, state what?—A. I know of nothing at the election.

Q. 8. Did the colored people in your section evince the same interest in the last election as at the previous elections?

(Objected to as leading.)

Answer. No.

Q. 9. In what way was this lack of interest manifested?—A. Very few of them went to the polls.

Q. 10. Do you or do you not know of any colored men who desired to support Colonel Elliott at the last election, and, if so, state what number.—A. There were several, and I know of five.

Q. 11. Do you or do you not know if any were prevented from supporting Col. Elliott?—A. They were prevented through fear of the other colored people.

Q. 12. How many hands do you employ at the Bulow mines?—A. From three to five hundred.

Q. 13. Did all of your hands go to vote on election day?

(Objected to.)

Answer. No.

Q. 14. Did or did not as many of your hands vote on election day as at previous elections?

(Objected to.)

Answer. No.

Q. 15. State the difference in the number of your hands voting at the last election and the previous elections as nearly as you can.—A. At previous elections all voters went to the polls; at the last election there were very few; I don't think more than ten went.

Q. 16. Can you account for this lack of interest; and if so, how do you account for it?—A. They were all opposed to Smalls.

Q. 17. Do you or do you not know of the means by which Smalls obtained the nomination or anything in regard to his nomination?—A. Not directly.

Q. 18. Do you or do you not know anything of the election of delegates from your precinct to the Republican nominating convention for Congressman?—A. I was there at one of the meetings, which ended in a quarrel; after I had left I heard a large portion of the colored people had left, and that Smalls' delegates were elected.

Q. 19. Did you or did you not hear any speeches by Republicans on the day that that meeting was held?—A. I did.

Q. 20. What did you hear; did you or did you not hear any charge made against Smalls by Republicans?—A. I did; I heard him charged as a bribe-taker and a convicted felon.

Q. Was Smalls present?—A. He was.

Q. 22. Who made the charge?—A. A man named Brown.

Q. 23. Was Bowen a white or a colored man?—A. He was a colored man.

Q. 24. Did or did not Smalls say anything in regard to the charge, and if so, what?—A. He said that no man could say that and live ten minutes.

Q. 25. What became of Brown after that?—A. After he came down from the stand he came to my carriage and staid there the balance of the day.

Q. 26. Did or did not Brown give any reason for coming to you?

(Objected to.)

Answer. He said he did not know what Smalls' bullies might do.

- Q. 27. Have you witnessed elections in your neighborhood in past years?—A. No.
- Q. 28. Do you or do you not know anything of the means used by colored Republicans to make colored voters vote?—A. Up to the last election every voter had to go to vote or be whipped by the women.
- Q. 29. Was or was there not any such action at the recent election?—A. There was nothing of the kind.
- Q. 30. Whom did you support at the last election, if any one?—A. I supported Bowen.
- Q. 31. What has become of Bowen?—A. He died before the election.
- Q. 32. Did you or did you not, after the death of Bowen, give Smalls any support?—A. No.
- Q. 33. Why would you not support Smalls?—A. I did not think him fit for the position.
- Q. 34. Did or did you not have any conversation with Smalls prior to the election in regard to the probable result? State what.—A. I did; I had a conversation with him in regard to Bowen getting the nomination; he said Bowen had not money enough, but he had money enough to carry him through.
- Q. 35. Did you or did you not ever offer to bet Smalls who would be elected?—A. Yes.
- Q. 36. Did Smalls accept your offer?—A. No.
- Q. 37. State the circumstances in regard to the bet?—A. I was on the train with Smalls a few days before the election, and I told him his people were not going to vote for him as he expected, and I thought that Elliott stood a better chance than he did; I told him I would bet a hundred dollars if he wanted to risk it; he said it wouldn't answer for him to bet.
- Q. 38. Did he state any reason?—A. He did not.
- Q. 39. Was that before or after the death of Bowen?—A. After.
- Q. 40. From your observation and experience among the colored people, do you or do you not regard it safe for a colored man to vote the Democratic ticket at a precinct where the Republicans are in the majority?—A. I do not.
- Q. 41. Give your reasons for your opinion.—A. I think they would mob him, if not kill him.
- Q. 42. Have you or have you not ever voted the Democratic ticket?—A. I have never voted for a Democrat in my life.
- Q. 43. Who controls the Bulow mines?—A. W. L. Bradley.
- Q. 44. Where does he reside?—A. In Boston, Mass.
- Q. 45. What are his politics?—A. I think he is a Republican.
- Q. 46. Do you employ any white Democrats at your works?—A. We have not in the past three years.
- Q. 47. Did you or did you not have any reason to think that the colored people in your precinct would give Col. Elliott any support?  
(Objected to as leading.)  
Answer. I did not think they would dare to.
- Q. 48. Why?—A. On account of their churches.
- Q. 49. Do you or do you not know of any pressure brought by the colored ministers to bear on colored men to make them vote the Republican ticket?—A. As a rule, they are led by the ministers and leaders in politics as well as everything else.
- Q. 50. Do or do not the preachers lead by persuasion or threats, or in what manner do they lead?—A. By persuasion, or threats to turn out of the church.
- Q. 51. Have you ever witnessed an election at the North?—A. Several.
- Q. 52. Have you or have you not ever seen the same means adopted to keep voters within party lines as you have seen adopted by colored Republicans to keep colored men within the Republican lines in this State?—A. I never have.

The witness was an intelligent white man and a Northern Republican; he was superintendent of a large mine and worked from 300 to 500 colored laborers. Of this number only ten voted at election of 1886; while nearly all voted in 1884. He says this falling off in the vote was due to the conviction of Smalls of bribery and to opposition growing out of manner of his nomination.

W. H. Thompson, a colored man, who has been a leading Republican since the "reconstruction" period; who was inspector of customs under the Republican collector and turned out by his Democratic successor; who was Republican county chairman of Charleston County in 1872; member of the State executive committee from 1878 to 1880; Republican county chairman for Berkeley County from 1884 to 1886, and Repub-

lican Congressional county chairman for the last campaign, testifies (pages 630-635), among other things, as follows:

Q. 12. Did you support the Republican nominee for Congress during that campaign?—A. I did not.

Q. 13. Will you state the reasons why you did not?—A. Because I believed that the so-called Republican nominee was improperly nominated.

Q. 14. In what way was he improperly nominated; and please state fully all the considerations which operated upon you and induced you to withhold your support from him?—A. Because the delegates that were seated in Congressional convention from Berkeley County were not entitled to their seats. A majority of the Republicans of the district were opposed to Smalls when he came home from Washington. When he came home he said to me, "I understand that you are going to oppose me." My answer to him was that it will depend upon what you will do to cause me to come out actively in opposition to you. He then struck his right-hand pocket and said, "A fat dog can always beat a lean one." This statement was made in the presence of a dozen or more of the precinct chairmen, who were then opposed to him. The first meeting we had to elect delegates to county convention after that declaration was at St. Andrew's, at which place a precinct chairman was to be elected to fill a vacancy caused by the death of the former one. I presided at the meeting for the election of delegate to the county Congressional convention at the suggestion of Gen'l Smalls, as Congressional county chairman, he claiming that Ostendorff had no jurisdiction. When the delegates were elected (and they were all elected against him), then he infuriated the people, and demanded and told them to demand that Ostendorff go back on the stand and order an election for another precinct chairman. Ostendorff refused, stating that he had already declared one precinct chairman elected. Upon that Gen'l Smalls said, "By God, kill him, and don't let him leave this ground until he does call this meeting to order," Ostendorff said, "I had better go back to save myself from bodily harm," and upon that he did call the meeting to order, and the people that remained there voted for another precinct chairman.

Q. 15. Had many people left?—A. Fully one-half had left after the first election of delegates.

Q. 33. Was or not Smalls the choice of his party?—A. He was not.

Q. 34. Were any charges made against him during the campaign?—A. There were.

Q. 35. Please state them.—A. He was charged with dereliction of duty and absolutely unfit to represent his people any longer in Congress. Also he was charged with being a "convicted felon" and "bribe-taker."

Q. 36. Was Smalls present when the last charge which you have named was made against him?—A. He was.

Q. 37. Did he deny the charge?—A. He did not.

Q. 38. Did you ever have any talk with Smalls about the Freedman's Bank depositors?—A. I did.

Q. 39. Please state the substance of that conversation, and whether others were present when it took place.—A. I had a talk with Gen'l Smalls in the presence of a great many about the Freedman's Bank and had written to him about it, and he told me that when the States were "called" Mr. O'Hara, of North Carolina, introduced a bill, and when South Carolina was "called" Mr. Dibblet introduced a bill, looking to the re-imbusement of the depositors of the Freedman's Bank, but that he did not believe that the Government was responsible for the loss that the people sustained by the failure of that bank. This was one reason that I opposed him.

Q. 40. What effect had this statement of Smalls upon the colored people?—A. Wherever I met him I charged him with his declaration, and in no place did the people fail to repudiate him.

Q. 41. You say wherever you met him. What do you mean by that?—A. I mean in the canvass; on the stump.

Q. 42. Did you ever hear Smalls boast of his ability and willingness to buy votes? (Objected to.)

A. He said that had the money, and that his opponent had no money, and that it would take money to go through the campaign. This statement was made in the presence of the precinct chairman.

Q. 43. Did you ever hear Smalls say anything about his influence or usefulness in Congress?—A. He stood in sight of the custom-house, and pointed to the custom-house and said, "Gentlemen, see that stone building there? I am just as much service to you all, while the Democratic party is in power, as that building is," and that if he kept silent there could be more good done for the Republicans of South Carolina than if he was to undertake to speak for them, and this is another reason why I believed he was unfit to go back to Congress.

Q. 44. Were these charges which you have mentioned discussed during the campaign before and after Smalls received the nomination?—A. They were. They were discussed at every meeting.

Q. 45. Col. Elliott says, in the 12th paragraph of his answer, that the fact that Smalls had been convicted of receiving a bribe was made an issue in the campaign?—A. That is so.

Q. 46. He also says that this gave him the support of a large number of voters of Smalls' political party. What do you say as to that?—A. It certainly did carry a great many Republicans to Col. Elliott.

Q. 47. Col. Elliott further says, in the 15th paragraph of his answer, that the issues in this district was one between individuals. What have you to say to that?—A. As between Col. Elliott and Gen'l Smalls, it was, and not as between the two parties.

Q. 48. Did you ever hear Smalls allude to Col. Elliott in his public speeches during the campaign; and, if so, what was the tenor and effect of such allusion?—A. I have on very many occasions heard him say that Col. Elliott was a perfect gentleman, and that he (Smalls) always employs Col. Elliott upon any important case that he has in court, and that if he (Smalls) was to be succeeded by any other than a staunch Republican he would rather see Col. Elliott his successor.

Q. 25. For whom did you vote at the last election for Congressman?—A. Did not vote at the last election.

Q. 26. Then if you opposed the Republican nominee in 1882, and would not vote for the Republican nominee in 1886, then you must be what is generally designated a Mugwump?—A. I am no Mugwump, but a Republican, and have resolved not to support any man who buys his nomination and corrupts the party.

Q. 4. State whether or not any change has taken place in the sentiment of the Republican party as to Robert Smalls since his election to Congress.—A. Yes; there has been a great change as to Gen'l Smalls since his election to the 49th Congress.

Q. 5. Is that change favorable or adverse to him?—A. Adverse to him.

Q. 6. Gen'l Taft asked you yesterday whether there was any ill feeling growing out of your management of Smalls's campaign between Smalls and yourself, and then stopped you giving your full answer; will you now complete your answer?—A. I was about to state that there was no ill feeling between Gen'l Smalls and myself, and that Gen'l Smalls, in this court room, immediately after his return home, declared in the presence of Democrats as well as Republicans, that I was one of the most conscientious managers that had ever conducted a campaign in his interest.

Q. 10. Do you know whether Smalls hired men to make speeches for him during the late campaign? And if so, state whether or not they did make speeches for him.—A. I do know that he hired speakers. Prior to the nomination they made speeches for him through this section of the district, and subsequent to the nomination they spoke at two places and no more. I heard Smalls make contracts with them. One of Smalls' speakers offered to hire himself to me for \$40 per month, and if I would not pay him he would hire to Smalls, and was employed by Smalls.

C. B. Smalls, a colored man, and one of the leaders of the Republican party of the district, testifies on page 638 as follows:

The cause of the people being so much against Gen'l Smalls at that meeting was that a meeting prior to that one R. C. Browne, who was supporting W. J. Bowen, also a candidate for Congress, against Gen'l Smalls, called him, Smalls, a bribe-taker and convict felon.

Q. 8. Was Smalls present when R. C. Browne charged him with being a bribe-taker and convict felon?—A. He was.

Q. 9. What did he say?—A. Smalls said, "By God, I have nothing more to live for; hear what he says. I will kill him, and if I don't do it here, I will if he goes down on that train to-night."

Q. 10. Did he deny the charge?—A. He did not.

J. C. Mardenborough, a colored man, a graduate of Howard University, a lawyer, who had been postmaster at Port Royal during Hayes's administration, and a most intelligent man, whose testimony will be hereafter more fully referred to, testifies on page 605 as follows:

During the last campaign there was considerable opposition to Smalls in his own party, caused partly because they believed him unfit for Congress, and that he had been a member of Congress four or five times, and they do not hear of a single speech he has made or a single thing he has done for the people of the State or this district. But they opposed him principally because of his conviction for accepting a bribe. The people are becoming more enlightened, consequently more sensible. While many of the leaders of the Republican party assisted him in canvassing the district, some of them did not even mention his name in a speech, and did not even say that he was a candidate for office. Some, while they aided him in the canvass on election day, were entirely indifferent as to Smalls's election, and did nothing for him.

This is only a part of the evidence bearing upon this subject; a careful and laborious examination of the whole of it has satisfied your committee that the charge of contestee is fully made out, and that a very large number of colored Republicans refused to vote for contestant because he had accepted a bribe while state senator from Beaufort County, and because of dissatisfaction with the manner of his nomination.

BRICK CHURCH, BEAUFORT, LADIES' ISLAND, AND CENTRAL SCHOOL-HOUSE.

The county and State canvassing boards rejected the poll at the first-named of these precincts, and counted the votes cast at the others. Contestant insists that the rejected poll should have been counted, and the contention of contestee is that the rejection of Brick Church is right, and that Beaufort, Ladies' Island, and Central School-House should be rejected also, because of the violence and intimidation of contestant and his supporters. As to Brick Church it appears that managers were regularly appointed, but that two of them did not serve, one because he was sick, the other because he was afraid of being mobbed. Only one legally-appointed manager conducted the election. It further appears that three times during the day this manager was compelled to close the polls for a time because of the riotous and violent conduct of contestant's friends; that the poll remained closed in all about thirty minutes. For these reasons both board of managers rejected this poll. On the question of intimidation at this precinct at Beaufort, at Ladies' Island, and Central School-House, the evidence is quite voluminous, and your committee has spent much time and labor in the consideration thereof. A portion of this evidence is here presented.

James G. Cole testifies, at page 542, that he was born at Woburn, Mass.; graduated at Harvard in 1862; moved to South Carolina in 1863; was Government superintendent of abandoned lands during the war, and has resided twenty-one years on Ladies' Island, Beaufort County, S. C.; that ordinarily he is the only white voter on the island; that in 1886 the total vote was 296, of which 11 were cast by white men, and that contestant got 129, and contestee 77; that Ladies' Island lies between Beaufort and St. Helena's Island and is 1 mile from Beaufort; that most of the colored voters are land-owners and tax-payers, and since 1886 have had a general tendency to vote the Democratic ticket in consequence of reduction of taxation by the Democrats, improvement of the public schools, and general security of their rights; that after the mass meeting at Beaufort in October, 1886, which the Ladies' Island Democratic Club attended, and of which accounts are elsewhere given, most determined efforts were made by the Republican leaders to break up this club; that a club of women was organized to beat all men voting the Democratic ticket, and that many threats were made against Democratic men and women; that it had been announced that contestee would speak on the island the day before the election; but in consequence of many threats that he would not be allowed to speak, the meeting was abandoned, although contestee was ready and anxious to attend; that prior to the election the Democratic voters were in a state of fear for their personal safety, and that there would specially be trouble on election day.

That in consequence of this, deponent distributed Democratic tickets on the night before the election himself—staid all night with many of the voters at a house near the polls, so as to quiet their fears, and that all were instructed to be early at the polls, so as to vote as soon as the

polls were open, and to take Republican tickets from the runners for that party. That during election day many women were near the polls, armed with sticks, making a good deal of noise and disturbances, threatening talk, cursing, threats of what ought to be done and would be done with Democrats; that a Republican runner jerked from the hand of a voter a Democratic ticket which deponent had given him; that early in the campaign deponent had good reason to believe that Democrats would carry the poll, but that in consequence of this intimidation "numbers that intended voting the Democratic ticket did not vote at all, and others voted the Republican ticket." That the Democrats were specially fearful of trouble after the polls were closed, and many left the polls on that account, and for a month after the election many did not dare go out at night, and some so continued up to the date of witness's deposition; that in every contest between the parties for ten years past some Democrat had been beaten; that it required a great deal of nerve and courage, not only on Ladies' Island, but at Beaufort and Saint Helena's (or Brick Church), for a colored man to admit that he was a Democrat, and that he knew that many throughout Beaufort County were prevented from voting the Democratic ticket.

J. C. MARDENBOROUGH, a witness of legal age, produced by contestee upon due notice to contestant, being duly sworn, deposes as follows:

Q. Give your name, age, and residence.—A. J. C. Mardenborough; 35 years of age; live at Port Royal, Beaufort County.

Q. Where were you born?—A. New York City.

Q. Where educated?—A. Graduated from Howard University, Washington.

Q. When did you come to South Carolina?—A. In '72 or '73.

Q. Have you any profession?—A. Yes; law. I studied law in New York City, was admitted to practice in the supreme court in the city of N. Y., and afterwards in the State of So. Ca.

Q. Are you a colored or a white man?—A. A colored man.

Q. How long have you resided in Beaufort County?—A. Since '77.

Q. Have you held any office of any character in this county?—A. I have been postmaster at Port Royal; I was appointed during Hayes' administration and continued in the office till 1875, when I resigned.

Q. During your residence in Beaufort County, when there have been political contests, what has been the course of the Republicans towards the Democrats, or the colored men who were desirous of voting the Democratic ticket?—A. During late years there have a great many colored men joined the Democratic clubs, and voted with that party, for the reason that they are satisfied with the Democratic administration, both State and national, and dissatisfied with the Republican party in general, and as it is managed in Beaufort County and in the Seventh Congressional district in particular. The reason for colored men joining the Democratic party is that taxes are low,  $\frac{1}{2}$  less than they were during Republican administration in this State; another reason is that they get good treatment, in Beaufort County in particular, and the juries are composed equally of white and colored men, and the laws are administered impartially. The Republican leaders, becoming alarmed lest they should be overthrown, immediately began to devise plans to prevent colored men from joining and voting for the Democratic party; and, whenever there is a party contest, would employ a system of intimidation, violence, threats, and undue influence against colored Democrats or colored men wishing to vote for a Democrat, by means of speeches, public press, and general talk in public places. They even had among them a saying that although women do not vote in this country, they do exert a great deal of influence over voters. Consequently their most common device is to get as many women as possible to attend their political meetings, and there work upon their affections and prejudices, and put them forward because of their influence over men, and being much more excitable, and because they consider that they will not be punished for violations of the law, and besides it disguises the purpose of Smalls and his followers. I can give several instances where the Republican leaders employed women to do the bidding of Smalls and his followers. One instance was at Port Royal, during last October. When the Republican leaders issued a notice that there would be a public meeting, and invited everybody to come, their words were, "Come one, come all." The leaders made special efforts to get as many women to attend as possible. There were many women there; half as many more as men. The speakers were Smalls, then Congressman and a candidate for re-election; Joe Robinson, then representative; Aaron Middleton, the Republican Congressional chairman. Smalls in his speech spoke of the existence of

colored Democrats in Port Royal; could not see how one who had been a slave could vote for a Democrat; spoke of the barbarities of slavery; spoke of slaves being badly whipped; told them about workhouses and stocks; tried to picture to the young men the horrors of slavery; told the women to see that their husbands did not vote for a Democrat. He said in these words, "If he does, keep him away from your bed; don't let him enjoy any of the privilege of the bed with you," meaning, I infer, sexual intercourse. He then addressed himself to the unmarried women. He told them, "If the man courting you votes for a Democrat, do not marry him; get rid of him right off; he is not fit to be a husband." He told them if he was not elected they would lose many of their rights; told the women all depended upon them, and to see that the men voted for him. On St. Helena Island I heard him speak. There were a large number of people present, a great many of whom were women; a feature of Republican meetings. On that island there exists a Democratic club, consisting mainly of colored young men. This club, in 1886, assumed considerable proportions, so much so that the Republican leaders became alarmed, and held frequent meetings there, when in previous years they did not have more than one as a rule. At one of these meetings Smalls, addressing the old people, told them that their sons were being misled in voting against him, and told them that the land they owned was sold to them by the Republican party; that the Republican party was their friend and so was he; that their sons had joined the Democratic party who were not their friends, as they know from years of experience; told them of the time when they had masters; told them of the persons who did own the lands upon which they live; of bad treatment; of children being sold from their mothers, and of scars upon their backs. These things are calculated to stir up women. He told them if their sons voted for a Democrat to put them off their lands; told women to see that their husbands and sons voted for him; to be at the polls on election day and see that they voted the Republican ticket. Reynolds, the senator; Washington, a candidate for representative; Robinson, who was then representative, were there, and all talked in the same line. The opposition to colored Democratic voters is deep and wide; it amounts to actual ostracism; is referred to at all times in the streets, in the churches, and all public places. It is made a race issue. There is no very great objection to white Democrats, but the whole heft of objection and opposition is to colored Democratic voters. Republican leaders have impressed the people—Smalls being the foremost—have impressed the people with the idea that a colored man who votes for a Democrat is betraying his race; is endeavoring to put them back into slavery. That the Democrats will not allow the women to dress, to travel on the railroads and steam-boats, to give excursions, and will deprive them of their schools and churches, and even their lands. The Republican leaders have created such a state of things here that one doing a business and wishing success must call himself a Republican or have no politics at all. If one should ask to be pointed to a store, they will invariably be pointed to a store kept by a man who calls himself a Republican. There are many merchants here who are Democrats—because they have their names registered in Democratic clubs—who from fear of a loss of business will not go to the polls on election day, nor will they vote, because they will not vote the Republican ticket.

I attended a Democratic mass meeting in October last. The meeting was largely attended; mostly all colored men attended. The speakers were Senator Hampton, Gov. Richardson, and Col. Elliott. While Gov'r Richardson was speaking the Ladies' Island Democratic club came up, with banners flying, behind drum and fife. On their banner was inscribed, "Ladies' Island Colored Democratic Club." Their coming up produced considerable excitement among the Republicans. The club was welcomed by Gov'r Richardson in glowing terms. While Senator Hampton was speaking the meeting was repeatedly interrupted by Smalls and other Republican leaders; after several interruptions by Smalls, Hampton brought up his conviction for receiving a bribe of \$5,000 while State senator. Hampton told him that he was tried by a jury consisting of half colored Republicans and half white. Hampton asked Smalls if that was not true? Smalls did not deny this, but only claimed that he had been pardoned. Col. Elliott spoke at that meeting; he advocated there and elsewhere in his speeches increased facilities for education—the Blair bill. He attacked the colored school commissioner for failure to do his duties to the colored people; spoke of the attitude of President Cleveland towards the colored people; referred to the appointment of Matthews, a colored man, as recorder of deeds in the District of Columbia; and spoke of the necessity of friendly relations between the races. These speeches were especially addressed to the colored people, and were altogether conciliatory. Republicans tried to drive through the crowd at the meeting, and created considerable excitement; one stopped the meeting, and nearly broke it up; the intention evidently was to produce bad blood by making a row. After the meeting was over I was on Carteret street; saw a crowd throwing stones at the Ladies' Island club. Many of the club went into a house on Carteret street, some ran down the street, others, as they left the house, were stoned and hooted and jeered; no at-

tempt was made to stop it. Heard some of these people say, "Run the Democrat niggers;" women would shout, "Run them, run them;" others said, "We will teach niggers how to be Democrats." There was so much fuss and commotion on the corner at Fincken's that I would not go past there, but turned back. This opposition to colored Democrats extends even into churches and into the schools; some of the people will not send their children to school because the teacher happens to be a Democrat or his relatives happen to be Democrats. I know the fact that colored Democrats who are church members have not been treated as cordially by his Republican church brother since he voted the Democratic ticket. I know colored men who are church-goers, and who are church members, who are Democrats; I have seen these Democrats enter a church, go and take a seat, and persons sitting near them would get up and leave. And I heard them remark—these were women—"I don't see how a nigger can be a Democrat and a church member too; I don't want a Democrat nigger to sit close by me." I know of a family who was opposed to a man marrying their niece because he was a Democrat. During the last campaign there was considerable opposition to Smalls in his own party, caused partly because they believed him unfit for Congress, and that he had been a member of Congress four or five times, and they do not hear of a single speech he has made or a single thing he has done for the people of the State or this district. But they opposed him principally because of his conviction for accepting a bribe. The people are becoming more enlightened, consequently more sensible. While many of the leaders of the Republican party assisted him in canvassing the district, some of them did not even mention his name in a speech, and did not even say that he was a candidate for office. Some, while they aided him in the canvass, on election day were entirely indifferent as to Smalls's election, and did nothing for him. The Republican leaders have inaugurated and maintained such a system of undue influence, intimidation, social and religious ostracism against colored Democratic voters that a colored man desiring to vote for a Democrat has to be of unusual courage and determination to present himself at the polls on election day. Usually, and especially in the last election, the neighborhood of the polls is surrounded by men and women in great numbers, with sticks, clubs, haranguing, and making noises, threats, and often committing actual violence. The character of the men who excite these fears are professional politicians and bummers, quarrelsome men, and such women as they can employ. In some parts of Beaufort County, especially on St. Helena Island and in Beaufort and Savannah River, so bitter is the opposition to colored Democrats, that I believe if it were known that a colored man was going to the polls to vote a Democratic ticket he would not be able to vote; the Republican men and women would not let him vote. I believe on St. Helena Island, Beaufort, and Paris Island, that a great many colored men were prevented from voting for Elliott for Congress because they were afraid to present themselves at the polls that day. There is not a free and fair election in many precincts of Beaufort County, especially in Beaufort, St. Helena, and Ladies' Island. The most of the troubles in this county come from Beaufort, where most of the Republican leaders reside and make their headquarters. On election day leaders are sent to every poll in the county, and women are there, used to distribute tickets and use their influence. The record of the Democratic party in Beaufort County is good and acceptable to a great many colored people. They do not interfere with Republican meetings, nor do they prevent a man from voting for a Republican if he chooses. Beaufort County is under Republican control and has been since reconstruction. The colored people have the best of feeling towards the Democratic candidate for Congress, Col. Elliott. He is a native southern man, and always lived in the neighborhood of Beaufort. His parents were large slaveholders, and I understand treated their slaves kindly. I have heard colored men speak of the times he and they had in their boyhood. Col. Elliott has done a great many favors for the colored people and they think kindly of him for it. Often he has pleaded their cases in court without charging or receiving any fee; not long since he was concerned in a case in which a piece of property was in litigation on St. Helena Island in which the colored people were interested. They wanted this piece of property to build a library on, which library was furnished by northern subscribers and for the use of the schools on St. Helena. The people of that island feel very grateful towards him. Right here in the town of Beaufort he was concerned in getting titles for a piece of property that was deeded for school purposes by the Presbyterian Church North; this property has been under the charge of trustees; these trustees were all Republican leaders. On these occasions his services were rendered free and without charge.

#### CENTRAL SCHOOL-HOUSE.

E. M. WHALEY, a witness of lawful age, being sworn, says:

Q. 1. State your name, occupation, age, and place of residence.—A. E. Mitchel Whaley; farmer and trial justice; and reside at Edisto Island, S. C.; and 46 years of age.

Q. 2. Do you know where John Jenkins and Charles Whitlock lived on 2nd November last? If so, state where.—A. I do; Charles Whitlock lived at Laurel Hill; John Jenkins was working at a place called Tom Seabrook's, and may have been sleeping at and had his goods at Ravenswood, as his wife lived there.

Q. 3. Were you present at the Camp Ground or Central School-House polling precinct, where the Federal box was held to receive the votes for Congressman from the 7th district on the 2nd day of November last?—A. Yes.

Q. 4. How was polling place arranged?—A. The polls were held on the piazza or open porch of the Presbyterian Church, colored. I was one of the first that voted that morning, there being present at the time managers and the supervisor, R. Jenkins Mikell. I saw nobody that I recognized as marshal there. I saw no tickets except the Democratic ticket for Wm. Elliott for Congressman, which were on the box or near it.

(Counsel for contestant, J. H. Ostendorff, objects to so much of the foregoing answer as is not responsive to the question.)

Q. 5. Was there any railing or inclosure of any kind around the polling place which admitted of the entrance and exit of only one person at a time?—A. None whatever.

Q. 6. Were outsiders allowed to see and speak to the voters while casting their votes?—A. They were not prevented, and they did so.

Q. 7. Do you know whether or not Rob't Smalls had parties there for the purpose of seeing that the colored Republicans voted for him?—A. I am informed that he had.

Q. 8. Did you see any Republican leaders around the polls or in the neighborhood thereof; if so, do you know whether they were distributing Smalls tickets?—A. I did; and I saw these men—Republican leaders—distributing tickets and following the men to whom they gave them until they deposited the tickets, or whatever they gave them, in the box.

Q. 9. What effect, if any, would the fact that there was nothing to prevent outsiders from seeing these colored Republicans when they voted have upon any of them who may have wanted to vote the Democratic ticket?—A. Social ostracism and fear of corporal punishment would have prevented them from voting the Democratic ticket. I say this, for where the polls were inclosed at the State boxes colored people came in and brought in with them Republican tickets given them by their leaders, and when they got inside voted the straight Democratic ticket, showing thereby that their fear was removed by being in an inclosed place where they were not watched.

#### Cross-examination:

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Q. 24. How many persons did you see come in with the Republican ticket and then vote the Democratic ticket?—A. Several.

Q. 25. Can you name any?—A. I decline to name them, because some of them asked me not to say that they did it, because it would hurt them with their associates.

Q. 26. Will you name a single one who did not make the request?—A. I do not wish to do that, because we are getting these people to vote right, and I do not wish to give them away.

Q. 27. What do you mean by voting right?—A. I mean by voting in the interests of their employers, and with those who help them when they are in need.

Q. 28. Who are their employers?—A. Well, they are mostly Democrats, white and colored.

Q. 29. Will you name a colored Democrat who employs the persons aforementioned?—A. Put a proper police force on the island and I will name them.

Q. 30. Are there any white Republicans on the island who employ those persons?—A. I do not think we have a white Republican on the island; they are all gone.

Q. 31. When you say "vote the right way," do you mean to vote the Democratic or Republican ticket?—A. Vote the Democratic, of course.

#### Redirect:

Q. 1. Were the parties who were giving tickets to the colored Republicans well known to be Republicans, and were they leaders of that party?—A. They are leaders of that party, and I am informed were in the pay of the same.

\* \* \* \* \*  
Q. 4. Are you sure that voters were spoken to by persons other than the officers of election while casting their ballots?—A. Yes.

Q. 5. Were instances of this kind numerous?—A. Happening off and on the whole day whenever I happened to be there.

Q. 6. Do you think that in voting with the interests of their employers the colored voters of this island would be voting in their own interest?—A. I undoubtedly do.

Q. 7. Why do you want a proper police force on the island before naming colored voters who changed their Republican tickets for Democratic tickets before voting?—A. To protect the colored Democrats.

Q. 8. Who from?—A. From the colored Republicans.

Attention is called also to the following extract from the testimony of T. P. Mikell, on p. 827 :

Q. 8. Were you at the Central School-House voting precinct on the day of the election last, viz, the 2d day of November?—A. I was chairman of the board of managers for State boxes and was there.

Q. 9. Was there an election for Congressman held at Central School-House on that day?—A. There was not.

Q. 10. Was there an election for Congressman held on Edisto Island on that day; if so, where was it held?—A. There was, and held in the Presbyterian church's porch at the Camp Ground.

Q. 11. Are Central School-House and Camp Ground separate and distinct places?—A. They are; about 500 yards distance between the two places.

Q. 12. Were you at Camp Ground at any time during the day of the election while the voting was going on?—A. I was there at least a half dozen times. I would leave two managers at the State boxes and see how things were going at the Congressional box.

Q. 13. Please describe in a short and concise manner how the voting place at Camp Ground was managed.—A. The box was placed at the edge of the church porch; Elliott's tickets placed on the box; the clerk writing on a barrel; there was no place for entry or exit for the voters; the box could have been crowded at any time. The first time I got there the U. S. supervisor, Mr. I. Jenkins Mikell, was having a discussion with a man by the name of Bowers, whose ticket read "Bowen," whether they should let him vote or not; they decided to let him vote—I mean that the U. S. supervisor was having a discussion with the managers whether they should allow Bowers to vote or not; the managers took a vote whether they should allow him to vote or not; they decided that he should vote. The supervisor, Mr. I. Jenkins Mikell, protested against the same. I then went back to my box.

Q. 14. You said that Bowers' ticket read "Bowen." What ticket do you mean?—A. I mean the registration ticket on which he voted. It was presented to me at the State box and I refused to allow him to vote on it.

Q. 15. Do you know whether or not the ballot-box at the Federal poll was changed from one place to another at any time during the day?—A. I went to vote myself about 3 o'clock in the afternoon; did not see the box on the porch of the church and asked some of the colored people around there (I think Titus Finley was the man I asked) where the box was. He told me it was moved to the east side of the church. I went around there and found the box perched upon a barrel. It could only be seen from one side of the road. I voted as it stood on the barrel. There was only one manager and the clerk there at the time. At one time when I went there during the day the U. S. supervisor, Major I. Jenkins Mikell, was acting as clerk, and I only saw one manager present.

Q. 16. Was there any railing or enclosure of any kind to admit of the entrance and exit of only one voter at a time there?—A. There was not. The barrel was on the ground and the manager sitting on the steps, and the clerk had to be called to verify my registration certificate.

Q. 17. What effect, if any, would the fact that they could be seen by outsiders have upon any colored Republican who may have wished to vote for Col. Elliott?—A. I do not know. I can only state what occurred at the State boxes, where we had a railing, and where only one voter was allowed to enter at a time. They would come in—it occurred once or twice that I know of—with Republican tickets in their fingers, fixed for them by their leaders, and when they got into the room would put them in their pockets and vote the straight-out Democratic ticket.

Q. 18. Could the voters at the Congressional box in both positions in which you saw it be seen and spoken to by outsiders other than the managers and officers of election?—A. They could.

Q. 19. Did you see any one other than the managers and officers of election speak to or in any way interfere with any voter while voting or about to vote, when you were at the Congressional polling place?—A. I did not, as I was only there a few moments at a time.

E. W. FRIPP, a witness of legal age, produced by contestee upon due notice to contestant, being duly sworn, deposes as follows:

Q. Give your name, age, and residence.—A. E. W. Fripp; 29 years of age; St. Helena Island, Beaufort County.

Q. What, if any, official position did you hold in reference to the election for Congressman, held in Brick Church precinct, on St. Helena Island, on the 2nd day of November last?—A. I was appointed one of the managers with John Brown and William Pritchard. I went to hunt up John Brown; he was sick and would not serve. I then saw Pritchard, and he said he would not serve because he was afraid of the people mobbing him; that the people were threatening all the white Democrats, and he would not have anything to do with it. I then went to Beaufort and

got authority to appoint some one in their place; then I went to McDonald and tried to get him; he would not serve because it interfered with his trade as a storeroomkeeper; I then appointed Gabriel Edings, a Republican and a good man, to serve with me. We two conducted the poll; we appointed Jackson W. Brown as clerk; he was also Republican supervisor.

Q. Were there any interruptions of the voting at that poll during the day?—A. Yes, sir; the first interruption that occurred was their coming in, 6 or 8 at a time, to vote. I then told them that but one could vote at a time, and they must go outside and come in one at a time; I had a constable at the door, but they pressed against him so that he could not hold the door closed; I told him if he could not keep them back to lock the door, and he then locked the door; I then kept the door locked till they quieted down, and then they came in very well one by one. They came in a crowd again after that, and we had to lock the door again; they pushed the constable away and we had to threaten to put them out. The third time there was such a crowd outside and were making such a noise until the clerk could not hear the names called on the registration ticket. I then locked the door and went around the house to the piazza and told them that it was impossible to carry on the voting unless they stopped the row.

Q. For what length of time, during those several interruptions you have described, was it necessary to keep the poll closed?—A. The first time for about 5 minutes; the second time about the same or longer; the third time I suppose about a quarter of an hour or over. When they saw I intended to close the poll or keep it closed Gantt took them, the crowd, down the road.

Q. Was there any threatening or abuse of yourself during the day?—A. One man that came in to vote and I asked him to show me his registration certificate, he refused to do so, and said he would vote without showing it to me; he said his name was on the back all right; he started to put his ticket into the box, and I pushed his hand away; he was mad, and looked provoked, and I told the constable to put him out; he kept persisting in trying to vote and I would not let him without showing his registration certificate; after he saw I was going to have him put out he showed his registration certificate; his certificate proved to be all right, and he voted. I went out about 2 o'clock and met this same man in a crowd of about 15 or 20, right by the door, and he then said to the others, "This is the Democrat that would not let me vote without showing my ticket; come, let us mob him." I then passed on and took no further notice of him.

Q. Was Capt. Ward at the poll that day?—A. He came there about 11 o'clock.

Q. Did he remain there all day after he came?—A. No; he came in and out every now and then; hours between.

Q. What was the general feeling of the merchants on the island in reference to the election?—A. They did not want to have anything to do with it at all.

Q. Why was it that they did not want anything to do with it?—A. Because it injured their trade.

Q. How or why would it injure their trade?—A. Because they were afraid they would quit buying from there and buy in Beaufort; they said Capt. Ward would have to quit the island, because they would not buy from him because he was a Democrat and started a Democratic club at Coffin Point.

Q. Since the election have the Republicans manifested their enmity towards the Democrats?—A. The only man that ever showed any enmity to me was on the road one day. Driving along I met two carts; I gave part of the road, and the other did the same, when the man in the other cart behind said, "What do you give that damned Democrat the road for? You must not give a Democrat the road. Let him get along the best way he can."

Q. Do you own land on St. Helena Island?—A. Yes; 72½ acres.

Q. Are you a white man or a colored man?—A. White man.

Q. You spoke of William Pritchard refusing to act as a manager. Is he a Democrat or a Republican?—A. He is a Democrat and a white man; he owns land on St. Helena, also.

One of the threats frequently made was that they (the Republican negroes) would serve parties as Dr. White was served in the preceding election.

In order to understand this, the evidence of Dr. T. G. White, which is here inserted, must be read:

Dr. T. J. White (page 600); fifty-one years of age; attorney-at-law, trial justice; resides at Beaufort; in 1884 he was one of the managers of the Federal poll at Beaufort. When about to leave the polling place with the other managers after having canvassed the vote, was met by an infuriated mob of colored persons, who violently assaulted him and threw him to the ground by kicks and blows. He got up and attempted to run up the steps of the building, pursued by the mob, who were

cries out "Kill the dam Democrat;" finding the door locked, he ran down another flight of steps and appealed to Moses Frazier, constable, for protection. Frazier took him by the collar and got him into a lower room, followed by the crowd, threatening to kill him. Frazier had to bar the entrance by locking the door and standing at it to prevent the mob from getting in. The crowd then tried to get in at the windows. Witness's son and others finally came to his relief and he was taken home terribly bruised and beaten; the end of the bone of his left arm was broken, his face lacerated and bleeding, blood streaming from one side of his face down on his shoulder, and with a cut over his left eye. His wounds were dressed by a physician, and he carried his arm in a sling several week afterwards. The assaulting party was composed of men and women, the women armed with sticks of sugar-cane, and some of the men with sticks. Eleven persons were indicted and one of the parties put on trial, but there was a mis-trial, the jury being mostly Republicans, and the Republican leaders espousing the cause of the accused. Among the witnesses for the defense were the contestant, Julius Washington, and T. J. Riddles, Republican State senator and representative.

CHANCE GREEN, a witness of legal age, produced by contestee after due notice to contestant, being duly sworn, deposes as follows:

Q. Give your name, age, and residence.—A. Chance Green; am 47 years old, and live on St. Helena Island, Beaufort County.

Q. Are you a colored or a white man?—A. Colored.

Q. Were you at the Federal poll on St. Helena Island at the last election?—A. Yes, sir.

Q. Was the election at that poll peaceable and orderly or not?—A. No, sir.

Q. Tell us how it was.—A. On the 2nd day of November, in the morning at 7 o'clock, I went to the poll to issue tickets, and as quick as I got up to the poll there were 20 men standing, saying to me, "Morning, Green; are you going to issue tickets to-day?" I said, "Yes." "And what kind of tickets are you going to issue?" I said, "I am going to issue Democratic tickets to-day." They said, "Give us your tickets, because we have got to vote these tickets quick and get home; we promised to vote the Democratic ticket;" and I issued the tickets to them, and the first man that went up to the poll was Jonas Howard. He had a Democratic ticket, and he went up on the platform, and a great crowd of men come up and tell him to come off the platform. "If you don't come off there we will kill you; if any colored man go up on the platform to vote for the Democrats we will kill him." Jonas Howard said, "Let me alone; I vote for who I choose," and the same time when he said so, as quick as he speak the word, they took him down and tear up the tickets and tear his coat. And I gave him another ticket, and I told him to go and poll it, and I followed him to see if they would touch him again, and after I got up there he took the ticket from me and I went with him, and myself couldn't go up, for the threats they made on me and him. I told him (Jonas) to wait awhile, and I leave him in the road standing up. I went off a piece about a task; in the road I saw six men with clubs go up to him and order him home from the poll; they told him to go home from the poll if he intends to vote for the Democrats, as he said; he said; "Yes; I made up mind to vote the Democratic ticket, and if can't vote it I will go back home," and he went home.

Q. He didn't vote that day, then?—A. No, sir.

Q. Were these men who interfered with Jonas Howard Democrats or Republicans?—A. Republicans.

Q. Why did those men to whom you issued tickets say that they would have to vote quickly and get home or get away?—A. Because they feared the Republican men would threaten them, to kill them and abuse them. They promised that they would do that, and would turn them out of the church. After Howard went off I said to the crowd of Republican men there, "Why don't you let a man vote the way he likes? When I was a Republican I let a man vote to his own mind." They hallooed to me from the crowd of them, "You need not say anything; you have been leading us 12 years, and you are going to lead the Democratic party now on the island. We are instructed by our leading men now that any colored man that vote Democratic now must be killed on the island, or run him off the island." My answer was, "You can't run me off, for I was raised on this island." Then I walked off from them, and after that a great number of men came down the road, about 300 head of men, and the Republican precinct chairman, and those men said, "We don't want your tickets." This they said to the Republican precinct chairman. "We want Green's tickets—that is, Col. Elliott's tickets; he is our Democrat precinct chairman," and I issued about 116 tickets. There was a crowd there before, and I counted all the tickets I issued that day, and had it all put down. During that time Mr. Crofut came up, and he called me up soon as he came up, and I went to him and he asked me what tickets I am issuing. I told him "Col. Elliott tickets." He told me I ought to be ashamed to talk about issuing Democratic tickets on the island. I told him "No," and he walked off and leave me, and he wheel around and said to me that he has all of the

colored men on a blank that will never rub out. In '89 the Republican party expect to get in position again, and they all, the Democratic men, will have to leave—"go over in Georgia where the Democrats are. By the colored men voting the Democratic ticket it is a shame upon the Republican men at the North who freed them." And he called the men one by one to them, and, after they went to him, as fast they come back from him they had changed their opinion; and one man came to me in the morning about  $\frac{1}{2}$  hour after I got there and told me he did not have any breakfast; that the cotton was up to the gin, and if I lend him a quarter to get something to eat he would return the money as soon as he was done voting and had ginned his cotton, and I did not have but a dollar, so I refused to give him. He had promised to vote a Democratic ticket; had come precisely to vote the Democratic ticket; if he did not vote the Democratic ticket he would not go to the poll, he said. And after he went to Mr. Crofut and came back, Mr. Crofut came along with him, came with him across the road and followed him up to the poll, up to the platform of the house, and he went in and voted and came out, and then they both went over to the other side of the road again, and he came back to the tables the women were keeping out there to sell grub, and told that woman to give him some dinner, and she gave it to him. She asked him what kind of dinner he wanted, what price. He told her a fifteen-cent plate, and she gave it to him. After he done his dinner he put his hand in his pocket and gave her a dollar, and said "Give me 85 cents change; I got this money just now." I made answer to him, "How, you told me this morning you did not have any money." He said, "My friend, I do not tell lies. I did not have any money this morning. If I had money I would not borrow your money. I just now got this money from Mr. Crofut. I told him I was going to vote the Democratic ticket, and he told me that he has no money to lend me, but if I vote his ticket he would lend me a dollar, and then he took the ticket you gave me and tore it up and gave me a Republican ticket, and followed me to the poll and see that I did not get any more tickets from you, and after I threw the Republican ticket in then you could see when I went across the road to him again after I got done voting." I said to him, "Yes, I saw when you went across." He said, "Mr. Crofut told me then that I can keep the dollar; I need not turn it back; that I must tell all the rest of the boys to come to him; he wanted to see them to talk with them. He said he would give me more than one dollar, but he did not think the island was so mixed up with colored Democrats. If he had known he would have brought more money than he did fetch." What made me think that Mr. Crofut did give him the money certain because in the morning before he came there we were in the majority of Democrats at the poll. There wasn't so much Republicans there to make severe threats, but after Mr. Crofut got there about  $\frac{1}{2}$  hour then they began getting thicker, they began to grow, they commenced making threats to the Democrats that was there. Then Mr. Crofut, seeing that he was getting a crowd of Republicans, then he went to the platform where the poll was and commenced making a speech to the Republicans. He was about 3 feet from the poll, and the noise the men made worried Mr. Flipp, the manager, in the house, and he came out and asked them please to go a little way off from the poll. They halloed out to him "Go to hell, you damned rebel son of a bitch. You are going to catch hell here to-day, you and all that vote for you." And he went in and had to close the door about half an hour, and after the  $\frac{1}{2}$  hour was up he opened the poll again. Just after he opened the poll again Frank Jenkins got the Democratic ticket from me going up to the poll, and Cyrus Jenkins went to him and asked him "What are you going to do with that ticket?" He said, "I am going to vote it." Cyrus said, "Not to-day; we Republicans intention not to let you Democrats vote here to-day," and Sharper Rivers, that man sitting over yonder, he is one of the men said so; and then Frank Jenkins went off and a great crowd followed him, and when he got up on the platform Cyrus Jenkins went up to him and jerked the ticket out of his hand and tore it up, and pulled him down off the platform and said to him, "Frank Jenkins, do you think we are funning? We do not intend to let you vote." And Sharper Rivers said, "No, don't let him vote," and Rivers had a good stick in his hand, too, and I was afraid of his stick myself. Then Frank Jenkins came to me and got another ticket and went to vote it, and then he went home, because they told him if he stayed there they would beat him on the road.

Q. Did you notice Crofut's pocket when he first came to the polls that morning?—  
 A. Yes, when he called me he had a heavy pocket on him, and when he was going back to Beaufort in the evening I noticed his pocket was light. The reason I noticed his pocket when he was going back, one man went to the table and said Mr. Crofut had it for a free table for the Republican party that vote the Republican ticket. I denied them, and told them it was not so. They said, "If you don't believe us, you watch." The four went to the table at one time to show me that it was so. And they went and ate and walk off, and did not pay, and that made me believe it is so, and they said to me, "You Democrats can't do that." I said, "No, because we are poor;" then I left them. Mr. Pritchard was sitting down by an oak tree near the poll; I went to him and asked him if he had done vote; he said, "Yes," and a man, Cyrus

Jenkins, came up there at that time and said, "You damned rebel son of a bitch, you, you are as poor as I am now; if you vote a Democratic ticket you had better leave this island." Mr. Pritchard is a Democrat, and he said nothing to him, and I went back across the road to Mr. Crofut again, and left them there, and Mr. Crofut told me, "It is good that I came over on the island to-day; if I didn't come over you would have had a majority on the island," and I said to him, "Yes, I would, if I had the means that you had, to get the election with." He said to me, "Why didn't you go in to Beaufort and get it?" I said, "I was there yesterday; I did not get any, even to get dinner; the people I voting for, they don't give money, they just want a man to vote as they like." I then walked off from him and went back to the poll.

Q. Do you know whether or not the poll had to be closed during the day of election, at the Federal poll that you have been speaking of, in consequence of disturbances around the poll?—A. Yes; in the morning about  $\frac{1}{4}$  hour after the people commenced voting. Alfred Watkins went to Hastings Gantt, the Republican leader on the island, and told him that all the managers and constables are Democrats, in the place where they were voting, all except one, who was the Republican supervisor; and then Hastings Gantt, who was representative in the legislature, started from me with about 30 or 40 more men following him in a crowd, and pushed the door open, where they were voting at the same time; and stopped the voting—the voting had to stop then—and went to Mr. Fripp, the manager, and said to him, "We must have a Republican constable." Mr. Fripp said, "I have to do according to the law." Then he walked out and they all followed him. All these men were Republican men. And the voting commenced again after that. After a while George Rivers, a Democrat, went in to vote, and Mr. Gantt went in to where he was—I do not know whether to vote or not—but Geo. Rivers, the Democratic man, went to vote, and Gantt said to Rivers, "I come to see what ticket you vote, my friend; I and you are good friends, I think well of you; I hope you are not going to vote that ticket you have in your hand." Rivers said to him, "Yes, I am going to vote it," at the same time he layed his ticket on the table and felt in his pocket for his register paper, and became disputing with Gantt, and Rivers' ticket was a Democrat ticket, and the fuss then caused the poll to close. They were in the house; I went and call Rivers out and talked with him, and said to Mr. Gantt, "You ought to be ashamed to dispute with a man for the way he votes, and you was a representative so long a time; to-day is a day we ought to keep quiet at the poll; let a man vote the way he choose; don't threaten a man and go on in that way." He said to me, "I did not threaten any one, Green; I don't think that any colored man has a right to vote a Democratic ticket, and I don't see how can they do it; they remember the time when their owner had them down and treat them worse than a man treat a good dog; if the colored people notice and see how they treated at the penitentiary, they would not talk with a Democrat to vote for them for no money in this world," and I left him there.

Q. During the last political campaign and before the election, what was the behavior of the Republicans towards the Democrats and towards the men who wanted to vote the Democratic ticket?—A. Very bad. During the last campaign I used to be the Republican precinct chairman, but the threat of the leading men of the Republican party charged me that I am a Democrat, while I was a Republican precinct chairman. Then I left the Republican party and went over to the Democratic party, to let them see that I could do as I choose. I called the 1st meeting for the Republican party on St. Helena Island, at Dr. Peters' shop. The attendance at that meeting, Mr. Bamfield, Mr. Wheeler, and the first man that opened that meeting was W. H. Sheppard, and he said to the meeting: "We are here for one purpose; to tell you the trouble the Democrats put this State to. They don't allow the colored representatives in the house to vote; the law that they are making is too hard for us to live by. I advise you gentlemen to stick by the Republican party. That is the party that freed you and gave you bread to eat. I understand the other day that the colored men had a Democratic club on the island. Why, gentlemen, it is best for a man to be dead than to vote a Democratic ticket." Mr. Wheeler got up and he advised the people "that any man who voted the Democratic ticket must be run off the island. I don't see where any colored man can vote for any Democrat or white man. I advise you to vote for your color." And then one man asked Mr. Wheeler this question: "How shall we get the Democrat off the island?" He said: "The way to get them off is to run them off." At the Brick Church they held a meeting, and Gen'l Smalls, a Republican leader and Congressman, said: "Old man, I call you to tell you this, the trouble in the world about the Democrats in the State are trying to get you to be a slave, to vote for them. If Mr. Elliott goes to Congress you will all be slaves, and the land will all take away from you. Ladies, let me tell you, if your husband vote a Democratic ticket, I advise you to leave him," because women are so good to man till they can control the man to go the right way to vote the Republican ticket. "Old man, let me tell you something, if your son vote the Democratic ticket run him off your land." One man in the crowd said: "God's truth, man. I was going to vote the Democratic ticket, but the way the general talk now I can't vote it." "I

advise you all," said Gen'l Smalls, "to turn them out of the church." Old Taft Howard, he is a deacon in the church; he said to Gen'l Smalls: "I am a deacon of Brick Church, and any of my members vote a Democratic ticket I will sure turn him out, for any man who vote the Democratic ticket his wife must not respect him any more than a beast." Then Joe Robinson spoke.

Q. Is he the man they call Red-hot Joe or the Ring-tailed Roarer?—A. Yes. He said, "Gentlemen, I advise you all on this island not to vote a Democratic ticket; any man who vote a Democrat ticket on this island, I advise you to drive him off this island; if you can't get him off, get a gun and run him off; they are not fitten to stay on this island, and I advise the women to leave their husbands; that it is disgraceful." This is the cause, by the advice of the Republican leaders, that all this threaten and trouble is on the island. Sammy Green used to be a State senator, a Republican leader. He said "he used to hire a flat to a man when the man was a Republican, and when he found out in 1884 that the man voted for Col. Elliott—this man is a colored Democrat—when the man came back to him to hire the flat again to carry wood to Beaufort, and when he came to his gate and knocked, and he then drove him from the gate, and the man would not go from the gate, and he came out and the man asked him what he had done to him that he should drive him from his gate; he said 'You done nothing to me, my friend; but I pledged my mind that any colored man that voted the Democratic ticket comes to my gate sick or going to die either, anything I have to save his life I would not give him; in any weather or storm he should not come in my yard.' Even if he go on the road and meet anyone sick and he is to call anyone to assist him to save his life, he would not do it. And the man got scared then and came back to him and promised him in 1886 he will vote the Republican ticket. And that is the way the people on St. Helena Island must do the same, for Democrats is miserable creatures." And Mr. Wheeler, school commissioner of Beaufort County, said, "Gentlemen, what Mr. Green says is just so and right; I don't believe any colored man has a right to vote for any Democrat, because, gentlemen, you are free on this island, and the way to do with Democrats is to put them aside." And every time the people come into Beaufort and see Gen'l Smalls and Mr. Wheeler they go back home and commence making threats and run the mens what vote for the Democrats about on the island. One day I came into Beaufort, me and my wife, and I met Ned Magor on the way as I was coming, and he said to me, "Chance Green, you vote for Elliott now and you better leave this island, and you better not come back;" and when he said that my wife was frightened and scared, and I kept on down to the ferry and paid the ferryman 5 cts., his fare, and he refused to carry me, saying "You are a Democrat; I don't carry anything across the ferry for a Democrat, except the man himself." And I then took the bag of potatoes and flung them on the wharf; I asked him what was the fare for it, and he said there was no price at all for it; he was not going to carry it. I did not say much to him, because about eleven Republican men were there, and they were all making a threat on me. They told him to bring me across and they would drown me before I got over on the other side to Beaufort, because, they said, there is no law for drown any colored man, to drown a Democrat; because in '84 the women and children beat Dr. White and Moses Fraser on the day of election, and there was nothing done to them, and so they can do the same to me; and then I would not come across in that boat; I waited for the next boat. After we got in Beaufort four men met near Rutledge's barber shop and asked me where I stayed. I did not say anything to them. They said if they knew where I stayed they would shoot me, and I went to Daniel Jenkins, a colored Republican of Beaufort, and asked him if he knew who those men were; their names. He would not tell me, and I turned back, going to Mr. Talbird's office; I asked one of those Republican men what they wanted to kill me for; he said, "I want to kill you because you voted a Democratic ticket;" then I left him and went to look for a policeman; when I came back they were gone; my wife standing right by, at Jenkin's, a colored Republican, and she heard three men threaten me and inquire who I was, and where I was; she hunted me up and was crying and told me of it. I didn't see them, but told her to go home as quick as we can; and whilst we were going across the ferry, near the shore, a crowd of little colored boys were flinging in the boat and said, "There is a Democrat man in that boat; let us kill him." Women and all whenever I come into Beaufort threaten and curse me because I am a Democrat man, and say, "the day when Gov. Hampton had a speech in Beaufort, after the speech in the evening, that they all got bricks ready when the Democrat club from Ladies Island going home, they beat them and chunked at them and made them run overboard; that nothing was done to them, and the colored Republican women on St. Helena Island must do the same;" and they did. I was from home one evening; when I got back I met my wife crying. I asked her what she was crying for; she told me she had to cry, because it is pretty cold, and she had a young baby in her hand; because the house that I live in had to be pulled down. I said, "who said so?" At that time my mother-in-law came in; she said, "Chance, move your house off this land by next week; you vote for Elliott; get on Elliott's land;

don't stay on my land; I been over to the speech the other day, and I heard from the Republican leading men that we must drive you who vote for Mr. Elliott off our land. That it is their intention to turn us back to slaves." I felt so worried I went to my father-in-law; he said, "Yes, you must go." In the morning I went over to George Rivers' place. When I got back to my house, I met my mother-in-law abusing my children, cursing them and driving them off the place, and saying that I "sold the children to the Democrats, but the Democrats going to cut up their —." Then I came over to Beaufort on Saturday. When I was going back I met Mr. Tom Reynolds, colored Republican leader and State senator, and he said to me that I had made an affidavit about the election; this was after the election; and if I would deny it I would be satisfied. That is, if I would deny that there was any riot or threat at the poll, I would be satisfied for it. I told him, "No, I can't tell a lie like that." I then left him. On the next Sunday Johnson Atkins came to my house, and told me if I been out to church to-day. I told him "No." He said, Thomas Reynolds was out to see you to-day, and he tell me to tell you to come out to John Fripp's this evening, he wanted to see you particular; that he would pay you to deny, to say no, that no threats were at the polls. I did not go. I was in my house after election, sitting down, and March Washington, a colored Democrat, was not at home, and his wife run, coming up to my house crying, asked me to go to her house. I asked her what was the matter. She said Frank Brown told her that two men were laying around her house. Each had a gun, and he asked them what their names. They would not tell their names; just asked for March Washington. They just stayed in the woods, and would not come out in the old field; and she was frightened until she ran out and left all her children in there. And I was afraid to go with her, because the threats on the island were so great that I was afraid. One day after election my mother run home to my house, and told me that four men came up to her house and asked for me, and when she saw them coming up to the house she heard them say, "They just want to see me; they will kill me." When they got up to the house then they asked her for me, and she asked them what they wanted, and they said, "They just want to see me." She said "She did not know where I was," and they asked her, "Could she tell what day would I come up to her house." She told them, "Yes, they must stay there till she comes back; she is going to the store." And they did stay there awhile, but she did not know how long they staid. She was afraid I might be coming along the road at the same time, and they might do as they say, and she ran, and walked some, and came home, and told me about those 4 men coming up to kill me, and told me best not to come out of my house at night. And I do so up to now. If I do come out of my house at night I'll be sure to be killed. And then after they did not find me to my mother's house, they came to my house the next night; and I have a bad dog to my door, and when they got there the dog barked after them. They did not come close up to the house, and the moon was shining, and I was going out of the door to see who the dog was barking after, and my wife tell me not to go out; to let her go out and see, on the piazza, and she went out and called the dog to her, and asked these men what they wanted. They asked she if I was at home. She said, "No; is there anything particular you want to see him for —" They said, "Yes," but will wait till they see me, and one of them asked she if I will be home to-night. She told him "No," she did not know if I will be home to-night," and they went off a piece in the wood, and lay out there all night; didn't go off till before day in the morning. Before the election the people on the islands made threats. They never made their threats so heavy till Gen'l Smalls went over there and made his speech. After Sheppard was thrown out of the convention in Beaufort, the whole, pretty near the whole island of colored men, was going to vote for Col. Elliott, and after Gen'l Smalls gone over there and talked to them then the threats became heavy on the island. The people on the island tell him, "Just the same as how you throw out Sheppard out of the convention, they would throw him out too, and would vote for Col. Elliott." And Small promised to the people, if they would vote for him, and he gets elected to go to Congress, he would pay Sheppard the same money which he would get as Representative; if not, he would appoint him to an office in Washington. The people said to him, "No, we rather Col. Elliott to go to Congress this time." Then he and a young man named Kit Chaplin got to quarreling, while he was on the stand, because Kit Chaplin said he was going to vote for Col. Elliott.

Q. Had the Sheppard you speak of been a candidate for nomination in the Republican convention for member of the legislature?—A. Yes, sir; he ran, and had 416 Republican men to support him, and those same men turned right around and were going to support Col. Elliott.

Q. Was Sheppard defeated in the convention for the nomination?—A. Yes, sir; he was defeated by Gen'l Smalls, Republican Congressman.

Q. Did that fact create strong feeling against Smalls on St. Helena?—A. That created all the evil against him, and people didn't agree to support him any more.

Q. Then, as I understand you, Smalls made that promise to pay Sheppard the sal

ary he would have got, or get him a good appointment, in order to get the people to vote for him?—A. Yes, sir.

Q. You stated that after Smalls had gone over on the island and made speeches the threatening became heavier; was that threatening common all over the island?—A. Yes, sir; after Smalls came over on the island the threats come heavier all over the island. Before the election both men and women, Republicans, they even threatened Capt. Ward, keeping a store over there. Capt. Ward is a white store-keeper.

Q. What kind of threats did they make?—A. They made outrageous threats; that if he voted for the Democrats he must leave the island; that they would not trade with him, and would not buy from him, and wouldn't sell their cotton to him; and tell him if he tell on them what done on election day they wouldn't trade with him. A man told him that day before yesterday, on Saturday. The threats on the island are severe on the men what vote for the Democrats; even in the church; they threat in the church, "a man vote the Democrat ticket shall be turned out of the church." They had me up to the church about it, and threatened me to the church; that if I voted a Democrat ticket I must be turned out of the Ebenezer Baptist Church of St. Helena Island; and the reason they tell me of it is because I call for my money that I throw in to help build it. The threat was more severe every time Gen'l Smalls come over there. The threat was so severe on the people over there lest Col. Elliott would get more votes. They were afraid of the threats and went back home, a good part of them.

Q. Do you mean that the effects the threats had on the people prevented Col. Elliott from getting more votes?—A. Yes, sir; people layed around the polls till the polls closed to see if the threats would cease, so they could vote for Col. Elliott.

Q. Did they vote?—A. No, sir; and the intimidation and threatening at the poll by Mr. Crofut made a great many people vote for Smalls that came to vote for Elliott.

Q. On the day of election were there any women at the Federal poll on St. Helena?—A. Yes.

Q. What were they doing there?—A. Some were there making threats and raising a crowd, saying that let us club these men from here as they did Dr. White and Moses Fraser in Beaufort; the men that voted the Democratic ticket, I mean. I walked up by them, and they surrounded me and took away five Democratic tickets from me and tore them up.

Q. Have these threats continued since the election?—A. Yes. Since the election the threats have grown worse; every time they see a man coming to Beaufort—when Gen'l Smalls is in Beaufort—what knows Gen'l Smalls, he carries threats back on the island; the threats is very severe on the island to Democrat colored man and white man.

Q. You say that condition of things continues now?—A. Yes; right now.

Q. What effect has that condition of things upon men giving testimony in this contest?—A. A great deal of effect. It makes them afraid to come; afraid they may be killed on their way back home. Many of them would come, but they are afraid to come right now.

Q. Have the Republicans made any talk on the island about the testimony the witnesses have given here?—A. Yes, sir. The way they talk on the island makes myself almost afraid to come this morning. That is the reason I came late as I did. They persuade men now that was to the poll to vote for Col. Elliott, and were afraid of the threats from the Republican party and went back home, tell them to say now that they wasn't to the poll to vote that day; and some who did vote for Col. Elliott to say that they vote for Gen'l Smalls.

Q. Do you know Jenkins, who keeps a restaurant or eating-house in the town of Beaufort; a colored man?—A. Yes, sir.

Q. What is he?—A. Republican.

Q. Do you know Emanuel Haynes, Tarquin Small, William Lockwood, Tom Bonner, Felix Bonner, George Rivers, and March Washington?—A. Yes. They are colored men. On last Friday I was going home from Beaufort; I. J. Cohen, colored Republican, met me in the street and made a threat on me, that if I be here a little while he will show me that the Republicans will put me in the guard-house, and be tried in the morning by Mr. Collins, the intendant, a Republican. They will have me in jail that I can't give any testimony; they will have their eyes on some one they will catch before morning; and that one is March Washington, a colored Democrat.

Q. Is I. J. Cohen a relative of Gen'l Smalls?—A. Yes, sir; he says he is Gen'l Smalls' cousin. He calls Gen'l Smalls bubber.

### Emanuel Haynes (page 547) testifies :

He is a colored man, thirty-seven years of age, has resided on Ladies Island since 1870. He attended the mass meeting at Beaufort, and describes what took place there. For six or eight years witness had been exempt from work on public high ways on account of physical disabilities. Samuel Green, Republican leader on Ladies Island,

formerly State senator, and now one of the road officers, asked witness during the campaign how he was going to vote. He answered that he had voted the Republican ticket for fourteen years, but would now vote the Democratic. Green told witness that if he could vote with the Democrats he could work on the road, and since the election Green has served witness with the following summons:

STATE OF SOUTH CAROLINA, *Beaufort County* :

To EMANUEL HAYNES :

You are hereby required to be and appear at Saint Helena red bridge on Monday at 7 o'clock, a. m., January 24, 1887, there to work as directed for three days. Herein fail not.

SAMUEL GREEN,  
*Road Overseer.*

Green put witness back to work on the road from revenge, because witness voted as he pleased. Before election the colored Democrats on Ladies' Island were treated shamefully by the Republicans. They were abused in public, and were threatened to be killed out because they were Democrats. Witness was threatened to be killed three or four times by Larry Green, cousin of Samuel Green, who fired off his pistol four times in witness' presence, and other times at his house repeatedly. At the polls the Democrats were told not to let 6 o'clock catch them there; and Larry Green fired off his pistol and said, "Look out, Democrats."

Home Democrats have had to leave the island, and witness is constantly expecting trouble, and believes he will have to leave the island.

Witness gives the names of nine men, all colored, who promised to vote for contestee; but would not on account of threats. If the people had their free will contestee would have carried the poll.

All but five or six Democrats left the polls as soon as they voted.

It appears from the record that Samuel Green was present at the giving of this testimony.

The witness, Emanuel Haynes, was recalled on the next day and testified (page 562):

On that morning he had been threatened with a beating by David Green and Frank Frazier because of the testimony he had given. As witness was about going down the river to his work these men cursed and abused witness, and threatened to break his neck, because of his testimony. [The language used by these men is too indecent to be incorporated in this report.] In consequence of this and for safety of his life, witness turned back, and came to Beaufort for protection. David Green told him that Samuel Green had reported what witness had testified to. On cross-examination, in reply to the question as to whether witness was then testifying simply to help along the contest, witness answered as follows: "I don't care anything about this thing here; my life is what I am after. I am not safe on account of these threats coming personally to me. I am not safe."

Aaron Alston (page 551), colored, age 33:

Resided on Ladies Island. Was a member of the Ladies Island Democratic Club, and was at the mass-meeting at Beaufort. Describes pelting of the club with brick-bats. During the campaign witness's life was threatened because he was a Democrat. He had charge of a Sabbath-school, and was told that "No Democratic nigger shall teach our children." The school was broken up on this account. They threatened to kick the Democrats out of the church. There was a club of women organized to prevent Democrats from voting. And Samuel Green and other leaders told the women not to let the Democrats come in their houses. On election day James Green, brother of Samuel Green, tried to make a fuss with a Democrat named Devereaux, and witness had to drive Devereaux off in his buggy to prevent a row. They met a large crowd of women on the road at Samuel Green's house, armed with canes and sticks. Witness's horse was caught by the bridle, and jerked about, because he was driving a Democrat. Democrats were threatened during the day. Many men who promised to vote the Democratic ticket were afraid to do so on account of threats, particularly of Samuel Green.

Robert Houston (page 553), colored; age thirty-five:

Lives on Ladies' Island. Describes the disturbance of the meeting at Beaufort. Contestant and other Republican leaders said in their speeches that any man voting for contestee would have to leave Ladies' Island. Samuel Green told me I should not stay in the church. On election day there were a great many women on the road with

sticks, threatening to mob the Democrats. Contestant told them in his speech to turn witness out of the church if he voted the Democratic ticket. Witness has been threatened with death, and had to stop digging phosphate rock because it kept him out at night. Republicans threatened to burn down the store of Tarquin Dilbert, a colored Democrat. Contestant collected \$17 from the Ladies' Island church.

William Lockwood (page 557), colored; age fifty years:

Lives on Ladies' Island. Attended a meeting held by Republicans on Ladies' Island day before the election; many women were there, all with sticks. They said they had them to kill Democrat dogs. Mr. Elliott was to speak on the island that day, and these women said he should not pass them. Contestant spoke at the meeting. Said that any woman married to a Democrat, she must kick him out of the house.

Tom Bonner (page 558), colored; age about forty-two:

Lives on Ladies' Island. During the campaign there were many threats by Republicans of killing and whipping Democrats. Jack Johnson, a prominent Republican and delegate to the convention, said the Republicans intended to carry the island or kill the last damn man on it. On election day the women behaved just like they intended to fight a battle, according to the clubs they had. They said they intended to kill out, whip out, and drive out the last man that voted the Democratic ticket. The Democrats left the polls early for fear of trouble.

Felix Bonner (colored), testifies at page 562:

He is forty-four years old, and has lived on Ladies' Island for nine years; belongs to the Ladies' Island Democratic Club, and carried the club flag to a Democratic mass meeting October 22, 1886. On the way back from the meeting the members of the club were brickbated. From that time on there were continual threats made against the Democrats; but for these threats the Democrats would have carried the polls. On election day there were women at the polls with clubs, using such threats as "We will kill you Democrat niggers to-night;" "Never mind, we will fix you to-night." They blockaded the roads to one of the polls, saying, "There is no law for women on the day of election."

Q. Was it not also said that Sammy Green had put two women at the head of affairs that day?—A. It was so; he put two women to make them his captains.

Q. Now, have you been molested anywhere, in any way, by Republicans since the election?—A. I was; on Saturday night I was sitting down holding a conversation with another man; in walked another man; he raised the argument with me about being a Democrat; my answer was to him, "Stop that nonsense here." His answer was to me, "You tote that flag in Beaufort the other day." This was a day or two after the election. I said, "I am my own man." He said, "We don't allow no Democrat nigger here." I said, "Get away from here as quick as you can, or if you don't I will make you get away;" and he left, but came back with a crowd of 5 or 6. One of the men he brought to knock or mob me; I asked him, "How do you do?" He said, "I do as I please." My answer was, "So do I." No sooner than the word was out of my mouth than the blow followed from him; at that time they all crowded me. The only way I got rid of them I got out of the door. Now, in the mean time, if I had not flung up my hand one fellow would have split my head with a pair of steelyards; I got it flat in my hand. When I got out of the door my wife came to me. Then she carried me home. After I went home these men got a crowd of twenty and got right in front of my house, and made great threats if they could get hold of me. I did not go out, but my wife propped the door with the ax, as she was more frightened than I was.

Q. Was anything said by them why they made this attack on you?—A. After I did not get out they didn't get hold of me; they used these words, "We intend to kill every Democrat nigger that fools around here; if they do vote a Democrat ticket they shan't own it around here."

Q. Did they say anything about your carrying the club flag?—A. Yes; they did. "Felix Bonner, we want to get you anyhow because you tote that flag to the mass meeting in Beaufort."

Q. What did you do after that; did you remain there after that night?—A. After that night I thought it best to get away from there as quick as I could; I left on Sunday; went back to Ladies' Island; I could not go back, and have not been back since; I had to hire two of my friends to bring my family from there.

Q. Why couldn't you go back; were you prevented by anything, or were you afraid to go back?—A. My reason for not going back is because I had a doubt; I was afraid of being mobbed by the Republican party.

Q. Now, where did all this take place?—A. It took place in Beaufort County, at Salt Water Bridge, on the same island that the town of Beaufort is on, and is 4 miles from the town.

Q. How did you happen to be over there?—A. I went over there on account of my father, who lives there; the old man is old, and I was over there to take care of him.

Q. Is it or not a fact that the nearer you get to the town of Beaufort the more threatening and violent the Republicans are?—A. That is a fact; it seems like the nearer the town of Beaufort the hotter the Republicans is.

Q. You used to be a Republican, were you not?—A. I used to be a Republican and a leading one.

Q. Was it not the practice of the Republicans to send instructions from the town of Beaufort out to the country precincts, and don't the country people act from instructions received from the leaders in the town of Beaufort?—A. There is no instructions given to the colored people except from the leaders in Beaufort.

Q. Does not Robert Smalls, and the principal leaders of the Republican party of Beaufort County, live in the town of Beaufort?—A. That is so.

F. D. J. Lawrence, colored (page 567), forty-one years of age:

Resides at Beaufort; attorney at law; trial justice for Beaufort County; learned to read and write as a slave; was first sergeant Company E, Thirty-fourth United States Colored Troops; engaged in several battles; was wounded twice at the battle of Honey Hill; promoted quartermaster sergeant; honorably discharged from that regiment and enlisted in Fortieth United States Regulars; after leaving the Army taught school and studied law, and was admitted to the bar in South Carolina; have been a Democrat since 1876; attended several Republican meetings in Beaufort during last campaign; was cursed and ordered to leave, as no negro Democrat was allowed there; heard Thomas Reynolds, Republican State senator, tell the people to go to the polls armed, and to go knee-deep in blood, if necessary, to carry the election; heard Joseph Robinson, ex-representative, at another meeting, say "that the law allowed him to carry arms, and that he would go as far as any man to carry the county against the Democrats;" heard Robert Smalls, contestant, say in several public speeches in Beaufort "that any colored woman having a Democratic husband should put him out of the house," and that they could have his assistance in doing so."

We quote as follows:

There is no such thing in Beaufort County as a free election and a fair count among the Republicans. I have been a Democrat in Charleston County for a number of years and voted unmolested; but I am told here in Beaufort County that this is a Republican county, and no nigger can vote here for the Democrats. I have a daughter, a young lady, who attends public school in the town of Beaufort, who has been abused more than once on account of her father being a Democrat. I had to stop her from the school until I saw the principal in reference to this matter. I complained to him by letter and have his reply; not only her, but my family, my wife, and myself have been ostracised in the church and socially, and felt the estrangement keenly, on account of my political views.

Q. What methods are usually resorted to by Republicans to keep colored men from voting the Democratic ticket?—A. They usually adopt a bulldozing system among the leaders, teaching them to abuse and make remarks and threats generally.

Q. Do they carry this system into the churches?—A. Yes, into the churches and into the social circles. I am a member of the Baptist Church; my wife is a member of the Methodist Church. I have been abused from the Methodist pulpit by one Rev. Blakely on account of my politics, and in consequence of this conduct I prevented my family from attending that church. From observation among the colored people from '76 down to the present I think they had their fear about voting the Democratic ticket until after the election of Gen'l Hampton, but from the general benefit they received by the reduction of taxes under Democratic administration the better class of colored people are all Democrats, and would vote the Democratic ticket as a whole except for the ostracism and threats from the Republican leaders. I have talked with them in regard to the exodus scheme, when Hampton was first elected, about going to Africa, saying to them it was all a scheme to make money by Republican leaders. A large number of them since that time are convinced, and told me that it was a bigger swindle than the Freedman's Bank, and are sorry that they sold their property and put their money in the "Azor." They say at the next Presidential election they will all vote the Democratic ticket for President; that they see no difference, except that the Republican leaders taxed them, while under Democratic administration they have been free from taxation for campaign purposes.

He further testifies that colored people can not vote the Democratic ticket in Beaufort County unless they do it secretly. At the time of the mass meeting in Beaufort heard a crowd of Republicans say, referring to the Ladies' Island Club, "there goes the Democratic negroes,

we will fix them before they get out of town." After this heard Republican speakers boasting how this club had been run out of town. Colored people, as a rule, take great interest in school matters. This was one of the chief issues of the campaign, and many of the colored people wished to vote for contestee because of what he had done for them in school matters. On his cross-examination (page 571) he says:

Q. Who made those speeches?—A. Republican leaders. I heard Mr. Robert Smalls, W. I. Whipper, esq., Mr. Joseph Robinson, ex-member of the legislature, commonly called Red-hot Joe, Senator Thomas Reynolds, and I. J. Washington, member of the legislature. All of their speeches, with the exception of W. I. Whipper's, were political harangues, inciting the people to riot or bloodshed, saying that they must go to the polls armed and carry the election by any means, Mr. Robert Small advising the women to leave their husbands who had voted the Democratic ticket, and Robinson advising them that this is the only county in the State in the control of the Republicans; and he, for one, will go as far as any man in carrying the county for the Republicans.

W. H. Bartless (page 616), forty-four years old:

Lives in the town of Beaufort, at Green's Ferry; is a lumber manufacturer. On the 22d of October, 1886, after the Democratic mass-meeting in Beaufort, was at the saw-mill, near the ferry; heard a great noise in the street leading to the ferry; yelling and whooping, so much so that witness left his work and went to see what the matter was; saw some colored men running from a crowd of half-grown boys and women who were throwing brickbats at them. One man was bleeding from a wound in the head. The air was full of bricks. Some fell in the mill-yard; some struck the kitchen across the street; found that the men who were being brickbatted were members of the Ladies Island Colored Democratic Club. Witness telephoned for the town marshal, who made one or two arrests but did not commit any one. The men went down to the ferry, and seemed to be very much intimidated; saw a hack go down there with one or two men in it; think it was Doc Day's hack. Fearing further violence, witness went to the ferry; did not see any further violence, but heard a good deal of loud talking; earlier in the day heard a good many threats on the streets of Beaufort against colored Democrats. They said, "Wait until night and we will fix them;" thinks that Doc Day was one of these parties. Peter Green, brother of Samuel Green, runs Green's Ferry. A few days before the election witness was down at the landing; a boat had just pushed off; Samuel Green was in it, and said to an old colored man that came up, "That no Democrat could go in that boat," meaning colored Democrat. From what witness saw and heard at various times in the town of Beaufort, he would say it required the highest order of courage in a colored man to vote the Democratic ticket.

Parris Sherman (page 619), colored; seventy years of age:

Resides on Saint Helena Island; did not vote at the last election; went to the Congressional poll for the purpose of voting for Mr. Elliott for Congress; did not vote because there was such an uproar there, got him so frightened he did not stay; heard heap of threatening, and being old thought he had better get out of the way.

A. B. Colonel (page 619), colored; forty-two years old:

Lives on Saint Helena Island; served in the late war in Thirty-fourth Regiment Colored Troops, United States Army; during the last campaign Republicans of Saint Helena Island made a great many threats against colored Democrats; that Republicans should club together and kill every one that voted Democratic ticket; Cyrus Jenkins, Republican, threatened him; took up a stick at church and struck him two licks, because he advocated Colonel Elliott; the deacons threatened to turn Democrats out of the church; in consequence of these threats a great many were kept from voting Democratic ticket; thinks that the Democrats would have gotten about 300 votes at Brick Church.

The record contains much more evidence of this character, and it also contains much evidence submitted by contestant in rebuttal. Your committee find that at the precinct now under consideration almost all the voters were colored persons; that a large number of these voters were bitterly opposed to contestant, and had determined to vote for Colonel Elliott; that the leading supporters of contestant were very much incensed at this, and resorted to all means in their power to

overawe and intimidate such voters and force them to vote for contestant. Colored men inclined to vote or expressing an intention to vote for contestee were rudely assailed and violently assaulted; they were threatened with expulsion from their churches; they were threatened with expulsion from the island, where many of them owned land; they were threatened with a denial of sexual intercourse with their wives; they were threatened with beating; they were cursed and abused; and this conduct on the part of the followers of contestant began early in the campaign and continued uninterruptedly down to the closing of the polls on the day of the election. Smalls himself was a party to these acts; indeed he incited his followers to their perpetration. Many of the witnesses so affirm.

Wm. Lockwood (page 558) says:

Q. What did Smalls say in his speech should be done to the Democrats?—A. He did not say anything should be done to the Democrats, only call dog name; he said that any woman that married to a Democratic man the woman must kick him out of the house; and if any man's daughter married to a Democratic dog they must kick them out, too; and he said that on election day we must be as peaceable as we can, 'cause if we don't both parties will lose their vote if we have any row, and after the poll was closed then they could do as they choose.

S. D. J. Lawrence, on page 568, an ex-Federal soldier, says:

I heard Mr. Robert Smalls, the contestant, say on more than one occasion in a public speech in Beaufort, among other things he said, that any colored woman that had a Democratic husband, she should put him out of the house, and not allow him to come in there by any means, and could have his assistance, and in consequence of this speech I know of several cases where husband and wife have been separated.

Roland White (page 612), also an ex-Federal soldier, says:

Q. During the last political campaign did you hear Robt. Smalls make a speech at Brick Church?—A. Yes.

Q. What did he tell the people to do with Democrats?—A. He told the people this, "Who that votes a Democratic ticket the women must put him out and have no use for him, and who votes a Democratic ticket votes against his own right. The women must do away with their husbands if they vote a Democratic ticket." My wife she left my house for over two weeks and went to her mother's house.

Jack Freeman says (page 625):

A. Smalls met me on Bay street, in the town of Beaufort, in the presence of other people, and said to one of the persons standing there, "Do you know any Democrat nigger by the name of Jack Freeman?" I said, "Yes, here's Jack Freeman himself, now." Smalls then said, "You boys ought to tie him and lick him." I told him I considered myself a negro and not a nigger. He said, "Yes, you are a nigger, and a low-down nigger." I said, "You are neither a negro nor a white man; you are a mongrel."

George Rivers says (page 376):

Q. Did you hear Robert Smalls make any speeches on St. Helena before the election?—A. Yes, I do.

Q. What did he say the people ought to do with the men who wanted to vote the Democratic ticket?—A. Yes, sir; any one who vote the Democratic ticket for Col. Wm. Elliott, he was ashamed of them. The other day when he was standing in Beaufort, on Bay street, "seen 40 mans of Ladies' Island—I was ashamed of myself,—coming under a Democratic banner. What use Democrat have for a colored man? The Democrat carried them and feed them in Fincken horse stable; the lowest place you can imagine; that night half had to take the creek to Sammy Green's ferry by the women and boys brickbat them till a constable had to go down and protect them; and these few Democrats on St. Helena ought to done the same way to those few Democrats which are on the island."

B. C. Chisholm says (page 596):

A little while afterwards Gen'l Smalls arrived. I met him before he went up to make his speech. He then made these remarks in his speech: He was showing us how Sheppard was thrown out of the convention in Beaufort, and I asked him this question: "Gen'l, didn't you know these things; that Sheppard was going to be thrown out? Didn't your speech you made in the convention cause him to be thrown out?"

He said, "No." I replied to him, "Yes, it is your speech that had him thrown out! You had these things fixed before the convention." He says, "I didn't know any thing about it." I said, "Yes, you do know, 'cause you replied in your speech in the convention, 'the convention must look for the three best men to send this session.'" I says to him, "We are not going to vote for you--not this time." Then he asked, "Why are you going to vote against me this time?" I says to him, "Because you have promised us here on this island that whoever we send as a choice man you will support him in the convention. After you have thrown Sheppard out of the convention we will vote for Mr. Elliott and keep you in Beaufort." Then he replied, "If you will vote for me as you have done in the past nine years I will appoint Sheppard to a position. If I don't appoint him to a position I will pay him out of my own pocket." After that I went off.

Smalls, when on the stand as a witness, did not deny the intimidation, or that he urged his followers on to deeds of violence and wrong. Your committee venture the opinion that, in the whole history of election contests in this country, no case can be found where one of the candidates for election so openly and publicly advised and counseled his followers to perpetrate wrong and outrage upon those who supported his opponent. Without doubt many colored persons who desired to vote for Elliott were deterred from doing so through intimidation and fear of violence; how many it is hard to say. Men do not like to admit that they are controlled by such influences, and yet we know they are. Beaufort County, the home of the contestant, was the theater of most of the violence and intimidation. The methods and practices resorted to in this county at the election in 1886 were of the same kind, only worse in character, as those resorted to by this same contestant in the same county at the election in 1876 (see *Tillman vs. Smalls*, Forty-fifth Congress, second session, Report No. 916). Because of such violence, threats, and intimidation of voters by the contestant himself and his leading followers, your committee do not believe the vote returned at Brick Church, at Beaufort precinct, and at Ladies Island, in Beaufort County, should be counted. Your committee are reluctant to recommend the exclusion of a poll or polls, but in this case the ends of truth and justice, as well as the protection of the voter and the purity of the ballot-box, imperatively demand it.

According to the return as canvassed and declared by the State board, the vote was: William Elliott, 6,493; Robert Smalls, 5,961.

We give to Smalls and Elliott each the votes cast for them at Fort Mott, Adams Run, Cedar Creek, and Greer's precinct, and we deduct from Smalls his majority at Beaufort precinct, and at Ladies Island precinct, and the count stands as follows:

Returned vote for Elliott .....	6,493	Returned for Robert Smalls.....	5,961
Vote at Adams Run .....	37	Vote at Fort Mott .....	236
Vote at Fort Mott .....	58	Vote at Adams Run .....	177
Vote at Cedar Creek.....	0	Vote at Cedar Creek.....	18
Vote at Greers precinct.....	4	Vote at Greers.....	65
<hr/>		<hr/>	
Total vote for Elliott.....	6,592	Total vote for Smalls .....	6,457
Deduct from Smalls:			
Majority at Beaufort.....		136	
Majority at Ladies Island .....		52	
		<hr/>	188
			<hr/>
			6,269
			<hr/>
Total vote for Elliott.....	6,592		
Total vote for Smalls.....	6,269		
			<hr/>
Majority for Elliott.....	323		

Your committee find that the sitting member was duly elected, and recommend the adoption of the following resolutions:

*Resolved*, That Robert Smalls was not elected a Representative to the Fiftieth Congress from the Seventh district of South Carolina.

*Resolved*, That William Elliott was duly elected a Representative to the Fiftieth Congress from the Seventh district of South Carolina, and is entitled to his seat.

#### EXHIBIT A.

##### *Laws governing elections in South Carolina.*

All electors of the State shall be registered, and no person shall be allowed to vote at any election hereafter to be held unless registered; and no elector removing from one residence, precinct, parish, ward, or county to another shall be allowed to vote without a transfer of registration; and the supervisor of registration shall furnish the managers of election with one of the registration books for each precinct, for the care and custody of which the managers receiving the same shall be responsible and which they shall return to the supervisor of registration within three days after the close of election, and no elector shall be allowed to vote whose name is not registered as provided by law.

That for the purpose of carrying on such election it shall be the duty of the governor, at least thirty days prior to any such election, to appoint in and for each county three commissioners of election for governor, lieutenant-governor, State officers, circuit solicitors, members of the general assembly, and county officers, or any of said officers, and three other commissioners of election for the election of Presidential electors and members of Congress, or either of said officers, who shall continue in office until their successors are appointed and qualified.

The commissioners of election for said State officers are hereby authorized and empowered to appoint three managers of election for State officers; and the commissioners of election for the above members of Congress and Presidential electors, or either of said officers, are hereby authorized and empowered to appoint three other managers of election for said officers for each polling place at each election precinct of the county for which they shall respectively be appointed. The said commissioners of election and said managers of election shall take and subscribe, before any officer authorized to administer oaths, the oath of office prescribed by section 30 of Article II of the constitution, and the oath with respect to dueling, and the same shall be immediately filed in the office of the clerk of the court of common pleas of the county in which said commissioners and managers shall be appointed; and if there be no such clerk, duly qualified by law, then in the office of secretary of State.

The managers are hereby authorized to appoint a clerk to assist them in whatever duties may be required of them, who shall take the oath of office prescribed by section 30 of Article II of the constitution, and the oath with regard to dueling, before the chairman of the board of managers. The commissioners aforesaid, and the managers aforesaid, at their first meeting, respectively, shall proceed to organize themselves as a board, by appointing one of their number chairman of the board; and such chairman, in each instance, shall be empowered to administer oaths.

The word "precinct" shall be construed to embrace an area sufficient to provide for holding elections for members of Congress and Presidential electors at different stations from those stations where elections are held for State and county officers.

The polls shall be opened at seven o'clock in the forenoon and close at six o'clock in the afternoon of the day of election, and shall be kept open during these hours without intermission or adjournment, and the managers shall administer to each person offering to vote an oath that he is qualified to vote at this election, according to the constitution of this State, and that he has not voted during this election.

The State constables and other peace officers of each county are required to be present during the whole time that the polls are kept open and until the election is completed, and they shall prevent all interference with the managers and see that there is no interruption of good order. If there should be more than one polling-place in any county, the State constable is empowered and directed to make such assignment of his deputies and other peace officers to such polling-places as may, in his judgment, best subserve the purposes of quiet and order.

The voting shall be by ballot, which ballot shall be of plain white paper, of two-and-a-half inches wide by five inches long, clear and even cut, without ornament, designation, mutilation, symbol, or mark of any kind whatsoever, except the name or names of the person or persons voted for, and the office to which such person or

persons are intended to be chosen; which name or names and office or offices shall be written or printed, or partly written and partly printed, thereon, in black ink; and such ballot shall be so folded as to conceal the name or names thereon, and so folded shall be deposited in a box to be constructed, kept, and disposed of as hereafter provided; and no ballot of any other description found in any election box shall be counted.

The commissioners of election shall provide for each election precinct a sufficient number of boxes to meet the requirements of the foregoing section. An opening shall be made in the lid of each box not larger than sufficient for a single ballot to be inserted therein at one time, through which each ballot received proper to be placed in such box shall be inserted by the person voting, and by no other. Each box shall be provided with a sufficient lock, and each box shall be publicly opened and inspected to show that it is empty and secure, and locked just before the opening of the poll and the keys returned to the managers, and shall not be opened during the election. Each box shall be labeled in plain and distinct Roman letters, with the office or officers voted for, and the managers, on the demand of the voter, shall be required to read to him the names on the boxes, and no vote for any office other than that for which such box shall be designated and labeled shall be counted.

At each precinct a space or inclosure, such as the managers of election shall deem fit and sufficient, shall be railed off, or otherwise provided, with an opening at one end or side for the entrance of the voter, and an opening at the other for his exit, as a polling-place in which to hold the election for the State, circuit, and county offices. A similar, but separate and distinct, space or inclosure shall be railed off, or otherwise provided, as polling-place for the election of Congressmen and Presidential electors, at such distance from the polling-place for State officers as the commissioners of election for each county shall determine and appoint for each election precinct. But one voter shall be allowed to enter any polling-place at a time, and no one except the managers shall be allowed to speak to the voter while in the polling-place casting his vote.

Each clerk of the poll shall keep a poll-list, which shall contain one column headed, "Names of Voters," and the name of each elector voting shall be entered by the clerk in each column.

At the close of the election the managers and clerks shall immediately proceed publicly to open the ballot-box and count the ballots therein, and continue such count, without adjournment or interruption, until the same is completed, and make such statement of the result thereof, and sign the same, as the nature of the election shall require. If, in counting, two or more like ballots shall be found folded together compactly, only one shall be counted and the others destroyed; but if they bear different names, the same shall be destroyed and not counted. If more ballots shall be found, on opening the box, than there are names on the poll-list, all the ballots shall be returned to the box and thoroughly mixed together, and one of the managers or the clerks shall, without seeing the ballots, draw therefrom and immediately destroy as many ballots as there are in excess of the number of names on the poll-list. Within three days thereafter, the chairman of the board of managers, or one of them, to be designated in writing by the board, shall deliver to the commissioners of election the poll-list, the boxes containing the ballots, and a written statement of the result of the election in his precinct.

The commissioners of election for governor, lieutenant-governor, State officers, circuit solicitors, members of the general assembly, and county officers, or either of said officers, shall meet in some convenient place at the county seat on the Tuesday next following the election, before one o'clock in the afternoon of that day, and shall proceed to organize as, and shall be, the county board of canvassers. They may appoint some competent person as secretary. The chairman shall then proceed to administer the constitutional oath to each member of the board, as canvassers, and shall administer the constitutional oath to the secretary, and the secretary shall administer to the chairman the same oath that he shall have administered to the other members of the board. The commissioners of election for members of Congress and Presidential electors, or either of said officers, shall likewise meet at the same time at the county seat, and shall in like manner proceed to organize as, and shall be, the county board of canvassers for the election of the Federal officers aforesaid. They shall then proceed to canvass the votes of the county, and shall make such statements thereof as the nature of the election shall require, within ten days of the time of their first meeting as a board of county canvassers, and shall transmit to the board of State canvassers any protest and all papers relating to the election.

Duplicate statements shall be made and filed in the office of the clerk of the county, and if there be no such clerk duly qualified according to law, then in the office of the secretary of state.

They shall make separate statements of the whole number of votes given in such county for Representatives in Congress, and separate statements of all other votes given for other officers. Such statement shall contain the names of the persons for

whom such votes were given, and the number of votes given for each, which shall be written out in words at full length.

There shall be prepared by the commissioners three separate lists of each statement, besides the lists to be filed in the office of the county clerk or secretary of state, and each list shall be certified to as correct by the signatures of the commissioners subscribed to such certificate.

After the final adjournment of the board of county canvassers, and within the time prescribed in this chapter, the chairman of said board shall forward, addressed to the governor and secretary of state, by messenger, the returns, poll-list, and all papers appertaining to the election. The said messenger shall be entitled to five dollars, and also mileage at the rate of five cents for every mile traveled on the most direct route going and returning, upon a certificate to be furnished him by the secretary of state. Said certificate shall be paid out of the funds provided for the payment of commissioners and managers of election.

In every case where the townships or parts of townships of any county may not all be in the same Congressional district, it shall be the duty of the proper board of county canvassers of such county in canvassing the votes of said county to report separately the results of the vote of such township or parts of townships for the Congressional district to which they may respectively belong.

In any case in which a voting precinct may form part of more than one Congressional district, if no other provision be made by law, the commissioners of election for the county in which such precinct is situated shall provide for such precinct separate boxes for every Congressional district within which the said precinct may be, and each voter at such precinct shall deposit his ballot for member of Congress in the box provided for the Congressional district within the limits of which said voter may reside.

#### OF THE ELECTION OF ELECTORS OF PRESIDENT AND VICE-PRESIDENT.

If any officer or messenger, on whom any duty is enjoined in this chapter, shall be guilty of any willful neglect of such duty, or of any corrupt conduct in the execution of the same, and be thereof convicted, he shall be deemed guilty of a misdemeanor, punishable by a fine not exceeding \$500, or imprisonment not exceeding one year.

#### EXHIBIT B.

##### *Indictment and evidence upon which Smalls was convicted.*

##### THE STATE OF SOUTH CAROLINA, County of Richland:

At a court of general sessions, begun and holden in and for the county of Richland, in the State of South Carolina, at Columbia, in the county and State aforesaid, on Monday, the twenty-second day of October, in the year of our Lord one thousand eight hundred and seventy-seven, the jurors of and for the county of Richland aforesaid, in the State of South Carolina aforesaid, that is to say:

Upon their oaths present: That Robert Smalls, a legislative officer of the said State, to wit, a member of the senate of the said State, from the county of Beaufort, in the said State, did, with force and arms, at Columbia, in the county of Richland and State aforesaid, on the eighteenth day of December, in the year of our Lord one thousand eight hundred and seventy-two, corruptly accept from Josephus Woodruff a gift and gratuity and a promise to make a gift and do an act beneficial to him, the said Robert Smalls, a legislative officer of the said State, to wit, a member of the senate of the said State from the county of Beaufort, in the said State, under an agreement and with an understanding that the vote, opinion, and judgment of him, the said Robert Smalls, as said legislative officer of said State, to wit, as member of the senate of the said State from the county of Beaufort, should be given in the affirmative and in favor of agreeing to the passage of a certain joint resolution, entitled "Joint resolution to make appropriation for expenses of printing ordered by the general assembly during the regular sessions of 1870-'71 and 1871-'72," on the question of the said senate agreeing to the passage of the said joint resolution, a question which was and might be by law brought before the said Robert Smalls in his said official capacity as a legislative officer of said State, to wit, as member of the senate of the said State from the county of Beaufort, contrary to the form of the act of the general assembly of the said State in such case made and provided, and against the peace and dignity of the State.

And the jurors aforesaid, upon their oaths aforesaid, do further present: That Robert Smalls, a legislative officer of the said State, to wit, a member of the senate of the said State from the county of Beaufort, in the said State, did with force and arms,

at Columbia, in the county of Richland and State aforesaid, on the eighteenth day of December, in the year of our Lord one thousand eight hundred and seventy-two, corruptly accept from Josephus Woodruff a promise to make a gift and to do an act beneficial to him, the said Robert Smalls, to wit, a promise to give him the said Robert Smalls a large sum of money, to wit, the sum of five thousand dollars, under an agreement that the vote of him, the said Robert Smalls, as said legislative officer of the said State, to wit, as a member of the senate of the said State from the county of Beaufort, should be given in the said senate in favor of the passage of a joint resolution which was and might be by law brought before him, the said Robert Smalls, in his official capacity as said legislative officer of said State, to wit, as member of the senate of said State from the county of Beaufort, to wit, a joint resolution entitled "Joint resolution to make appropriation for expenses of printing ordered by the general assembly during the regular sessions of 1870-'71 and 1871-'72," contrary to the form of the act of the general assembly of the said State in such case made and provided, and against the peace and dignity of the State.

And the jurors aforesaid, upon their oaths aforesaid, do further present: That Robert Smalls, a legislative officer of the said State, to wit, a member of the senate of the said State from the county of Beaufort, in the said State, did with force and arms, at Columbia, in the county of Richland and State aforesaid, on the eighteenth day of December, in the year of our Lord one thousand eight hundred and seventy-two, corruptly accept from Josephus Woodruff a promise to make a gift and to do an act beneficial to him, the said Robert Smalls, to wit, a promise to give him, the said Robert Smalls, a large sum of money, to wit, the sum of five thousand dollars, with an understanding that the vote of him, the said Robert Smalls, as said legislative officer of the said State, to wit, as a member of the senate of the said State from the county of Beaufort, should be given in the said senate in favor of the passage of a joint resolution, which was and might be by law brought before him, the said Robert Smalls, in his official capacity as said legislative officer of said State, to wit, as member of the senate of the said State from the county of Beaufort, to wit, a joint resolution entitled "Joint resolution to make appropriation for expenses of printing ordered by the general assembly during the regular sessions of 1870-'71 and 1871-'72," contrary to the form of the act of the general assembly of the said State in such case made and provided, and against the peace and dignity of the State.

And the jurors aforesaid, upon their oaths aforesaid, do further present: That Robert Smalls, on the eighteenth day of December, in the year of our Lord one thousand eight hundred and seventy-two, at Columbia, in the county of Richland and State aforesaid, then and there being a legislative officer of the said State, to wit, a member of the senate of the said State, having been duly elected senator for the county of Beaufort, and having taken his seat in the senate of the said State, corruptly did accept a promise from Josephus Woodruff to make a gift of five thousand dollars to him, the said Robert Smalls, with an understanding with the said Josephus Woodruff that the vote of him, the said Robert Smalls, member of the said senate as aforesaid, should be given in favor of a joint resolution to make appropriation for expenses of printing ordered by the general assembly during the regular sessions of 1870-'71 and 1871-'72, which said joint resolution was then introduced and pending in the general assembly of the said State, and was to be brought before him, the said Robert Smalls, in his official capacity as a member of the said senate as aforesaid, to the evil example of all others in like cases, offending against the form of the act of the general assembly of the said State in such case made and provided, and against the peace and dignity of the State.

And the jurors aforesaid, upon their oaths aforesaid, do further present: That Robert Smalls, senator of and from the county of Beaufort, in the said State, in the senate of the said State, on the eighteenth day of January, in the year of our Lord one thousand eight hundred and seventy-three, at Columbia, in the county and State aforesaid, with force and arms, voluntarily and corruptly did accept a gift of five thousand dollars from Joseph Woodruff in corrupt payment for his vote as said senator, in the senate of the said State, in favor of the passage of a joint resolution to make appropriation for expenses of printing ordered by the general assembly during the regular sessions of 1870-'71, and 1871-'72, contrary to the peace and dignity of the State.

JOHN R. ABNEY,  
*Solicitor Fifth Circuit.*

The STATE OF SOUTH CAROLINA, *Richland County.*

On behalf of the State, Attorney-General Conner offered in evidence journal of the Senate, 1872-'73, and proceeded to read from page 130.

Mr. Melton objected to the reading of the statements contained in the printed journal as evidence against the defendant, either of the progress of the bill in question or of the participation of defendant therein, on the ground that it was but sec-

ondary evidence of what, under any circumstances, would itself be secondary evidence.

After hearing argument the court ruled that the evidence was competent.

The defendant excepted.

Attorney-General Conner then read, as follows, from page 130 :

"Joint resolution (H. No. 3) to make appropriation for expenses of printing ordered by the general assembly during the regular sessions of 1870-'71 and 1871-'72.

"The resolution received its first reading, was ordered for a second reading and consideration to-morrow, and ordered to be printed."

He then read from page 144 of the journal, as follows :

"Joint resolution (house) to make appropriation for the expenses of printing by the general assembly during the regular sessions of 1870-'71 and 1871-'72.

"The joint resolution received its second reading, was considered as in committee of the whole and by sections.

"There being no further amendments,

"*Ordered*, That it be engrossed for a third reading."

The attorney-general then read from pages 148 and 149, as follows :

Mr. Cardozo, from the committee of engrossed bills, reported as duly and correctly engrossed and ready for a third reading,

\* \* \* \* \*

"Joint resolution to make appropriation for expenses of printing ordered by general assembly during the regular sessions of 1870-'71 and 1871-'72.

"On motion of Mr. Smalls the rule was suspended and the above bills and joint resolutions taken up for a third reading.

\* \* \* \* \*

"Joint resolution to make appropriation for expense of printing ordered by general assembly during the regular sessions of 1870-'71 and 1871-'72.

"The joint resolution received its third reading.

"On the question of agreeing to the passage of the joint resolution Mr. Donaldson called for the yeas and nays.

"The yeas and nays were taken, and resulted as follows :

"Yeas—Messrs. Cain, Corwin, Dickson, Ford, Gaillard, Hayne, Hollingshead, Jamison, Jervey, Johnston, Jones, Lee, Maxwell, Nash, Owens, Smalls, C. Smith, Swails, White, Whittimore—20.

"Nays—Messrs. Cardozo, Donaldson, Duncan, Dunn, Duval, Hope, Jeter—7.

"So the joint resolution passed.

"*Ordered*, That it be enrolled for ratification."

The attorney-general then read from page 158, showing the ratification of the said joint resolution.

JOSEPHUS WOODRUFF was then sworn for the State.

He testified that he had been clerk of the senate of the State of South Carolina from 1863 to this time ; that he was a member of the Republican Printing Company, and that company did the public printing ; that with his partner, A. O. Jones, he was deeply interested in the passage of the joint resolution to make appropriation for expense of printing ordered by the general assembly during the regular sessions of 1870-'71 and 1871-'72.

Jones and witness made an agreement that Jones should consult the members of the house and ask them to support the measure, while witness should consult the senators.

The following check was then handed to witness :

"584. No. 17.

COLUMBIA, S. C., Jan. 19, 1873.

"South Carolina Bank and Trust Company, of Columbia, pay to cash or bearer, five thousand dollars.

"\$5,000.

J. WOODRUFF."

Witness said he gave this check to the defendant, who was then chairman of the committee on printing, and it was given in accordance with the promise which witness had made to the defendant that if the joint resolution passed he would give the defendant five thousand dollars.

The promise was made in witness's office in the state-house. The check was paid at the bank. Witness obtained it from the bank after its payment. The check was returned to the witness as the drawer of it at the end of the month, together with all the checks drawn during the month, as was then the custom of the bank. Witness gave this check to Smalls after the passage of the joint resolution. Can not remember the exact date without reference to his memorandum book.

Witness was then instructed by attorney-general to refresh his memory by reference to the said memorandum book.

Mr. Melton objected to the introduction of the memorandum book, on the ground that the said book was alleged to be written in a peculiar kind of phonography, different from any of the principal systems, and which could only be read by himself and could not be verified in court.

The court overruled the objection, and the defendant excepted.

Witness produced the memorandum book, written in phonographic characters, and after reference thereto, testified that he gave the check to the defendant on the 16th day of January, 1873. The check was dated a day or two ahead. Witness drew the check the sixteenth; it is dated the nineteenth. The nineteenth was Sunday. It is entered in the diary that witness gave defendant a check on that day for five thousand dollars. Gave several other checks the same day. One to Ransier, for \$500; one to Holcombe, for \$250; one to Hollingshead, for \$100; one to Johnston, for \$500.

Witness paid the check to Smalls for his aid in securing the desired joint resolution. The defendant voted for it. His services were general through the whole passage of the joint resolution. Smalls was the chairman of the committee on printing. Witness expected a favorable report. The joint resolution went through the senate without a report, though it was reported on in the house.

The defendant's services lasted until the close of the session. The payment was made in January, 1873, subsequent to the passage of the resolution. January 19th was Sunday; the dating of the check that day was a clerical error on witness's part. Witness did not have funds in the bank on the 10th, but he knew he would have them on the 19th; witness therefore dated the check ahead three days, and the 19th fell on Sunday.

Witness has been clerk of the senate from 1868 to the present time. He identified the printed journal of the senate for the regular session of 1872-'73 as being a copy of the official journal of the said senate. Printed copies of entries of the journal are each day placed upon the desks of the members; are corrected in open senate, and are printed. There is no permanent journal except the printed journal.

Witness was also public printer while clerk of the senate. The defendant voted for the joint resolution.

The defendant waived cross-examination of the witness.

L. N. ZEALY was then sworn and examined in behalf of the State.

He testified that he was assistant book-keeper for the South Carolina Bank and Trust Company in 1873.

Shown books which he identified as books of the South Carolina Bank and Trust Company.

The attorney-general handed witness the check above described, and asked witness to trace its course through the books of the said company.

Mr. Melton, in behalf of the defendant, objected that these books of the bank could not be put in as evidence against the defendant. After argument, the court overruled the objections, and the defendant excepted.

The books were kept by witness, as book-keeper of bank, and the charge of \$5,000 to Woodruff was made by him in the regular course of business.

The witness, on referring to the book, testified that the check was charged to Josephus Woodruff on the 18th day of January, 1873; amount \$5,000. The same day \$5,000 is placed to the credit of Hon. Robert Smalls. No other check on that day is charged to Woodruff and no other credited to Smalls.

On the check is a memorandum showing the page—"584."

Page 584 is the page on the ledger which contains Josephus Woodruff's account with the bank. These figures were placed on the check by witness. Witness turned to page 584 of ledger. Besides the check of \$5,000, there were two other checks paid on same day, one for \$300 and one for \$50.

Mr. Melton objected on the ground that this testimony had nothing to do with the case.

Mr. Conner said he introduced the testimony to verify the entry, and produced the checks for \$300 and \$50.

Mr. Melton objected, the court overruled the objection, and Mr. Melton excepted.

Witness identified the checks, and said that they had on their backs the pages of the ledger in which they were entered.

Witness said it was the habit of the bank to require a deposit-slip from customers when a deposit was made. Witness produced a deposit-slip which he stated had been procured by him from the bank papers, which are now kept in a box at the State-House.

The deposit-slip is in the handwriting of F. S. Jacobs, who was cashier of the South Carolina Bank and Trust Company at that time. Jacobs has been out of the State since 1873.

The attorney-general desired witness to read the deposit-slip. Mr. Melton objected

to its being read or received in evidence. After argument the court overruled the objection, and the defendant excepted.

The said deposit-slip was then read, as follows, and shown to the jury :

“S. C. BANK & TRUST COMPANY. Columbia, S. C., Jan. 18, 1873.

Deposited by Hon. Robert Smalls,

Gold .....	\$	.....
Currency .....	\$	.....
Check, W. ....		5,000
<b>Total</b> .....		.....

The “W.” after the word check is in pencil, and in handwriting of Jacobs, and was put there to indicate the person to whom it was charged.

Witness said the check is dated the 19th, and the deposit is entered the 18th of January, and from that ticket witness made the entry in the books. The 18th was Saturday. The 8th of February the defendant checked out the \$5,000 from the bank. Could not have been drawn by any one else. The bank would not have honored the check of any other person. There was no other check of \$5,000 deposited that day by any one.

The defendant waived cross examining the witness.

The State then closed.

The defendant did not introduce testimony.

After hearing argument by Mr. R. B. Carpenter for the defendant, Mr. L. F. Youmans and Attorney-General James Connor for the State, and Mr. S. W. Melton for the defendant, in reply :

The judge charged the jury, and Sunday, the 11th day of November, 1877, the jury returned the following verdict : “Guilty. W. C. McGregor, foreman.”

Smalls moved for a new trial and in arrest of judgment, which motion being overruled,

Sentence was pronounced upon the defendant as follows :

The sentence of the court is, that the defendant, Robert Smalls, be confined, at hard labor, in the State penitentiary for three years.

Nov., 1887.

C. P. TOWNSEND,  
Presiding Judge.

Smalls sued out a writ of error to the supreme court of South Carolina, and pending his case therein he was pardoned by the governor.

#### THE STATE OF SOUTH CAROLINA.

By his excellency W. D. Simpson, governor and commander-in-chief in and over the State aforesaid, to all and singular judges, justices, sheriffs, constables, and other officers of justice in the said State, greeting :

Whereas, at a court of general sessions and common pleas begun and holden in Richland County at November term, 1877, before Judge C. P. Townsend, and a jury then and there lawfully empaneled, one Robert Smalls was tried and convicted of “corruptly receiving a gift or gratuity under an agreement to cast his vote as a senator :”

Now know ye that, for divers good causes and considerations we hereunto moving, I have thought fit to pardon, and by these presents do grant a full and free pardon, to the said Robert Smalls.

Given under my hand and the seal of the State, in Columbia, this 23rd day of April, in the year of our Lord one thousand eight hundred and seventy-nine, and in the 103rd year of the Independence of the United States of America.

[SEAL.]

W. D. SIMPSON,  
Governor.

By the Governor.

R. M. SIMS,  
Secretary of State.

CHARLESTON, S. C., April 14th, 1887.

I certify the foregoing to be a true copy of the original pardon exhibited to me this day.

JNO. H. OSTENDORFF, [L. S.]  
Notary Public, S. C.

The within certified copy offered in evidence and is a part of the evidence of page 263, at Charleston, S. C., March 29th to Ap'l 5, 1887.

JNO. H. OSTENDORFF, [L. S.]  
Not. Pub., S. C.

## VIEWS OF THE MINORITY.

The undersigned minority of the Committee on Elections, wholly unable to agree with the conclusions of the majority either in law or fact, beg to dissent therefrom for the following reasons :

Elliott was declared elected by a majority of 532 (Rec., p. 167).

To accomplish this result recourse was had to a series of frauds and a system of partisan rulings and decisions that are not paralleled in any case of contest in American annals.

To demonstrate this assertion examination of the record only is necessary.

### ELECTION OFFICERS ALL DEMOCRATS.

Let it be known at the outset that, with some exceptions in Georgetown County, every State officer of election was a Democrat. The officers of registration, the boards of State and county canvassers, the managers of election were, with the exception referred to, all Democrats. The Republicans were denied representation at the polls and in the count, as well as in the canvassing of the returns. The officers of registration too, without exception, were Democrats.

### THE CONSTRUCTION OF THE DISTRICT.

The seventh district of South Carolina is composed of parts of nine counties. The map of that district, as presented to the committee, is a curiosity. The district was created, according to high Democratic authority, for the express purpose of consolidating the bulk of the colored vote of the State in one district. A leading Democratic newspaper on this point declares (Rec., p. 194) :

[The Greenville Daily News, Greenville, S. C., November 20, 1885.]

### OUR VICTORY IN THE SEVENTH.

We hoped South Carolina was to have political peace, and that the advertising she will have in the future would be favorable and for her good ; but the hope is destroyed by the unnecessary victory won for us in the seventh or "black" district.

We doubt if there has ever been a more unwise or absurd proceeding than the fight against Smalls and the methods used in making it. The Democratic party of the country has gained one member of the House of Representatives to assist at the organization. He is part of a small majority, but his vote is not needed to make a majority, and can not make a two thirds vote. He is a gentleman of good sense and unstained character, but nobody claims for him that he has such remarkable ability that his presence on the floor of the House will add more than his own unnecessary vote to the strength of his party. The State did not need a Democratic Representative from the black district. Six of her seven Representatives and both her Senators are Democrats.

Against this lack of useful results in the defeat of Smalls there is an endless train of bad results. The Republican newspapers and politicians are given a strong case, and they will make the most of it. They will charge that we carved the State into districts on curious lines, and by dividing counties to throw the colored vote into one district, and, not contented with that, have gone into that district and stolen the one

Representative. They will not only charge it, but they will prove it. Our side may, and doubtless will, prove that the county boards acted within the law in throwing out many boxes and hundreds of votes for irregularities. But the fact will stand out bald and unquestioned that Smalls has been defeated by the official negligence of Democratic officials, appointed by Democratic authority. The inference that the negligence was a prearranged plot to deprive the majority of its weight will be too plain and clear for resistance. The State will be put before the country as being party to a plain, deliberate, and wanton fraud.

We do not believe the Democratic party of the country will accept the responsibility for this election, and we know it ought not to do it. The facts and figures will be brought out and put before the world, and if the Democrats in Congress give Colonel Elliott the seat they will be held before the world as aiding and abetting a crime and receiving its results. From what has been printed in Democratic newspapers regarding the election in the Seventh district the Democrats could not afford to sustain the result as declared if Colonel Elliott's vote made their majority in the House. The chances are nine to one that South Carolina will not only be abused and denounced by the Republicans, but that this piece of work will be repudiated by our party in the country, and we will have the stigma fixed on us by the combined voice of foes and friends.

The harm is not only in the future. This election destroys the work of years. We have claimed persistently that all the doubtful methods we have used in elections were justifiable as being necessary for self-preservation, to defend our families and property from barbarism and corruption. That claim is just and true, and on it we have won toleration and sympathy. Now our enemies—and we have plenty of them—will point to this election as evidence that we have been lying, and will cite its wantonness to prove that we have been inspired only by greed for power and the determination to deprive the negro of political rights.

The effect on the material prosperity of the State in repelling immigrants and capital must be bad. The effect on the people of the State must be bad. It is useless to preach honesty and integrity while the leading and most trusted men of the State publicly use and sanction such methods as have been used to count out Smalls.

"It's an ill bird that fouls its own nest." Our nest has been fouled without reason or excuse. We wish to avoid our share of the fouling as far as possible by proclaiming as publicly as we can that we condemn the proceedings in the black district, and hold no sympathy with them or those connected with them. They are too much like Republican methods to be agreeable to us.

There is no more complete rascal than Robert Smalls. There are few better gentlemen than Col. William Elliott. But the use of flagrant unfairness to defeat the choice of the colored Republicans in the one Congressional district allotted to them is contrary to the honorable traditions and principles of our people and party, a miserable political blunder, and a moral wrong.

To form the district, the legislature of South Carolina executed the most complete and curious piece of "gerrymandering" known to political history, and with eccentric lines and anomalous angles succeeded in throwing into the Seventh Congressional district of that State a population of about 180,000, of which 150,000 are colored and 30,000 are white, and in which are 32,000 colored voters and 7,000 white.

It will not be denied that the object of this gerrymander was to concede to the colored Republicans one Congressional district, and to so concentrate their vote that their influence would not be felt outside of the black district, and that South Carolina would return six Democratic and one Republican Representative to Congress.

#### METHODS OF CARRYING THE DISTRICT.

But it was determined to capture the "black district," and in order to do so three lines of fraudulent action were determined upon, and successfully carried into execution.

#### PREVENTING REGISTRATION.

*First.*—There was a systematic and studied effort to deny to colored voters the right to register and to change their registration certificates. The law of South Carolina requires that every voter who shall change his residence shall take out a new registration certificate. A fair and

equitable statute would seem to require a new registration certificate only when the voter had changed from one voting precinct to another in the same county, or from one county to another. But the more rigid law was adopted, requiring a change of certificate every time a voter removed from one house to another in the same precinct and even upon the same plantation. Not only this, but the record is replete with testimony showing that every possible hindrance was thrown in the way of colored voters to prevent them from securing their registration certificates by the Democratic officers in charge of the registration of voters.

For example, we cite from the record a few instances.

Testimony of Richard Thompson (Rec., p. 387):

Q. State your name, age, residence, and occupation.—A. Richard Thompson; 35; Sumter, and a blacksmith by occupation.

Q. What polling precinct did you attend at the last election?—A. Sumter precinct.

Q. For whom did you intend to vote for Congress?—A. For Smalls.

Q. Did you vote?—A. I did not.

Q. Why not?—A. I had no certificate.

Q. Did you offer to vote?—A. I did.

Q. Who objected to your voting?—A. Mr. Lee and Col. Graham.

Q. Did you ever apply to the supervisor of registration for a certificate?—A. I did, after misplacing mine.

Q. When and where?—A. At the court-house.

Q. What year?—A. In 1886.

Q. Why did he not issue one to you?—A. He stated that I was well enough known, that I could vote anyhow; and if I could not find mine I could vote anyhow.

Cross-examination:

Q. You say that you were regularly registered in 1882 and received your certificate of registration?—A. I did.

Q. Between that time and the last general election you say you lost your certificate?—A. I did.

Q. On last election day were you admitted into the polling precinct?—A. I was admitted in.

Q. And you testified that Col. Graham and Mr. Lee refused to allow you to vote because you had no certificate?—A. That's it.

Q. Do you remember who the managers of election were?—A. A couple of young boys, whom I do not now remember.

Q. Do you remember that Mr. Julius Solomons, Mr. Keets, and Jennings were the managers?—A. I do not remember.

Q. When did you apply to the supervisor to procure a renewal certificate?—A. I don't remember whether it was July or August, last year.

Q. Did you not know that under the act of the legislature amending the general registration laws the supervisor could only issue renewals under certain conditions specified in the act?—A. I do not know anything about that.

Q. In July or August last year, when you applied for a renewal, did you make an affidavit as to the circumstances of the loss of the original certificate?—A. I did not.

R. THOMPSON.

Again, the testimony of H. Branson (Rec., p. 379):

Q. State your name, age, residence, and occupation.—A. H. Branson; 47 years old; Concord precinct, and a farmer.

Q. What polling precinct did you attend at the last election?—A. At Concord precinct.

Q. For whom did you intend to vote?—A. Gen'l Smalls was my choice.

Q. Did you have your registration certificate with you?—A. I did not.

Q. Why did you not have it with you?—A. Because I could not get any.

Q. Did you ever apply to the supervisor of registration for a certificate; where and when?—A. I did at the registration at Concord, and at the court-house in Sumter.

Q. In what year?—A. Last year; in May, I think.

Q. Did you ever apply before that year?—A. I did.

Q. How many days did you apply at Concord, and how many at Sumter?—A. I applied at Concord 3 days and at Sumter 2 days.

Q. How near to the supervisor did you get?—A. Near enough to rest my elbow at his desk.

Q. Did you call his attention to that fact?—A. I did.

Q. Did you call out your name?—A. I did.

Q. Will you swear that you made every effort to obtain a certificate?  
(Objected to as leading.)

A. I will. I made every effort to get one.

Cross-examination:

Q. You say you were rejected by the managers at the last election because you had no registration certificate; is that right?—A. It is right.

Q. Did they ask you if you had a certificate?—A. They did.

Q. Did you tell them you had none?—A. I did.

Q. Did you have any further conversation with the managers of election?—A. I did not; I passed right on.

Q. You were present when Tiser Nelson testified; do you agree with him as to the number of days the supervisor had the office open at Concord and at Sumter, and as to the crowd at both of these places?—A. My recollection is different from his; I agree as to the number of days, but not the number of the crowds.

Q. How many days were you at Sumter?—A. I was at Sumter 2 days.

Q. Did Mr. Gaillard, the supervisor, state to you at Concord or at Sumter that he refused to register you?—A. He did not say to me that he refused to register me at Concord, but on the last day while at Sumter I came in that morning after the office being opened and I asked, "Can I get any registration papers to-day?" and the reply was, "How old are you?" I stated 40 or more years old, to which remarks was replied that I could get none, as the registration was only open for the young men that had become of age.

Q. When was that?—A. May, 1886, I think.

Q. That was not as far back as 5 years ago?—A. It was not.

H. BRANSON.

It is useless to cumber this report with testimony in corroboration of the above. The record is full of it (see testimony of Seymore, p. 367; Woods, 376; Nelson, 378; Perry, 379; F. Seymore, 380; McCoy, 384; Canty, 385; Sims, 385; Thompson, 387; Peterson, 389; Cuthbert, 390; Brittain, 393; Laws, 395; Singleton, 396; Leaf, 396; Crosky, 398; Harvin, 400; McIlwain, 401; Singleton, 401; Bliss, 402, and many others). All these witnesses disclose the fact of earnest and repeated endeavor to obtain their registration certificates, and the denial of the right to them by the officials in charge. In one instance a voter walked 34 miles and endeavored through several days to obtain his certificate, but in vain. It is also true that each and every one of these voters intended to vote for contestant. There are 22 of them in all. They attempted to register and were refused, although qualified. Then they attempted to vote and were denied by the managers because they were not registered. Here are at least 22 votes that should be counted for contestant, unless organized and shameless fraud is to receive condonement and affirmation by the House of Representatives.

#### REJECTION OF REGISTERED VOTERS.

*Second.*—The next phase of this system of fraud which we will briefly notice is the open, shameless, and causeless rejection of voters who held registration certificates. From the record is cited a few instances of this character, with reference to others.

Testimony of Richard Singleton (pp. 368-9):

Q. State your name, age, residence, and occupation.—A. My name is Richard Singleton; about 29 years old; Sumter precinct, and a farmer by occupation.

Q. What polling precinct did you attend on the day of the general election?—A. Sumter precinct.

Q. Were you registered at that precinct?—A. I was [produces the registration certificate].

[Registration certificate No. 4167, Sumter County, Sumter Township or Parish—Election precinct, Sumter No. 1.]

The bearer, Richard Singleton, is a qualified voter in the above precinct, and resides at estate of Jno. Moore's land in Sumter Township or ——— Parish, and is 24 years of age, and is entitled to vote at said precinct.

Registered on the 21st day of June, A. D. 1882.

P. P. GAILLARD,  
Supervisor of Registration.

- Q. Did you have your certificate with you on the day of election?—A. I did.
- Q. For whom did you intend to vote for Congress?—A. For Robert Smalls.
- Q. Did you vote?—A. I did not.
- Q. Why not?—A. Because I was objected to—John Schwien and Keels, the managers of election.
- Q. For what reason?—A. They said the certificate was not right.
- Q. Did they say in what respect it was not right?—A. They asked me at what place I was living at; to which I replied on Singleton Moore's place, which has been the place of John Moore, who is dead.
- Q. When you obtained your certificate of registration was John Moore living?—A. He was dead, but Singleton Moore had charge of it.
- Q. Was it not generally known as John Moore's place?—A. It is generally known as John Moore's place.
- Q. When did you vote last?—A. The election before this.
- Q. On what certificate did you vote?—A. On the same certificate.
- Q. Did any one at that time make any objections to your voting?—A. No one did.
- Q. Were you living at the same place when you offered to vote at the last election?—A. At the same place.
- Q. Did or did not the managers state that the reasons for rejecting you was that you had changed residences?—A. They did not.
- Q. Do you know of your own knowledge of any person or persons, who lived near you, or in the same house with you, that were allowed to vote?—A. My father, who was allowed to vote, lived in the same street.

#### Testimony of Anthony Bracy (p. 386) :

Q. State your name, age, residence, and occupation.—A. Anthony Bracy; about 45; Sumter, and a hackman by occupation.

Q. What polling precinct did you attend on the day of the general election?—A. Sumter precinct. (Witness produces his certificate of registration.)

[“Registration certificate No. 4644. Sumter County, Sumter Township or Parish, election precinct, Sumter No. 1.”]

“The bearer, Anthony Bracy, is a qualified voter in the above precinct, and resides at L. P. Loring's, in Sumter Township or Parish, and is 39 years of age, and is entitled to vote at said precinct.

“Registered on the 30th day of June, A. D. 1882.

“P. P. GAILLARD,  
“Supervisor of Registration.”]

- Q. For whom did you intend to vote for Congress?—A. For Smalls.
- Q. Did you have your certificate with you?—A. I had.
- Q. Did you vote?—A. I did vote, but not at the Congressional box.
- Q. Who objected to your voting?—A. Manager Keets did, the—
- Q. Did he state his reasons for objecting to your voting?—A. He did; because I changed my residence.
- Q. Where were you living when you changed that certificate?—A. At L. P. Loring's.
- Q. Where were you living when you offered to vote for Congress?—A. At Mr. Richardson's.
- Q. You stated that you did vote at the last election. At what boxes did you vote at?—A. At the State boxes.
- Q. On what certificate did you vote?—A. On the same one you hold in your hands.
- Q. For the candidates of what political party did you vote?—A. The Democratic party.

The testimony of these two witnesses is amply corroborated. The first witness was rejected without cause. There is no pretense of cause. The second witness was rejected because he had moved from one house to another within the same voting precinct. But it should be remarked that he was allowed to vote upon the same certificate for the Democratic State and county officers, and refused the privilege of voting for Smalls (contestant), although a qualified and registered voter of and for the precinct in which he attempted to vote.

Similar testimony is borne by Carter, p. 345; J. Carter, 346; Davis, 346-7; Montgomery, 348; Willston, 349; Washington, 350; Campbell, 351; Gary, 352; Glover, 355; Plonden, 360; M. Nelson, 360; Hampton, 362; Richardson, 363; Harrison, 364; Austin, 364; Davis, 370; Brad-

ley, 389; Anderson, 391-2; Green, 392; Wright, 397; Smith, 398; Lowry, 403; and Turney, pp. 370-1. A careful analysis of the testimony cited will show conclusively the rejection by the managers of election, all of whom were Democrats, of 277 legally registered and qualified voters, without the shadow of cause, excuse, or justification. This occurred at Sumter precinct, in Sumter County. It is also shown beyond a doubt that each of these 277 voters were the party friends of, and intended to vote for, Smalls, the contestant. Having been rejected without legal cause or justification, they should now be counted, unless the House of Representatives shall decide to become party to the crime of their rejection, which this minority refuse to believe.

The count would then stand—

Voters illegally denied registration.....	22
Voters rejected without cause.....	277
	<hr/>
Or to be added to Smalls' vote in Sumter County.....	299

### REJECTION OF POLLS.

*Third.*—The third feature of the organized fraud under which Elliott (contestee) holds his seat is the illegal rejection by the boards of canvassers of certain polls in several counties of the district for causes that did not exist and upon pretexts too trivial for serious consideration. Most prominent among these rejected polls is Brick Church poll, in Beaufort County. By agreement (Rec., p. 88) it is admitted that the vote at this poll was as follows:

For Robert Smalls (contestant).....	503
For William Elliott (contestee).....	45
	<hr/>
Majority for Smalls.....	458

This poll was rejected, both by the State and county boards of canvassers, for riot and intimidation that necessitated the closing of the polls.

The minority undertake to say that the cause assigned for rejecting the Brick Church vote was utterly false and unfounded.

There was no riot. There was no occasion for closing the polls. The polls were in fact not closed, though the manager interrupted the voting three times, on account of noise on the outside, but said interruptions did not in all last more than twenty to twenty-five minutes, and there is no allegation or proof that any voter was deprived of the privilege of voting on account of said interruption.

We deem it necessary to cite the testimony quite fully in relation to this box, but shall content ourselves with quoting the testimony only of the officers of the election and of colored and white Democrats, the active supporters of Elliott, the contestee.

The manager, Mr. Fripp, a white Democrat, testifies as follows (Rec., pp. 626-7-8):

Q. Give your name, age, and residence.—A. E. W. Fripp; 29 years of age; St. Helena Island, Beaufort County.

Q. What, if any, official position did you hold in reference to the election for Congressman, held in Brick Church precinct, on St. Helena Island, on the 2d day of November last?—A. I was appointed one of the managers, with John Brown and William Pritchard. I went to hunt up John Brown; he was sick, and would not serve. I then saw Pritchard, and he said he would not serve because he was afraid of the people mobbing him; that the people were threatening all the white Democrats, and he would not have anything to do with it. I then went to Beaufort and got authority to appoint some one in their place; then I went to McDonald and tried to get

him; he would not serve because it interfered with his trade as a store-keeper; I then appointed Gabriel Eddings, a Republican and a good man, to serve with me. We two conducted the poll; we appointed Jackson W. Brown as clerk; he was also Republican supervisor.

Q. Were there any interruptions of the voting at the poll during the day?—A. Yes, sir; the first interruption that occurred was their coming in, six or eight at a time, to vote. I then told them that but one could vote at a time, and they must go outside and come in one at a time; I had a constable at the door, but they pressed against him so that he could not hold the door closed; I told him if he could not keep them back to lock the door, and he then locked the door; I then kept the door locked till they quieted down, and then they came in very well one by one. They came in a crowd again after that, and we had to lock the door again; they pushed the constable away and we had to threaten to put them out. The third time there was such a crowd outside and were making such a noise until the clerk could not hear the names called on the registration ticket. I then locked the door and went around the house to the piazza, and told them that it was impossible to carry on the voting unless they stopped the row.

Q. For what length of time, during those several interruptions you have described, was it necessary to keep the poll closed?—A. The first time about five minutes; the second time about the same or longer; the third time I suppose about a quarter of an hour or over. When they saw I intended to close the poll or keep it closed Gantt took them, the crowd, down the road.

Q. Was there any threatening or abuse of yourself during the day?—A. One man that came in to vote and I asked him to show me his registration certificate; he refused to do so, and said he would vote without showing it to me; he said his name was on the back all right; he started to put his ticket into the box and I pushed his hand away; he was mad and looked provoked, and I told the constable to put him out; he kept persisting in trying to vote and I would not let him without showing his registration certificate; after he saw I was going to have him put out he showed his registration certificate; his certificate proved to be all right, and he voted. I went out about 2 o'clock and met the same man in a crowd of about fifteen or twenty, right by the door, and he then said to the others, "This is the Democrat that would not let me vote without showing my ticket; come, let us mob him;" I then passed on and took no further notice of him.

Q. How long have you lived on St. Helena Island?—A. Since 1882, and live there still.

Q. About how many white voters have you on St. Helena Island?—A. About 17 or 18.

Q. About what is the colored vote of that island?—A. Nine hundred or over.

Q. The white men on that island are principally merchants, are they not?—A. Yes.

Q. Do you know of a single one that has ever left that island or quit his mercantile business on account of politics?—A. I do not.

Q. Is it not a fact that most if not all of those white merchants are Democrats?—A. I think they are.

Q. Capt. Ward is a prosperous merchant there, a strong Democrat, been there for many years, and still does business there; is that true or not?—A. I believe it to be true.

Q. Will you give me the name of this man who insisted upon voting without showing his registration certificate?—A. I don't know his name.

Q. Will you give me the name of any person or persons that you know of, who were prevented from voting, by threats or violence, at the last election, at the poll at which you were one of the managers?—A. I can not.

Q. Do you know that there is one that was so prevented?—A. No.

Redirect:

Q. You were occupied with your duties as manager inside of the polling place during the day, were you not?—A. Yes.

Q. If voters had been intimidated on the outside, and were prevented from voting by such intimidations, you could not have known it, could you?—A. No.

Next is the testimony of the other manager, Gabriel Eddings, a Republican, and who, according to the testimony of Fripp, Democratic manager, is "a good man" (Rec., p. 627).

Eddings testifies at page 443, Rec., as follows:

Question. Give me your name, age, and residence, and state where you were on the 2d day of November last.—A. Gabriel Eddings; about 31 years old; resides at Club Bridge; on the 2d of November last I was at the poll.

Q. What did you do that day?—A. I was acting as supervisor.

Q. By whom were you appointed?—A. By the manager, Mr. Fripp.

Q. Did you see Mr. Gantt on that day?—A. I did.

Q. Please state what his conduct was as far as you saw; state whether he came inside of the polling place, and if he did, state how he entered and in what manner he acted.—A. He did come in, but it is impossible for me to say that he was making any noise, for it was not so to my knowledge, nor did he create any excitement.

Q. Was there any interruption of the polling of votes; and if so, state what it was, and the alleged cause?—A. The poll was not closed on account of any interruption; the poll was not closed to my knowledge during the day.

Q. Was there any unusual noise at the poll that day?—A. There was not more than what we are subject to on election day.

Q. State if there was a great anxiety on the part of the people to get through voting.—A. It did not seem so more than usual at any other election.

Cross-examination:

Q. Were you at the poll all day?—A. Yes, I was.

Q. Were not the polls closed at any time during the day and voting stopped in consequence of disturbance at the poll?—A. The poll did not close.

Q. Did not a good many women come into and pass through the polling-place during the voting?—A. They did not.

Q. Was the poll closed for any reason during the day?—A. No.

Q. For what purpose did Gantt go into the poll on the day of election?—A. To my knowledge I could not state at this time.

Q. How long did he remain in there?—A. Not more than a minute or so, as well as I can remember.

Q. Did he have anything to say while in there; and if so, what did he say?—A. He did not have anything to say, only there was trying to get in at the same time two men, and Mr. Fripp objected, saying that they must vote one by one, and Gantt tried to correct the boys, telling them that they must come in one by one.

Q. Are you a Democrat or Republican?—A. I am a Republican.

Q. Were you not one of the managers of election?—A. I was.

Q. Are you a white man or colored man?—A. I am colored.

The next witness, Jackson W. Brown, clerk and supervisor, testifies at page 290 and again at pages 439, 440, and 441:

Q. Give your name, age, and residence. State where you were on the 2d day of November last; what official position or positions you held in connection with the election.—A. Jackson W. Brown; age, 32 years; resides on St. Helena Island. On the 2d of November last I was at the Congressional poll as supervisor, and as there was no one to act as clerk, the manager begged that I would act.

Q. What time did you arrive at the poll and what time did you leave?—A. I arrived by daylight and never left till all the votes were counted and everybody disbanded.

Q. Was there any disturbance at the poll?—A. No.

Q. Was there or not any quarrel inside the polling precinct during that day?—A. None.

Q. Did or did not George Rivers and Hasting Gantt have words inside the room where the poll was held which caused the poll to close?—A. They did not, inside the room nor outside, to my knowledge.

Q. If the poll had been closed on that account would you not have known it?—A. I certainly would.

Q. Chance Green has testified that George Rivers and Hastings Gantt went into the polling place together, and Rivers went in to vote and that Rivers and Gantt began to quarrel about Rivers voting the Democratic ticket and that the poll was closed on that account. Is that true or not?—A. There was nothing of the kind.

Q. Was the poll, or the room where the poll was held, broken into by any one during that day?—A. No.

Q. Did or did not any crowd rush to the room where the poll was held threatening to take out the Democratic constable, and demanding that a Republican constable be appointed?—A. Shame on any that say such; it is not so.

Q. Did or did not Hasting Gantt, Alfred Watkins, and others rush into the room where the poll was being held and demand the appointment of a Republican constable?—A. They did not.

Q. Was the poll closed on that day? and, if so, state how often. If more than once, state how long it was closed at each time, and upon whose authority it was closed, and what was the alleged reasons for its having been closed?—A. The poll was closed twice during the day, and about five minutes each time—first on account of the voters having so much noise on the stoop; second, on account of more than one wishing to come in at the same time. After the constable was appointed to let them in by turns the noise all ceased and went all peaceable.

Q. You speak of noise. What was the character of that noise?—A. Laughing and talking.

Q. You say that you acted as clerk. Were you at any time disturbed by the noise on the outside?—A. Never was disturbed.

Q. Was there or not many persons who desired to vote but could not vote because of the alleged loss of their registration certificates?—A. A great many of them.

Q. Were there any persons that you know of at the poll that day who did not vote or could not vote on account of the noise and disturbance made by Republicans?—A. No, there was not one.

Q. Were there any women at or about the poll that day?—A. There was none except those way off keeping tables to sell.

Cross-examination :

Q. Are you a Republican?—A. I am.

Q. You say there was no quarreling inside the poll. Were you on the inside the whole day?—A. I was on the inside the whole day. As I before stated, heard of none and knew of none.

Q. How many windows in the poll were open that day?—A. Two.

Q. How do these windows face?—A. South and east.

Q. How do you know, then, that there were no women at the poll if you were in the poll all day?—A. Had there been any woman at the poll that I did not see, if they had raised any disturbance I certainly would hear them if I could not see them.

Q. Well, then, you mean to say you did not see or did not hear them, but not that they were not there?—A. A few women were around the poll who had tables.

Q. Where did the women have the tables; to the south and east or north and west?—A. Fronting to the south from the poll.

Q. Will you swear that there were no other women to the north and west of the poll?—A. No.

Q. Did you take the length of time that the poll was closed by a watch or clock?—A. I did by my watch; the poll was opened by my time and closed by my time.

Q. Did you take the length of time during the hours of voting when the poll was closed on account of noise, and because more than one voter wanted to come in at one time?—A. I did.

Q. Will you swear that it was only 5 minutes each time?—A. I can.

Q. What made you take the time?—A. Because I said then to the manager so long as there is talking and not fighting I deem it unconstitutional that the poll should be closed.

Q. Was the door locked when the poll was closed?—A. The door to admit voters was locked, the other was not.

Q. Was the other door shut?—A. No.

Q. Were the people other than voters passing through the room?—A. I think not; to the best of my memory one of Dr. Peter's patients passed through.

Q. What did the managers say when you said that the closing of the poll was unconstitutional?—A. He said that he would not receive one vote as long as they kept talking so loud.

Q. Did he not go out and try to stop the noise?—A. He did nothing of the kind.

Q. Did he stay in the poll the whole day?—A. Yes; he went out twice on his specific occasions.

Q. At what hour was the poll shut on account of noise?—A. First at 5 minutes to 10 o'clock, second, quarter to 11 o'clock.

Re-direct examination :

Q. Did Mr. Fripp, at the time of the closing of the poll, when you made an objection to its closing, have anything else to say except what you have stated?—A. He had not; only took his book that contained the laws and government of managers; after reading he went no further.

We now cite the testimony of the Democratic supervisor of elections, a white man, an organizer of Democratic clubs. This witness is Captain Ransom Ward. His testimony will be found at p. 296, Rec.:

Q. State your name, age, residence, occupation, and where you were on the 2d day of November last.—A. R. Ward; 59 years; St. Helena; merchant and painter. I was at the Congressional polls on St. Helena Island.

Q. Were you one of the election officers; and, if so, in what capacity did you act?—A. Supervisor.

Q. How long did you remain at the polls?—A. Through the day. I didn't get here till late, and I remained here after I got here, about when the mail left, a little after 11, till night; sickness in my family detained me.

Q. During your stay at the polls was there any riotous conduct or disturbance during the day?—A. None that I saw.

Q. Did you hear any?—A. I heard more or less noise outside, but none in here.

Cross-examination by Mr. VERDIER:

Q. Your testimony refers entirely to the room in which the poll was held, does it not?—A. Yes, sir.

Such is the testimony of the four officers who held the election—two of them white Democrats, supporters of Elliott (contestee), and two of them colored Republicans, supporters of Smalls (contestant). They agree in all the main essentials, and concur that there was no riot, no fighting, no intimidation; that the voting was interrupted three times, and that the aggregate of all the interruption was not over twenty-five minutes. Nowhere is it alleged or intimated that these interruptions deprived any citizen of his right to vote.

Now, to this testimony we add that of the supporters, white and colored, of the contestee, all of whom were his partisans, and some of them engaged in distributing his tickets.

First, we cite John Major, a colored Democrat and partisan of contestee (Rec., p. 296):

Q. State your age, name, residence, and occupation, and where you were on November last.—A. John Major; 32; Tripp's Point, St. Helena; am a farmer. I was here, voting at the Congressional poll.

Q. Was there or not any disturbance, riot, or riotous conduct, or any intimidation of voters, as far as you saw, that day?—A. No, sir.

Q. How long did you remain at the polls?—A. Till about half past 5, sir.

Q. What were you doing most of the day?—A. I issue out tickets, sir.

Q. Whose tickets?—A. Colonel Elliott's.

Q. Were or were you not a member of the Democratic club, and were or were you not an officer of said club?—A. I was the president of the club.

Cross-examined by Mr. VERDIER:

Q. Wasn't there a good deal of threatening against Democrats by Republicans before the day of election on St. Helena Island?—A. No, sir; not in my presence.

Q. Do you know Emanuel Washington?—A. Yes, sir.

Q. Do you know Thomas H. Wheeler?—A. Yes, sir.

Q. Is Thomas H. Wheeler school commissioner?—A. Yes, sir.

Q. Did you hear Emanuel Washington apply to Mr. Wheeler for a teacher's place?—A. He told me so; I wasn't there when he asked for it.

Q. Do you know what Wheeler said to him?—A. No, sir.

Q. Did you hear January Rivers and Morris Heyward tell Wheeler that they wanted teachers' places?—A. I wasn't present with them, sir.

Q. Do you know Adam Heyward?—A. Yes, sir.

Q. Did you hear Adam Heyward say openly at church that Wheeler said he would give no Democrat a teacher's certificate?—A. I wasn't present; that is what Manual Washington told me.

Next Jeffrey Holmes, a colored partisan of contestee (Rec., p. 295):

Q. State your name, age, residence, occupation, and state where you were on the 2d day of November last?—A. Jeffrey Holmes; 36 years old; Coffin Point; am a farmer; I was here, at the Congressional poll, at Dr. Peters' shop, all day.

Q. Was there or not any riot, riotous or disorderly conduct, or any intimidation of voters, so far as you saw, that day?—A. No; I only saw at one time the manager, Mr. Tripp, come out and say they couldn't vote because there was so much racket outside. They stopped about five minutes. Cyrus Jenkins was out there making a little fun for the boys, and after he came out and made that expression then everything was quiet the balance of that day.

Q. What were you doing at the polls?—A. I was issuing out Mr. Elliott's tickets.

Cross-examined by Mr. VERDIER:

Q. Do you know Chance Green?—A. Yes, sir; I know him.

Q. Didn't you ask him that day if it was right to have so much fuss at the polls?—A. I did not.

Q. Wasn't there a fight near the polls on that day?—A. Not to my knowledge.

Q. Wasn't there a good deal of threatening against Democrats by Republicans on the island?—A. None didn't made against me, because I just come, only five days of the election, from Charleston; none was made during that time, before or after.

Next is March Aiken, a colored Democrat and a peace officer, who voted for contestee (Rec., p. 294):

Q. Give your name, age, occupation, and state where you were on the second day of November last.—A. March Aiken; 46 years; am a farmer. I was at the poll here on that day.

Q. What poll?—A. This same poll, Congressional poll.

Q. What were you doing at this Congressional poll?—A. I was constable at the poll.

Q. How long did you remain at the poll?—A. I was there when it opened and remained till it closed.

Q. Did you not remain there the entire day?—A. I was there the entire day, till it close.

Q. Was there any riot, riotous conduct, disturbance, or any intimidation of voters during that day?—A. I was in the house all the day. All the racket was to this door and that door. When they called out the names I could have heard it, and they told me to close the door and go out and stop the racket. There was nothing fighting, only joking and running raid on one another.

Q. What time was that?—A. About between 12 and 11 o'clock.

Q. Did it cease when you told them to stop?—A. Yes, sir; they went out from the door.

Q. In the morning did you or not, as constable, form the people into a line?—A. Yes, sir; by rushing and pushing the door I went out and formed them in a line.

Q. Did you vote on that day?—A. Yes, sir.

Q. For whom did you vote?—A. I voted for Elliott.

Q. Was there, or not, any intimidation, as far as you saw or heard, or any violence or threats made against any person who desired to vote for Wm. Elliott for Congress on that day?—A. I don't know. The men who distributed the tickets can answer. I was here inside the door.

Q. Then you did not hear any?—A. No, sir; I didn't; no more than only the racket out the doors. I was in the house all the time.

Q. Was the racket the joking you spoke of before?—A. Yes, sir.

Next is Dr. W. C. Peters, white, Democrat, in whose office the election was held:

Q. What is your name, where do you live, and what is your occupation?—A. Wm. C. Peters; I live on St. Helena Island, and am a practicing physician.

Q. Where were you on the second day of November last?—A. I was at my office during the hours of 9 to 5; I was away part of that time making professional visits.

Q. Can you remember what portion of the time you were away?—A. As near as I can recollect it was between the hours of 11 and 2 o'clock.

Q. During your stay, what was the character of the election as far as it relates to the conduct of the people at the polls?—A. The people here on this island have held their election here several times, and I saw no difference in them of what it was heretofore.

Q. Was there any riotous behavior or violence?—A. None that I have seen.

Q. Was it or not a peaceful election?—A. It was a peaceful election.

Q. Did you or not hear any of the managers on that day speak of the character of the election?—A. I can't say that I did.

Q. Did you hear of any violence or disorderly conduct or intimidation of voters on that day?—A. No.

Q. Where was the Congressional poll of the Brick Church precinct of Beaufort County held on the second day of November last?—A. At my office, on St. Helena Island.

Q. Did you use a portion of the same building for your own purposes during the day?—A. I did.

Above is the testimony of eight men—five of whom were election officers and six of whom were the partisan friends of contestee—three of whom were white and five colored men. We ask careful reading of their testimony, and assert, without fear of successful contradiction, that it is established conclusively—

First. That there was no riot, intimidation, or fighting at or near the polls.

Second. That the voters tried to come in too rapidly, which caused the managers twice to suspend the voting, each time for about five minutes, when it was resumed.

Third. That the good-natured laughing, joking, and loud talking too near the polls caused Mr. Fripp, the Democratic manager, to interrupt the voting and to go out and request order, and that his request was at once complied with, and that this occasioned a third interruption, lasting, perhaps, fifteen minutes.

Fourth. That thus the whole of the three interruptions did not consume over twenty-five minutes, and that no one was thereby deprived of his right to vote.

And this testimony, mainly given by white and colored Democrats, is corroborated by that of at least fifty witnesses. We refer to a few of them. (*Vide* testimony of Watson, p. 434; Middleton, p. 435; Ned Majer, p. 436; Jenkins, p. 437; Singleton, p. 441; A. Small, p. 443; Nab Small, p. 444; Gantt, p. 291; McDonald, p. 293; Jackson, p. 296; Washington, p. 297; L. F. Chaplin, p. 297; J. B. Colonel, p. 297; Watkins, p. 298; P. Watson, p. 298; J. Young, pp. 298, 299; Mack, p. 299; Hasel, p. 299; C. Jenkins, pp. 299, 300; T. B. Rivers, p. 300; Tony Watkins, pp. 300, 301; L. Chisholm, p. 301; M. Riley, p. 301, and many others.)

Such being the facts, let us recur to the law.

The statute of South Carolina requires the polls to be kept open from 7 a. m. to 6 p. m., "without interruption and adjournment." It does not void an election because of temporary adjournment. The purpose of the law is that all shall be given an opportunity to vote and that the eleven hours set apart for the exercise of that right shall not be curtailed. It is nowhere alleged or shown that the twenty-five minutes interruption deprived any man of the opportunity to vote or had the slightest effect upon the result of the election the one way or the other.

The law is clearly laid down in McCrary (page 104, paragraph 142):

1. If the statute fixing the hours during which the polls shall remain open expressly declares that a failure in this respect shall render the election void, it must be strictly enforced.

2. But in the absence of such a provision in the statute it will be regarded *as so far directory only* as that unless the deviation from the legal hour has affected the result, it will be disregarded.

3. If the deviation from the legal hours be great or even considerable, the presumption will be that it has affected the result, and the burden to overthrow this presumption will be on him who upholds the election. But if the deviation be slight, the presumption will be that the result was not affected, and the *onus* will be shifted to him who attacks the election to show that the deviation did affect the result.

Such is undoubtedly the law.

In the case at bar the whole interruption was slight.

It is not pretended that the result was affected thereby.

The statutes of South Carolina do not void an election because of deviation from the hours fixed.

The evidence shows that the election was fair and peaceable.

Under this condition of law and fact, upon what principle the board of canvassers threw out the Brick Church box we are unable to see. That box must be counted, unless the House of Representatives shall make itself party to open, shameless, inexcusable, and unpalliated fraud and crime. If the fraud and crime ended merely with depriving contestant of his seat and in temporarily disfranchising some 500 American citizens, it were bad enough. But our system of Government, founded upon the right of the people to rule and the sanctity of the ballot, can not long withstand assaults like this, if they be tolerated and condoned by the representative body of the people. The vote of Brick Church

should be counted, and to Smalls's (contestant) vote must be added 503 votes and to Elliott's (contestee) vote must be added 43 votes.

In argument before the committee contestee's counsel claimed that there was not a quorum of managers at Brick Church box.

This question was not raised by the contestee in his replication. But if it were, we need only cite the law, which provides for three managers; that Tripp was one, and that he obtained authority to appoint others, and that under that authority he "appointed Gabriel Eddings, a Republican, and a good man." (See Tripp's testimony, Rec., 627.) Eddings served "under color of authority" at least, and was a *de facto* officer, and with Tripp constituted a quorum of managers present.

Up to the Forty-first Congress the authorities conflicted, but the weight of authority was as laid down in Jackson *v.* Wayne, to wit: that, when the law required three magistrates to preside at the election, a return by three persons, two of whom were not magistrates, was defective. In three other cases it had been held that a failure on the part of election officers to take the required oath voided the election. (McFarland *v.* Culpepper; Easton *v.* Scott; Draper *v.* Johnson.) In another case a precinct was thrown out because only two inspectors were present, the law requiring three. (Howard *v.* Cooper, 1 Bartlett, 375.)

But, on the other hand, it had been decided in Mullikin *v.* Fuller, Clark *v.* Hall, Flanders *v.* Hahn, and Blair *v.* Barrett, 1 Bartlett, 176, 215, 443, and 318, that in the absence of fraud the acts of a *de facto* officer of election are valid as to third persons and the public.

But in the Forty-first Congress arose the case of Barnes *v.* Adams. The question of officers of election *de facto* and *de jure* was elaborately discussed and all the cases both in the courts and Congress were elaborately reviewed, and it was finally held that *de facto* officers, *having color of authority*, may hold an election, and that in the absence of fraud their acts, in so far as they affect third parties and the public, are perfectly valid. (2 Bartlett, 760; *ib.*, 897; Gooding *v.* Wilson, Forty-second Congress; People *v.* Cook, 4 Selden; Taylor *v.* Taylor, 10 Minn., 107; 10 Mo., 121; 10 Cal., 352; 14 Barbour, 259, and many other cases.) McCrary cites the Congressional and court cases, and dwells at great length on the case of Barnes *v.* Adams, and then declares that "the report in that case was adopted by the House after a full discussion *nem. con.*, and the doctrine then asserted may now be regarded as the settled law of the House." (McCrary's Law of Elections, § 78.)

Eddings was therefore a *de facto* officer, acting *under color of authority*; there is no allegation or proof of fraud, and his acts, in so far as they affect the parties to this case and the public, are binding and valid.

#### BRICK EPISCOPAL CHURCH.

The next "rejected box" is that of "Brick Episcopal Church," in Berkeley County. By agreement (p. 88, Rec.) it is admitted that the vote there cast was—

	Votes.
For Robert Smalls.....	267
For William Elliott.....	3
Smalls' majority.....	264

This vote, contestee claims, should not be counted upon three grounds (see his answer, clause 3, page 643, Record):

First. Intimidation of voters.

Second. That the voters at that box did not hold registration certificates.

Third. That no list of registered voters for said precinct was prepared, because of the failure of the voters to register.

As to the first ground, there is not a line or syllable of testimony in the record attempting to show intimidation of voters at Brick Episcopal Church. The general charge of intimidation we will notice further on, but nowhere does it apply to the conduct of the election at this precinct, and we therefore dismiss it.

As to the other charges, that the voters were not registered, and that no registration list was prepared for said precinct, they are absolutely and unqualifiedly untrue.

*The voters were registered, produced their certificates, and voted.*

*There was a prepared list of registered voters for the precinct.*

In order to arrive at a correct understanding of the election at this box it is necessary to state that "Brick Episcopal Church" and the town of Mount Pleasant are both in Berkeley County, but 6 miles apart. The former is in the Seventh Congressional district; the latter is in the First. They are both in the same registration precinct. But voters in the town of Mount Pleasant voted there both for State and county officers, as well as for Congressman for the First District. But voters outside of the town had to vote for State and county officers at Mount Pleasant, and then go 6 miles to Brick Episcopal Church where the polling place for Congressman from the Seventh district was held. The laws of South Carolina require separate boxes for State and county officers, and for Congressmen and Presidential electors. Sometimes these boxes are placed conveniently near each other. In other cases, as in the one under review, the boxes were placed miles apart. Mount Pleasant and Brick Episcopal Church are in the same voting precinct, but the polling place for State officers for voters residing outside of Mount Pleasant is in Mount Pleasant, while they must travel 6 miles to vote for Congressman or President. The voter residing in Mount Pleasant is entitled to vote for State and county as well as Congressman at Mount Pleasant. But different registration certificates are not required. No voter is obliged under the law to have one registration certificate for Congressmen and another for State officers. He votes for all upon one certificate, though at separate boxes, often placed miles from each other. We find on page 184, Record, in the instructions to managers and commissioners, the following :

The word "precinct" shall be construed to embrace an area sufficient to provide for holding elections for members of Congress and Presidential electors at different stations from those stations where elections are held for State and county officers.

On page 187, same document, we find the following :

In any case in which a voting precinct may form part of more than one Congressional district, if no other provision be made by law, the commissioners of election for the county in which such precinct is situated shall provide for such precinct separate boxes for every Congressional district within which the said precinct may be, and each voter at such precinct shall deposit his ballot for member of Congress in the box provided for the Congressional district within the limits of which said voter may reside.

The form of a registration certificate is as follows, taken from record, page 392 :

[Registration certificate No. 159, Sumter County, Middleton Township or Parish ; election precinct, Middleton.]

The bearer, Amos Green, is a qualified voter in the above precinct, and resides at Wedgefield plantation, in Middleton Township or Parish, and is 56 years of age, and entitled to vote at said precinct.

Registered on 3rd day of May, 1882.

P. P. GAILLARD,  
S. of Reg.

Now the law of South Carolina does not require the voter to have two registration certificates. He is registered for a voting precinct and if that precinct be embraced in two Congressional districts, he must vote in that district in which he resides. Mount Pleasant is a voting precinct. Brick Episcopal Church is in that voting precinct, but the precinct is divided between two Congressional districts, the town of Mount Pleasant being in the First and Brick Episcopal Church in the Seventh district, a voter therefore registered for Mount Pleasant precinct, if he reside in the town of Mount Pleasant must vote for Congressman in the First district at the polling precinct in the town. But if he be registered for the precinct and reside out of the limits of the town he must vote for Congressman in the Seventh district, at Brick Episcopal Church, where the polling-place for Congressman of the Seventh district is found. But he does not require a special registration certificate to do this. His general registration certificate for Mount Pleasant precinct is enough. This must be so, because on page 183 of the record we find the following in the "instructions to managers, etc.," prescribing when the polls shall be opened in Berkeley County.

In the county of Berkeley, at Christ Church Parish, Mount Pleasant, and Wappetaw Church; in the Parish of St. Thomas and St. Dennis, Muster House and Ben Potter's; at Halfway Creek, in the Parish of St. James Santee, Thirty-two Mile House and Henderson's Store; in the Parish of St. Stephen, St. Stephen Depot and Blackville; in the parish of St. John's Berkeley, Calamus Pond, Black Oak, Strawberry Ferry, Pinopolis and Biggin Church; in St. Andrew's Parish, Brick Church; on John's Island, Haut Gap and Burgess's Cross Roads; on Wadmalaw Island, Enterprise Landing; in the parish of St. John's Colleton, Central School House; on Edisto Island, in the parish of St. James Goose Creek, Hickory Bend, Cross Roads, Cooper's Store, Twenty-two Mile House on the State road, Ten Mile Hill, and Mount Olivet Church. *There shall be an additional voting precinct in Christ Church Parish, county of Berkeley, included in the Seventh Congressional district, for the election of Presidential electors and Congressmen, at the Brick Episcopal Church, on the Georgetown road, within a few miles of the town of Mount Pleasant, and no voter not resident of the town of Mount Pleasant shall vote for member of Congress at the voting precinct in the town of Mount Pleasant.*

The italics are ours. Now, if Brick Episcopal Church were a registration precinct of itself, why should it be designated as simply a polling place for holding the Federal elections? Why was no provision made for holding State elections? The testimony shows that voters voted at Mount Pleasant for State officers and then went 6 miles to Brick Episcopal Church and voted for Congressman on one and the same certificate (Rec., p. 97). At page 95 Kirk swears as follows:

Q. Was or not any registration books received by your board for Christ Church Parish from supervisor of registration?—A. Yes, sir; two books; one for Mount Pleasant and one for Wappetaw Church.

Q. Do you state positively that no book was received by your board in which were registered the names of the voters of Brick Episcopal Church precinct?—A. *The book for Mount Pleasant, in which the voters for member of Congress from the 1st Cong. dist., that is, voters within the corporate limits of Mount Pleasant, I believe, contained also the names of voters who should vote for member of Congress at Brick Episcopal Church, in the 7th Cong. dist. No book was furnished me by the supervisor of registration for Brick Episcopal Church.*

It is folly to contend that the mere establishment of a separate poll for the Federal election within the same precinct necessitated a change of registration certificate. The officer of registration should have made duplicate books containing the names of the registered voters of Mount Pleasant precinct, and one book should have been sent to Mount Pleasant for the State poll and one to Brick Episcopal Church for the Federal poll. He did not do so. He failed in his duty, and he was the partisan of contestee. He made one book, but it was retained at Mount Pleasant, where only 60 votes were cast, and denied it to Brick Episcopal Church,

where 270 votes were cast. This was done by Mr. Kirk, the Democratic chairman of Federal elections (Rec., pp. 94, 95).

But the question for the House of Representatives to determine is whether the people shall be disfranchised for the fraud or neglect of officials. The testimony (pp. 96 to 99, Rec.) shows that the managers were all Democrats; that they compelled every voter to show his certificate of registration; that no one was permitted to vote who did not produce his certificate, and that the election was fair and peaceable. We see no reason why the vote should not be counted. The certificate and not the book is the requisite. Mr. Kirk says they rejected the box "on the ground that the voters voting at that precinct were not registered for that precinct" (Rec., p. 95), and in the very next breath almost admits "that the books for Mount Pleasant contained the names of those who should vote for member of Congress at Brick Episcopal Church in the Seventh Congressional district;" and he could have taken that list in the book and compared it with the poll list from Brick Episcopal Church and verified and counted the vote as was his duty to do. Why he failed to do so we can only infer.

The vote should be counted, and to Smalls's vote should be added 267 votes, and to Elliott 3 votes.

#### REJECTED BOXES IN GEORGETOWN COUNTY.

The next rejected boxes are in Georgetown County. Four boxes in said county, to wit, Sandy Island precinct, Cedar Creek precinct, Griers precinct, and Santee precinct, casting in the aggregate 328 votes for Smalls (contestant) and 8 votes for Elliott (contestee), were rejected upon the same ground, to wit, that the full number of managers were not present. All managers appointed except one were Democrats. No reason is assigned for their failure to serve. Let us look at these boxes in detail. At Sandy Island precinct three managers were appointed; two refused to serve, one did serve and with a clerk and supervisor conducted the election. The election was fair, legal, peaceful; contestee does not introduce a syllable of testimony to impeach the fairness of the election. The testimony of Lance, Rec., p. 77, 78; of Johnston, p. 79; and of McColtree, p. 68, attests the perfect regularity and fairness of the election.

Now we turn to Cedar Creek precinct. The testimony of Dobbins 69, Wilson 70, and Lambert 76-77, show the election perfectly fair and regular in all respects; no testimony contradicts them or impeaches the election.

Three managers were present; one of them it seems failed to take the oath. The testimony of Pinkney Wilson, Democratic manager (page 70), is uncontradicted and shows three managers present, the number required by law; that one did not take the oath is immaterial. (McCrary, sec. ed., p. 186, Cooley's Const. Lim., 618-619.)

Yet the board rejected this box.

But at Indiantown precinct, in Williamsburgh County, where only two managers served, the box was counted, the reason probably being that Elliott, contestee, had a majority of votes in the box.

The next rejected box is Griers precinct. The voting was fair, election regular; no complaint of it from any source. There were three managers, two regularly appointed and Alston, a third manager, sworn in and served in place of one who would not qualify. See testimony of all the managers—Jenkins, p. 70-71; Grier, 666-8; Alston, 73-4; Johnson, 72-3.

Upon what pretext the box was rejected we are unable to imagine. The reason assigned is that *one* manager did not qualify. We grant it. Still there were two regularly appointed managers, and they swore in a third, who at least was a *de facto* officer, *with color of authority*. There is no allegation or proof of fraud, and the vote should, by every rule of law and equity, be counted.

We next come to Santee precinct. Two Democrats and one Republican manager were appointed. The two Democrats, Durant and Taylor, would not qualify because of their business at home, yet these two men (Durant, p. 676-78, and Taylor, p. 670-71) both swear that they visited the polls and remained there several hours during the day. The election was held by Eady, regularly appointed manager, a clerk, and Johnson, a supervisor. Not a syllable of testimony impeaches the fairness and regularity of the election in all of its conduct. The box, properly sealed, was delivered to the proper officers, and they refused to count the vote because the two Democratic managers failed to qualify. The vote at these four rejected polls was as follows :

	Smalls.	Elliott.
Sandy Island .....	33	.....
Cedar Creek .....	18	.....
Griers precinct .....	65	4
Santee precinct .....	212	4
Total .....	328	8

It is presumed that no one will be found to object to counting the votes cast at Cedar Creek and Grier's precinct, inasmuch as at these polls there was a quorum of legally appointed managers, and in addition at each box a third manager, who was a *de facto* officer and acted under color of authority.

Counting these two boxes must add to contestant's vote 83 votes and to contestee's 4 votes.

But we contend that all of these votes should be counted. Let it be remembered that there is not an iota of testimony going to impeach the fairness and regular conduct of the election at these polls, the legal count, and proper return of the boxes. They stand rejected because of the failure of the full number of managers to qualify. In every instance the managers failing to qualify were the partisan friends of contestee. Now, the question is whether the voters at these boxes and the contestant shall be deprived of the result of the election because of the neglect or failure of some of the officers to do their duty. The law of South Carolina provides for three managers at each box. But it does not void the election because of the failure of three managers to serve. Hence it is only directory in so far as it provides for three managers. McCrary says :

Irregularities are generally to be disregarded unless the statute expressly declares that they shall be fatal to an election, or unless they are such in themselves as to change or render doubtful the result. (McCrary, 2d ed., p. 186.)

The laws in relation to boxes, locks, the number of managers, clerks, etc., and the ordinary facilities of an election are mainly directory, *unless the statute* makes them otherwise, and an infraction of these directory provisions, in the absence of fraud, will not vitiate the election.

Nor is the voter to be deprived of his right, or the citizens to lose the result of an election fairly held, because of some unimportant omission

of form, or the neglect of duty, carelessness, or ignorance of some election officer, or the failure to carry out some unimportant direction of the law.

Cooley, Constitutional Limitations, thus lays down the law :

Election statutes are to be tested like other statutes, but with a leaning to liberality, in view of the great public purposes which they accomplish ; and except where they specifically provide that a thing shall be done in the manner indicated, and not otherwise, their provisions designed merely for the information and guidance of the officers, must be regarded as directory only, and the election will not be defeated by a failure to comply with them, providing the irregularity has not hindered any who were entitled from exercising the right of suffrage, or rendered doubtful the evidences from which the result was to be declared. In a leading case the following irregularities were held not to vitiate the election : The accidental substitution of another book for the Holy Evangelists in the administration of an oath, both parties being ignorant of the error at the time ; the holding of the election by persons who were not officers *de jure*, but who had colorable authority, and acted *de facto* in good faith ; the failure of the board of inspectors to appoint clerks of the election ; the closing of the outer door of the room where the election was held at sundown, and then permitting the persons within the room to vote ; it not appearing that legal voters were excluded by closing the door, or illegal allowed to vote ; and the failure of the inspectors or clerks to take the prescribed oath of office. And it was said, in the same case, that any irregularity in conducting an election which does not deprive a legal voter of his vote, or admit a disqualified voter to vote, or cast uncertainty on the result, and has not been occasioned by the agency of a party seeking to derive a benefit from it, should be overlooked in a proceeding to try the right to an office depending on such election. This rule is an eminently proper one, and it furnishes a very satisfactory test as to what is essential and what not in election laws. And where a party contests an election on the ground of these or any similar irregularities, he ought to aver and be able to show the result was affected by them. (Cooley's Const. Lim., 618.)

In the case of contest of Arnold *vs.* Lea, from Tennessee, decided in the Twenty-first Congress, in 1830, the law of Tennessee requiring a ballot-box with a lock, etc., and at the election a gourd with a hole cut in it was used, it was held, in the absence of proof of fraud, to be a good election and the vote was counted. In the case of the State *vs.* Huggins (Harper's S. C. Reports), it was set up that all the managers had not qualified, and Colcock, J., one of the ablest jurists South Carolina ever produced, as the organ of a unanimous court, held the election good. Judge Colcock, in discussing the absence of some of the managers and their duty, said : "It is a duty which might as well be performed by one man as forty, and with as much security to the public welfare." (See, also, 1 McMillan, 496 ; 4 Selden, 67 ; 10 Minn., 107 ; 14 Barbour, 259 ; 2 Bartlett, 764 ; 1 Bart., 313 ; Cox *vs.* Strait, decided in the Forty-fourth Congress, and authorities cited by Cooley, pp. 618, 619.)

If South Carolina had intended that an election held by less than three managers should on that account be void, she would have said so in her statute. She did not say so ; hence the law fixing the number of managers is simply directory. The State board of canvassers of South Carolina so held, because the record in this very case shows that both State and county boards canvassed and counted boxes at which there were not three managers. At Indiantown precinct, Williamsburgh county, there were two boxes (one for the sixth and one for the seventh district) and but two managers, or one manager for each box, yet the box was counted by both the State and county boards.

At Kingston, in the same county, there were also two boxes (one for the sixth, Dargau's district, and one for the seventh) and only three managers to the two boxes. Still it was counted by both State and county boards. At Cades precinct, the same county, was a similar state of affairs, and yet the box was counted. So much for construction by the State and county boards.

There is no proof of fraud at the four boxes under discussion—not even an allegation—nor is there a whisper of complaint that the result was affected by the fact that less than the prescribed number of managers were present.

Another fact is, that the managers who failed to serve were the partisan friends of the contestee. He now seeks to take advantage of the neglect of duty of his own friends, and that, too, without a single allegation or word of proof against the perfect integrity of the election at these boxes. He relies upon a bare technicality, occasioned by the willful neglect of duty by his own friends, and asks that hundreds of voters be disfranchised and deprived of the results of an election against the integrity of which he utters not a syllable of complaint.

Judge Cooley lays down the rule, quoted before, which he emphasizes, saying :

This rule is an eminently proper one, and it furnishes a very satisfactory test as to what is essential and what not essential in election laws. And when a party contests an election on the ground of these or any similar irregularities, he ought to be able to show that the result was affected by them.

Now, what is the rule so commended by this great lawyer ?

Any irregularity in conducting an election which does not deprive a legal voter of his vote or admit a disqualified voter to vote, or cast uncertainty on the result, and has not been occasioned by the agency of the party seeking to derive benefit from it, should be overlooked in a proceeding to try the right to an office depending upon the election. (Cooley Const. Lim., pp. 618, 619.)

Now, test the question of counting these four rejected boxes by this rule. The irregularity upon which contestee asks their exclusion did not deprive a single legal voter of his right to vote; did not admit a disqualified person to vote; did not cast doubt or uncertainty upon the result; and was caused by the failure and neglect of the partisan friends of him who seeks to profit by it.

By every rule of law and of justice the votes of these four boxes should be counted, and to the vote of Smalls should be added 328 votes, and to Elliott's, 8 votes.

We deem it proper here to notice how this plan of defeating the election by the failure of Democratic managers to act was carried out at other places.

At Biggins' Church precinct, Richland County, 400 voters assembled, nearly all of them wishing and intending to vote for contestant, but there were no boxes, no managers. Managers had been appointed, all Democrats, but none would serve. The sworn duty of the commissioners of Federal elections (all Democrats), was to provide boxes, yet none were provided. The sworn duty of the supervisor of registration, also a Democrat, was to provide a book for the poll containing the list of registered voters, and yet none was provided. (Rec., 98, 112, 113, 114.)

#### GADSDEN PRECINCT.

In the same county, at Gadsden precinct, the same shameless plan was pursued. Three managers, all Democrats, were appointed. They would not serve. Then, after 10 o'clock, the Federal supervisor, seeing that the managers would not serve, swore in three managers and they held the election, and 451 votes were polled for contestant and none for contestee.

The testimony of the three managers who held the election (Shriver, p. 90; Jackson, p. 91, and Richardson and Reynolds, 89, 90) show that the election was fair; that none but registered voters were allowed to vote, and no registered elector refused the right to vote; that the count

was correctly made, and the return sent up in accordance with law. This testimony is not contradicted. *De facto* officers, acting under color of authority, held the election.

Attention is called to the excuses of the original managers for not serving. All three of them were sworn in this contest. We will not cumber the report with their testimony, but call attention to it. (See testimony of Clarkson, 791; Adams, 792, and Scott, 793.)

An analysis of the testimony of these men shows they were timid men—afraid of prosecution if they acted as managers. They knew that no matter how fairly and legally they acted they would be prosecuted. Therefore they would not act. This is sworn to by all of these men. In the same breath they swear that they have acted in past elections—one of them since 1877 nearly every year, and the others in 1882 and 1884. If either of these men were ever prosecuted they fail to testify to the fact. They are both Democrats. They acted as managers when the marshals, State judges, district attorneys, and all the court officers were Republicans, and they were not afraid then, but now, when the officers and court machinery are Democratic, they become nervous and fearful of prosecution.

Another strange feature of the testimony of these witnesses is that the negroes were turbulent. Managers feared personal injury from turbulent negro voters (Clarkson, p. 791, Adams, p. 792, Scott, p. 793), and did not want to serve on that account. *Yet they all had served in former elections*, when the negro voters were more turbulent, more inflamed, more unanimous, and more violent than now, for they all testify that there were at least 100 negroes who would have voted for Elliott, and a great many more who staid away because they did not want to vote for Smalls.

Fear comes upon these men violently in proportion as danger decreases. The less danger the more scare. The more danger the less dread. This is strange but true—a pysical anomaly that should be referred to the physicists. They swear there are 200 white Democratic voters and at least 100 Democratic negroes, and yet, with these 300 against 250 lukewarm, nonchalant negroes, these managers were afraid.

Such is contestee's evidence and explanation of the failure to hold a regular election for Congressman at Gadsden precinct. There was no trouble in finding boxes, managers, and all the paraphernalia for holding the State and county elections. Adams and Clarkson came to the polls and voted for State and county officers in the very same building in which they should have held the Federal election.

An unprejudiced man can not read their testimony without coming to the deliberate conclusion that these Democratic managers, by preconcerted plan, neglected their duty and failed to qualify and serve in order to prevent an election and disfranchise nearly 500 voters for no other reason than that these voters were the friends and supporters of the contestant.

It were, in our opinion, better for their manhood had they given the real reason for failure to serve, instead of falsely affecting a timidity they did not feel and a fear which, according to their own oaths, was as baseless as an idiot's dream. There should therefore be added to Smalls's vote 451.

#### THEFT OF BALLOT-BOXES.

We come now to examine another act in this drama of fraud. It relates to the theft of ballot-boxes. There are two instances so shameless, so open, so inexcusable, that the counsel for contestee could not and

did not, in regard to one of these boxes, pretend to defend the action of the managers with regard to it in his oral argument.

We refer first to the Adams Run box in Colleton County.

Three Democratic managers, to wit, L. O. Behling, R. T. King, and A. B. Gonzales, conducted the election. There is not in the record a syllable of testimony to impeach the perfect legality and peaceful nature of the election.

After the polls closed the votes were counted, the returns made out, and with the ballots placed in the box. The other two managers then placed the box in charge of the third manager (Gonzales) as returning officer, and he carried it to Waterboro', and instead of delivering it to the proper officer, he left it at the house or store of one Gruber, and the box was never heard of again, so far as this record discloses.

Who or what Gruber was does not appear; but it does appear that he was not an officer of the election and had no authority to handle or receive the box.

These are the undenied facts as to this box. They rest upon the testimony of two of the managers themselves. (Behling, p. 533, and Gonzales, p. 535.)

Of course, having no box, the canvassers made no return.

The question for the House is, Whether the fault or neglect or crime of one manager can deprive the citizens of their election and contestant of his rights under it? If so, the power of the people is gone and their right to rule through the honest ballot is lodged, in South Carolina at least, in the hands of a few men called managers. The law as laid down gives to the contestant the right to show by secondary testimony what the vote really was. (McCrary, Law of Elections, pp. 97, 131; 11 Mich., 362; 9 Kansas, 569.)

At this stolen box there were two Federal supervisors; one was a Republican (Bailey) and the other (Simmons) was a Democrat. These men each kept a poll list and made a return, and each signed the other's list and return.

This return is not denied. It is found at page 531, 532, and is as follows:

*Return of the election held at Adams Run precinct, Colleton County, November 2, 1886.*

The whole number of votes given for member of Congress was 214. Of which Smalls received 177; of which Elliott received 37.

We, the undersigned supervisors, certify that the above is a correct return of the votes cast at the election held at Adams Run precinct, of Colleton County, on the 2d day of November, 1886.

M. W. SIMMONS,  
C. R. BAILEY,  
*Supervisors.*

These returns, official in their character, and attested by the Federal supervisors of each party, should be counted, and to contestant's vote must be added 177 and to contestee's vote 37.

To reject and refuse to count this return is to permit contestee to be benefited by the fault or crime of his own partisans. Nay, more, it is to permit the triumph of criminal neglect, designedly perpetrated in the interest of contestee, by which American citizens are cheated of their election. Who can afford to do this? Who can afford to be parties to it?

#### FORT MOTTE BOX.

A case kindred to the one just examined, with some spicy variations, is the case of Fort Motte box, Orangeburgh County. All of the officials, save one supervisor, were Democrats.

The managers were Bouzard, Taber, and Wannamaker. The election was regular. There is not a breath of testimony to impeach the fairness of its conduct. Friend and foe alike agree on this point. The trouble begins with the delivery of the box, after it had been locked and sealed, to one of the managers, Mr. Wannamaker (Democrat), for safe delivery. (See evidence of Keitt, pp. 99, 100; S. J. Thompson, p. 101; Wilson, pp. 101, 102; Lemon, 102, and Murray, 102, 103, 104.)

The box was delivered to Wannamaker on the evening of November 2 (the day of the election). He carried it to Orangeburgh City, to the office of Dr. Hydrick, a Democratic county politician. Dr. Hydrick refused to take charge of the box. Then young Izler, on the morning of the 3d of November, carried the box to B. H. Morse, or Moss, one of the county board of canvassers and president of the board. Moss is a Democrat, and was the proper party to take the box. He refused to take the box, although told what it was, upon the ground that it was illegal for him to take it. The box was then deposited by Dr. Hydrick and Mr. Izler in the office of Judge Izler, probate judge of the county, where it now remains. The box was produced, and the witnesses all believed it to be the same box, but could not swear positively to it. Taber, one of the managers, testified that he could not swear to the box, but could swear to his signature to the returns on the inside. The attorney for contestant then took the key and proceeded to open the box, when a scene occurred, described in a note by the notary public during the examination of Taber, one of the managers.

We extract from the testimony (Rec., p. 108). Taber, one of the managers was on the stand :

Q. Could you identify return if seen?—A. I could identify my signature.

(At this stage of the proceeding Mr. Taft, counsel for contestant, took the box and was in the act of loosening the key from the box, when Mr. Wannamaker, counsel for the contestee, grabbed it away, breaking the cord, and putting the key in his pocket, and, upon my demand, refused to give up possession of the key.—J. H. O.)

Q. Who were present when the ballots were counted?—A. The managers.

Q. Have you the return that you filed that day?—A. I have not.

Q. Can you produce it?—A. I can not.

(Counsel for contestant here requests counsel for contestee to produce the return which is in the ballot-box offered in evidence by contestant, the key of which has just been forcibly broken from the box by the counsel for contestee, and it is within the power of the contestee to produce said return.)

Counsel for contestee denies that such records or returns have been proved to be in his possession.)

Counsel for contestant then offered the box in evidence, and also the returns in the box. Why they do not appear is best told by the officer who took the testimony (page 110):

It is to be regretted that I am unable to forward with the testimony taken here the "ballot-box" purporting to be the "Fort Motte ballot-box, returns and ballots," offered in evidence by counsel for contestant, marked by me "Exhibit B," for the reason that after the examination had concluded I was in the act of taking charge of the box when Mr. Wannamaker, counsel for the contestee, took forcible possession of the same and refused to surrender it to me. I demanded the custody of the box, and was informed by Mr. Wannamaker that I should not have the box, and that if I attempted to take it away there would be a disturbance. He being supported by a large number of his friends, and not wishing to precipitate a row, I made no further attempt to obtain it.

JNO. H. OSTENDORFF,  
Not. Pub., S. C.

Judge Izler, probate judge, testifies, at page 92, that the box was placed in his office in a closet soon after the November election, and is there still, in the same condition as when first placed there.

Such, in substance, is the story of Fort Motte box as told by the

officers of the election and other party friends of contestant. (See testimony of Izler, p. 104; Hydrick, pp. 106-7; Wannamaker, p. 107; Taber, 108-9; Bouzzard, 110-11, and B. P. Izler, p. 92.)

Now, what are the undenied and undeniable facts?

(1) An election was held at Fort Motte box regularly and fairly on the legal day.

(2) Every manager, the clerk, all the peace officers, and one of the two supervisors were Democrats, the party friends of contestee.

(3) That the box with the returns, sealed and labeled, was carried to the county seat, within the time fixed by law by a proper officer.

(4) That within the legal time the box in its perfect integrity was delivered as required by law to the Democratic president of the board of county canvassers, who simply refused to receive it.

(5) That the box was then locked up in the court-house, to the full knowledge of the board of canvassers, and they refused to canvass or count it.

(6) That the peaceful and legal attempt of contestant to open and identify said box and its returns was forcibly resisted by contestee's counsel.

(7) That the box and its contents being offered in evidence, the custody of said box was properly claimed by the officers taking the testimony, that it might be forwarded with the record, but by a threat of violence made by contestee's counsel the custody of the box was refused to the officer and was assumed by contestee's counsel and party friends.

Here, then, is a whole chapter of frauds. The law of South Carolina required the box to be delivered by the returning officer to the chairman of the county board of commissioners.

The returning officer, who was one of the managers, deliberately violated the law in leaving the box with Mr. Izler, at the private office of a physician.

This Mr. Izler, a reputable young gentleman, cared for the box and within the legal time delivered it to the proper officer, Dr. Moss or Morse, and told him what it was and how he came by it. Dr. Moss (or Morse) violated the law in not receiving the box. It was his duty to receive and count it, and then make any statement he may have deemed proper as to how it reached him.

The third violation of law was when contestee's counsel prevented by violence the opening and identification of the box. It was offered in evidence to be sent here to the House of Representatives, and is not here because contestee's counsel forcibly took possession of the box.

What are the conclusions?

Contestee's partisan friends deliberately violate the law in suppressing the box, and contestee himself (acting through his counsel) by force and threat of violence suppresses and hinders the judicial inquiry as to the box and its contents.

*Suppressio veri—suggestio falsi.* All things are presumed against him who suppresses the truth and prevents inquiry. Shall contestee be permitted to take advantage of his own wrong and of the willful and criminal violation of the law by his partisan friends? Is the sin of the guilty to be visited upon the innocent? Shall he who suppresses the best evidence by force, fraud, and violence stand up in the face of the court of last resort and insist that secondary evidence shall not be produced and admitted?

Such is not the law.

The fairness and peaceful character of the election is not questioned. Returns of the vote kept by a Federal supervisor, and signed by both

Democratic and Republican supervisors, is in the record. Under the simplest rule of law they must be received and counted.

These returns are found at page 166 of the record, and are as follows :

## FORT MOTTE, ORANGEBURG CO.

Robert Smalls :

v v v v v v	30
v v v v v v	30
v v v v v v	30
v v v v v v	30
v v v v v v	30
v v v v v v	30
v v v v v v	30
v v v v v i	26

William Elliott :

v v v v v iii v v v v v iii.

*Return of the election held at Fort Motte precinct, Orangeburg Co., November 2, 1886.*

The whole number of votes given for member of Congress was 304. Of which Robert Smalls received 236. Of which William Elliott received 58.

We, the undersigned supervisors, certify that the above is a correct return of the votes cast at the election held at Fort Motte precinct of Orangeburg County, on the 2d day of November, 1886.

HORACE KEITT,  
S. J. MURRAY,  
*Supervisors.*

There must, therefore, be added to Smalls's (contestant) vote 236 votes, and to Elliott's (contestee) vote 58 votes.

## STUFFING BALLOT-BOXES.

We come now to examine yet another feature in this landscape of frauds. We refer to the deliberate alteration of votes by means of stuffing and pretended purging of ballot-boxes. The law of South Carolina provides in substance that if more ballots are found in the box than there are voters on the poll-list that *all the ballots* shall be returned to the box and thoroughly mixed by shaking, and that the excess of ballots shall then be drawn out of the box.

At Pocotaligo box, Beaufort County, 143 votes were cast. All the managers were Democrats, and the clerk was also a Democrat. The poll-list is found at page 262 of the record. It shows the names of 143 voters. Inside of the poll, with the managers, were several Democratic officials, to wit: Mr. Richardson, collector of the port at Beaufort, and a custom-house employé, and Mr. J. L. Morrison, and one or two State constables, *all Democrats*. When the box was opened there *was an excess of 105, or 248 votes in the box*. The Democratic managers then proceeded to get rid of the excess of votes. The story is best told in the language of a witness, and he is uncontradicted. Bampffield (pp. 307 and 308) thus testifies :

Q. Did you witness the count? And if so, state whatever facts came to your knowledge or observation in reference to it.—A. I did; in the afternoon my suspicions were aroused by the apparent nervousness of the managers, especially Mr. Frampton, the chairman, and the circulation by them of certain rumors to the effect that the votes in the box were tie, and that certain Republicans who were loud-mouthed for Smalls, the Republican candidate, were secretly voting for Wm. Elliott, the Democratic candidate. As I crossed the piazza to enter the room where the voting was going on I overheard a conversation between Mr. John Frampton, the chairman of the board, and Mr. H. W. Richardson, collector of the port of Beaufort, as to how to dispose of the excessive votes in the box. Soon after Mr. Frampton announced that the room would have to be cleared and that the counting would proceed. I asked him if any citizens would be permitted to witness the count; he said that I might stand at

the open door, but that I couldn't remain in the room. He did, however, permit Mr. H. W. Richardson, collector of the port of Beaufort; the paymaster in the U. S. Navy, James L. Morrison; a boat-hand in the custom-house; and others, who I think were State constables, to remain in the room. The open door in which I stood was not more than four feet from the table on which the box was placed, so that I could witness the count.

Before opening the box Mr. Frampton directed that the light, which was but an apology then, should be removed from the table on which it stood by the box to the mantel-piece. His position was, one hand on the box, the other directing the removal of the lamp; reminded me more of a necromancer about to perform a feat of legerdemain than an officer performing a sworn duty. He finally opened the box very carefully and proceeded to take out the ballots. After taking out 143 ballots, laying them one upon another, face down, corresponding with the number of names on the poll-list, he stated that there were more ballots in the box, and that he would have to return the 143 ballots to the box and that some one with his back to the box should withdraw the excess and destroy them, in which opinion Mr. Henry Men evidently concurred. I called his attention to the fact that he couldn't know the excess of the ballots in the box until all of the ballots were counted, and that, therefore, he did not know how many ballots to destroy. They both still insisted that that was the proper manner to dispose of the excess. The paymaster suggested that the proper way was to destroy all the ballots left in the box, and count the 143 already drawn out.

All the Democrats present except the supervisor, Mr. Hammond, and Mr. Richardson, were opposed to counting all the ballots in the box, and thus to expose a glaring fraud. After considerable discussion Mr. Richardson came to my rescue, stating that I was right, that the law required that all the ballots should be counted, to which the managers reluctantly consented. Upon counting the remaining ballots in the box there were found to be 148. All the ballots were then returned to the box and Mr. Frampton, turning his back to the box, drew out the 148 which were in excess, which were destroyed. It was then found that of the ballots remaining in the box there were 87 for Elliott and 56 for Smalls. The ballots that were taken out—the 143—were laid on the table, were mostly clean and lightly folded, so that they lay comparatively smooth on the table, indicating that they were never voted singly. During the removal of those ballots from the box I noticed that they were apparently folded together in a large bunch and called the managers' attention to the law about ballots being folded together, and noticed that subsequent to that Mr. Frampton's hands were put lower down in the box, so that I couldn't see what he was doing. He destroyed two Elliott ballots folded together after I had spoken to him.

When the process of purging the box of the excess of votes was finished, the manager counted the 143 votes left, and found 87 votes for Elliott (contestee) and 56 votes for Smalls (contestant). Now the curious part of the story comes. An examination of the record from pages 215 to 260 discloses the names and oaths of 118 men, each of whom swears he voted for Smalls. The poll-list (Rec., p. 262) discloses the names of these identical 118 voters as having voted at Pocatigo box. If 118 men whose names are on the poll-list voted for Smalls, how is it that he received only 56 votes, or in other words how was it that 62 of his votes were stolen from him?

That the ballot-box was stuffed is clear. One or two, or even a dozen, surplus votes, out of a total poll of 143 votes, might by accident or carelessness get into the box, but here over a hundred extra votes were in the box. The box was stuffed. No one denies it. How was it done? Who had charge of it? Three Democratic managers, a Democratic clerk, two Democratic State constables. It was stuffed in order that the purging process might be resorted to. The fact that nearly double the proper number of ballots got into the box while in charge of the managers solely, is proof so overwhelming of their deliberate fraud that their every act is tainted, and the presumption that the law ordinarily attaches to official acts, *omnia presumuntur rite acta esse*, is destroyed and every act of these managers attainted with suspicion and fraud.

Why did not contestee put these Democratic officials upon the stand. Did he fear to do so? They were all within the jurisdiction. Contestee administered testimony within a stone's-throw of them. Contestant

charged them with fraud and crime, and proved it; yet not one of them is put upon the stand to contradict or to defend. And if the sanctity attaching ordinarily to the acts of managers of an election is destroyed as to these officials, it is competent for contestant to establish the true return as best he may.

He proves 118 votes out of 143. The canvassing-board gave him but 56. To his vote should be added 62 votes, and from Elliott's vote of 87 should be deducted 62 votes, leaving him 25 votes at Pocotaligo box.

The next instance of ballot-box stuffing occurs at Providence box, Sumter County.

The election was held, the box opened, and all of Elliott's ballots sorted and placed in one heap, and all Smalls's ballots placed in another heap. Then it was found that there were only 119 voters on the poll list, while 199 ballots were in the box. Here was an excess of 90 ballots. The Democratic manager, Kingman, then put back Elliott's ballots first, and on top of them put Small's ballots, and, without mixing them, caused a small boy to draw out 90 ballots, the number in excess. Of course all of Smalls's ballots were drawn out, and the balance, 119, were counted for Elliott. One of the Democratic officials, outraged at the manifest fraud, refused to sign the returns. (See testimony of Richardson, 412-13, and of Mahoney, 353.)

Now, this story is not contradicted. No attempt is made to contradict it. All of the managers and officials were Democrats. The box was in their sole custody and it was stuffed with nearly double the number of ballots cast.

Then the law for purging the box was travestied by a gross and glaring fraud that so vitiates the returns as to render it wholly worthless. There is no proof as to what the real vote was, and the only recourse to correct the wrong is to reject the count *in toto*. From Elliott's vote should be deducted 119 votes.

The next chapter of frauds relates to Green Pond precinct, Colleton County. The managers and officials were all Democrats.

The box was in the back room of a store, and the voting was through a window. This back room was separated from the main store by a wooden partition, which was pierced by a door, which led from the voting room into the store *behind the counter*.

Now, the law of South Carolina requires that—

At the close of the election the managers and clerk shall *immediately proceed, publicly*, to open the ballot-box and count the ballots therein, and continue such count without interruption or adjournment until the same is completed.

The correctness of the count *is an essential of the election*. The laws made to secure this result are mandatory. The managers—all Democrats—did not "immediately proceed publicly" to open the box and count the vote. What did they do? They first closed the poll, then shut the window and were hidden from public view for eight or ten minutes. What they did in this interval is fully disclosed by the record. They returned 160 votes for Elliott and 35 for Smalls. And yet from pages 473 to 530 of the record are found the plain, uncontradicted testimony of 134 witnesses, each of whom swore he voted on that day at that box for Robert Smalls. (See testimony of Chapman, 502, 503, 504, and of Singleton, 520, 521, 522.)

The violation of the mandatory provision of the law in regard to the "immediate, public count," the secret session of eight or ten minutes after the polls closed; the return for Smalls of 35 votes when 134 men swear they voted for him in that box on that day, destroy utterly the

managers' return. But contestant proves 134 votes. The managers gave him 35. To this vote should be added 99 votes, and from contestee's 160 votes should be deducted 99 votes.

#### LAKE CITY PRECINCT.

The next gamut in this scale of fraud varies the music somewhat. Hitherto the frauds were committed within the Seventh district. Lake City precinct, in Lake Township, Williamsburgh County, is in the Sixth Congressional district. But in a neighborly spirit some of the voters of that precinct voted for contestee, who resided and was a candidate in the Seventh district. The vote returned was 101 for Elliott, 18 for Dargan, none for Smalls. These votes, cast by persons residing outside of the Seventh district, at a precinct also outside of the district, were actually counted for contestee by the board of canvassers. (See testimony of Kinder, Democratic commissioner of election, pp. 5, 6, 7; of W. Scott, p. 11.)

The division of districts is set forth at record page 187. The Sixth district embraces Lake Township, in Williamsburgh County. The Seventh district embraces part of Williamsburgh County, but not Lake Township. Lake City is in Lake Township, and therefore in the Sixth district. The statement is enough. The 101 votes cast there for contestee must be deducted from his vote.

#### MISCELLANEOUS FRAUDS.

We deem it proper to notice also the cases of several polling precincts where two boxes were placed, with but one set of managers for the two boxes, and at which votes were received from persons residing in different Congressional districts.

For instance, Indiantown precinct, in Williamsburgh County, there were two boxes, one for voters from the Sixth (Dargan's) district, and one for the Seventh district. For these two boxes only two persons acted as managers, or one for each box. The returns gave Elliott 85 votes and Smalls 73 in one box, and in the other Dargan had 51 votes. This box was counted.

So with Kingstree precinct. There were two boxes and only three managers, or one and a half managers to each box. There were 105 votes for Elliott, 80 for Smalls, and 38 for Dargan in the two boxes. It was counted. So also with Cedar precinct—only two boxes and three managers. Yet the box was not rejected. At all of these boxes there were violations of law in that the boxes were not distinctly and properly marked so as to show which box was for the Seventh and which was for the Sixth district. We do not claim that these boxes should be rejected, but we do claim that even-handed justice should be done, and that if boxes where Elliott had majorities and only one or one and one-half managers acted were counted, that the House of Representatives should not throw out boxes where Smalls had majorities solely because but one or two managers were present and acted.

Other irregularities and frauds, as at Grahamville, Beaufort County, and Sutter's precinct, Williamsburgh County, are complained of, but the proof is conflicting and no positive proof as to how those boxes were returned.

There are proofs, too, in the record that at Prospect precinct and Bloomingdale precinct, in Williamsburgh County, illegal votes, in all 12, were cast and counted for Elliott. So with other precincts, but we do

not deem it necessary to point them out or insist upon them here, as contestant's election is shown conclusively and beyond a doubt without them.

### RECAPITULATION.

To recapitulate, we find that the board of canvassers gave Elliott and Smalls votes as follows:

For William Elliott .....	6,493
For Robert Smalls .....	5,961

Elliott's declared majority .....	532
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To the vote of Smalls, under the evidence and the law, must be added as follows:

Voters refused registration intending to vote for Robert Smalls .....	22
Vote at Brick Church, Beaufort County .....	503
Vote at Brick Episcopal Church, Berkeley County .....	267
Sandy Island precinct, Georgetown County .....	33
Cedar Creek precinct, Georgetown County .....	18
Grier precinct, Georgetown County .....	65
Santee precinct, Georgetown County .....	212
Gadsden precinct, Richland County .....	451
Adams Run precinct, Colleton County .....	177
Fort Motte precinct, Orangeburgh County .....	236
Pocotaligo precinct, Beaufort County .....	62
Green Pond precinct, Colleton County .....	99

Total to be added .....	2,145
Vote as returned by State board .....	5,961

Total vote for Robert Smalls .....	8,106
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Votes to be added to Elliott's vote as follows:

Brick Church, Beaufort County .....	45
Brick Episcopal Church, Berkeley County .....	3
Grier precinct, Georgetown County .....	4
Santee precinct, Georgetown County .....	4
Adams Run, Colleton County .....	37
Fort Motte, Orangeburgh County .....	58

Total to be added .....	151
Vote as returned by State board .....	6,493

Total .....	6,644
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Deduct as follows from Elliott's vote:

Pocotaligo, Beaufort County .....	62
Providence, Sumter County .....	119
Green Pond, Colleton County .....	99
Lake City, Williamsburgh County .....	101

381

Elliott's total vote .....	6,644
Deduct .....	381

Elliott's real vote .....	6,263
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Smalls's real vote .....	8,106
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Elliott's real vote .....	6,263
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Smalls's majority .....	1,843
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If we add legally-registered voters, 277, who were rejected, Smalls's just and legitimate majority is 2,120.

## II.

To account for a majority in a district where the Republican colored majority is seven to one contestee sets up several pretexts.

*First.* He declares that Smalls was once convicted of bribe taking, and that the colored Republicans repudiated him on that account.

*Second.* He declares that Smalls was very unpopular in the district, and that many of the leaders voted and worked against him.

*Third.* He declares that contestant and his partisans resorted to riot, force, and intimidation, by which large numbers of colored voters were intimidated and prevented from voting for him, and were coerced and terrorized into voting for contestant.

Eleven years ago, November, 1877, Smalls was convicted by a petit jury of bribe-taking while a member of the State senate. His case was appealed, and pending said appeal a Democratic governor of South Carolina pardoned him, without any request or solicitation of Smalls or his friends.

Not only this, but the Democratic governor of South Carolina, "reposing especial trust and confidence in Smalls's loyalty and patriotism, as in his integrity and readiness to do good and faithful service," appointed and commissioned him a captain in the State militia, which appointment was advised and consented to by a Democratic State senate.

More than this, while the facts in relation to Smalls's trial were fresh and ripe in the public mind, and before he had been pardoned, he was elected to Congress, and since then twice re-elected.

Yet contestee seriously insists that the fact of his conviction operated powerfully against Smalls in the election of 1886. It did not operate against him in 1878, or in 1880, or in 1882. It did not deter a Democratic governor from appointing, "by and with the advice and consent" of a Democratic senate, Smalls to office in 1879. Yet contestee seriously insists that the voters and people of South Carolina had to reflect nine years before the real and dreadful nature of Smalls's offense was appreciated by them. This pretext of contestee is not worthy of further notice, and we dismiss it.

The second pretext, that Smalls was not the choice of his party, is as baseless as that just considered.

Smalls was nominated by his party convention on the first ballot and without a struggle. There was not a delegate against him except from Berkeley County. A colored politician, W. H. Thompson, from Berkeley County, aspired to the nomination, and a portion of the delegates from that county were elected in his favor. But Smalls had the delegates from all the other 8 counties and was nominated on the first ballot, receiving the vote of nine-tenths of the convention, only 8 votes being against him. Contestee introduces the testimony of W. H. Thompson to prove that Smalls was not the choice of his party. Thompson's testimony is at pages 630-635 of the record. Analyzed, Thompson's testimony simply shows him to be a politician, a chronic office-holder and office-seeker, who was never satisfied with the party nominee unless it was himself, who had bolted several prior Congressional nominations of his party. When Mackey was nominated Thompson bolted for Lee. When Lee was nominated he bolted for Smalls. When Smalls was nominated he swears he bolted him for nobody; that he made no speeches for or against him. He is flatly contradicted in this, for six witnesses swear to speeches made by Thompson in favor of Smalls after

he was nominated. (Simmons, Rec., p. 138; Rivers, p. 136; Wright, p. 131; Middleton, p. 125; Fickling, p. 123, and Clark, p. 117.) Of these six men, all were from Berkeley County, and three of the six were precinct chairmen of the Republican organizations.

But to show exactly what Thompson's testimony is worth, he swore that he supported Smalls for Congress in 1882 and 1884, and then swears he would not vote for him in 1886 because he had been convicted of bribe-taking. Smalls's conviction was in 1878. When Thompson was asked if he did not know of Smalls's conviction when he was supporting him in 1882 and 1884 he answers:

I did not know it of my own knowledge or I would not have besmirched myself with him.

Yet in his testimony he swears that he held office in South Carolina five years before Smalls's conviction and six years after, was a public man, prominent in the councils of his party, and yet he did not know of Smalls's conviction until nine years after the verdict had been rendered.

The simple truth is that Thompson perjured himself and is unworthy of belief.

Sautelle, Ahrens, and C. B. Smalls testify after the fashion of Thompson, but each and every one of them is contradicted and each one is shown to have made speeches for Smalls after he was nominated. Swails (p. 147), Freeman (p. 152), F. R. Richardson (p. 158), and Ostendorf (p. 462), and 139 other witnesses, swear that Smalls was the choice of his party; that *all* the leaders supported and spoke for him; that there was no disaffection; that the charge of "bribe-taking" was an old tale and affected nobody, and that the issue between Smalls and Elliott was not a personal but a party issue. (See testimony of Andrew, 365; Murray, 381, 382; Ramsay, 382; Keene, 387; Andrews, 390; Andrews, 394; Smith, 398; Fortune, 404; Alick, 406; Johnston, 407; Richardson, 409, and more than a 100 other witnesses of like import.) And so the second pretext of contestee falls to the ground.

His third and last pretext is that Smalls and his party, by violence, threats of business, church and social ostracism, so terrorized and intimidated the colored voters as to coerce them to vote for him against their will.

We may pause here one moment to remark upon the consistency of this pretext with other pleas of contestee. On pages 645 and 466 contestee's answer sets forth:

#### ELEVENTH.

That by a system of undue influence, threats, intimidation, and social and religious ostracism, inaugurated and practiced by you and your supporters at Beaufort and Ladies' Island, and other neighboring places in Beaufort County, as well as by the public denunciations and utterances made by you and your partisans against all colored voters who desired to vote for me, a large number of such voters, at each of said precincts, were prevented from voting for me, whereby your vote was largely increased. That a short time before the election the colored Democratic club of Ladies' Island, while attending a Democratic mass-meeting in the town of Beaufort, were attacked by a mob of your partisans and supporters, and were treated with the greatest indignity, violence, and outrage; and so determined and persistent was this system of intimidation, that even since the election the children of my colored supporters on Ladies' Island have been prevented by threats and abuse, by your supporters and partisans, from attending the public school; this system of violence and intimidation has been carried on, not by the respectable and orderly colored people, nor by a majority of that race, but by the violent and the turbulent and by the professional politicians, who, to conceal their designs, have instigated women and even children to the commission of such acts. This system of intimidation was not inau-

gured at this election for the first time, but has been carried on for years in and around Beaufort, and was practiced in the election of 1884, in which you and I were opposing candidates for the same office; a notable instance being the beating and mobbing of one of the managers of the Federal poll on the streets of the said town of Beaufort on said election day.

## TWELFTH.

And I further allege that you were not the free choice of your party for the nomination as member of Congress, and that your nomination for said position created great dissatisfaction to your own party, especially to many influential leaders thereof, one of the causes of which was the fact that you had been convicted of receiving a bribe while State senator from Beaufort County, and this matter was made an issue in the campaign. This gave me the support of a large number of voters of your own political party, and this support was further augmented by the fact, that, although a general election was pending in the State of South Carolina, there was no contest between the two political parties, and the issue in this district thus became one between individuals.

W. ELLIOTT.

Here are the two pleas side by side as they came from contestee's hand. In one breath he says in substance:

You, Small, so terrorized and intimidated the people of your own race and party as to force them to vote for you against their will, when they wanted to vote for me.

Pausing only long enough to take breath, he then adds:

You, Small, were so unpopular because you had been convicted of bribe-taking, and the contrast between you and me personally was so much to your disadvantage that many of the leaders of your party and many of its voters voluntarily voted for me in preference to you.

How can these pleas live side by side? They are so inconsistent that in a court of law contestee would be obliged to get off of one and on to the other, and forced to elect upon which he would stand.

We have shown that he can not stand on the one. Let us see if there is bottom enough in the other to rest a claim to his seat in the House of Representatives.

Contestee emphasizes in another part of his answer the plea of intimidation at Brick Church, Beaufort County. If intimidation existed anywhere it existed there, according to his own story (contestee's answer, page 643, third clause). The canvassing boards agreed with contestee, and though no protest was made by the Democratic managers, the box was thrown out because of riot, intimidation, etc. *And it was the only box in the entire district thrown out because of intimidation of voters.* If the plea falls, then, as to this box, it must fall entirely.

Mr. E. W. Fripp, Democratic manager at Brick Church, in his cross-examination (page 628), testifies that "there are only 18 white voters on Saint Helena Island." Brick Church is the voting precinct for Saint Helena Island.

But Elliott received 45 votes at Brick Church. Conceding that every white voter voted for him, he received 28 colored votes. Surely they were not intimidated. More than this, Fripp, Democratic manager (page 628), testifies as follows:

Q. Will you give me the name of any person or persons that you know of who were prevented from voting by threats or violence, at the last election, at the poll at which you were one of the managers?—A. I can not.

Q. Do you know that there is one that was so prevented?—A. No.

Gabriel Eddings, the other manager (page 443):

Q. Was there any unusual noise at the poll that day?—A. There was not more than what we are subject to on election day.

Q. State if there was a great anxiety on the part of the people to get through voting.—A. It did not seem so more than usual at any other election.

## Cross-examination:

Q. Were you at the poll all day?—A. Yes, I was.

Q. Were not the polls closed at any time during the day and voting stopped in consequence of disturbance at the poll?—A. The poll did not close.

Jackson W. Brown, clerk and supervisor, testifies at page 290, and again at pages 439, 441:

Q. Give your name, age and residence. State where you were on the 2d day of November last; what official position or positions you held in connection with the election.—A. Jackson W. Brown; age, 32 years; reside on St. Helena Island. On the 2d of November last I was at the Congressional poll as supervisor, and as there was no one to act as clerk the manager begged that I would act.

Q. What time did you arrive at the poll and what time did you leave?—A. I arrived by daylight and never left till all the votes were counted and everybody disbanded.

Q. Was there any disturbance at the poll?—A. No.

Q. Was there or not any quarrel inside the polling precinct during that day?—A. None.

Q. Did or did not George Rivers and Hasting Gantt have words inside the room where the poll was held which caused the poll to close?—A. They did not inside the room nor outside, to my knowledge.

Q. If the poll had been closed on that account would you not have known it?—A. I certainly would.

Q. Did not a good many women come into and pass through the polling place during the voting?—A. They did not.

Q. Was the poll closed for any reason during the day?—A. No.

Q. For what purpose did Gantt go into the poll on the day of election?—A. To my knowledge I could not state at this time.

Q. How long did he remain in there?—A. Not more than a minute or so, as well as I can remember.

Q. Did he have anything to say while in there; and if so, what did he say?—A. He did not have anything to say, only there was trying to get in at the same time two men, and Mr. Fripp objected, saying that they must vote one by one, and Gantt tried to correct the boys, telling them that they must come in one by one.

Q. Was there or not many persons who desired to vote but could not vote because of the alleged loss of their registration certificates?—A. A great many of them.

Q. Were there any persons that you know of at the poll that day who did not vote or could not vote on account of the noise and disturbance made by Republicans?—A. No; there was not one.

We now cite the testimony of the Democratic supervisor of elections, a white man, an organizer of Democratic clubs. This witness is Captain Ransom Ward. His testimony will be found at page 296, record:

Q. State your name, age, residence, occupation, and where you were on the 2d day of November last.—A. A. R. Ward; 59 years; St. Helena; merchant and planter. I was at the Congressional polls on St. Helena Island.

Q. Were you one of the election officers; and, if so, in what capacity did you act?—A. Supervisor.

Q. How long did you remain at the polls?—A. Through the day. I didn't get here till late, and I remained here after I got here, about when the mail left, a little after 11, till night; sickness in my family detained me.

Q. During your stay at the polls was there any riotous conduct or disturbance during the day?—A. None that I saw.

We cite John Major, a colored Democrat and partisan of contestee (Rec., p. 211):

Q. State your age, name, residence, and occupation, and where you were on November last.—A. John Major; 32; Tripp's Point, St. Helena; am a farmer. I was here, voting at the Congressional poll.

Q. Was there or not any disturbance, riot, or riotous conduct, or any intimidation of voters, as far as you saw, that day?—A. No, sir.

Q. How long did you remain at the polls?—A. Till about half past 5, sir.

Q. What were you doing most of the day?—A. I issue out tickets, sir.

Q. Whose tickets?—A. Colonel Elliott's.

Q. Were or were you not a member of the Democratic club, and were or were you not an officer of said club?—A. I was the president of the club.

## Cross-examined by Mr. VERDIER:

Q. Wasn't there a good deal of threatening against Democrats by Republicans before the day of election on St. Helena Island?—A. No, sir; not in my presence.

Next, Jeffrey Holmes, a colored partisan of contestee (Rec., p. 295):

Q. State your name, age, residence, occupation, and state where you were on the 2d day of November last.—A. Jeffrey Holmes; 36 years old; Coffin Point; am a farmer. I was here, at the Congressional poll, at Dr. Peters' shop, all day.

Q. Was there or not any riot, riotous or disorderly conduct, or any intimidation of voters, so far as you saw that day?—A. No; I only saw at one time the manager, Mr. Tripp, come out and say they couldn't vote because there was so much racket outside. They stopped about five minutes. Cyrus Jenkins was out there making a little fun for the boys, and after he came out and made that expression then everything was quiet the balance of that day.

Q. What were you doing at the polls?—A. I was issuing out Mr. Elliott's tickets.

Next is March Aiken, a colored Democrat and a peace officer, who voted for contestee (Rec., p. 294):

Question. Give your name, age, occupation, and state where you were on the second day of November last.—A. March Aiken; 46 years; am a farmer. I was at the poll here on that day.

Q. What poll?—A. This same poll, Congressional poll.

Q. What were you doing at this Congressional poll?—A. I was constable at the poll.

Q. How long did you remain at the poll?—A. I was there when it opened and remained till it closed.

Q. Did you not remain there the entire day?—A. I was there the entire day, till it closed.

Q. Was there any riot, riotous conduct, disturbance, or any intimidation of voters during that day?—A. I was in the house all the day. All the racket was to this door and that door. When they called out the names I could have heard it, and they told me to close the door and go out and stop the racket. There was nothing fighting, only joking and running raid on one another.

Q. What time was that?—A. About between 12 and 11 o'clock.

Q. Did it cease when you told them to stop?—A. Yes, sir; they went out from the door.

Q. In the morning did you or not, as constable, form the people into a line?—A. Yes, sir; by rushing and pushing the door I went out and formed them in a line.

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

Q. For whom did you vote?—A. I voted for Elliott.

Q. Was there, or not, any intimidation, as far as you saw or heard, or any violence or threats made against any person who desired to vote for Wm. Elliott for Congress on that day?—A. I don't know. The men who distributed the tickets can answer. I was here inside the door.

Q. Then you did not hear any?—A. No, sir; I didn't; no more than only the racket out the doors. I was in the house all the time.

Q. Was the racket the joking you spoke of before?—A. Yes, sir.

Next is Dr. W. C. Peters, white Democrat, in whose office the election was held:

Q. What is your name, where do you live, and what is your occupation?—A. Wm. C. Peters; I live on St. Helena Island, and am a practicing physician.

Q. Where were you on the second day of November last?—A. I was at my office during the hours of 9 to 5; I was away part of that time making professional visits.

Q. Can you remember what portion of the time you were away?—A. As near as I can recollect it was between the hours of 11 and 2 o'clock.

Q. During your stay, what was the character of the election as far as it relates to the conduct of the people at the polls?—A. The people here on this island have held their election here several times, and I saw no difference in them of what it was heretofore.

Q. Was there any riotous behavior or violence?—A. None that I have seen.

Q. Was it or not a peaceful election?—A. It was a peaceful election.

Q. Did you or not hear any of the managers on that day speak of the character of the election?—A. I can't say that I did.

Q. Did you hear of any violence or disorderly conduct or intimidation of voters on that day?—A. No.

Q. Where was the Congressional poll of the Brick Church precinct of Beaufort County held on the second day of November last?—A. At my office, on St. Helena Island.

Q. Did you use a portion of the same building for your own purposes during the day?—A. I did.

Such is the testimony of all the officers of the election, colored and white, Democrats and Republicans. Such is the testimony of three colored men who were canvassing for Elliott and issuing his tickets. Uniformly and strongly do they testify to the perfectly peaceable character of the election. There was no riot, no intimidation, no fighting, no quarreling, no threats. Their testimony is corroborated by that of at least fifty witnesses *vide* testimony of Watson, p. 435; Middleton, p. 435; Med Nayer, p. 436; Jenkins, 437; Singleton, 441; A. Small, p. 443; Nab Small, 444; Gantt, p. 291; McDonald, p. 293; Jackson, p. 296; Washington, p. 297; L. F. Chaplin, p. 297; J. B. Colonel, 297; Watkins, p. 298; P. Watson, p. 298; J. Young, p. 298, 299; Mack, p. 199; Hasel, p. 299; C. Jenkins, 299-300; T. B. Rivers, p. 300; Tony Watkins, p. 300, 301; L. Chisolm, p. 301; M. Riley, 301, and many others.

Now, in the face of this plain, positive, official, and unofficial testimony contestee seeks to bolster the plea of intimidation at Brick Church by the testimony of such witnesses as Chance Green, Abram Scott, and a few others of that kind. Brick Church is the key-stone of this arch of monstrous fraud. If it crumbles, contestee's case crumbles with it. No wonder, then, that the most superhuman effort is made to sustain the action of the canvassing board at Brick Church. To show what means are used to exclude Brick Church, let us examine Chance Green's testimony. It is found at page 584, and blackens and blurs and blisters with perjury eleven pages of this record. We ask careful attention to it. He opens by swearing, in substance, that he was at Brick Church, Saint Helena Island, Federal poll; arrived at 7 o'clock to issue Democratic tickets, and so informed a crowd of 20 men who stood near the polls. The 20 men wanted Green's ticket to vote and "go home quick;" he issued Democratic tickets to the crowd; the first one that went up to vote it was Jonas Howard; Jonas mounted the platform to vote the Democratic ticket when he was pulled down, the ticket torn from his hands, and his life threatened. Chance Green gave him another Democratic ticket and marched up with Jonas, but neither Jonas nor himself could vote; he then left Jonas in the road when 6 men with clubs went up to Jonas, and ordered him to go home if he intended to vote the Democratic ticket, and Jones went home. The men who interfered with Jonas were all Republicans.

Such is the substance of Chance Green's first utterances. To show the monstrous falsehood of this statement we insert right here the evidence of Jonas Howard, pages 469 and 470:

JONAS HOWARD, a witness of legal age, produced by contestant in rebuttal after notice, deposes as follows in reference to questions propounded by contestant's counsel:

Q. Give your name, age, and residence.—A. Jonas Howard; 52 years; at the village St. Helena Island.

Q. Were you or not at the polls on the 2d day of November last at Dr. Peter's store?—A. Yes.

Q. Were you or not on that day thrown from the platform and had your coat torn?—A. No, sir.

Q. Did or did not any one on that day do anything to you?—A. No, sir.

Q. Were you or not prevented from voting on that day?—A. No, sir.

Q. Did you or not attempt to vote?—A. Yes, sir.

Q. Why did you not vote?—A. Because my registration paper was destroyed.

Q. Did you or not go on the platform of Dr. Peter's office and try to put in your vote?—A. No, sir.

Q. Did or did not any person threaten or abuse you?—A. No, sir.

Q. You say that you attempted to vote; for whom did you attempt to vote?—A. For Robert Smalls.

Green's second coherent statement is that there were 416 men who wanted to vote the Democratic ticket, and he issued it to them. He is very positive of 416, for he counted and had it all put down. Take 416 from 548 and we have 132. Now, as only 548 votes were polled that day, both for Elliott and Smalls, how was it that 416 men (and Green swears there were 416) burning with desire to vote Elliott's tickets were terrorized by 132 men, and that, too, with Democratic managers and constables and supervisors to aid the 416 against the 132?

Green's third intelligible statement is that Charles Myers was going to vote the Democratic ticket when one Crofut bought his vote for the Republicans for the price of \$1, and Meyers acknowledged the bribery to Green.

Charles Myers (the bribed) swears, at page 316, as follows:

Q. What is your name, your age, and occupation, and where do you reside?—A. My name is Charles Myers; my age, thirty-eight years; I am a farmer, and reside on St. Helena Island.

Q. Were you present and did you vote at the last Congressional election on St. Helena Island?—A. I was present and voted.

Q. For whom did you vote?—A. For Robert Smalls.

Q. What was the character of that election; quiet and peaceable, or otherwise?—A. It was quiet and peaceable.

Q. State who, if any one, offered you money on that day.—A. No, sir; no one offered me any money on that day, sir.

Q. It has been sworn to in this cause that James M. Crofut attended that poll and offered you money, and others money in your presence; is that true?—A. No, sir; I had done voted when he come over there, and I had no talk with him, and I never heard him offer anybody any money; that's all I know about that.

Q. Do you belong to any church over there?—A. I belong to the Ebenezer Church (Baptist).

Q. Has any one been expelled from that church in consequence of his being a Democrat?—A. No, sir.

Q. Has there been any threats, violence, or abuse during the campaign or election to prevent any man voting as he chose?—A. No, sir.

James M. Crofut (the briber) swears, at page 332, as follows:

Q. State your name, age, occupation, and residence?—A. My name is Jas. M. Crofut; my age, fifty-four years; my occupation is real-estate broker, and I reside in the town of Beaufort, South Carolina.

Q. How long have you lived in Beaufort?—A. Over 20 years.

Q. Were you present at the polls on St. Helena at last election?—A. I was.

Q. What was the character of that election—quiet and peaceable, or otherwise; I mean at the Federal poll?—A. It was quiet and peaceable.

Q. Did you offer one Charles Myers, in particular, or any other person or persons, either money or any other consideration to vote for General Smalls for Congress, or to vote the Republican ticket?—A. I did not.

Q. Did you take voters off from the poll into some small path near by and pay them money or other consideration to vote as you wished, then carry them to the Federal poll and see that they voted as they had agreed to?—A. I did not, in any way, shape, manner, or form, whatever.

Q. Did you keep a free stand, where coffee and catables were furnished to those who voted the Republican ticket, and refuse them who voted the Democratic ticket?—A. I did not.

Q. Did you treat any one at either of the stands around the polls on that day, and if so, was it done on account of his politics?—A. I did not treat anybody on that day or authorize any person to do it.

Q. Did you go to the polls that day with your pockets filled with money so as to be noticeable by outsiders; return home with them that evening with them flat and empty?—A. I did not. I left Beaufort with five dollars in my pocket, which I took from my book-keeper in the morning, and I returned home with something over a dollar in my pocket in the evening, and I paid \$2.50 for transportation to the poll and one dollar to return.

Green's fourth statement is that Crofut created such a disturbance within three feet of the polls that Mr. Fripp, the Democratic manager, had to come out and request silence, when the Republicans cursed him,

using language too foul for print, and Fripp was obliged to go in and close the poll for a half hour.

Mr. E. W. Fripp, Democratic manager (pp. 626-629); Gabriel Edgings, Republican manager (p. 443); Ransom Ward, Democratic supervisor (p. 296); John Major, president of the Democratic club (p. 296), and many other witnesses stamp the lie upon Chance Green's fourth statement.

We quote John Major's testimony (p. 296):

Q. State your age, name, residence, and occupation, and where you were on November last.—A. John Major; 32 years; Tripp's Pt., St. Helena; am a farmer; I was here, voting at the Congressional poll.

Q. Was there or not any disturbance, riot, or riotous conduct, or any intimidation of voters, as far as you saw, that day?—A. No, sir.

Q. How long did you remain at the polls?—A. Till about half-past five, sir.

Q. What were you doing most of the day?—A. I issue out tickets, sir.

Q. Whose tickets?—A. Col. Elliott's.

Q. Were or were you not a member of the Democratic club, and were or were you not an officer of said club?—A. I was the president of the club.

Cross-examined by Mr. VERDIER:

Q. Wasn't there a good deal of threatening against Democrats by Republicans before the day of election on St. Helena Island?—A. No, sir; not in my presence.

Chance Green's fifth statement is that one Frank Jenkins had obtained from him (Green) the Democratic ticket, and was proceeding to vote it when Cyrus Jenkins interfered, tore the ticket from his hand, and Frank Jenkins was forced by threats to go home without voting.

Frank Jenkins testifies as follows at pages 437, 438:

Q. Give your name, age, and residence.—A. Frank Jenkins; born in 1858, February 15th; resides at Oliver Fripp's, St. Helena.

Q. Did you or not go to the Federal poll, held at the office of Dr. Peters, on St. Helena Island, on the 2d of November last?—A. I was out in the road; not at the poll.

Q. State what time.—A. I got here about 2 o'clock in the afternoon.

Q. Were you or not at Dr. Peters' office early in the morning, or near there at that time?—A. No; I was not. I had no special cause for being there any sooner.

Q. Do you know Chance Green?—A. Yes; I know Chance Green.

Q. Did you or not meet him at any time in the morning on the 2d of November last, the day of election?—A. No; I never met him in the morning, but I met him in the evening.

Q. Did Chance Green give you an election ticket in the morning of that day or not?—A. No; he did not. I had no use for a ticket, for I had no register paper.

Q. Chance Green has stated in his evidence in this investigation that he met you and other men, and that you asked him for an Elliott ticket, and that he gave you one. Is that true or false?—A. No.

Q. I do not think that you understand the question. My question is, is it true or false?—A. It is false.

Q. Did you or not attempt to vote that day?—A. No; I did not intend to vote that day. I had no register ticket, and I could not vote without one.

Q. Were you threatened or abused by any one on that day?—A. No; no more than the boys met together and fun and joke each other.

Q. Did or did not a large crowd follow you to the poll where you intended to vote?—A. No; I did not attempt to go to the poll to vote, for I had no register ticket.

Q. Did or did not any one else pull or push you from the platform in front of Dr. Peters' office, where the poll was held?—A. No; I was not near Dr. Peters' office; I did not cross the side of the ditch.

Q. Then you were not on the platform, were you?—A. No, I was not.

Q. Do you know Cyrus Jenkins?—A. Yes.

Q. Did he or did he not pull you from the platform and tear a ticket that you had in your hand?—A. He never pulled me from the platform; I picked up a torn ticket; I did not look at it to see if it was for Elliott or Smalls, and afterwards he took it from me, and said that I could not read; I paid no attention to him, because I knew that was the way he was always funning with me from a little boy.

Q. Did he or not say anything to you about voting?—A. No; he was talking to

the boys about voting, but I had nothing whatever to say, because I had no register ticket.

Q. Did he or not say to you, "You think we are funning, but we don't intend to let you vote?"—A. No, he never made any such expression to me.

Q. Did Sharper Rivers have anything to say to you about voting a Democrat ticket?—A. To my remembrance I never saw Sharper Rivers that day.

Q. Did you get any other ticket after the piece you describe was taken by Cyrus Jenkins?—A. No.

Q. Were you not afraid to stay at the poll for fear of being beaten?—A. I was not afraid; I did not come there with the intention to vote, but only to be with the boys; I never heard such an expression used as beating anybody.

Q. Chance Green has testified that you got a Democratic ticket from him, and that you went to the poll, and that Cyrus Jenkins asked you what you was going to do with the ticket, and that you said that you were going to vote it, and that Cyrus Jenkins said not to-day, we don't intend to let Democrats vote to-day. Is that true or false?—A. No; it is not so; it is false.

Q. Did Chance Green give you an election ticket in the morning; Rivers at the same time said, No, don't let him vote. Is that true?—A. I never saw Sharper Rivers that day. It is false.

Q. Chance Green, in this investigation, has sworn that after Cyrus Jenkins had taken the ticket which he gave you from you, that you went to him and got another Elliott ticket and went to vote it. Is that true or false?—A. It is false.

Cyrus Jenkins testifies as follows (R., p. 323):

Q. What is your age, occupation, and where do you reside?—A. I am forty-two years old; am a farmer, and reside on St. Helena Island, Beaufort County.

Q. Were you at the Federal poll at the election held on 2d November last?—A. Yes, sir.

Q. From what hour until what hour were you at the poll?—A. From nine o'clock until the vote was counted, but I had been to the other poll at the church.

Q. What was the character of that election; quiet and peaceable or otherwise?—A. Yes; it was very peaceable, sir.

Q. Was there any violence or threats made or abuse indulged in to prevent colored men from voting for William Elliott if they chose?—A. No, sir.

Q. You were charged, on the testimony of March Washington, Chance Green, and others who have testified in this cause, with using threatening and abusive language and tearing up a Democratic ticket of W. T. Pritchard. Is it true or not?—A. No, sir; I never saw Pritchard on the day of election.

Q. You were also charged by the same parties with abuse of and tearing up the ticket of Frank Jenkins. Is that true?—A. No, sir; it is not.

Q. Did you also use any threats or abuse at any time against colored Democrats or do you know of any being used by any one else, either on the day of election or any other time before or after the election; and if so, what was it that was said, and by whom was it said?—A. No, sir; I never did.

Q. How long have you lived on St. Helena?—A. All my life; I've lived nowhere else.

Q. Then you have no delicacy or hesitation whatever in swearing that the late election was absolutely peaceable and quiet, so far as the poll on St. Helena precinct is concerned?—A. Yes, sir; I have no hesitancy in so swearing.

Cross-examination by Mr. VERDIER:

Q. When on the day of election did you go to the State poll at Brick Church?—A. About ten o'clock. I didn't stay at that poll after I done vote very long.

Q. How long did you stay at the State poll?—A. I staid at State poll till about three o'clock in the evening before I turn back.

Green's fifth statement is thus fully disposed of.

His sixth statement, as to Crofut's confession of bribery, is already shown to be false by Crofut, quoted above. It is false on its face, because, even if Crofut had been engaged in wholesale bribery, it is wholly improbable that he would take an ignorant, blatant political enemy into his confidence, and tell him all about it.

Green's seventh statement, as to Gantt's going to demand a Republican constable and causing the polls to close, is shown to be false by the evidence of the Democratic manager, Mr. Fripp (p. 626), who swears that when he complained of the noise Gantt took the crowd away, and thus aided in restoring quiet. It is also shown to be false by Eddings, an-

other manager (p. 443), who swears that Gantt helped to restore quiet; by Major, already quoted above, and by a dozen other witnesses, not necessary to cite.

Green's eighth statement, as to Gantt's interference with Rivers, is disposed of by Gantt (pp. 291-293) and by the witnesses cited above, and even by Rivers himself, one of the planets of this mendacious system of which Chance Green is the sun and center, and who fails to corroborate Green's account of Gantt's interference with Rivers.

Green's ninth statement is, that, being Republican precinct chairman, he was charged with being a Democrat, and hearing threats against all Democrats he went boldly over to the Democracy, to show them he could do as he pleased. But before he boldly avowed his change of heart he called a Republican meeting, and Bampfield, Wheeler, and Sheppard threatened to run all Democrats off the island. These threats, contrary to contestee's theory, strengthened Chance Green's resolution to change to the Democracy.

He then heard Smalls and "Red-Hot Joe" Robinson threaten social and religious ostracism and exile from family and home even at the muzzles of guns, and narrates a lot of inconglomerate stuff, part hearsay and part purporting to be his own experience, the most thrilling of which is that he (witness) and March Washington were hunted by armed men, some of whom came to his (Green's) door and asked for him, and lay in the woods all night waiting for him to kill him, and all because of his Democracy.

He swears that many men could not vote for Elliott because of threats, and that a great many lay about the polls waiting for the threats to cease.

It is tedious to follow this witness further. Enough to say he is flatly contradicted in nearly every statement he has made by every officer of the election of both parties, by the colored supporters of contestee, by Major (p. 436), by Jenkins (p. 437), by Brown (p. 439), by Holmes (p. 442), by Adam Small (p. 443), by Philip Brown (p. 447), by Hazel (p. 448), by Grant (p. 449), by Ranson Ward (p. 296), and by more than twenty other witnesses, and, finally, by himself, as witness the following extracts from his cross-examination (p. 590):

Q. You say when you got to the poll there were twenty men standing there who asked you for tickets. Give me the names of those men.—A. I don't know the names of those men. I don't keep books for them. A man goes to issue tickets; can he remember the names of all he issues to?

Q. Give me the names of any of them.—A. I gave tickets, as far as I can remember, to Daniel Porcher, K. C. Chaplin, Frank Jenkins, and several more; others I can't remember their names.

Q. How many Democratic tickets did you say you issued out that day?—A. I think I issued about 400 tickets, more or less.

Q. How much less do you think, or how much more?—A. I think it was more, for the Democrat men there that wanted ticket; I think 400 was the last account I had on my book. (p. 590.)

Swears he kept no book, and next page that he did keep a book of the names of those to whom he issued tickets. Again (p. 591):

Q. Then you had no conversation with these twenty men that you spoke of?—A. I did have conversation with them.

Q. How long did that conversation last?—A. About five minutes, and I went away from them up the road to issue some more tickets to other men.

Q. Did you see these men again after you left them?—A. I did see them after I came back from up the road.

Q. How many times did you see them again?—A. Some were there all day and some went home.

Q. Did you have any further conversation with them?—A. I did.

Q. Having seen them in the morning, and seeing some of them most all day, and having had several conversations with them, how is it now that you can't remember their names?—A. I seen them in the morning and some of them on their way back home, and said they could not vote, the threats of the Republicans were too great.

Question repeated.—A. I can't remember.

Question again repeated.—A. They are strangers to me; they were Democrat men.

Q. Give me the names of the six men you claim pulled Jonas Howard from the platform of the polls.—A. There was a crowd, and I did not know who was it done it, and he was too scared to tell, for I asked him, and he said those Republican men most kill me.

Q. Did you see it done?—A. I saw when they jerked him down in the crowd, but could not see who done it. I had to look out for myself then.

Q. Give me the names of any of that crowd.—A. I tell you I do not know the names; he himself could not tell who done it. He got scared and run home.

Q. Was this crowd also composed of strangers?—A. The way they were mixed up, if my brother had been there I couldn't know him. I had to look out for myself.

Q. What do you mean by looking out for yourself?—A. To watch and see if any one was going to hit me; the threats and the cursing that was made by Republican men and women.

Q. You say you were watching the women and men to see if they were going to strike you. How is it that you can not remember any of them?—A. If there is a crowd in one place all talking and hallooing, how can I tell who is it?

Question repeated.—A. I can't remember them, because they were in a crowd making their threats.

Q. Then the only reason you can assign for not knowing any of this crowd of men and women is that they were threatening and talking?—A. They were threatening and pulling this poor man, Jonas Howard, off the platform. If I must tell you the truth about the whole thing now about me, I was actually scared of the crowd; was afraid I would get killed before I got home; just talked with them so and hear what they say. Every one of the Republican officers know if a Democrat man goes to the poll there with a Democrat ticket in his hand he stands a poor chance of his life; he may get killed any minute.

Q. Then that is the only reason you can assign for not knowing the names of any of these people?—A. That is the only reason, 'cause I was too scared.

Q. What time of the morning was that?—A. It was about five o'clock when Jonas Howard polled his vote.

Q. Do you mean in the morning or evening?—A. It was about in the evening when the poor man polled his vote.

Q. Are you sure it was in the evening?—A. Yes, sir.

Q. Did he vote at all that day?—A. I can not tell whether he did or not; I gave him another ticket; he was too scared; I think after that pulling about he must have gone home.

Examination-in-chief (p. 584), Green swears that he arrived at the polls at 7 o'clock a. m.; that he gave tickets to twenty men who wanted to vote the Democratic ticket "quick" and get home, for fear of their lives, and that Jonas Howard was the first man who started to vote. The extract from his cross-examination, above quoted, makes him swear that it was 5 o'clock in the evening when "the poor man (Howard) polled his vote;" and then he swears that he don't know whether Howard voted at all or not, and after consideration thinks that Jonas Howard was "too scared" and "must have gone home."

The testimony of Chance Green has been closely followed, analyzed, and its utter falsehood established, only because it was the best type of its class as adduced in this record.

The plea of intimidation is overthrown. Forty-five voters, of whom perhaps 17 were white, voted for contestee at Brick Church. He received, therefore, 28 colored votes. Colored men openly issued his tickets and voted for him, not only at this, but other polls in the district. And yet not one has been killed. Not one has been assaulted. Not one has been turned out of the church. Not one has been deserted by his wife. Not one has been socially ostracized. Not one has been molested or boycotted in his business and profession.

But we had forgotten—one man was turned out of the church for his

"political opinions." Let him tell his own story. The witness is Abraham Weston, and his testimony is found at pages 793-4.

Q. Does not a colored man risk a great deal by voting the Democratic ticket?—A. Yes, sir. They turn men out of the churches and societies for voting the Democratic ticket. I know a preacher who in 1884 was turned away from his church because he voted the Democratic ticket. I myself was turned out because I voted the Democratic ticket. I know that some of our people voted the ticket and there would have been bloodshed in the church on account of voting with the Democrats if the law had not interfered.

Cross-examined:

Q. How long have you been a Democrat?—A. Since I was twenty-one years old; I will be thirty-seven in June.

Q. How long have you belonged to the church?—A. Since I was sixteen years old.

Q. How did it happen that if you were a Democrat that you were not turned out of the church before 1884?—A. Because I took part in protecting the preacher who voted the Democratic ticket. They had not noted that I voted the Democratic ticket until I took up for the preacher.

Q. Was there not more interest taken in elections prior to 1884 than at that time or since?—A. It did not reach our church until 1884.

Q. How many colored Democrats were there in your church prior to 1884?—A. About nine.

Q. Was there any ostracisms or proscription prior to 1884?—A. There was talk of it, but it got to its height in 1884.

Q. Have colored people taken much interest in the last two elections?—A. No, sir; not much.

Q. Do they have a fair show in politics in your precinct?—A. Yes, sir.

Q. Do they have any representation on the board of managers?—A. No, sir; no Republican.

Q. Would they like to be represented?—A. I do not know.

Q. Are there not several colored men in that precinct sufficiently intelligent to act as managers?—A. No, sir; not any.

Q. What were you turned out of church the first time for?—A. I was turned out about women.

Closely and patiently we have followed this record and we solemnly declare that the only casualties that occurred in the Seventh Congressional district on account of political opinion were as follows:

(1) A crowd of boys and women chased three men at Beaufort the evening of the day of a political demonstration, and one man was slightly injured by a piece of brick with which he was struck.

(2) A colored man was lightly tapped with a switch by a woman.

(3) A dog was shot—supposed on account of the political opinions of the owner.

(4) A mule was shot—supposed for same reason; both shootings by unknown parties.

(5) Abraham Weston was turned out of the church, but it is not clear whether for women or politics.

(6) The wives of Abram Scott and Roland White, two colored Democrats, deserted them for two or three week. White tells, page 613, how the family peace was broken and how it was returned. We insert that part of his testimony:

Q. Do you know or not whether Abram Scott's wife left him on account of his voting the Democratic ticket?—A. Yes, sir; she left him, and I had to go to her mother's house to coax her back to her place; then she told me that she aint coming back as long as her husband votes a Democrat ticket; she was all the time quarreling with her husband; she has just made up her mind to come home.

Cross-examination by Mr. WHIPPER:

Q. You say that your wife left you because you are a Democrat?—A. Yes, sir.

Q. When did she leave you and how long did she stay?—A. She stayed away from me about 2 weeks; she left directly after we voted, the very next day.

Q. Did you vote the Democratic ticket, and, if so, how did she know it?—A. Yes; she knew it because some Republicans went home and told her that night.

Q. You say that Abram Scott's wife left him also ; when did she leave, and how long did she stay ?—A. She stayed off about 3 weeks ; she left him about 2 weeks after we voted.

Q. Your wife has left you before, hasn't she ?—A. No ; never left me before this time.

Q. From the time that she left you till the time that she returned did you ever go to see her ?—A. No, sir.

Q. How long after you sent Abram Scott to persuade her to come back was it before she came ?—A. It was a week and a half before she came.

Q. You also went and brought Abram Scott's wife back, didn't you ?—A. Yes, sir ; I went and coaxed her to come back home.

The above is sample stuff of this plea of intimidation.

We might, were it useful or profitable, go on and analyze the testimony of the other witnesses, some white, some colored, who swear falsely to bolster up this plea of intimidation. Each and every witness who so swears is either contradicted directly or by himself. Most of these witnesses cited by the majority, as Sautelle, Lawrence, and others, who swear to intimidation so glibly and generally, when asked upon cross-examination for names, dates, and particulars, are unable to give them.

But we forbear.

We ask only that the testimony be examined and the law complied with. With that we will be content. Partisan zeal and intolerance may condone and affirm the monstrous wrong done by the election authorities of the Seventh South Carolina district and retain contestee in the seat to which he was never elected, but the fact will still remain that he occupies that seat by means of fraud and crime and perjury. The record will not down. The facts are facts forever.

The minority recommend the adoption of the following as a substitute for the resolution offered by the majority :

*Resolved*, That William Elliott was not elected and is not entitled to a seat in the Fiftieth Congress from the Seventh South Carolina district.

*Resolved*, That Robert Smalls was elected and is entitled to a seat in the Fiftieth Congress from the Seventh South Carolina district.

J. H. ROWELL.  
L. C. HOUK.  
W. C. COOPER.  
J. LYMAN.  
J. T. JOHNSTON.  
H. C. LODGE.