

S. L. NIBLACK vs. J. T. WALLS.

P A P E R S

IN THE CASE OF

S. L. NIBLACK vs. J. T. WALLS,
OF FLORIDA.

JANUARY 16, 1872.—Ordered to be printed.

PAPERS OF CONTESTANT.

No. 1.—*Notice of contest.*

LAKE CITY, *January 14, 1871.*

SIR: In pursuance of law, I hereby give you notice that I shall contest your election and seat as a member of the Forty-second Congress of the Congress of the United States of America from the congressional district of Florida, upon the following grounds:

First. That, at the election held on the 8th day of November, A. D. 1870, in pursuance of law, I received a majority of all the votes cast at said election in said congressional district.

Second. That the votes cast at said election in the several counties in said State composing said congressional district, were duly canvassed and certified by the inspectors of the election, at the several precincts, to the county canvassers of their respective counties, as required by law, and that said county canvassers did canvass and certify the result of the votes cast at the several precincts in their respective counties (except in the counties of Duval and Manatee, of which reference will more particularly be made hereafter) to the board of State canvassers.

Third. That in the county of Duval, Yellow Bluff precinct, which gave me a majority of one hundred and fifty-six votes, and the precinct at Mayport, which gave me a majority of thirty-one votes, and the precinct of Baldwin, which gave me a majority of twenty-eight votes, were unlawfully rejected by the board of county canvassers of said county.

Fourth. That in the county of Manatee, Fort Ogden precinct, which gave me a majority of forty-seven votes, was unlawfully rejected by the board of county canvassers of said county.

Fifth. That a majority of the board of State canvassers, in their official canvass of the returns made by the several boards of county canvassers, unlawfully rejected the returns from the following-named counties, to wit: Brevard County, which gave me a majority of twenty-seven votes; Calhoun County, which gave me a majority of thirty-nine votes; Dade County, which gave me a majority of two votes; La Fayette County, which gave me a majority of one hundred and seventy-seven votes; Manatee County, which gave me a majority of one hundred and fifty-three votes; Monroe County, which gave you a majority of seventy-eight votes; Sumter County, which gave me a majority of two hundred and fifty-four votes; Suwannee County, which gave me a majority of eighty-eight votes, and Taylor County, which gave me a majority of one hundred and eighty-four votes, making in the aggregate nine hundred and twenty-five votes majority in my favor and seventy-eight votes majority in your favor.

Sixth. The actual majority in my favor in said counties, rejected by the board of State canvassers, was eight hundred and forty-seven votes.

Seventh. The result of the official canvass, as declared by a majority of the board of State canvassers, after rejecting the returns of the counties above mentioned, your majority was declared to be six hundred and twenty-seven votes. The counties unlawfully rejected by a majority of the board of State canvassers gave me a majority of eight hundred and forty-seven votes, which, if said returns from said counties had been allowed, and the votes counted, it would have given me a majority of all the votes returned by the several boards of county canvassers of two hundred and twenty votes.

Eighth. That the precincts rejected by the boards of county canvassers, for the counties of Duval and Manatee, gave me a majority of two hundred and fifteen votes, to which is to be added two hundred and twenty votes majority, including the counties unlawfully rejected as hereinbefore stated, and my actual majority of all the votes cast at said election in said congressional district was four hundred and thirty-five.

Ninth. That upon a fair, legal, and full canvass of all the votes cast in said congressional district, I was elected by a majority of four hundred and thirty-five votes.

Tenth. That the grounds of rejection of the returns of the counties and precincts hereinbefore mentioned are insufficient and immaterial, and chiefly for mere informalities and without fraud.

Eleventh. You will take notice that I shall ask for the rejection of the votes cast at the precinct held on the Government reservation at the navy-yard in Escambia County. All persons residing on said reservation and voting at said precinct are not under the jurisdiction of the State of Florida; and the precinct held on said reservation was not within the jurisdiction of the county of Escambia or State of Florida.

Twelfth. That if you intend to ask for the rejection of returns made by precinct inspectors, or by county canvassers, on the grounds of informality, I will also ask for the rejection of the precinct at Jacksonville, Duval County, where the polls of said election were kept open until 9 o'clock at night, when the law required they should have been closed at sunset. I will also ask for the rejection of the precinct held at the probate office in Lake City, Columbia County, on the grounds that the returns from said precinct were only signed by two of the inspectors, when the law requires they should be signed by the whole board. I shall also ask for the rejection of the returns from Alachua County, said returns being signed by only two of the county canvassers, when the law requires they should be signed by the whole board; all of which said precincts and said county gave you a majority of votes.

After due time for your reply, I shall proceed, in pursuance of law, to establish my election as a member of the Forty-second Congress of the Congress of the United States of America, by a majority of votes cast at said election for said office in said congressional district of Florida.

Very respectfully,

SILAS L. NIBLACK.

HON. JOSIAH T. WALLS.

STATE OF FLORIDA, *Leon County*;

I hereby certify that I served the original, of which this is a true copy, on Josiah T. Walls, in person, at Tallahassee, Florida, on this 18th January, 1871.

COUNCIL A. BRYAN,
Deputy Sheriff, Leon County, Florida.

No. 2.—*Answer.*

TALLAHASSEE, FLORIDA, *January 20, 1871.*

SIR: In pursuance of law, I hereby reply to your notice setting forth the grounds upon which you shall contest my election and seat as a member of the Forty-second Congress of the Congress of the United States of America from the congressional district of Florida. I shall sustain the validity of my election upon the following grounds:

First. That at the election held on the 8th day of November, A. D. 1870, in pursuance of law, I received a majority of all the legal votes cast at said election in said congressional district.

Second. That the legal votes cast at said election in the several counties in said State composing said congressional district, were duly canvassed and certified by the inspectors of the election at the several precincts to the county canvassers of their respective counties, as required by law, and the said county canvassers did canvass and certify the results of the legal votes cast at the several precincts in their respective counties, excepting in the counties of Columbia, Hamilton, Jackson, and Levy, of which reference will more particularly be made hereafter, to the board of State canvassers.

Third. That in the county of Duval, Yellow Bluff precinct, fraud and illegal voting were committed, thereby rendering the election at said precinct null and void. That

Mayport and Baldwin Precincts returns were not returned according to law, the said returns not being signed and sealed as the law requires, and was lawfully rejected by the county canvassers of said county.

Fourth. That in the county of Columbia, City Hall precinct, the clerk of the inspectors was not a registered voter, as the law requires, and that there were illegal voting and intimidation perpetrated at said precinct, at which said precinct you received a majority of three hundred votes. I shall ask for the rejection of the said precinct upon the ground above mentioned.

Fifth. That in the county of Jackson, Underwood's precinct, which gave you a majority of thirty-nine, were unlawfully received by a majority of the board of inspectors of said precinct, and that the polls were not opened until 10 o'clock a. m., and closed before sunset; violence and intimidation were committed at said precinct; and that, wherein about four hundred registered voters, who were intent upon going to Marianna for the purpose of voting in behalf of my election, but were obliged to return by the way, not reaching the polls to vote, because of the fearfulness of intimidation from violence and bloodshed. I will therefore ask for the rejection of the votes of said county.

Sixth. I shall ask the rejection of the returns of Manatee County, which gave you a majority of one hundred and fifty-three votes, which was lawfully rejected by the board of State canvassers for informalities, upon the ground that there was no election held in said county according to law—the ballot-boxes were not prepared as the law directs.

Seventh. I shall ask the rejection of the returns of Suwannee County, which gave you a majority of eighty-eight votes, (and which was lawfully rejected by the board of State canvassers for informalities,) upon the ground that there was illegal voting in said county, there being more votes cast than voters registered.

Eighth. I shall ask for the rejection of Hamilton County, which gave you a majority of three hundred votes, upon the ground that there were illegal voting and intimidation and fraud in said county.

Ninth. I shall ask the rejection of the returns of Levy County, which gave you a majority of two hundred and thirty-nine votes, upon the ground that there were illegal voting and intimidation in said county, and that the inspectors of the several precincts in said county did unlawfully transmit the ballot-boxes of their respective precincts to persons not authorized by law to receive them.

Tenth. I shall ask the rejection of all the precincts and counties where informalities, illegal voting, fraud, and intimidation were committed on the day of election.

Eleventh. That the board of State canvassers, in their official canvass of the returns made by the several boards of county canvassers, lawfully rejected the returns from the following-named counties, to wit: Brevard County, upon the ground that the returns were not returned according to law, and also for informalities; Calhoun County, upon the ground that there was no official return received at the office of the secretary of state, as the law directs; Dade County, upon the ground that there were no votes cast for member of Congress in said county; La Fayette County, upon the ground that there was no legal returns returned from said county. I shall further ask the rejection of said county upon the following additional grounds: The precinct of New Troy, in said county, for intimidation and fraud; the precinct at Governor Hill, for violation of law on part of the inspectors, they failing to sign, seal, and deliver the returns, ballot-boxes, and poll-books, as the law directs, and that the ballot-box was broken open and stuffed at said precinct. The ballot-box of California precinct, in said county, was not sealed, and the person who delivered the ballot-box delivered the key of said box, and the returns of the inspectors were in the said box, and that the returns did not state in what county the said election was held; Cook's Hammock precinct, the inspectors of which returned fraudulent returns on county canvassers returns. Further, at New Troy precinct, I received forty votes, which were fraudulently taken from the ballot-box, and were not returned by the inspectors of the said precinct, as the law directs; Manatee County, upon the ground that the returns were not returned according to law; Monroe County, upon the ground that the returns were not returned according to law; Sumter County, upon the ground that the returns of said county were not returned as the law directs, and that the said returns were not made out as the law requires. I shall further ask the rejection of Sumter County upon the ground of intimidation, fraud, and illegal voting; Suwannee County, upon the ground that the returns of said county were not signed and returned by the proper officers, as the law directs. I shall ask the rejection of the said county upon the ground above-mentioned. Taylor County, upon the ground that the returns were informal and not signed by the proper officers, as the law directs, making in the aggregate four-hundred and eighty-five legal votes in my favor.

Twelfth. The returns from Alachua County were properly signed by all three of the county canvassers, as shown on file in county clerk's office, and on file in the office of the secretary of state.

Thirteenth. The result of the official canvass, as declared by the board of State can-

vassers to be majority in my favor, was the majority of six hundred and twenty-seven votes.

Fourteenth. The precinct inspectors and county canvassers of the counties of Columbia, Levy, Hamilton, and Jackson, unlawfully returned to the number of eight hundred and sixty-eight votes, as above mentioned, would increase my majority to fourteen hundred and eighty-five.

Fifteenth. The twenty-third and twenty-fourth sections of an act entitled "An act to provide for the registration of electors and the holding of elections," approved August 6, A. D. 1868, which reads as follows: The canvass being completed, duplicate certificates of the result shall be drawn up by the inspectors or clerk, containing in words written at full length the names of each person voted for for each office, the number of votes cast for each person for such office, &c., &c. Section twenty-four reads as follows: The county canvassers shall publicly proceed to canvass the votes given for the several offices and persons, as shown by the returns on file in the office of such clerk or judge, and shall then make and sign duplicate certificates containing in words and figures written at full length the whole number of votes given for each office, the names of the person for whom such votes were given for such office, &c., &c.

Sixteenth. That upon a fair legal and full canvass of all the legal votes cast in such congressional district, I am elected by a majority of two thousand seven hundred and eighty-five votes.

Seventeenth. You will take notice that I shall ask for the rejection of each and every return unlawfully made by the county canvassers of the several counties composing the said congressional district, upon the fact that the names of the persons voted for does not appear written at full length, as the law requires.

Eighteenth. By a thorough examination of official canvass of the board of State canvassers for the said congressional district, you will see that the precinct held on the Government reservation at the navy yard in Escambia County was rejected by the county canvassers of said county, and was not counted by the board of canvassers.

That I shall insist that the board having necessarily, in virtue of the duty imposed upon it, a discretionary power in the nature of a judicial one, and having exercised that power in deciding as to what constitutes a return, and certified to the secretary of state, and dissolved, and that action having been recognized by non-virtue on your part, either by protest to the board or to the executive prior to the issue to me of the proper certificate, and the non-pursuit of the judicial restriction by injunction, will now preclude you from either proving the various causes of complaint set up in your grounds of contest or availing yourself of the same before Congress.

I shall sustain the validity of my election upon the grounds hereinbefore mentioned.

Very respectfully,

Judge SILAS L. NIBLACK.

JOSIAH T. WALLS.

Received January 31, 1871.

S. L. NIBLACK.

No. 3.—*Notice to take testimony.*

LAKE CITY, *February 10, 1871.*

SIR: In pursuance of law, I hereby notify you that I shall, on Monday, the 27th day of February instant, proceed to take the testimony as contestant of your election and seat as a member of the Forty-second Congress of the Congress of the United States, from the State of Florida, of the following witnesses, viz: Jonathan C. Gibbs, secretary of state, Robert H. Gamble, comptroller, and Sherman Conant, attorney general, composing the board of State canvassers of the State of Florida, at the recent election held on the 8th day of November last; also of J. Bowes, secretary of the State senate, and H. Russell, clerk of the assembly of the State of Florida; and shall at the same time require of them and each of them, and all other officers of the State government, certified copies of all records, papers, and documents in their possession respectively, relating to, connected with, or pertaining to the election aforesaid, as well as all other documents having any bearing on the merits of said election, and connected with or pertaining to the contested elections in the senate and assembly of the legislature of the State of Florida, at its recent session, and the testimony taken in the same, that may be necessary to prove the unlawful rejection of returns made of the votes cast at said election, by precinct inspectors or county canvassers, and to establish the legality of my election.

All of which testimony will be taken before the Hon. Charles E. Dyke, mayor of the city of Tallahassee, in the county of Leon, State of Florida.

Very respectfully,

SILAS L. NIBLACK.

Hon. JOSIAH T. WALLS.

P. S.—I also give you notice that I shall proceed to take the testimony of witnesses in the counties of Duval, Alachua, Columbia, and La Fayette, as soon as I can obtain the names of witnesses in said counties, of which time and place and names of witnesses will be furnished you as soon as known and determined.

SILAS L. NIBLACK.

Indorsed as follows:

STATE OF FLORIDA, *Alachua County*:

Before me, a justice of the peace in and for said county, personally appeared Alexander Wavasseur, who, being duly sworn, deposes and says that he served a copy of the within notice on Josiah T. Walls, by leaving a copy at his place of abode, on this the 16th day of February, A. D. 1871.

ALEXANDER WAVASSUER.

Sworn and subscribed to before me, this the 16th day of February, A. D. 1871.

[SEAL.]

THOMAS SIMPSON,
Justice of the Peace.

Subpœna.

To Jonathan C. Gibbs, secretary of state of the State of Florida, and Robert H. Gamble, comptroller of the same, greeting:

You are hereby command that, laying aside all business and excuses, you and each of you be and appear in your proper persons before the mayor of the city of Tallahassee, at the office of the said mayor in the Phoenix Building, on the corner of Clinton and Monroe streets, in said city, at the hour of 12 o'clock noon of the 27th day of the present month, to testify all and singular those matters and things which you or either of you know in the case of a contested election, wherein Silas L. Niblack, as contestant, contests the election and seat of Josiah T. Walls as member of the Forty-second Congress of the Congress of the United States from the State of Florida, and in order that you may be then and there examined respecting the said contested election in the manner provided by the laws of the United States. And this you shall in nowise omit, under the penalty prescribed by law.

Witness my hand and the seal of the said city of Tallahassee, this the 21st day of February, A. D. 1871.

[SEAL.]

C. E. DYKE,
Mayor City Tallahassee.

Indorsed as follows:

TALLAHASSEE, FLORIDA, *February 21, 1871.*

I certify that a copy of the within subpoena was this day served on the within named J. C. Gibbs and R. H. Gamble personally by me, said parties being to me well known.

C. E. DYKE,
Mayor City Tallahassee.

No 4.—*Testimony of Jonathan C. Gibbs, secretary of state.*

Testimony in the matter of the contested election between the Hon. Josiah T. Walls, holding certificate of election as a member of the Forty-second Congress of the Congress of the United States from the congressional district of Florida, and the Hon. Silas L. Niblack, contestant, taken before Charles E. Dyke, mayor of the city of Tallahassee, in said congressional district, on the 27th day of February, A. D. 1871:

The Hon. JONATHAN G. GIBBS, being duly affirmed on the Holy Evangelists of Almighty God, deposes and answers to the following questions, as follows, to wit:

Question first. Do you know the parties to this contested election, to wit: Josiah T. Walls and Silas L. Niblack?

He answers: I do.

Question second. What is your official station, and with what duties were you charged by law then in force in connection with the canvass of the votes cast on the 8th day of November last for Representative in Congress from the State of Florida?

He answers: I am secretary of state of the State of Florida, and was a member of the board of State canvassers of the election held on the 8th day of November last, and was charged with the duties mentioned in section 28 of the act entitled "An act to provide for the registration of electors and the holding of elections," approved August 6, 1868.

Question third. Look upon the printed statement now submitted to you, published in the Tallahassee Sentinel newspaper of the date of January 14, 1871, which said newspaper of said date is also submitted to you, and say whether or not the publication therein headed "Official returns of the general State election," and purporting to have been signed by you, as secretary of state, and Sherman Conant, as attorney general, and purporting to have been certified by you, as secretary of state, as a correct transcript of the original on file in the office of said secretary of state, does in fact exhibit the vote cast for Representative in Congress in the several counties in this State named in said published statement, as shown by the returns of said election held on the 8th day of November last, on file in your office, and canvassed by you and the other members of the board of State canvassers.

He answers: I think it does.

Question fourth. When did the board of State canvassers of the election for Representative in Congress above mentioned conclude their said canvass and finally adjourn?

He answers: On the 27th day of December, A. D. 1870.

Question fifth. Were there on file in the office of the secretary of state papers or documents purporting to be official returns of the votes cast at said congressional election in any other counties than those mentioned in said printed and published statement; and if so, from what counties?

He answers: There were such papers or documents, purporting to be official returns of said election from the counties of Suwannee, Taylor, Calhoun, La Fayette, Sumter, Manatee, and Brevard. I am not certain that the returns from Brevard were in at that date, or whether they came in afterward.

Question sixth. What action did the board of State canvassers take in regard to the papers and documents purporting to be election returns from the said counties of Suwannee, Taylor, Calhoun, La Fayette, Sumter, Manatee, and Brevard?

He answers: They threw them out on the ground of informality, either as to the time of their receipt or informality in form.

Question seventh. What do you mean by informality as to the time of their receipt?

He answers: Those that came in after the 29th day of November, which was the day on which the board first met.

Question eighth. What returns were in on the 29th November that were rejected for informality as to form?

He answers: Suwannee, Taylor, and La Fayette.

Question ninth. Are the said papers or documents, purporting to be election returns from the counties of Suwannee, Taylor, La Fayette, Calhoun, Sumter, Manatee, and Brevard in your possession or under your control, and are you the legal custodian thereof?

He answers: They are in my possession, except the returns from La Fayette County, which last returns were called for by the committee on privileges and election of the senate and not returned, and I have diligently searched for the same and have not been able to find them.

Question tenth. Having stated that the returns from Suwannee, Taylor, Calhoun, Sumter, Manatee, and Brevard are now in your possession, will you be so good as to attach to your testimony true and correct copies thereof?

Pending the answer to the tenth interrogatory, and in order to give the witness time to obtain copies of the documents referred to, the examination was adjourned until tomorrow, Tuesday, February 28, at 4 o'clock p. m.

TUESDAY, FEBRUARY 28, 1871—4 o'clock p. m.

The examination was resumed, and the witness answered as follows:

In answer to the foregoing interrogatory, I attach to this my testimony the following papers, marked A, B, C, D, E, and F, which I testify and certify are correct copies of the rejected returns from said counties, the originals of which are on file in my office of secretary of state.

Question eleven. Look at the paper marked A, "extract from Senate Journal," and certified by you as secretary of state of the State of Florida to be a correct transcript of the original now on file in your office, and say whether the same is a correct copy of the original.

He answers: It is.

JONATHAN C. GIBBS,
Secretary of State, Florida.

No. 5.—Suwannee County returns.

A.

Certificate of the result of election. To be signed by inspectors and clerk of election. (See section 23 of the general election law.)

STATE OF FLORIDA, Suwannee County :

We, the undersigned, inspectors and clerk of an election held at New Boston, in the county of Suwannee, and State aforesaid, on the eighth day of September, in the year of our Lord one thousand eight hundred and seventy, under and by virtue of an act entitled "An act to provide for the registration of electors and the holding of elections," approved August 6, 1868, and an act amendatory thereto, approved February 19, 1870, do hereby certify that the result of the said election was as follows, viz :

For Representative in Congress—J. T. Walls received forty-three, (43;) Lemuel Wilson received two, (2.)

For Lieutenant Governor—S. T. Day received seventy-eight, (78.)

For State senator—John H. Sutton received seventy-four, (74;) Joseph Hanhin received none.

For member of the assembly—Daniel M. McAlpin received eighty, (80;) Moses Simons received nine (9.)

For constable—Jefferson D. Hobbs, sixty-seven, (67;) I. B. Brown received thirty-nine, (39.)

Witness our hands at _____, in the county aforesaid, this _____ day of _____, in the year of our Lord one thousand eight hundred and _____.

_____, *Inspector of Election.*
 _____, *Inspector of Election.*
 _____, *Inspector of Election.*
 _____, *Clerk of Election.*

[SEAL.]

Certificate of the county canvassers. (See section 24, act of August 6, 1868.)

STATE OF FLORIDA, Suwannee County :

We, the undersigned, John W. Rice, judge of the county court of the county stated, and Nelson Conner, clerk of the circuit court of the county aforesaid, and John H. Baker, sheriff of the county above mentioned, constituting the board of county canvassers in and for the county stated, do hereby certify that we met at the office of the clerk of the circuit court of the county aforesaid on the 12th day of November, A. D. 1870, and publicly canvassed the votes given at a general election held in the county of Suwannee and State aforesaid on the 8th day of November, A. D. 1870, the same being the Tuesday next succeeding the first Monday in said month, under and by virtue of an act entitled "An act to provide for the registration of electors, and the holding of elections," approved August 6, 1868, and an act amendatory thereto, approved February 19, 1870. We do hereby certify from the returns on file in the office of the clerk aforesaid—

That the whole number of votes cast for Representative in Congress was five hundred and forty-eight, (548;) Silas L. Niblack, three hundred and eighteen, (318;) Josiah T. Walls, two hundred and thirty, (230.)

That the whole number of votes cast for State senator was five hundred and forty-seven (547) votes, as follows, viz : Robert W. Adams received two hundred and eighty-seven (287) votes; Charles T. Irvine received two hundred and sixty (260) votes.

That the whole number of votes cast for member of the assembly was five hundred and thirty-nine (539) votes, as follows, viz: John M. Bridges received two hundred and ninety-three, (293;) Daniel W. Tedden received two hundred and forty-six, (246.)

That the votes cast for constables were as follows, viz: William S. J. Blount received one hundred and seventy (170) votes; David H. Merchant received two hundred and nine (209) votes; Fleming Hall received one hundred and sixteen (116) votes; W. J. Barnes received eighty-one (81) votes; J. R. Sloan received sixty-four (64) votes; John W. Allison received twenty-three (23) votes; C. A. Ramsay received twenty-two (22) votes; Samuel McKeever received eleven (11) votes; W. H. McClellan received five (5) votes; and George Marshall received five (5) votes.

Witness our hands and seals of office, at _____, in the county aforesaid, this _____ day of _____, in the year of our Lord one thousand eight hundred and seventy _____.

_____,
Judge of the County Court of _____ County.

_____,
Clerk of the Circuit and County Courts of _____ County.

_____,
Justice of the Peace, _____ County.

The whole number of votes cast for lieutenant governor was five hundred and fifty-three, (553,) as follows, viz: W. D. Bloxham received three hundred and fifteen (315) votes; S. T. Day received two hundred and thirty-eight (238) votes.

Witness our hands and seals of office at Live Oak, in the county aforesaid, this twelfth day of November, in the year of our Lord one thousand eight hundred and seventy.

[SEAL.]

JOHN W. RICE,
Judge of the County Court of Suwannee County.
N. CONNER,
Clerk of Circuit Court of Suwannee County.
JOHN H. BAKER,
Sheriff of Suwannee County.

Certificate of county canvassers. (See section 24, act of August 6, 1868.)

STATE OF FLORIDA, *Suwannee County:*

We, the undersigned, John W. Rice, judge of the county court of the county stated, and Nelson Conner, clerk of the circuit court of the county aforesaid, and Edward J. Benton, a justice of the peace of the county above mentioned, constituting the board of county canvassers in and for the county stated, do hereby certify that we met at the office of the clerk of the circuit court of the county aforesaid, on the 12th day of November, A. D. one thousand eight hundred and seventy, and publicly canvassed the votes given at a general election held in the county of Suwannee and State aforesaid, on the eighth day of November, in the year of our Lord one thousand eight hundred and seventy, the same being the Tuesday next succeeding the first Monday in said month, under and by virtue of an act entitled "An act to provide for the registration of electors and the holding of elections," approved August 6, 1868, and an act amendatory thereto, approved February 19, 1870. We do hereby certify from the returns on file in the office of the clerk aforesaid—

That the whole number of votes cast for Representative in Congress was five hundred and forty-eight (548) votes, as follows, viz: Silas L. Niblack received three hundred and eighteen (318) votes; Joseph T. Walls received two hundred and thirty (230) votes.

That the whole number of votes cast for State senator was five hundred and forty-seven (547) votes, as follows, viz: Robert W. Adams received two hundred and eighty-seven (287) votes; Charles T. Irvine received two hundred and sixty (260) votes.

That the whole number of votes cast for member of the assembly was five hundred and fifty-one (551) votes as follows, viz: John M. Bridges received two hundred and ninety-three (293) votes; Daniel W. Tedden received two hundred and forty-six (246) votes; John H. Baker received eight (8) votes; Nelson Conner received three (3) votes; E. F. Henderson received one (1) vote.

That the votes cast for constables were as follows, viz: Wm. S. J. Blount received one hundred and seventy (170) votes; David H. Merchant received two hundred and nine (209) votes; Fleming Hall received one hundred and sixteen (116) votes; W. F. Barnes received eighty-one (81) votes; J. R. Sloan received sixty-four (64) votes; C. A. Ramsay received twenty-two (22) votes; Samuel McKeever received eleven (11) votes; W. H. McClellan received five (5) votes; George Marshall received five (5) votes.

That the whole number of votes cast for lieutenant governor was five hundred and fifty-three, (553,) as follows, viz: W. D. Bloxham received three hundred and fifteen (315) votes; S. T. Day received two hundred and thirty-eight (238) votes.

Witness our hands and seals of office at Live Oak, in the county aforesaid, this twelfth day of November, in the year of our Lord one thousand eight hundred and seventy.

[SEAL.]

JOHN W. RICE,
Judge of the County Court of Suwannee County.
N. CONNER,
Clerk of the Circuit and County Courts of Suwannee County.
EDWARD J. BENTON,
Justice of the Peace of Suwannee County.

[SEAL.]

No. 6.—Taylor County returns.

B.

Certificate of the county canvassers. (See section 24, act of August 6, 1868.)

STATE OF FLORIDA, *Taylor County:*

We, the undersigned, James H. Wentworth, judge of the county court of the county stated, and H. H. Wilder, sheriff of the county aforesaid, and Spencer P. Fife, a justice

of the peace of the county above mentioned, constituting the board of county canvassers in and for the county stated, do hereby certify that we met at the office of the clerk of the circuit court of the county aforesaid on the ninth day of November, A. D. one thousand eight hundred and seventy, and publicly canvassed the votes given at a general election held in the county of Taylor and State aforesaid on the eighth day of November, in the year of our Lord one thousand eight hundred and seventy, the same being the Tuesday next succeeding the first Monday in said month, under and by virtue of an act entitled "An act to provide for the registration of electors and the holding of elections," approved August 6, 1868, and an act amendatory thereto, approved February 19, 1870. We do hereby certify, from the returns on file in the office of the clerk aforesaid—

That the whole number of votes cast for Representative in Congress was one hundred and eighty-four, (184,) as follows, viz: Silas L. Niblack received one hundred and seventy-seven, (177;) Robert Meacham received six, (6;) Lem. Wilson received one, (1.)

That the whole number of votes cast for State senator was two hundred and thirty-five, (235,) as follows, viz: John H. Sutton received one hundred and seventy-five, (175;) John N. Krimminger received sixty, (60.)

The whole number of votes cast for member of the assembly was two hundred and thirty-four, (234,) as follows, viz: J. Wright Hendry received one hundred and seventy (170) votes; John A. J. Cruce received sixty-four, (64.)

That the votes cast for constables were as follows, viz: A. L. Markey received ten, (10;) E. N. Wilder received one hundred and twenty-four, (124;) Moses Simmons received seventy-four, (74;) John H. Mathis received eighty, (80.)

The whole number of votes cast for lieutenant governor was two hundred and twenty-five, (225,) as follows, viz: W. D. Bloxham received one hundred and seventy-seven, (177;) S. T. Day received forty-eight, (48.)

Witness our hands and seals of office at Perry, in the county aforesaid, this second day of December, in the year of our Lord one thousand eight hundred and seventy.

[SEAL.]

JAMES H. WENTWORTH,

Judge of the County Court of Taylor County.

H. H. WILDER,

Sheriff of Taylor County.

SPENCER P. FIFE,

Justice of the Peace of Taylor County.

[SEAL.]

[SEAL.]

Certificate of the county canvassers. (See section 24, act of August 6, 1868.)

STATE OF FLORIDA, *Taylor County:*

We, the undersigned, James H. Wentworth, judge of the county court of the county stated, and Samuel A. Willeox, deputy clerk of the circuit court of the county aforesaid, and Spencer P. Fife, a justice of the peace of the county above mentioned, constituting the board of county canvassers in and for the county stated, do hereby certify that we met at the office of the clerk of the circuit court of the county aforesaid, on the 9th day of November, A. D. 1870, and publicly canvassed the votes given at a general election held in the county of Taylor, and State aforesaid, on the 8th day of November, A. D. 1870, the same being the Tuesday next succeeding the first Monday in said month, under and by virtue of an act entitled "An act to provide for the registration of electors and the holding of elections," approved August 6, 1868, and an act amendatory thereto, approved February 19, 1870. We do hereby certify, from the returns on file in the office of the clerk aforesaid—

That the whole number of votes cast for Representative in Congress was one hundred and eighty-four, (184,) as follows, viz: Silas L. Niblack, one hundred and seventy-seven, (177;) Robert Meecham, six, (6;) Lem. Wilson, one, (1.)

That the whole number of votes cast for State senator was two hundred and thirty-five, (235,) as follows: John H. Sutton, one hundred and seventy-five, (175;) John N. Krimminger, sixty, (60.)

That the whole number of votes cast for member of the assembly was two hundred and thirty-four, (234,) as follows: Isaac Wright Hendry, one hundred and seventy, (170;) John A. J. Cruce, sixty-four, (64.)

That the votes cast for constables were as follows: E. N. Wilder, one hundred and twenty-four, (124;) Moses Simmons, seventy-four, (74;) John H. Mathis, eighty, (80;) A. L. Marsey, ten, (10.)

That the whole number of votes cast for lieutenant governor was two hundred and

twenty-five, (225,) as follows: W. D. Bloxham, one hundred and seventy-seven, (177;) S. T. Day, forty-eight, (48.)

Witness our hands and seals of office at Perry, in the county aforesaid, this 9th day of November, A. D. 1870.

[SEAL.]

JAMES H. WENTWORTH,
Judge of the County Court of Taylor County.
SAMUEL A. WILLCOX,
Deputy Clerk of the Circuit and County Courts of Taylor County.
SPENCER P. FIFE,
Justice of the Peace for Taylor County.

No. 7.—*Calhoun County returns.*

C.

Certificate of the county canvassers.

STATE OF FLORIDA, *Calhoun County:*

We, the undersigned, William Clark, judge of the county court of the county stated, and Zach. Brown, clerk of the circuit court of the county aforesaid, and a justice of the peace of the county above mentioned, constituting the board of county canvassers in and for the county, do hereby certify that we met at the office of the clerk of the circuit court of the county aforesaid on the fourteenth day of November, A. D. one thousand eight hundred and seventy, and publicly canvassed the votes given at a general election held in the county of Calhoun and State aforesaid on the eighth day of November, in the year of our Lord one thousand eight hundred and seventy, the same being the Tuesday next succeeding the first Monday in the said month, under and by virtue of an act entitled "An act to provide for the registration of electors and the holding of elections," approved August 6, 1868, and an act amendatory thereto, approved February 19, 1870. We do hereby certify from the returns on file in the office of clerk aforesaid—

That the whole number of votes cast for Representative in Congress was one hundred and sixty-three, (163;) S. L. Niblack received one hundred and one (101) votes; J. T. Walls received sixty-two (62) votes.

That the whole number of votes cast for lieutenant governor was one hundred and sixty-eight, (168;) W. D. Bloxham received one hundred and two (102) votes; Samuel T. Day received sixty-six (66) votes.

That the whole number of votes cast for member of the assembly was one hundred and seventy three (173) votes, as follows, viz: James W. Gearty received one hundred and one (101) votes; James B. Stone received seventy-two (72) votes.

That the votes cast for constables were as follows, viz: H. C. Carson received seventy-six (76) votes; J. B. Roberts received sixty (60) votes; W. A. Kent received thirty-seven (37) votes; L. C. Davis received forty-one (41) votes; H. Robinson received fourteen (14) votes; J. S. Stone received thirty (30) votes.

Witness our hands and seals of office at Abes Spring, in the county aforesaid, this fourteenth day of November, in the year of our Lord one thousand eight hundred and seventy.

[SEAL.]

WILLIAM CLARK,
Judge of the County Court of Calhoun County.
ZACH. BROWN,
Clerk of the County Court of Calhoun County.

STATE OF FLORIDA, *Calhoun County:*

I, Henry Clark, deputy clerk of the circuit and county court of said county, do certify that the foregoing is a true copy of the county canvassers' certificate of a general election held on the 8th day of November, 1870, now on file in my office this the 30th day of November, A. D. 1870.

[SEAL.]

ZACH. BROWN, *Clerk.*
per HENRY CLARK, *Deputy Clerk.*

In answer to the last interrogation, I herewith append copies of the rejected returns: from the counties of Suwannee, three, (3;) Taylor, two, (2;) Calhoun, one, (1;) Sumter, two, (2;) Manatee, two, (2;) and Brevard, one, (1;) making a total of six counties and eleven certificates.

[SEAL.]

JONATHAN C. GIBBS,
Secretary of State.

FEBRUARY 23, 1870.

No. 8.—*Sumter County returns.*

D.

Certificate of the county canvassers. (See section 24, act of August 6, 1868.)

STATE OF FLORIDA, *Sumter County :*

We, the undersigned, Allen J. Cassidy, judge of the county court of the county stated, and S. J. Bouknight, deputy clerk of the circuit court of the county aforesaid, and John F. Jones, a justice of the peace of the county above mentioned, constituting the board of county canvassers in and for the county stated, do hereby certify that we met at the office of the clerk of the circuit court of the county aforesaid on the tenth day of November, A. D. one thousand eight hundred and seventy, the same being the Tuesday next succeeding the first Monday in said month, under and by virtue of an act entitled "An act to provide for the registration of electors and the holding of elections," approved August 6, 1868, and an act amendatory thereto, approved February 19, 1870. We do hereby certify from the returns on file in the office of the clerk aforesaid—

That the whole number of votes cast for Representative in Congress was three hundred and seventy-four, (374,) as follows, viz : S. L. Niblack received three hundred and fourteen (314) votes; J. T. Walls received sixty (60) votes.

State senator, none.

That the whole number of votes cast for lieutenant governor was three hundred and seventy-four, (374,) as follows, viz : Wm. D. Bloxom received three hundred and twelve (312) votes; and Day received sixty-two (62) votes.

That the whole number of votes cast for member of the assembly was three hundred and nine, (309,) as follows, viz : Granville Bevell received two hundred and seventy-three, (273;) R. J. Kendrick received twenty-three (23) votes; James A. Cowdry received thirteen (13) votes.

That the votes cast for constables were as follows, viz : one hundred and seventy-seven (177;) T. Powell received ninety-five (95) votes; James Jones received sixty-five (65) votes; J. W. Wade received sixteen (16) votes; A. C. Clarke received one (1) vote.

Witness our hands and seals of office, at Leesburgh, in the county aforesaid, this the tenth day of November, in the year of our Lord one thousand eight hundred and seventy.

[SEAL.]

A. J. CASSADY,

Judge of the County Court of Sumter County.

S. J. BOUKNIGHT,

Deputy Clerk of the Circuit and County Courts of Sumter County.

JOHN F. JANES,

Justice of the Peace of Sumter County.

[SEAL.]

NOTE.—To all of these certificates that are printed appears the following instructions :

1. N. B.—The canvassers should meet at the office of the clerk on or before the sixth day after the election to canvass the votes.
2. In case of absence, sickness, or other disability of the county judge or clerk, the sheriff shall act in his place.
3. The certificate must be signed in duplicate, and must contain in words and figures, written at full length, the whole number of votes given for each office, the names of the persons for whom such votes were given for such office, and the number of votes given to each person for such office.
4. The clerk of the circuit court should record the certificate in the book required by law to be kept for that purpose.
5. One of the certificates shall be immediately transmitted by mail to the secretary of State and the other to the governor of the State.

Certificate of the county canvassers. (See section 24, act of August 6, 1868.)

STATE OF FLORIDA, *Sumter County :*

We, the undersigned, Allen J. Cassidy, judge of the county court of the county stated, and S. J. Bouknight, deputy clerk of the circuit court of the county aforesaid, and John F. Jones, a justice of the peace of the county above mentioned, constituting the board of county canvassers in and for the county stated, do hereby certify that we met at the office of the clerk of the circuit court of the county aforesaid on the 10th day of November, A. D. one thousand eight hundred and seventy, and publicly canvassed the votes given at a general election held in the county of Sumter and State aforesaid on the 8th day of November, A. D. one thousand eight hundred and seventy,

the same being the Tuesday next succeeding the first Monday in said month, under and by virtue of an act entitled "An act to provide for the registration of electors and the holding of elections," approved August 6, 1868, and an act amendatory thereto, approved February 19, 1870. We do hereby certify, from the returns on file in the office of the clerk aforesaid—

That the whole number of votes cast for Representative in Congress was as follows, viz: three hundred and seventy-four, (374;) S. L. Niblack received three hundred and fourteen (314) votes; J. T. Walls received sixty (60) votes.

None for State senator.

That the whole number of votes cast for lieutenant governor was three hundred and seventy-four, (374,) as follows, viz: William D. Bloxom received three hundred and twelve (312) votes; S. T. Day received sixty-two (62) votes.

The whole number of votes cast for member of the assembly was three hundred and nine, (309,) as follows, viz: Granville Bevell received two hundred and seventy-three (273;) R. J. Kendrick received twenty-three (23) votes; J. A. Condry received thirteen (13) votes.

That the votes cast for constables were as follows, viz: one hundred and seventy-seven, (177;) T. Powell received ninety five (95;) James Jones received sixty-five, (65;) J. W. Wade received sixteen (16;) A. C. Clark received one (1) vote.

Witness our hands and seals of office, at Leesburgh, in the county aforesaid, this 10th day of November, in the year of our Lord one thousand eight hundred and seventy.

[SEAL.]

A. J. CASSADY,

Judge of the County Court of Sumter County.

S. J. BOUKNIGHT,

Deputy Clerk of the Circuit and County Courts of Sumter County.

JOHN F. JONES,

Justice of the Peace of Sumter County.

[SEAL.]

No. 9.—Manatee County returns.

E.

Certificate of the county canvassers. (See section 24, act of August 6, 1868.)

STATE OF FLORIDA, *Manatee County:*

We, the undersigned, E. E. Mizell, judge of the county court of the county stated, John F. Bartholf, clerk of the circuit court of the county aforesaid, and N. H. De Coster, a justice of the peace of the county above mentioned, constituting the board of county canvassers in and for the county stated, do hereby certify that we met at the office of the clerk of the circuit court of the county aforesaid on the 29th day of November, A. D. 1870, and publically canvassed the votes given at a general election held in the county of Manatee and State aforesaid on the 8th day of November, A. D. 1870, the same being the Tuesday next succeeding the first Monday in said month, under and by virtue of an act entitled "An act to provide for the registration of electors and the holding of elections," approved August 6, 1868, and an act amendatory thereto, approved February 19, 1870. We do hereby certify, from the returns on file in the office of the clerk aforesaid—

That the whole number of votes cast for Representative in Congress was one hundred and fifty-three (153;) Silas L. Niblack, one hundred and fifty-three (153.)

That the whole number of votes for lieutenant governor was one hundred and forty-three (143;) Wm. D. Broxham, one hundred and twenty-nine, (129;) L. T. Day, fourteen (14.)

That the whole number of votes cast for state senator was one hundred and forty-nine, (149,) as follows: Walter C. Malloney received one hundred and eight (108) votes; James D. Green received thirty-five (35) votes; and J. W. Locke received six (6) votes.

That the whole number of votes cast for member of assembly was one hundred and forty, (140,) E. M. Graham, one hundred and thirty-three, (133;) A. W. Garner, five (5) votes; J. W. Widden received two, (2.)

The votes cast for constables were as follows: F. W. Platt, sixteen (16) votes; D. Mizell, twenty-three (23) votes; C. A. Turner, twenty (20) votes.

Witness our hands and seals of office at Pine Level, in the county aforesaid, this 29th day of November, in the year of our Lord 1870.

E. E. MIZELL,

Judge of the County Court of Manatee County.

JOHN F. BARTHOLF,

Clerk of the Circuit and County Court of Manatee County.

N. H. DECOSTER,

Justice of the Peace of Manatee County.

[SEAL.]

I hereby certify the foregoing to be a true copy of return of election held in Manatee County on the 8th day of November, A. D. 1870, and of certificate forwarded to the governor and secretary of state, via the Manatee post-office, December 1, 1870; and I further certify that the cause of the delay in canvassing the returns was occasioned by the failure on the part of the necessary officials to attend when duly notified.

Given under my hand and seal, at Pine Level, this 4th day of December A. D. 1870,
 [SEAL.] J. F. BARTHOLF,
Clerk Manatee County Court.

N. B.—Two precincts not represented; one because of no election being held; the other, Fort Ogden, the returns thrown out because of irregularity in every respect.

STATE OF FLORIDA, *Office Secretary of State, ss:*

I, Jonathan C. Gibbs, secretary of state, do hereby certify that the foregoing certificate of the county canvassers of Manatee County is a correct transcript of the original now on file in this office.

Given under my hand and the great seal of the State of Florida, at Tallahassee, the capital, this 28th day of February, A. D. 1871.

[SEAL.]

JONATHAN C. GIBBS,
Secretary of State.

Certificate of the county canvassers. (See section 24, act of August 6, 1868.)

STATE OF FLORIDA, *Manatee County:*

We, the undersigned, E. E. Mizell, judge of the county court of the county stated, and John F. Bartholf, clerk of the circuit court of the county aforesaid, and N. H. DeCoster, a justice of the peace of the county above mentioned, constituting the board of county canvassers in and for the county stated, do hereby certify that we met at the office of the clerk of the circuit court of the county aforesaid on the 1st day of December, A. D. one thousand eight hundred and seventy, and publicly canvassed the votes given at a general election held in the county of Manatee and State aforesaid on the 8th day of November, in the year of our Lord one thousand eight hundred and seventy, the same being the Tuesday next succeeding the first Monday in said month, under and by virtue of an act entitled "An act to provide for the registration of electors and the holding of elections," approved August 6, 1868, and an act amendatory thereto, approved February 19, 1870. We do hereby certify, from the returns on file in the office of the clerk aforesaid—

That the whole number of votes cast for Representative in Congress was as follows, viz: one hundred and fifty-three, (153,) as follows, viz: Silas L. Niblack received one hundred and fifty-three (153) votes.

That the whole number of votes cast for lieutenant governor was one hundred and forty-three, (143,) as follows, viz: of which S. T. Day received fourteen (14,) and William D. Bloxham received one hundred and twenty-nine (129) votes.

That the whole number of votes cast for State senator was one hundred and fifty-nine, (159,) as follows, viz: Walter C. Mulloney received one hundred and eighteen (118) votes; James P. Green received thirty-five (35) votes; J. W. Locke received six (6) votes.

The whole number of votes cast for member of assembly was one hundred and forty, (140,) as follows, viz: E. M. Graham received one hundred and thirty-three (133) votes; A. W. Garner received five (5) votes; J. W. Whidden received two (2) votes.

That the votes cast for constables were as follows, viz: T. M. Plette, sixteen (16) votes; David Mizell received twenty-three (23) votes; C. A. Turner received twenty (20) votes.

Witness our hands and seals of office, at Pine Level, in the county aforesaid, this first day of December, in the year of our Lord one thousand eight hundred and seventy.

[SEAL.]

E. E. MIZELL,
Judge of the County Court of Manatee County.
 JOHN F. BARTHOLF,
Clerk of the Circuit and County Courts of Manatee County.
 N. H. DECOSTER,
Justice of the Peace of Manatee County.

No. 10.—*Brevard County returns.*

F.

Certificate of the county canvassers. (See section 24, act of August 6, 1868.)

STATE OF FLORIDA, *Brevard County :*

We, the undersigned, James Paine, sr., judge of the county court of the county stated, and Joseph Smith, clerk of the circuit court of the county aforesaid, and Joseph Smith, a justice of the peace of the county above mentioned, constituting the board of county canvassers in and for the county stated, do hereby certify that we met at the office of the clerk of the circuit court of the county aforesaid on the 11th day of November, A. D. one thousand eight hundred and seventy, and publicly canvassed the votes given at a general election held in the county of Brevard and State aforesaid on the 8th day of November, in the year of our Lord one thousand eight hundred and seventy, the same being the Tuesday next succeeding the first Monday in said month, under and by virtue of an act entitled "An act to provide for the registration of electors and the holding of elections," approved August 6, 1868, and an act amendatory thereto, approved February 19, 1870. We do hereby certify, from the returns on file in the office of the clerk aforesaid—

That the whole number of votes cast for Representative in Congress was thirty-three, (33,) as follows, viz: Silas L. Niblack received thirty (30) votes; Josiah T. Walls received three (3) votes.

(State senator none.)

That the whole number of votes cast for lieutenant governor was twenty-eight, (28,) as follows, viz: W. D. Bloxham received twenty-five (25) votes; L. T. Day received three (3) votes.

The number of votes cast for member of the assembly was thirty-five, (35,) as follows, viz: Frank Smith received twenty-two (22) votes; James Paine, sr., received thirteen (13) votes.

That the votes cast for constables were as follows, viz: William Gore received thirteen (13) votes; Joseph M. Hopkins received twenty-two (22) votes; Allen Padgett received twenty-three (23) votes; August Park received twenty-three (23) votes.

Witness our hands and seals of office, at St. Lucie, in the county aforesaid, this eleventh day of November, in the year of our Lord one thousand eight hundred and seventy.

(No seal of county court or clerk of court.)

JAMES PAINE, Sr.,

Judge of the County Court of Brevard County.

Three of the votes counted for member of Congress and lieutenant governor were written Niblack and Bloxham, no given name, which the county judge thinks is not in accordance with the law.

No. 11.—*Extract from senate journal.*

A.

STATE OF FLORIDA, *County of Manatee :*

I, John F. Bartholf, clerk of the circuit court in and for said county, do hereby certify the following is the result of votes polled at Fort Ogden, a precinct in said county, at an election held at said precinct on the 8th day of November, A. D. 1870, as per original returns on file in this office:

The whole number of votes cast for Representative in Congress was as follows: S. L. Niblack received 39 votes.

For lieutenant governor, W. D. Bloxham received 33 votes.

For State senator, Walter C. Maloney received 33 votes; James D. Greene received 12 votes.

For member of the assembly: E. M. Graham received 47 votes; A. W. Garner received 1 vote.

I further certify that the votes of said precinct were thrown out by the board of county canvassers, and not included in the return to the board of State canvassers, for the following reasons, to wit:

1. It did not appear from the returns that the inspectors and clerk had been sworn.

2. The ballots did not agree with the certificate of result in this: one more vote reported for Niblack than appears by the ballots; two votes less in the returns for Bloxham than appears by the ballots; one vote less in the returns for E. M. Graham than appears by the ballots; one vote more in the returns for Greene than appears by the ballots.

3. The voters' names on the registered list were not checked off, as required by law. I further certify that, from the appearance of the returns and my acquaintance with the inspectors and clerk, said errors were the result of ignorance, and not with any fraudulent intent or illegality, in my opinion.

In witness whereof I have herenunto set my hand and seal of office, at Pine Level, this 15th day of December, A. D. 1870.

[SEAL]

JOHN F. BARTHOLF,
Clerk Circuit Court.

B.

STATE OF FLORIDA, *County of Manatee :*

Before me, clerk of the circuit court in and for said county, personally came Samuel P. Youmans, who, being duly sworn, deposes and says that he was present at the election held at Fort Ogden on the 8th day of November, A. D. 1870, and that he knows, of his own knowledge, that the inspectors and clerk at said election were regularly sworn in according to law.

SAMUEL P. YOUMANS.

Sworn to and subscribed to before me this 14th day of December, A. D. 1870.

JOHN F. BARTHOLF,
Clerk Circuit Court.

STATE OF FLORIDA, *County of Manatee :*

I, John F. Bartholf, clerk of the circuit court in and for said county, do hereby certify that I am well acquainted with Samuel P. Youmans, and that I know him to be a respectable citizen of Manatee County, and that his oath is entitled to full faith and credit.

Witness my hand and seal of office, at Pine Level, this 15th day of December, A. D. 1870.

[SEAL.]

JOHN F. BARTHOLF,
Clerk Circuit Court.

STATE OF FLORIDA, *Office Secretary of State, ss :*

I, Jonathan C. Gibbs, secretary of state, do hereby certify that the foregoing is a correct transcript of the original now on file in this office.

Given under my hand and the great seal of the State of Florida, at Tallahassee, the capital, this 28th day of February, A. D. 1871.

[SEAL.]

JONATHAN C. GIBBS,
Secretary of State.

No.12.—*Testimony of Hon. Robert H. Gamble.*

The Hon. ROBERT H. GAMBLE, being duly sworn, deposes and answers as follows, to the following questions, as follows, to wit:

Question first. Do you know the parties to this contested election, to wit, Josiah T. Walls and Silas L. Niblack?

He answers: I do.

Question second. What is your official station, and with what duties were you charged by law then in force in connection with the canvass of the votes cast on the 8th day of November last for the Representative in Congress from the State of Florida?

He answers: I am comptroller of the State of Florida, and was a member of the board of State canvassers of the election held on the 8th day of November last, and was charged with the duties mentioned in section 28 of the act entitled "An act to provide for the registration of electors and the holding of elections," approved August 6, 1868, and was present at the several meetings of the board while engaged in canvassing the vote.

Question third. From what counties were the returns canvassed, and from what rejected, if any?

He answers: The returns were canvassed from the several counties mentioned in an official statement of the returns of the general State election held on the 8th day of November, A. D. 1870, published in the Tallahassee Sentinel of January 14, 1871, referred to in the testimony of the previous witness, and rejected from the counties of Calhoun, Taylor, La Fayette, Suwannee, Sumpter, Brevard, and Manatee. I am not certain that the returns from Brevard were in, but think they were.

Question fourth. On what grounds were the returns from the counties last mentioned rejected?

He answers: Some of the returns were rejected because of alleged informality as to form, and some because they were not in when the canvass commenced, to wit, on the 29th day of November, A. D. 1870.

Question fifth. Was their rejection the result of the unanimous action of the board?

He answers: It was not; I objected to their rejection on mere technical grounds, when there were no allegations of fraud and no evidence of it on the face of the returns. The majority persisting in rejecting the returns of the counties mentioned, I refused to sign the official statement published in the Tallahassee Sentinel of January 14, A. D. 1871, already referred to.

R. H. GAMBLE.

STATE OF FLORIDA, *Leon County* :

I, Charles E. Dyke, mayor of the city of Tallahassee, do hereby certify that the testimony herewith transmitted was taken before me, and that the accompanying papers, to wit, the notice of contest, answer of the returned member, notice of time of taking testimony, with proof of service, and subpoena to witness, are true copies of the originals, and that the accompanying copy of the Tallahassee Sentinel of January 14, 1871, is the copy of said paper identified by the witnesses as containing the "official returns for the State election held on the 8th day of November, A. D. 1870, as certified to by the State board of canvassers."

In testimony whereof I have hereunto set my hand and affixed the seal of said city of Tallahassee, at the office of the mayor of Tallahassee, this 25th day of February, A. D. 1871.

[SEAL.]

C. E. DYKE,
Mayor City Tallahassee.

No. 13.—*Returns of the general State election.*

[Official.]

Returns for the general State election held on the 8th day of November, A. D. 1870, as certified to by the State board of canvassers.

We, Jonathan C. Gibbs, secretary of state of Florida, Robert H. Gamble, comptroller of said State, and Sherman Conant, attorney general of said State, constituting the board of State canvassers, met at the office of the secretary of state, at the capitol, at Tallahassee, on the 27th day of December, A. D. 1870, pursuant to the several adjournments as shown by the records, and proceeded to canvass the returns for the general State election held on the 8th day of November, A. D. 1870, from which canvass we find and certify that—

SANTA ROSA COUNTY.

Whole number of votes cast for Representative in Congress, five hundred and sixty (560;) of which Josiah T. Walls received two hundred and forty-six (246) votes, and S. L. Niblack received three hundred and fourteen (314) votes.

Whole number of votes cast for lieutenant governor, five hundred and sixty (560) votes; of which S. T. Day received two hundred and forty-six (246) votes, and W. D. Bloxham received three hundred and fourteen (314) votes.

Whole number of votes cast for State senator, five hundred and sixty-seven (567;) of which William C. McLean received two hundred and sixty-one (261) votes, and A. L. McCaskill received three hundred and six (306) votes.

Whole number of votes cast for member of the assembly, five hundred and seventy-two (572;) of which John W. Butler received two hundred and eighty-six (286) votes, and R. R. Sheppard received two hundred and eighty-four (284) votes, and Hannibal Rowe received two (2) votes; from which it is determined that John W. Butler has been elected member of the assembly from said county.

WALTON COUNTY.

Whole number of votes cast for Representative in Congress, four hundred and twenty-two (422;) of which S. L. Niblack received three hundred and ninety-five (395) votes, and J. T. Walls received twenty-seven (27) votes.

Whole number of votes cast for lieutenant governor, four hundred and twenty (420;) of which W. D. Bloxham received three hundred and ninety-three (393) votes, and S. T. Day received twenty-seven (27) votes.

Whole number of votes cast for State senator, four hundred and five, (405;) of which A. L. McCaskill received three hundred and twenty-nine (329) votes, and William C. McLean received seventy-five (75) votes, and Robert Garrett received one (1) vote.

Whole number of votes cast for member of the assembly, four hundred and fifteen, (415;) of which D. L. Campbell received two hundred and forty-four (244) votes, and Daniel Campbell received sixty (60) votes, and Daniel McLeod received one hundred and eleven (111) votes; from which it is determined that D. L. Campbell has been elected member of the assembly from said county, and from which two counties, Santa Rosa and Walton, the whole number of votes cast for State senator is nine hundred and seventy-two, (972;) of which A. L. McCaskill received six hundred and thirty-five (635) votes, and is determined elected State senator from the second senatorial district, William C. McLean having received three hundred and thirty-five (335) votes, and Robert Garrett one (1) vote.

ESCAMBIA COUNTY.

Whole number of votes cast for Representative in Congress, one thousand and nine, (1,009;) of which Josiah T. Walls received five hundred and sixty-eight (568) votes, and S. L. Niblack received four hundred and thirty-nine (439) votes, and Joseph T. Walls received one (1) vote, and N. L. Niblack received one (1) vote.

Whole number of votes cast for lieutenant governor, one thousand and thirteen, (1,013;) of which Samuel T. Day received five hundred and seventy-two (572) votes, and W. D. Bloxham received four hundred and forty-one (441) votes.

Whole number of votes cast for member of the assembly, two thousand and fourteen, (2,014;) of which James B. Roberts received four hundred and thirty-five (435) votes, and R. A. Stearns received four hundred and twenty-eight (428) votes, and Zebulon Elisha received four hundred and twenty-seven (427) votes, and Joseph B. Vaughan received three hundred and ninety-nine (399) votes, and Asa B. Munn received one hundred and eighty-six (186) votes, and S. T. Pons received one hundred and forty (140) votes; from which it is determined that James B. Roberts and R. A. Stearns have been elected members of the assembly for said county.

JACKSON COUNTY.

Whole number of votes cast for Representative in Congress, seventeen hundred and fifty-two, (1,752;) of which Josiah T. Walls received eight hundred and seventy-eight (878) votes, and Silas L. Niblack received eight hundred and seventy-four (874) votes.

Whole number of votes cast for lieutenant governor, seventeen hundred and fifty-one, (1,751;) of which W. D. Bloxham received eight hundred and seventy-seven (877) votes, and S. T. Day received eight hundred and seventy-four (874) votes.

Whole number of votes cast for members of the assembly, five thousand two hundred and forty-five, (5,245;) of which James C. McLean received eight hundred and seventy-five (875) votes, and F. Barfield received eight hundred and eighty (880) votes, and Benjamin F. Livingstone received eight hundred and seventy-two (872) votes, and Jesse Robinson received eight hundred and seventy-two (872) votes; and Andrew Scott received eight hundred and sixty-nine (869) votes, and William J. Daniels received eight hundred and sixty-nine (869) votes, and James W. McMillan received eight (8) votes; from which it is determined that James C. McLean and F. Barfield have been elected members of the assembly for said county, and that there is a tie vote for Benjamin F. Livingstone and Jesse Robinson.

HOLMES COUNTY.

Whole number of votes cast for Representative in Congress, one hundred and ninety-nine, (199;) of which Silas L. Niblack received one hundred and ninety-three (193) votes, and Joshua T. Walls received six (6) votes.

Whole number of votes cast for lieutenant governor, two hundred and five, (205;) of which W. D. Bloxham received two hundred and one (201) votes, and Samuel T. Day received four (4) votes.

Whole number of votes cast for State senator, two hundred and six, (206;) of which A. D. McKinnon received one hundred and nine (109) votes, and James Paul received ninety-seven (97) votes.

Whole number of votes cast for member of the assembly, two hundred and eleven, (211;) of which William F. Green received one hundred and twelve (112) votes, and Daniel J. Brownell received seventy-two (72) votes, and Albert Parish received twenty-seven (27) votes; from which it is determined that William F. Green has been elected member of the assembly for said county.

WASHINGTON COUNTY.

Whole number of votes cast for Representative in Congress, two hundred and seventy, (270;) of which Silas L. Niblack received two hundred and seventy (270) votes.

Whole number of votes cast for lieutenant governor, two hundred and seventy-three, (273;) of which W. D. Bloxham received two hundred and seventy-three (273) votes.

Whole number of votes cast for State senator, two hundred and seventy-three, (273;) of which A. D. McKinnon received two hundred and sixty-two (262) votes, and James Paul received eleven (11) votes.

Whole number of votes cast for member of assembly, two hundred and fifty, (250;) of which Greenwood Worthington received two hundred and fifty (250) votes; from which it is determined that Greenwood Worthington is elected a member of the assembly for said county; and from which two counties, Holmes and Washington, the whole number of votes cast for State senator is four hundred and seventy-nine, (479;) of which A. D. McKinnon received three hundred and seventy-one (371) votes, and James Paul received one hundred and eight (108) votes; from which it is determined that A. D. McKinnon is elected State senator for the fourth senatorial district.

FRANKLIN COUNTY.

Whole number of votes cast for Representative in Congress, two hundred and fifteen, (215;) of which Silas L. Niblack received one hundred and thirty-four (134) votes, and Josiah T. Walls received eighty-one (81) votes.

Whole number of votes cast for lieutenant governor, two hundred and fourteen, (214;) of which W. D. Bloxham received one hundred and thirty-three (133) votes, and Samuel T. Day received eighty-one (81) votes.

Whole number of votes cast for member of the assembly, two hundred and twelve, (212;) of which W. T. Orman received one hundred and thirty-eight (138) votes, and Emanuel Smith received seventy-four (74) votes; from which it is determined that W. T. Orman is elected member of the assembly for said county.

GADSDEN COUNTY.

Whole number of votes cast for Representative in Congress, sixteen hundred and eighty-three, (1,683;) of which Josiah T. Walls received eight hundred and forty-six (846) votes, and Silas L. Niblack received eight hundred and thirty-seven (837) votes.

Whole number of votes cast for lieutenant governor, sixteen hundred and eighty-five, (1,685;) of which S. T. Day received eight hundred and forty-eight (848) votes, and William D. Bloxham received eight hundred and thirty-seven (837) votes.

Whole number of votes cast for State senator, sixteen hundred and eighty, (1,680;) of which Frederick Hill received eight hundred and forty-seven (847) votes, and R. H. M. Davidson received eight hundred and thirty-two (832) votes, and S. Fleishman received one (1) vote.

Whole number of votes cast for members of the assembly, thirty-three hundred and fifty-nine, (3,359;) of which M. L. Stearns received eight hundred and forty-eight (848) votes, and Harry Cruise received eight hundred and forty-six (846) votes, and T. N. Henley received eight hundred and thirty-three (833) votes, and J. Vanlapdingham received eight hundred and thirty-two (832) votes; from which it is determined that M. L. Stearns and Harry Cruise are elected members of the assembly for said county, and that Frederick Hill is elected State senator for the sixth senatorial district.

LIBERTY COUNTY.

Whole number of votes cast for Representative in Congress, two hundred, (200;) of which S. L. Niblack received one hundred and thirty-four (134) votes, and Josiah T. Walls received sixty-six (66) votes.

Whole number of votes cast for lieutenant governor, two hundred, (200;) of which W. D. Bloxham received one hundred and thirty-four (134) votes, and Samuel T. Day received sixty-six (66) votes.

Whole number of votes cast for member of the assembly, one hundred and ninety-seven, (197;) of which W. R. Bradwell received ninety-five (95) votes and W. M. C. Neal received one hundred and two (102) votes; from which it is determined that W. M. C. Neal is elected member of the assembly for said county.

WAKULLA COUNTY.

Whole number of votes cast for Representative in Congress, four hundred and seventy-nine, (479;) of which Silas L. Niblack received three hundred and one (301) votes, and Josiah T. Walls received one hundred and seventy-eight (178) votes.

Whole number of votes cast for lieutenant governor, four hundred and seventy-nine, (479;) of which W. D. Bloxham received three hundred and one (301) votes, and Samuel T. Day received one hundred and seventy-eight (178) votes.

Whole number of votes cast for member of the assembly, four hundred and sixty, (460;) of which William McRae received two hundred and seventy-seven (277) votes, and Rupert Charles received one hundred and seventy-eight (178) votes, and Almon Levy received five (5) votes, from which it is determined that William McRae is elected member of the assembly for said county.

LEON COUNTY.

Whole number of votes cast for Representative in Congress, two thousand one hundred and five, (2,105;) of which Josiah T. Walls received fifteen hundred and forty-three (1,543) votes, and Silas L. Niblack received five hundred and sixty-two (562) votes.

Whole number of votes cast for lieutenant governor, twenty-one hundred and six, (2,106;) of which Samuel T. Day received fourteen hundred and fifty-one (1,451) votes, and William D. Bloxham received six hundred and fifty-five (655) votes.

Whole number of votes cast for State senator, two thousand and thirty-three, (2,033;) of which Charles H. Pearce received thirteen hundred and eighty-three (1,383) votes, and James Page received six hundred and fifty (650) votes.

Whole number of votes cast for member of the assembly, seven thousand four hundred and fifty-three, (7,453;) of which John W. Wyatt received thirteen hundred and eighty-six, (1,386) votes, and Richard H. Wells received thirteen hundred and eighty-two (1,382) votes, and Noah Graham received thirteen hundred and eighty (1,380) votes, and John Wallace received thirteen hundred and twenty-two (1,322) votes, and Henry Sutton received four hundred and eighty-four (484) votes, and Andrew DeCoursey received four hundred and seventy-five (475) votes, and John E. Proctor received four hundred and seventy-two (472) votes, and Gadsden Twine received four hundred and sixty-four (464) votes, and William Pells received fifty-eight (58) votes, and Alfred Cobb received twenty-two (22) votes, and H. Graham received four (4) votes, and Henry Manego received two (2) votes, and Philip DeCoursey received one (1) vote, and J. J. Williams received one (1) vote; from which it is determined that John W. Wyatt, Richard H. Wells, Noah Graham, and John Wallace are elected members of the assembly for said county, and Charles H. Pearce is elected state senator for the eighth senatorial district.

JEFFERSON COUNTY.

Whole number of votes cast for Representative in Congress, nineteen hundred and twenty, (1,920;) of which Josiah T. Walls received thirteen hundred and seventy-four (1,374) votes, and Silas Niblack received five hundred and forty-six (546) votes.

Whole number of votes cast for lieutenant governor, nineteen hundred and twenty, (1,920;) of which Samuel T. Day received thirteen hundred and seventy-three (1,373) votes, and William D. Bloxham received five hundred and forty-seven (547) votes.

Whole number of votes cast for members of the assembly, five thousand seven hundred and thirty-four, (5,734;) of which James W. Johnson received thirteen hundred and seventy-four (1,374) votes, and Washington Thompson received thirteen hundred and seventy-three (1,373) votes, and Alfred H. McCann received five hundred and forty-two (542) votes, and J. P. Grantham received five hundred and thirty-nine (539) votes, and William Norco received four hundred and forty-seven (447) votes, and Emory Brooks received eighty-five (85) votes, and Ephraim Logan received thirteen hundred and seventy-four (1,374) votes; from which it is determined that James W. Johnson, Ephraim Logan, and Washington Thompson are elected members of the assembly for said county.

MADISON COUNTY.

Whole number of votes cast for Representative in Congress, eighteen hundred and sixty-four, (1,864;) of which Josiah T. Walls received twelve hundred and thirty-nine (1,239) votes, and Silas L. Niblack received six hundred and twenty-five (625) votes.

Whole number of votes cast for lieutenant governor, eighteen hundred and sixty-five, (1,865;) of which Samuel T. Day received twelve hundred and thirty-nine (1,239) votes, and W. D. Bloxham received six hundred and twenty-five (625) votes, and H. S. Harmon received one (1) vote.

Whole number of votes cast for State senator, eighteen hundred and sixty-four, (1,864;) of which Dennis Egan received twelve hundred and thirty-nine (1,239) votes, and W. James Hines received six hundred and twenty-five (625) votes.

Whole number of votes cast for members of the assembly, thirty-seven hundred and twenty-eight, (3,728;) of which Alfred B. Osgood received twelve hundred and thirty-seven (1,237) votes, and Oliver J. Coleman received twelve hundred and forty-two (1,242) votes, and J. F. Bythwood received six hundred and twenty-five (625) votes, and J. K. Williams received six hundred and twenty-four (624) votes; from which it is determined that Alfred B. Osgood and Oliver J. Coleman are elected members of the assembly for said county, and Dennis Egan is elected State senator for the tenth senatorial district.

HAMILTON COUNTY.

Whole number of votes cast for Representative in Congress, five hundred and sixty, (560;) of which Silas L. Niblack received four hundred and thirty (430) votes, and Josiah T. Walls received one hundred and thirty (130) votes.

Whole number of votes cast for lieutenant governor, five hundred and sixty-one, (561;) of which William D. Bloxham received four hundred and twenty-nine (429) votes, and Samuel T. Day received one hundred and thirty-two (132) votes.

Whole number of votes cast for State senator, five hundred and fifty-six, (556;) of which Robert W. Adams received four hundred and twenty-two (422) votes, and Charles T. Irwin received one hundred and thirty-four (134) votes.

Whole number of votes cast for member of the assembly, five hundred and forty-eight, (548;) of which William P. Frink received four hundred and sixteen (416) votes, and William J. Lee received one hundred and thirty-one (131) votes, and J. H. Peterson received one (1) vote; from which it is determined that William P. Frink is elected member of the assembly for said county.

ALACHUA COUNTY.

Whole number of votes cast for Representative in Congress, nineteen hundred and seventy-five, (1,975;) of which Josiah T. Walls received twelve hundred and eighty-one (1,281) votes, and S. L. Niblack received six hundred and ninety-four (694) votes.

Whole number of votes cast for lieutenant governor, nineteen hundred and seventy-seven, (1,977;) of which Samuel T. Day received twelve hundred and seventy-five (1,275) votes, and W. D. Bloxham received seven hundred and two (702) votes.

Whole number of votes cast for State senator, nineteen hundred and fifty-nine, (1,959;) of which Leonard G. Daniels received twelve hundred and forty-eight (1,248) votes, and James H. Roper received seven hundred and eleven (711) votes.

Whole number of votes cast for members of the assembly, three thousand eight hundred and eighty, (3,880;) of which William K. Cessna received twelve hundred and fifty (1,250) votes, and Theodore C. Gass received twelve hundred and fifty-six (1,256) votes, and William Edwards received six hundred and ninety-two (692) votes, and Archibald T. Banks received six hundred and eighty-two (682) votes; from which it is determined that William K. Cessna and Theodore C. Gass are elected members of the assembly for said county.

LEVY COUNTY.

Whole number of votes cast for Representative in Congress, four hundred and one, (401;) of which Silas L. Niblack received three hundred and fifteen (315) votes, and Josiah T. Walls received eighty-six (86) votes.

Whole number of votes cast for lieutenant governor, four hundred, (400;) of which W. D. Bloxham received three hundred and two (302) votes, and Samuel T. Day received ninety-eight (98) votes.

Whole number of votes cast for State senator, three hundred and eighty-three, (383;) of which J. H. Roper received two hundred and ninety-six (296) votes, and L. G. Dennis received eighty-seven (87) votes.

Whole number of votes cast for member of the assembly, three hundred and seventy-seven, (377;) of which Charles F. Hiers received two hundred and eighty-one (281) votes, and Washington Rogers received ninety-six (96) votes; from which it is determined that Charles F. Hiers is elected member of the assembly for said county, and L. G. Dennis is elected State senator for the thirteenth senatorial district, L. G. Dennis having received thirteen hundred and thirty-five (1,335) votes, James H. Roper having received ten hundred and seven (1,007) votes.

The whole number of votes cast for said office of State senator for said district being twenty-three hundred and forty-two, (2,342.)

COLUMBIA COUNTY.

Whole number of votes cast for Representative in Congress, eleven hundred and eighty-one, (1,181;) of which Silas L. Niblack received six hundred and ninety-four (694) votes, and Josiah T. Walls received four hundred and eighty-seven (487) votes.

Whole number of votes cast for lieutenant governor, eleven hundred and ninety-six (1,196;) of which William D. Bloxham received six hundred and eighty (680) votes, and Samuel T. Day received five hundred and sixteen (516) votes.

Whole number of votes cast for State senator, eleven hundred and seventy-seven, (1,177;) of which Charles H. Ross received six hundred and eighty-six (686) votes, and Elisha G. Johnson received four hundred and ninety-one (491) votes.

Whole number of votes cast for member of the assembly, twenty-three hundred and sixty-three, (2,363;) of which William M. Duke received six hundred and eighty-five

(685) votes, and Andrew J. Flowers received six hundred and eighty-one (681) votes, and John P. Mahoney received five hundred and one (501) votes, and Isaiah H. Armstrong received four hundred and ninety-six (496) votes; from which it is determined that William M. Duke and Andrew J. Flowers are elected members of the assembly for said county, and Charles H. Ross is elected State senator for the fourteenth senatorial district.

BRADFORD COUNTY.

Whole number of votes cast for Representative in Congress, six hundred and one, (601;) of which Silas L. Niblack received four hundred and fifty-eight (458) votes, and Josiah T. Walls received one hundred and forty-three (143) votes.

Whole number of votes cast for lieutenant governor, six hundred and five, (605;) of which William D. Bloxham received four hundred and fifty-three (453) votes, and Samuel T. Day received one hundred and fifty-two (152) votes.

Whole number of votes cast for member of the assembly, five hundred and ninety-six, (596;) of which Lemuel B. Rhodes received four hundred and forty-nine (449) votes, and J. E. Varne received five (5) votes, and Washington Ebron received one hundred and thirty-four (134) votes, and Washington Bradwell received eight votes; from which it is determined that Lemuel B. Rhodes is elected member of the assembly for said county.

CLAY COUNTY.

Whole number of votes cast for Representative in Congress, two hundred and thirty-four (234;) of which S. L. Niblack received one hundred and eighty-seven (187) votes, and J. T. Walls received forty-seven (47) votes.

Whole number of votes cast for lieutenant governor, two hundred and thirty-five, (235;) of which W. D. Bloxham received one hundred and seventy-seven (177) votes, and S. T. Day received fifty-eight (58) votes.

Whole number of votes cast for member of the assembly, two hundred and twenty-six, (226;) of which Wm. Hull received one hundred and three (103) votes, and Wm. Deeler received seventy-nine (79) votes, and Lewis Wilson received forty-two (42) votes, and H. Bram received two (2) votes; from which it is determined that Wm. Hull is elected member of the assembly for said county.

BAKER COUNTY.

Whole number of votes cast for Representative in Congress, two hundred and twelve, (212;) of which S. L. Niblack received one hundred and seventy-six (176) votes, and J. T. Walls received thirty-six (36) votes.

Whole number of votes cast for lieutenant governor, two hundred and eleven, (211;) of which W. D. Bloxham received one hundred and seventy-five (175) votes, and S. T. Day received thirty-six (36) votes.

Whole number of votes cast for State senator, two hundred and eight, (208;) of which J. M. Bennett received one hundred and seventy-five (175) votes, and Liberty Billings received thirty-three (33) votes.

Whole number of votes cast for member of the assembly, two hundred and eleven, (211;) of which J. D. Chalker received one hundred and seventy-three (173) votes, and J. W. Howell received thirty-eight (38) votes; from which it is determined that J. D. Chalker is elected member of the assembly for said county.

NASSAU COUNTY.

Whole number of votes cast for Representative in Congress, eight hundred and seventy-nine, (879;) of which Josiah T. Walls received five hundred and ten (510) votes, and Silas L. Niblack received three hundred and sixty-nine (369) votes.

Whole number of votes cast for lieutenant governor, eight hundred and eighty, (880;) of which Samuel T. Day received five hundred and thirteen (513) votes, and W. D. Bloxham received three hundred and sixty-seven (367) votes.

Whole number of votes cast for State senator, eight hundred and seventy-four, (874;) of which Liberty Billings received five hundred and eleven (511) votes, and James M. Bennett received three hundred and sixty-three (363) votes.

Whole number of votes cast for member of the assembly, eight hundred and seventy-five, (875;) of which Samuel Boyd received four hundred and ninety-nine (499) votes, and John Owens received three hundred and sixty-four (364) votes, and Albert Reynolds received eleven (11) votes, and W. D. Bloxham received one (1) vote; from which it is determined that Samuel Boyd is elected member of the assembly for said county, and that Liberty Billings is elected State senator for the sixteenth senatorial district.

ST. JOHN'S COUNTY.

Whole number of votes cast for Representative in Congress, five hundred and twenty-two, (522;) of which Silas L. Niblack received three hundred and twenty-six (326) votes, and S. L. Niblack received thirteen (13) votes, and Josiah T. Walls received one hundred and eighty-three (183) votes.

Whole number of votes cast for lieutenant governor, five hundred and twenty-two, (522;) of which W. M. Bloxham received three hundred and thirty-nine (399) votes, and William D. Bloxham received one (1) vote, and Samuel T. Day received one hundred and eighty-one (181) votes, and Sam. T. Day received one (1) vote.

Whole number of votes cast for member of the assembly, five hundred and twenty three, (523;) of which B. F. Oliveros received three hundred and twenty-five (325) votes, and Bartola Oliveros received one (1) vote; and ——— Oliveros received one (1) vote, and Andrew Anderson received one hundred and ninety-six (196) votes; from which it is determined that B. F. Oliveros is elected member of the assembly for said county.

PUTNAM COUNTY.

Whole number of votes cast for Representative in Congress, four hundred and twenty-two, (422;) of which Josiah T. Walls received two hundred and twenty-nine (229) votes, and S. L. Niblack received one hundred and ninety-three (193) votes.

Whole number of votes cast for lieutenant governor, four hundred and twenty-two, (422;) of which Samuel T. Day received two hundred and twenty-nine (229) votes, and W. D. Bloxham received one hundred and ninety-three (193) votes.

Whole number of votes cast for member of the assembly, four hundred and twenty-two, (422;) of which Calvin Gillis received two hundred and forty-three (243) votes, and F. M. McMeekin received one hundred and seventy-nine (179) votes; from which it is determined that Calvin Gillis is elected member of the assembly for said county.

DUVAL COUNTY.

Whole number of votes cast for Representative in Congress, thirteen hundred and sixty-nine, (1,369;) of which Josiah T. Walls received eight hundred and ninety-eight (898) votes, and S. L. Niblack received four hundred and seventy-one (471) votes.

Whole number of votes cast for lieutenant governor, thirteen hundred and sixty-six, (1,366;) of which Samuel T. Day received nine hundred and four (904) votes, and W. D. Bloxham received four hundred and sixty-two (462) votes.

Whole number of votes cast for State senator, thirteen hundred and thirty-five, (1,335;) of which William H. Christy received eight hundred and sixty-nine (869) votes, and Horatio Jenkins, jr., received four hundred and sixty (460) votes, and T. O. Allen received six (6) votes.

Whole number of votes cast for member of the assembly, thirteen hundred and forty-five, (1,345;) of which John R. Scott received eight hundred and sixty-three (863) votes, and Daniel McInnes received eight hundred and thirty-nine (839) votes, and H. H. Hoeg received four hundred and seventy (470) votes, and Miles Price received four hundred and sixty-four (464) votes, and Emanuel Fortune received forty-three (43) votes, and C. B. Simmons received seven (7) votes, and J. Jackson received three (3) votes, and E. B. Simmons received one (1) vote; from which it is determined that John R. Scott and Daniel McInnes are elected members of the assembly for said county, and that William H. Christy is elected State senator for the eighteenth-senatorial district.

MARION COUNTY.

Whole number of votes cast for representative in Congress, fourteen hundred and thirty-five, (1,435;) of which Josiah T. Walls received ten hundred and fifty-eight (1,058) votes, and Silas L. Niblack received three hundred and seventy-seven (377) votes.

Whole number of votes cast for lieutenant governor, fourteen hundred and thirty-four, (1,434;) of which Samuel T. Day received ten hundred and fifty-seven (1,057) votes, and W. D. Bloxham received three hundred and seventy-seven (377) votes. Whole number of votes cast for members of the assembly, twenty-six hundred and eighty-eight, (2,688;) of which William H. Daniels received ten hundred and twenty-five (1,025) votes, and Scipio T. Jasper received ten hundred and forty-one (1,041) votes, and Samuel O. House received four hundred and one (401) votes, and Henderson Harvey received two hundred and twenty (220) votes, and Samuel Small received one (1) vote; from which it is determined that William H. Daniels and Scipio T. Jasper are elected members of the assembly for said county.

ORANGE COUNTY.

Whole number of votes cast for Representative in Congress, three hundred and forty-one, (341;) of which Silas L. Niblack received three hundred and twenty-four (324) votes, and Josiah T. Walls received seventeen (17) votes.

Whole number of votes cast for lieutenant governor, three hundred and forty-four, (344;) of which W. D. Bloxham received two hundred and ninety-nine (299) votes, and Samuel T. Day received forty-five (45) votes.

Whole number of votes cast for State senator, three hundred and twenty-three, (323;) of which Arthur Ginn received two hundred and thirty-four (234) votes, and W. B. Watson received forty-one (41) votes, and W. S. Delk received forty-eight (48) votes. Whole number of votes cast for member of the assembly, three hundred and twenty-seven, (327;) of which William Mills received two hundred and fifty-one (251) votes, and W. C. Roper received seventy-six (76) votes; from which it is determined that William Mills is elected member of the assembly for said county.

VOLUSIA COUNTY.

Whole number of votes cast for Representative in Congress, two hundred and forty-seven, (247;) of which Silas L. Niblack received one hundred and eighty-four (184) votes, and Josiah T. Walls received sixty-three (63) votes.

Whole number of votes cast for lieutenant governor, two hundred and forty-eight, (248;) of which W. D. Bloxham received one hundred and eighty-three (183) votes, and Samuel T. Day received sixty-five (65) votes.

Whole number of votes cast for State senator, two hundred and twenty-five, (225;) of which Wm. B. Watson received one hundred and four (104) votes, and Arthur Ginn received forty-five (45) votes, and William S. Delk received two (2) votes, and James D. Stark received seventy-four (74) votes.

Whole number of votes cast for member of the assembly, two hundred and thirty-seven, (237;) of which A. H. Alexander received one hundred and seventeen (117) votes, and H. E. Osteen received sixty-seven (67) votes, and Briston Goodin received fifty-two (52) votes, and Henry G. Lemgren received one (1) vote; from which it is determined that A. H. Alexander is elected member of the assembly for said county, and that Arthur Ginn is elected State senator for the twentieth senatorial district.

HILLSBOROUGH COUNTY.

Whole number of votes cast for Representative in Congress, four hundred and sixty, (460;) of which Silas L. Niblack received three hundred and seventy-three (373) votes, and Josiah T. Walls received eighty-seven (87) votes.

Whole number of votes cast for lieutenant governor, four hundred and fifty-six, (456;) of which William D. Bloxham received three hundred and sixty-five (365) votes, and Samuel T. Day received ninety-one (91) votes.

Whole number of votes cast for State senator, four hundred and fifty-five, (455;) of which John A. Henderson received three hundred and fifty-nine (359) votes, and J. S. Coogler received fifty (50) votes, and B. T. Cowart received forty-six (46) votes.

Whole number of votes cast for member of the assembly, four hundred and forty-five, (445;) of which Joseph Brown received three hundred and fifty-eight (358) votes, and James R. Hay received eighty-seven (87) votes; from which it is determined that Joseph Brown is elected member of the assembly for said county.

HERNANDO COUNTY.

Whole number of votes cast for Representative in Congress, four hundred and fifty (450;) of which Silas L. Niblack received three hundred and eighteen (318) votes, and Josiah T. Walls received one hundred and thirty-two (132) votes.

Whole number of votes cast for lieutenant governor, four hundred and forty-seven, (447;) of which W. D. Bloxham received three hundred and thirteen (313) votes, and Samuel T. Day received one hundred and thirty-four (134) votes.

Whole number of votes cast for State senator, four hundred and forty-three, (443;) of which John A. Henderson received two hundred and fifty-four (254) votes, and T. S. Coogler received one hundred and eighty-seven (187) votes, and B. T. Cowart received two (2) votes.

Whole number of votes cast for member of the assembly, four hundred and thirty-five, (435;) of which E. A. Allen received two hundred and seventy-two (272) votes, and F. E. Saxon received one hundred and thirty-nine (139) votes, and William L. Frierson received eighteen (18) votes, and H. Fabian received six (6) votes; from which it is determined that E. A. Allen is elected member of the assembly for said county, and that John A. Henderson is elected State senator for the twenty-second senatorial district.

POLK COUNTY.

Whole number of votes cast for Representatives in Congress, two hundred and eighty-four, (284;) of which S. L. Niblack received two hundred and eighty-four (284) votes.

Whole number of votes cast for lieutenant governor, two hundred and eighty-four, (284;) of which W. D. Bloxham received two hundred and eighty-four (284) votes.

Whole number of votes cast for member of the assembly, two hundred and sixty-two, (262;) of which W. M. Hendry received one hundred and twenty-three (123) votes; and J. W. Bryant received one hundred and fifteen (115) votes, and R. K. Blunt received fourteen (14) votes, and R. N. Pilant received eight (8) votes, and John McAulay received two (2) votes; from which it is determined that W. M. Hendry is elected member of the assembly for said county.

From which it also appears by the returns that the entire vote cast for lieutenant governor was twenty-four thousand two hundred and seventy-eight, (24,278,) of which number Samuel T. Day received twelve thousand four hundred and forty-six (12,446) votes, and is hereby declared elected; and it further appears that for member of Congress the entire vote cast was twenty-four thousand two hundred and fifty-one, (24,251,) of which number Josiah T. Walls received twelve thousand four hundred and thirty-nine (12,439) votes, and is hereby declared elected, and we hereby certify the same.

Done this 27th day of December, A. D. 1870.

JONATHAN C. GIBBS,
Secretary of State.
SHERMAN CONANT,
Attorney General.

OFFICE OF SECRETARY OF STATE,
Tallahassee, Florida, December 29, 1870.

I, Jonathan C. Gibbs, secretary of state, do hereby certify that the foregoing is a correct transcript of the original now on file in this office.

Given under my hand and the great seal of the State of Florida, at Tallahassee, the capital, this 29th day of December, A. D. 1870.

[SEAL.]

JONATHAN C. GIBBS,
Secretary of State.

No. 14.—*Return from La Fayette County.*

Certificate of the county canvassers. (See section 24, act of August 6, 1868.)

STATE OF FLORIDA, *La Fayette County:*

We, the undersigned, William D. Sears, sheriff of the county stated, and John C. Ponchier, clerk of the circuit court of the county aforesaid, and Reder B. Hill, a justice of the peace of the county above mentioned, constituting the board of county canvassers in and for the county stated, do hereby certify that we met at the office of the clerk of the circuit court of the county aforesaid, on the 23d day of December, A. D. one thousand eight hundred and seventy, and publicly canvassed the votes given at a general election held in the county of La Fayette and State aforesaid, on the eighth day of November, in the year of our Lord one thousand eight hundred and seventy, the same being the Tuesday next succeeding the first Monday in said month, under and by virtue of an act entitled "An act to provide for the registration of electors and the holding of elections," approved August 6, 1868, and an act amendatory thereto, approved February 19, 1870. We do hereby certify, from the returns on file in the office of the clerk aforesaid—

That the whole number of votes cast for Representative in Congress was one hundred and fifty-two (152) votes, as follows, viz: Silas L. Niblack received one hundred and fifty-two (152) votes.

That the whole number of votes cast for lieutenant governor was one hundred and thirty-eight (138) votes, as follows, viz: William D. Bloxham received one hundred and thirty-eight (138) votes.

That the whole number of votes cast for State senator was one hundred and forty-six (146) votes, as follows, viz: John N. Krimminger received one hundred and five (105) votes; John Sutor received forty-one (41) votes.

That the whole number of votes cast for member of the assembly was one hundred and forty-two (142) votes, as follows, viz: William D. Sears received one hundred (100) votes; Daniel M. McCulpin received forty-two (42) votes.

That the votes cast for constables were as follows, viz: John Locklier received seventy-seven (77) votes; Stephen P. Slade received seventy (70) votes; John M. Peacock received forty-two (42) votes.

Witness our hands and seals of office at New Troy, in the county aforesaid, this 23d day of December, in the year of our Lord one thousand eight hundred and seventy-one.

WM. D. SEARS,
Sheriff of La Fayette County.

Clerk of the Circuit and County Courts of ——— County.

REDER B. HILL,
Justice of the Peace of La Fayette County.

N. B.—The canvassers should meet at the office of the clerk, on or before the sixth day after the election, to canvass the votes.

In case of the absence, sickness, or other disability of the county judge or clerk, the sheriff shall act in his place.

The certificate must be signed in duplicate, and must contain, in words and figures written at full length, the whole number of votes given for each office, the names of the persons for whom such votes were given for such office, and the number of votes given to each person for such office.

The clerk of the circuit court should record the certificate in the book required by law to be kept for that purpose.

One of the certificates shall be immediately transmitted, by mail, to the secretary of state, and the other to the governor of the State.

STATE OF FLORIDA, *La Fayette County* :

We, the undersigned, William D. Sears and Reder B. Hill, do hereby certify that the within is a true copy of the proceedings of the canvass under the mandamus issued by his honor the judge of the third judicial circuit for the State of Florida, this the 13th day of March, A. D. 1871.

WM. D. SEARS,
Sheriff.
REDER B. HILL.

STATE OF FLORIDA, *La Fayette County* :

I, Howell Hawkins, clerk of the circuit court for the county of La Fayette, do certify that the within is a true copy of the record as found in my office, whereof I have hereunto set my hand and seal of office, this the 18th day of March, A. D. 1871.

HOWELL HAWKINS,
Clerk of the Circuit Court.

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S. L. NIBLACK vs. J. T. WALLS.

ADDITIONAL PAPERS

IN THE CASE OF

SILAS L. NIBLACK vs. JOSIAH T. WALLS,

OF THE STATE OF FLORIDA.

EVIDENCE OF CONTESTANT.

STATE OF FLORIDA, *Duval County*, ss :

To Frank E. Little, James M. Daniels, William H. Le Cain, George W. Calder, John Buckler, Eli Haworth, John F. Rollins, John R. Hogans, Charles L. Mather, Jerome C. Andrew, George H. Johnson, George W. Brice, and Benjamin Upton :

You and each of you are hereby commanded that, laying aside all business and excuses, you and each of you appear in your proper person before me, Joseph H. Durkee, a notary public in and for said State and county, at the hour of 10 o'clock, a. m., on the 20th day of March instant, to testify all and singular those matters and things which you, or either of you, know in the case of a contested election, wherein Silas L. Niblack, as contestant, contests the election and seat of Josiah T. Walls, as member of the Forty-second Congress of the United States from the State of Florida, and in order that you may be then and there examined respecting the said contested election in the manner provided by the laws of the United States.

And this you shall in nowise omit under the penalty provided by law.

Witness my hand and seal of office this the 15th day of March, A. D. 1872.

[SEAL.]

JOSEPH H. DURKEE,
Notary Public.

Served the within writ by summoning the following parties: John F. Rollins, F. E. Little, Eli Haworth, George H. Johnson, J. C. Andrew, Charles L. Mather, George W. Brice, John R. Hogans, J. M. Daniel, George W. Calder, and Benjamin Upton, this 20th March, 1872.

W. M. LEDWITH,
Sheriff of Duval County, Florida.

STATE OF FLORIDA, *County of Duval*, ss :

Before me personally came Wilkinson Call, of the firm of Call & Bassnett, attorneys at law, who, being duly sworn, deposes and says,

that Silas L. Niblack, contestant for a seat in the House of Representatives of the United States of America for the Forty-second Congress, in which Silas L. Niblack is contestant and Josiah T. Walls is incumbent, gave notice to said Walls that he should take testimony in the above-entitled case at Jacksonville, Florida, on the 20th of March, 1872, and from day to day thereafter until the witnesses subpoenaed were examined; that said notice was sent to this deponent by the said Niblack, and was presented to Joseph H. Durkee on the 15th day of March, 1872, and the said Durkee was requested to issue subpoenas, as a notary public, for the witnesses named in the said notice; and that, on the 20th day of March, 1872, when the examination of witnesses was begun, the said notice could not be found by this deponent, it having been lost or mislaid in the mean time.

WILKINSON CALL.

Sworn to and subscribed before me this 7th day of April, A. D. 1872.

[SEAL.]

FRANK E. LITTLE,

Notary Public, Duval County, Florida.

STATE OF FLORIDA, *Duval County:*

Be it remembered that, on this 20th day of March, A. D. 1872, I, Joseph H. Durkee, a notary public, duly appointed and commissioned by the governor of the State of Florida, in lieu of Hon. William A. McLean, county judge of Duval County, Florida, unable to be present, did call and cause to be and personally appear before me, at my office in Reed's new block, in the city of Jacksonville, Florida, Eli Haworth, to testify and the truth to speak in behalf of the contestant for a seat in the House of Representatives of the United States of America for the Forty-second Congress, wherein Silas L. Niblack is contestant and Josiah T. Walls incumbent; and the said ELI HAWORTH, being duly sworn, deposes and says, in answer to contestant's questions:

Question 1. What is your name and residence?—Answer. My name is Eli Haworth. I reside at Mayport, Duval County, Florida.

Q. 2. Were you present at Mayport precinct, in Duval County, on the 8th day of November, 1870, at an election for Representative in Congress?—A. I was present at said election.

Q. 3. Did you act in any official capacity at said election, and if so, what?—A. I acted as one of the inspectors of election at Mayport precinct, Duval County, Florida, on that day.

Q. 4. Do you recollect the number of votes cast at said precinct for member of Congress, and for whom cast?—A. I cannot state exactly the number of votes cast, but according to my recollection there were between 35 and 38 votes cast. I think 36 or 37 was the number, and according to my recollection 8 or 10 of those votes were for Josiah T. Walls for member of Congress, and the balance were for Silas L. Niblack for member of Congress. I think 8 is the exact number of votes cast for Josiah T. Walls for member of Congress.

Q. 5. Was the return of the votes cast at said precinct made out and returned to the county judge and clerk of the circuit court in duplicate, as required by law?—A. I suppose that it was, and I know nothing to the contrary up to this time.

Q. 6. How many inspectors were there at said precinct, and what were their names?—A. There were three—Eli Haworth, John F. Rollins, and John R. Hogans.

Q. 7. Was there a clerk of said election, and if so, what was his name?—A. There was a clerk of said election. His name was Jerome C. Andrew.

Q. 8. Were you a legally registered and qualified voter of said county at the time of said election?—A. I was.

Q. 9. Were the election returns made out in duplicate, and directed to the county judge and clerk of the circuit court each a copy, and delivered into the charge of a proper person to be delivered to said judge and clerk, and if so, into whose charge were they so delivered?—A. I know that the election returns were made out, and according to my belief they were made out in duplicate, and a copy addressed to the county judge and clerk of the circuit court, and I know they were delivered into the hands of Jerome C. Andrew, to be given to said judge and clerk.

Cross-examined by incumbent's counsel :

Q. 1. You said in your direct examination that you believed duplicate copies of certificates of the result of the election were made out, and a copy sent to the circuit clerk and another sent to the county judge. Have you any other grounds for so believing than that you had the laws before you at the time, and that you saw the law required it?—A. I know that we went to work and filled up the papers. I am certain that the returns were made out according to our instructions. I mean that the number was according to our instructions, and that the returns were made to the best of our knowledge and ability at the time.

ELI HAWORTH.

STATE OF FLORIDA, *Duval County* :

Be it remembered that, on this 20th day of March, A. D. 1872, I, Joseph H. Durkee, a notary public, duly appointed and commissioned by the governor of the State of Florida, in lieu of the Hon. William A. McLean, county judge of Duval County, unable to be present, did call and cause to be and personally appear before me, at my office in Reed's new block, in the City of Jacksonville, Florida, Charles L. Mather, to testify and the truth to speak in behalf of the contestant for a seat in the House of Representatives of the United States of America for the Forty-second Congress, wherein Silas L. Niblack is contestant and Josiah T. Walls incumbent.

And the said CHARLES L. MATHER, being duly sworn, deposes and says in answer to contestant's interrogatories :

Question 1. Did you hold an official position during the month of November, 1870, in the county of Duval, Florida ; and if so, what was it?—Answer. I was clerk of the circuit court for Duval County at that time.

Q. 2. Were you a member of the board of county canvassers of the election held on the 8th day of November, 1870, in said county, for a Representative in Congress?—A. I was.

Q. 3. Did you receive the returns of the election held at Mayport precinct, in said county, on said day, from the inspectors at said precinct, or from the clerk of said election?—A. I did ; I think I received them from Jerome C. Andrew, clerk of said election.

Q. 4. Are those returns in your possession, and can you furnish a certified copy of them?—A. They are not in my possession ; I cannot furnish a certified copy of them.

Cross-examined by incumbent's counsel :

Q. 1. Did you receive the certificates of said election in person ; if not, in what manner did you receive them ?—A. The ballot-box from the Mayport precinct was left in my office by Jerome C. Andrew, clerk of said election at Mayport precinct. I opened the box in presence of the county judge and county solicitor, and found in the box two copies of the returns of the election held at that precinct, together with the ballots, inspectors' oaths, and registration list.

Q. 2. Was the ballot-box opened on the day it was left at your office by you ; if not, when was it opened ?—A. It was not opened on the day it was left at my office ; to the best of my recollection, it was opened three days afterward.

Redirect examination by contestant :

Q. 1. Did your certificate of the result of the election held in said county, as certified by the board of county canvassers to the board of State canvassers, include the votes polled at Mayport precinct, or were they rejected ; and if they were rejected by the board of county canvassers, on what grounds were they rejected ?—A. They were rejected for the reason that the returns were not made as required by law, the county judge not being furnished with a certificate of the result of the election at Mayport precinct.

Q. 2. Were the returns of the votes cast at the precincts of Yellow Bluff and Baldwin, in said county, included in your certificate of the result of the election in said county, as certified by the board of canvassers to the board of State canvassers, or were they rejected by the board of county canvassers ; and, if rejected, on what grounds were they rejected ?—A. The returns from the precincts of Baldwin and Yellow Bluff were rejected by the board of county canvassers for the reason that they were not made out to the county canvassers, as required by law. The returns from Baldwin were made out in figures, and not in writing at full length, as required by law. The return from the Yellow Bluff precinct was not delivered to me in accordance with law.

Q. 3. Are those returns now in your possession, and can you furnish a certified copy of them ?—A. They are not in my possession, and I cannot furnish a certified copy of them.

CHAS. L. MATHER.

CHARLES L. MATHER re-examined March 21, 1872, by contestant :

Question 1. In your certificate of the result of the election held in Duval County, Florida, on the 8th day of November, 1870, for member of Congress, as certified by the board of county canvassers to the board of State canvassers, did you include the votes polled at the Jacksonville precinct, in said county ; or were they rejected, and, if they were rejected by the board of county canvassers, on what grounds were they rejected ?—Answer. The votes polled at the Jacksonville precinct were received, canvassed, and included in the certificate of the county canvassers to the State canvassers.

CHAS. L. MATHER.

STATE OF FLORIDA, *Duval County, ss :*

Be it remembered that on this 20th day of March, 1872, I, Joseph H. Durkee, a notary public duly appointed and commissioned by the governor of the State of Florida, in lieu of Hon. William A. McLean, county

judge of Duval County, unable to be present, did call and cause to be and appear personally before me, at my office in Reed's new block, in the city of Jacksonville, Florida, Benjamin Upton, to testify and the truth to speak in behalf of the contestant for a seat in the House of Representatives of the United States of America, for the Forty-second Congress, wherein Silas L. Niblack is contestant and Josiah T. Walls incumbent.

And the said BENJAMIN UPTON, being duly sworn, deposes and says, in answer to contestant's interrogatories :

Question 1. What is your name and where do you reside?—Answer. My name is Benjamin Upton. I reside in Baldwin, in the county of Duval, State of Florida.

Q. 2. Were you present at Baldwin precinct, in Duval County, on the 8th day of November, 1870, at an election for Representative in Congress?—A. I was.

Q. 3. Did you act in any official capacity at said election; and if so, what?—A. I acted as clerk at said election.

Q. 4. Do you recollect the number of votes cast at said precinct for member of Congress, and for whom cast?—A. I do. There were 34 votes cast in all; 30 for Silas L. Niblack for member of Congress, and 4 for Josiah T. Walls for member of Congress.

Q. 5. How many inspectors were there at said precinct, and what were their names?—A. There were three inspectors, viz: George W. Brice, George Johnson; the third, I think, was Joseph Smith. I will not be positive as to his name.

Q. 6. Were you a legally qualified and registered voter of said county at the time of said election?—A. I was.

Q. 7. Were the election returns made out in duplicate and directed to the county judge and clerk of the circuit court, each a copy, and delivered into the charge of a proper person to be delivered to said judge and clerk; and if so, into whose hands were they so delivered?—A. They were made out in duplicate, and delivered by me to George Johnson and another inspector of said election, by name, I think, Joseph Smith, to be delivered to the county judge.

Q. 8. Were the returns made out to the best of your information at that time, as required by law?—A. They were.

Cross-examined by counsel for Josiah T. Walls, incumbent :

Q. 1. Into which of the inspector's hands, George Johnson or Joseph Smith, did you deliver the certificates of election?—A. I do not recollect, but I think Joseph Smith's.

Q. 2. Did you place any other papers in the hands of these inspectors; and if so, what papers?—A. I do not think I did, except the ballots, and they were in the ballot-box.

Q. 3. Did the inspectors of election at said precinct, and you as clerk of said election, take and subscribe to the oath required by law?—A. We did.

Q. 4. Were the certificates of said election made out in the form prescribed by law; if not, how otherwise?—A. They were, except that the number of votes was put down in figures, in place of being written at full length in words.

Redirect examination :

Q. 1. At the time the returns were made out did you know the law required that the number of votes cast should be written at full length in words, as well as to be put down in figures?—A. I did not.

BENJAMIN UPTON.

STATE OF FLORIDA, *Duval County, ss:*

Be it remembered that on this 21st day of March, A. D. 1872, I, Joseph H. Durkee, a notary public, duly appointed and commissioned by the governor of the State of Florida, in lieu of Hon. William A. McLean, unable to be present, did call and cause to be and personally appear before me, at my office in Reed's new block, in the city of Jacksonville, Florida, George H. Johnson, to testify and the truth to speak, in behalf of the contestant, for a seat in the House of Representatives of the United States of America, for the Forty-second Congress, wherein Silas L. Niblack is contestant and Josiah T. Walls incumbent.

And the said GEORGE H. JOHNSON, being duly sworn, deposes and says, in answer to the contestant's interrogatories:

Question 1. What is your name and where do you reside?—Answer. My name is George H. Johnson; I reside in Jacksonville, Duval County, Florida.

Q. 2. Were you present at Baldwin precinct, in Duval County, Florida, on the 8th day of November, A. D. 1870, at an election for Representative in Congress?—A. I was.

Q. 3. Did you act in any official capacity at said election; and, if so, what was it?—A. I was chairman of the board of inspectors at said election.

Q. 4. Do you recollect the number of votes cast at said precinct for member of Congress, and for whom cast?—A. There were thirty-four votes cast for member of Congress at that precinct. To the best of my recollection thirty-two of those votes were for Silas L. Niblack for member of Congress, and two for Josiah T. Walls for member of Congress.

Q. 5. Were you a legally qualified and registered voter of Duval County at the time of said election?—A. I was.

GEO. H. JOHNSON.

STATE OF FLORIDA, *Duval County, ss:*

Be it remembered that on this 21st day of March, A. D. 1872, I, Joseph H. Durkee, a notary public, duly appointed and commissioned by the governor of the State of Florida, in lieu of Hon. William A. McLean, unable to be present, did call and cause to be and personally appear before me, at my office in Reed's new block, in the city of Jacksonville, Florida, G. W. Calder, to testify and the truth to speak, in behalf of the contestant, for a seat in the House of Representatives of the United States of America, for the Forty-second Congress, wherein Silas L. Niblack is contestant and Josiah T. Walls incumbent.

And the said G. W. CALDER, being duly sworn, deposes and says, in answer to the contestant's direct interrogatories, as follows:

Question 1. What is your name and where do you reside?—Answer. My name is George W. Calder; I reside at Yellow Bluff, Florida, in the county of Duval.

Q. 2. Were you present at Yellow Bluff precinct, in Duval County, on the 8th day of November, 1870, at an election for Representative in Congress?—A. I was.

Q. 3. Did you act in any official capacity at said election; and, if so, what?—A. I was one of the inspectors at that precinct on that day.

Q. 4. Do you recollect the number of votes cast at said precinct for member of Congress, and for whom cast?—A. There were from 160 to

164 votes polled at that precinct at said election. I do not know the proportion of said votes which were cast for Silas L. Niblack for member of Congress or the proportion cast for Josiah T. Walls for member of Congress.

Q. 5. How many inspectors were there at that precinct, and what were their names?—A. There were three, viz: Isadore Von Balsam, W. R. Toombs, and George W. Calder.

Q. 6. Was there a clerk of said election, and, if so, what was his name?—A. There was a clerk. His name was John Buckle.

Q. 7. Were you a legally registered and qualified voter of said county at the time of said election?—A. I was.

Q. 8. Were the election returns made out in duplicate, and directed to the county judge and clerk of the circuit court, each a copy, and delivered into the charge of a proper person to be given to said judge and clerk, and, if so, into whose charge were they so delivered?—A. The election returns were made out in duplicate on the 9th day of November, 1870, and left by me in the possession of W. R. Toombs, one of the inspectors of said election. I do not know whether they were delivered into the hands of any person to deliver to the county judge and clerk of the circuit court.

Cross-examined by counsel for Josiah T. Walls, incumbent:

Q. 1. Do you know whether the returns signed by you of said election were ever delivered to the county judge and clerk of the circuit court of Duval County?—A. I do not.

G. W. CALDER.

STATE OF FLORIDA, *Duval County, ss:*

Be it remembered that on this 21st day of March, A. D. 1872, I, Joseph H. Durkee, a notary public, duly appointed and commissioned by the governor of the State of Florida, in lieu of Hon. William A. McLean, county judge of Duval County, unable to be present, did call and cause to be and personally appear before me, at my office in Reed's new block, in the city of Jacksonville, Florida, Frank E. Little, to testify and the truth to speak in behalf of the contestant for a seat in the House of Representatives of the United States of America, for the Forty-second Congress, wherein Silas L. Niblack is contestant and Josiah T. Walls incumbent.

And the said FRANK E. LITTLE being duly sworn, deposes and says, in answer to contestant's interrogatories:

Question 1. What is your name and where do you reside?—Answer. I reside in Jacksonville, Duval County, Florida.

Q. 2. Were you present at Jacksonville precinct, in Duval County, Florida, on the 8th day of November, 1870, at an election for Representative in Congress?—A. I was.

Q. 3. Did you act in any official capacity at said election, and, if so, what?—A. I did act as one of the inspectors of said election.

Q. 4. Do you recollect the number of votes cast at said precinct for member of Congress, and for whom cast?—A. I do not recollect the number of votes cast, nor the number either candidate for member of Congress received.

Q. 5. How many inspectors were there at said precinct on that day, and what were their names?—A. There were three inspectors: F. E. Little, C. B. Simmons. The name of the third I do not remember.

Q. 6. Were you a legally qualified and registered voter at said election?—A. I was.

Q. 7. At what hour of the day of said election did the inspectors of the election at said precinct close the polls of said election?—A. At about nine o'clock p. m.

Q. 8. Did the inspectors of said election make a certified return of the votes polled at said precinct to the clerk of the circuit court and to the county judge of said county, as required by law?—A. They did.

Q. 9. You say the polls of said election were closed at about nine o'clock p. m. on the day of the election. How long after sunset was it before the polls were closed?—A. From two and a half to three hours.

Q. 10. Were there any votes received by the inspectors after sunset, and, if so, were they included in the certified return made by the inspectors of said election to the clerk of the circuit court and county judge of said county?—A. There were votes received by the inspectors after sunset, and they were included in the certified returns.

Q. 11. Did the inspectors of said election continue to receive votes after sunset up to the time the polls closed?—A. They did.

Cross-examined by counsel for Josiah T. Walls, incumbent:

Q. 1. Do you know what proportion of the votes received after sunset were for each candidate for Congressman?—A. I cannot say.

Q. 2. Did the inspectors understand that the polls should be closed at sunset, or did they understand that the law required that the polls should not be closed until sunset?—A. They did not so construe the law that the polls should be closed at sunset. They understood that the law required that the polls should not be closed until sunset.

FRANK E. LITTLE.

STATE OF FLORIDA, *Duval County, ss:*

Be it remembered that on this 22d day of March, A. D. 1872, I, Joseph H. Durkee, a notary public duly appointed and commissioned by the governor of the State of Florida, in lieu of Hon. William A. McLean, unable to be present, did call and cause to be and personally appear before me, at my office in Reed's new block, in the City of Jacksonville, Florida, John F. Rollins, to testify, and the truth to speak, in behalf of the contestant for a seat in the House of Representatives of the United States of America for the Forty-second Congress, wherein Silas L. Niblack is contestant and Josiah T. Walls incumbent; and the said JOHN F. ROLLINS, being duly sworn, deposes and says, in answer to the contestant's direct interrogatories, as follows:

Question 1. What is your name and address?—Answer. John F. Rollins. I reside at Fort George, Florida, in Duval County.

Q. 2. Were you present at Mayport precinct, in Duval County, on the 8th day of November, 1870, at an election for Representative in Congress?—A. I was.

Q. 3. Did you act in any official capacity at said election; and, if so, what was it?—A. I was one of the inspectors of the election, and was chairman of the board of inspectors.

Q. 4. Do you recollect the number of votes cast at said precinct for member of Congress, and for whom cast?—A. I think the number of votes cast for member of Congress was 37; 6 or 7 of that number were for Josiah T. Walls for member of Congress; the balance for Silas L. Niblack for member of Congress.

Q. 5. How many inspectors were there at said precinct, and what were

their names?—A. There were three inspectors at said election, Eli Haworth, John R. Hogans, and John F. Rollins.

Q. 6. Was there a clerk of said election; and, if so, what was his name?—A. There was a clerk; I think his name was Andrew.

Q. 7. Were you a legally registered and qualified voter of said county at the time of said election?—A. I was.

Q. 8. Were the election returns made out in duplicate and directed to the county judge and clerk of the circuit court, each a copy, and delivered into the charge of a proper person to be delivered to said judge and clerk; and, if so, into whose charge were they so delivered?—A. They were made out in duplicate. I cannot say whether a copy was directed to the circuit clerk and the county judge or not. They were given into the hands of the clerk of the election to take to be delivered to the county canvassers.

Cross-examined by counsel for Josiah S. Walls, incumbent:

Q. 1. Were the returns made out as required by law, in words at full length or in figures?—A. I think part of the returns were made out in figures and part in words.

JOHN F. ROLLINS.

STATE OF FLORIDA, *County of Duval*:

I hereby certify that the annexed depositions of the following-named persons, viz.: Eli Haworth, Charles L. Mather, Benjamin Upton, George H. Johnson, G. W. Calder, Frank E. Little, John F. Rollins, in behalf of the contestant for a seat in the House of Representatives of the United States of America, for the Forty-second Congress, in which Silas L. Niblack is contestant and Josiah T. Walls incumbent, were taken at Jacksonville, Florida, beginning on the 20th day of March, 1872; upon notice, and by authority of such notice, subpoenas were issued for the witnesses examined; that service of such notice was accepted by said Josiah T. Walls and by him so indorsed upon the original notice; that said notice was presented to me by Messrs. Call & Bassnett, attorneys at law, of Jacksonville, Florida, on the 15th day of March, 1872, and retained by them; and that on the 20th day of March, 1872, when the witnesses appeared for examination, said notice was not produced, having been lost or mislaid by said Call & Bassnett.

I further certify that Silas L. Niblack was represented at the taking of the foregoing depositions in *propria persona*; that Josiah T. Walls was represented by R. B. Archibald, attorney at law, Jacksonville, Florida, during the taking of all the inclosed depositions.

I further certify that I have made application to A. A. Knight, esq., of counsel of the said Josiah T. Walls, for a copy of said notice, which request was refused, he having at the time, as attorney for said Walls, the original notice served upon said Walls in his possession.

Given under my hand and seal this 4th day of April, A. D. 1872.

[SEAL.]

JOSEPH H. DURKEE,

Notary Public.

In the matter of the contested election, wherein Silas L. Niblack contests the election of Josiah T. Walls, returned member of the Forty-second Congress of the Congress of the United States.

To the Hon. JOSIAH T. WALLS :

SIR : You will take notice that I intend to take the testimony of the following-named persons, to be used in my behalf in the above case; their testimony to be taken before the Hon. David R. Townsend, county judge of La Fayette County, at his office in New Troy, in said county; or, in case of his absence, before some other magistrate authorized by law to take such testimony, at said town of New Troy, on the 1st day of April next, commencing at 10 o'clock a. m., to wit: John C. Rouse, James A. Shiver, Randell P. Langston, William Hankins, Bethel Hankins, James J. Langford, Isaac A. Copeland, James Robuck, George H. Hicks, Howell Hawkins, William D. Sears, and Redden B. Hill, all of them residents of said county of La Fayette, and State of Florida.

SILAS L. NIBLACK,
Contestant.

R. B. HILTON,
Attorney for S. L. Niblack.

TALLAHASSEE, FLORIDA, March 7, 1872.

I accept and acknowledge service of the within notice, this 8th day of March, 1872, at Tallahassee, Florida.

A. A. KNIGHT,
Attorney for J. T. Walls.

Approved :

J. T. WALLS.

STATE OF FLORIDA, *La Fayette County :*

To John C. Rouse, James A. Shiver, Randell P. Langston, William Hankins, Bethel Hankins, James J. Langford, Isaac A. Copeland, James Robuck, George H. Hicks, Howell Hawkins, William D. Sears, and Redden B. Hill :

You are hereby commanded that, laying aside all business and excuses, you and each of you be and appear in your proper persons before me, at the court-house in New Troy, La Fayette County, at the hour of 10 o'clock a. m., on the 1st day of April, A. D. 1872, to testify all and singular those matters and things which you or either of you know in the case of a contested election wherein Silas L. Niblack, as contestant, contests the election and seat of Josiah T. Walls as member of the Forty-second Congress, of the Congress of the United States, from the State of Florida, and in order that you may be then and there examined, respecting the said contested election in the manner provided by the laws of the United States. And this you shall in no wise omit, under the penalty prescribed by law.

Witness my hand and seal this 18th day of March, A. D. 1872.

[SEAL.]

DAVID R. TOWNSEND,
County Judge of La Fayette County.

To JEFFERSON J. PAINTER :

You are hereby appointed to execute the within, this March 18, 1872.

D. R. TOWNSEND,
County Judge.

I certify that a copy of the within subpoena was this day served on the within named: William W. Hankins, March 19, 1872; B. H. Hankins, March 19, 1872; G. W. Hicks, March 21, 1872; J. A. Copeland, March 22, 1872; James I. Langford, March 22, 1872; James A. Shiver, March 22, 1872; J. C. Rouse, March 25, 1872; R. P. Langston, March 22, 1872; H. Hawkins, March 25, 1872; William D. Sears, March 25, 1872; R. B. Hill, March 25, 1872. James Robuck not to be found in the county. This 1st day of April, 1872.

J. J. PAINTER, *Deputy.*

STATE OF FLORIDA, *La Fayette County, New Troy :*

Testimony taken before Hon. David R. Townsend, county judge of La Fayette County, in the case of Silas L. Niblack, contestant, *vs.* Josiah T. Walls, contestee, as Representative to the Forty-second Congress of the United States from the State of Florida, April 1, A. D. 1872.

WILLIAM D. SEARS, being sworn, answers as follows :

Question. What is your name and place of residence?—Answer. William D. Sears, of La Fayette County, Florida.

Q. Were you a citizen of La Fayette County in the year 1870; and, if so, did you hold any official position, and what was it?—A. I held the office of sheriff of La Fayette County during the year 1870.

Q. Were you a member of the board of county canvassers of the election held on the 8th day of November, 1870, for a Representative to Congress in said county?—A. I was.

Q. Who else composed the board of county canvassers besides yourself?—A. Myself, Redden B. Hill, justice of the peace, and John C. Ponchier, clerk of the circuit court.

(The certified copy of the proceeding of the canvass under the *mandamus* issued by his honor the judge of the third judicial circuit of Florida was here exhibited to the witness, as follows. See paper attached, marked Exhibit A.)

Q. Is this a correct and true copy of the return made by yourself and Redden B. Hill?—A. It is.

Q. In your canvass of the several returns made by precinct inspectors of the election, did you count in all the returns made from the several precincts of the county?—A. We did not.

Q. Please state the returns rejected and from what precincts.—A. Cook's Hammock, California, Governor's Hill precincts were rejected, and not counted in.

Q. Please state the returns received and the votes counted.—A. New Troy precinct and Summerville precinct.

Q. Please state whether the votes cast at the precincts of Cook's Hammock, California, and Governor's Hill are embraced in the certified copy of the return made by yourself and Redden B. Hill, as just exhibited to you.—A. They were not.

Q. Were certified copies in duplicate of this return sent to the secretary of state and governor of the State?—A. To the best of my knowledge, there were.

Cross-questioned :

Q. Why were not the returns from Cook's Hammock, California, and Governor's Hill not canvassed by the board of canvassers?—A. The

returns from Cook's Hammock and California were rejected for informality, and there was no return signed by the inspectors for Governor's Hill.

Q. What were the informalities in regard to the returns from Cook's Hammock and California?—A. The two returns, one to the clerk and the other to the judge, differed.

Q. Who brought in the returns from those two precincts?—A. The returns were brought from California by John W. Owens and the returns from Governor's Hill by James J. Langford.

Q. Were these men democrats or republicans?

(Objected to by contestant, and the court sustained the objection.)

Q. Do you know of any fraud being committed at the election at Troy precinct, or any other precinct in the county, at said election?—A. I do not.

Q. Do you believe, from the best information you have, that the election was fairly conducted?

(Objected to by contestant and the objection sustained by the court.)

Q. Did the return from Troy precinct give Josiah T. Walls, the contestee, any votes; and, if so, what number?—A. The returns signed by the inspectors did not give J. T. Walls, the contestee, any number of votes.

Q. Have you a reason for believing that any number of votes were cast on the 8th day of November, 1870, for Josiah T. Walls for member of Congress at the Troy precinct?

(The contestant agrees that the question of belief may come in this particular question.)

A. I have.

Q. Please state your reason for believing as you do.—A. I was present when the vote was counted out of the ballot-box, and to the best of my recollection there was forty-two votes counted for Josiah T. Walls for Congress.

Q. Do you or not know that one John C. Poncehler had charge of the returns at one time?—A. I think he did.

Q. Are you acquainted with John C. Poncehler's general character for honesty and integrity of purpose?

(Objected to, and ruled out by the court.)

Q. Who were the inspectors at the Troy precinct?—A. John C. Rouse, James A. Shiver, and Randal P. Langston.

Q. What were the politics of these several men?

(Question objected to, and ruled out by the court.)

Q. At what time did John C. Poncehler have charge of the returns?—A. Directly after the election, in his capacity as clerk.

Q. What party does Mr. Poncehler belong to?

(Objected to, and ruled out by the court.)

Permission was asked to file a protest against the further taking of testimony, on the ground that five days has not yet elapsed since the parties were engaged in taking testimony—to wit, the 30th day of March, 1872—at Lake City, and that the contestant was present on said occasion at said point, and that the examination to be resumed this instant.

Protest ruled out, on the ground that the examination had already commenced at Troy, La Fayette County, and, for further objection, that the contestant had served contestee with notice that he, the contestant, would take testimony at New Troy, La Fayette County, on the 1st day of April, 1872, before the contestee served him, the contestant, with notice that he, the contestee, would take testimony in Lake City, on the 30th day of March, 1872.)

Q. Did you ever see a return of any kind showing forty-two votes for Josiah T. Walls?—A. Yes, sir; on the day we met to canvass there was a return that John C. Ponchier had, showing forty-two votes for J. T. Walls.

Q. Was it certified to?—A. It was not.

Q. Was there any kind of a certificate in relation to it?—A. It only had words purporting that they were cast in Suwannee County on the 25th of December, or September, which was without signature.

Re-direct question :

Q. Did you see on any of the returns from the other precincts of the county votes cast for J. T. Walls?—A. I did not.

WM. D. SEARS.

REDDEN B. HILL, being sworn, testifies as follows :

Question. Were you a member of the board of county canvassers for La Fayette County of an election held for Representative to Congress on the 8th day of November, 1870?—Answer. I was.

(The certified copy marked A is exhibited to witness. W. D. Sears was here presented to witness.)

Q. Please state if said exhibit is a correct copy of return made by board of county canvassers.—A. It is.

Q. Were copies in duplicate of this return sent to secretary of state and governor?—A. I mailed them. I gave them to the postmaster myself.

Q. Did your return to the secretary of state and governor of the result of the election embrace all the precincts of the county or were any of the precincts rejected? And, if so, please state the precincts the return of which were rejected and those that were canvassed and certified to.—A. They did not. New Troy and Summerville precincts were embraced in the returns and certified to. Cook's Hammock and California were rejected, and no returns from Governor's Hill.

Q. Please state ground of rejection of the returns from California and Cook's Hammock.—A. Informalities in the returns.

Cross-questioned :

Q. What were the informalities in the returns from Cook's Hammock and California?—A. The two returns, one sent to the clerk's office and the one sent to the county judge, did not correspond.

Q. How great was the discrepancy and what was it?—A. One of the California returns was not signed by the inspectors, and one of the returns from Cook's Hammock did not have the name of the county. One had no votes put down for senators and the other had.

Q. Do you know of any fraud being committed, either in the voting or in the returns of the result, at any precinct in the county?—A. I know of none.

Q. Do you know whether or not J. T. Walls, candidate for Congress, received any votes at Troy precinct or any other precinct in the county?—A. I was present at the counting of the votes at Troy precinct on the 8th November, 1870, and heard the inspectors of the election calling out votes for Walls.

Q. How many times did you hear Walls's name called out by the inspectors, as well as you can remember?—A. The inspectors counted up the votes, and, to the best of my recollection, there were forty-two votes.

Q. Were these votes certified to the board of county canvassers with the other votes?—A. They were not.

REDDEN B. HILL.

HOWELL HAWKINS, being sworn, answers as follows:

Question. Do you hold an official position in La Fayette County at this time; and, if so, what is it?—Answer. Yes, I am clerk of the circuit court.

(A paper marked Exhibit B was here presented to witness.)

Q. Please state whether this paper is a correct copy of the original on file in your office.—A. It is a correct copy.

Cross-questions:

Q. At what time was the original, a copy of which has been exhibited to you, filed in your office, and by whom?—A. I entered upon the duties of my office January 6, 1871, and found the paper on file at that time.

Q. Were there any other papers of the same nature filed with it?—A. There are other returns from other precincts of the same election.

Q. What other precincts?—A. Cook's Hammock and Summerville precincts.

Q. Is there any mark upon the original showing that they were officially filed; and, if so, by whom were they signed as clerk?—A. There is no mark showing that they were officially filed by any one as clerk.

Q. From what you know of the management or keeping of the office heretofore, would it not be possible for any one to place papers in the office?—A. Do not know how the office was managed prior to my going in.

Re-direct question:

Q. In what condition did you find those returns and were there any indorsements on them?—A. They were in an envelope, with indorsement "Returns of the election," not marked filed by the clerk or signed by him.

HOWELL HAWKINS.

JAMES J. LANGFORD, being duly sworn, answers as follows:

Question. Were you one of the inspectors of the election held at Governor's Hill on the 8th day of November, 1870, for Representative to Congress?—Answer. Yes, I was.

Q. Do you recollect how many votes were cast at said precinct for Representative to Congress and for whom they were cast?—A. I do not, the exact number of votes cast, but recollect within five votes. For Congress it was 30, 33, or 35. Of these S. L. Niblack received all with the exception of one vote, to the best of my recollection. J. T. Walls did not receive any votes at said election.

Cross-questions:

Q. Were these votes certified to the board of county canvassers by the inspectors?—A. The inspectors knew very little about making returns. There were no blanks. The votes were placed in the ballot-box, sealed up, and I brought them to this place (Troy) myself.

Q. Did you bring them direct?—A. Yes, sir; I only stopped at my house to take dinner.

Q. Who sealed up the returns and how were they sealed?—A. Walter Woodson sealed them up. Woodson was keeping store. The hole of the box was sealed with sealing-wax.

Q. Where were the returns deposited the night of the election and by whom?—A. At William Copeland's house, and next day I carried the returns, or box, to Troy. Mr. Ivins had charge of the key that night (the night of the election) and returned the key to me next morning about 9 o'clock.

Re-direct question:

Q. Were there any returns made of the vote?—A. The inspectors, myself, James Roebuck, and Isaac Copeland, and the clerk, James Ivins, were not acquainted with making returns. Mr. Woodson said he understood making returns, and made up a statement, which the inspectors signed, supposing it to be correct, which was placed in the box with the ballots, and so returned.

J. J. LANGFORD.

ISAAC COPELAND, being sworn, answers as follows:

Question. Were you one of the inspectors of the election held at Governor's Hill, in La Fayette County, on the 8th day of November, 1870, for Representative to Congress?—Answer. Yes, sir.

Q. Do you recollect the number of votes cast at said precinct for Representative to Congress and for whom cast?—A. Yes, sir; 34 votes were cast, S. L. Niblack receiving the entire number; J. T. Walls, none.

ISAAC COPELAND.

WILLIAM W. HANKINS, being sworn, answers as follows:

Question. Were you one of the inspectors of the election held on the 8th day of November, 1870, at Cook's Hammock, La Fayette County, for Representative to Congress?—Answer. I was.

Q. Were the returns of the election at said precinct made in duplicate and delivered to the clerk of the court and county judge of La Fayette County?—A. They were.

Q. By whom were they delivered?—A. By myself, in person, to the clerk of La Fayette County, at New Troy, in his office.

(Paper marked Exhibit C was here presented to witness as a certified copy of the returns from Cook's Hammock.)

Q. Is this a correct copy of the original return?—A. It is.

Cross-question:

Q. How are you enabled to say that the paper, after the lapse of time, is a correct copy?—A. From my recollection.

Re-direct question:

Q. By whom was the return to the county judge delivered?—A. The judge of the county court, being one of the inspectors, retained a copy himself.

WILLIAM W. HANKINS.

BETHEL H. HANKINS, being sworn, answers as follows:

Question. Were you one of the inspectors of the election held at Cook's Hammock on the 8th day of November, 1870, in La Fayette County, for Representative to Congress?—Answer. I was.

Q. Were the returns of the election at said precinct made in duplicate and directed to the clerk of the court and the county judge of La Fayette County?—A. They were.

Q. To whom were they delivered?—A. To W. W. Hankins, one of the inspectors of said precinct.

(The same exhibit, marked C, that was shown W. W. Hankins, was presented to witness.)

Q. From the best of your recollection, is this a true copy of the original return?—A. It is.

Cross-questions:

Q. How are you enabled, after the lapse of time, to recognize the paper as a true copy of the original return?—A. Knowing the circumstances all around, there is no way to be fooled in it; it is very plain to my mind.

Q. Did you keep a memorandum of the votes cast?—A. Kept no memorandum, but recognize the handwriting of the original return in office, of which this is a copy.

B. H. HANKINS.

EXHIBIT A.

Certificate of the county canvassers.—See section 24 act of August 6, 1868.

STATE OF FLORIDA, *La Fayette County*:

We, the undersigned, William D. Sears, sheriff of the county stated, and John C. Porchier, clerk of the circuit court of the county aforesaid, and Redden B. Hill, a justice of the peace of the county above mentioned, constituting the board of county canvassers in and for the county stated, do hereby certify that we met at the office of the clerk of the circuit court of the county aforesaid, on the 23d day of December, A. D. 1870, and publicly canvassed the votes given at a general election, held in the county of La Fayette and State aforesaid, on the 8th day of November, in the year of our Lord 1870, the same being the Tuesday next succeeding the first Monday in said month, under and by virtue of an act entitled "An act to provide for the registration of electors and the holding of elections," approved August 6, 1868, and an act amendatory thereto, approved February 19, 1870. We do hereby certify, from the returns on file in the office of the clerk aforesaid, that the whole number of votes cast for Representative in Congress was 152 votes, as follows, viz: Silas L. Niblack received 152 votes; that the whole number of votes cast for lieutenant governor was as follows: 138 votes, as viz: William D. Bloxham received 138 votes; that the whole number of votes cast for State senator was 146 votes, as follows, viz: John N. Krimminger received 105 votes, John Sutton received 41 votes; that the whole number of votes cast for member of the assembly was 142 votes, as follows, viz: William D. Sears received 100 votes, Daniel M. McAlpin received 42 votes; that the votes cast for constables were as follows, viz: John

Locklair received 77 votes, Stephen F. Slade received 70 votes, John M. Peacock received 42 votes.

Witness our hands and seals of office, at New Troy, in the county aforesaid, this 23d day of December, in the year of our Lord 1870.

WM. D. SEARS,
Sheriff of the County of La Fayette.

REDDEN B. HILL,
Justice of the Peace of La Fayette County.

N. B.—The canvassers should meet at the office of the clerk, on or before the sixth day after the election, to canvass the votes.

In case of the absence, sickness, or other disability of the county judge or clerk, the sheriff shall act in his place.

The certificate must be signed in duplicate, and must contain, *in words and figures written at full length*, the whole number of votes given for each office, the names of the persons for whom such votes were given for such office, and the number of votes given to each person for such office.

The clerk of the circuit court should record the certificate in the book required by law to be kept for that purpose.

One of the certificates shall be immediately transmitted, *by mail*, to the secretary of state and the other to the governor of the State.

STATE OF FLORIDA, *La Fayette County* :

We, the undersigned, William D. Sears and Redden B. Hill, do hereby certify that the within is a true copy of the proceeding of the canvass under the *mandamus* issued by his honor the judge of the third judicial circuit of the State of Florida.

This the 13th day of March, A. D. 1871.

WM. D. SEARS, *Sheriff.*
REDDEN B. HILL.

STATE OF FLORIDA, *La Fayette County* :

I, Howell Hawkins, clerk of the circuit court in and for the county of La Fayette, State of Florida, do hereby certify that the foregoing is a true copy of the original on file in my office.

Witness my hand and the seal of said court, at New Troy, in said county, April 1, A. D. 1872.

[SEAL.]

HOWELL HAWKINS,
Clerk Circuit Court.

EXHIBIT B.

Certificate of the result of election to be signed by inspectors and clerk of election.—See section 23 of general election law.

STATE OF FLORIDA, *La Fayette County* :

We, the undersigned, inspectors and clerk of an election held at California, in the county of La Fayette and State aforesaid, on the 8th day of November, A. D. 1870, under and by virtue of an act entitled "An act to provide for the registration of electors and the holding of elec-

tions," approved August 6, 1868, and an act amendatory thereto, approved February 19, 1870, do hereby certify that the result of the election was as follows, viz: For Representative in Congress, Silas L. Niblack received 18; for lieutenant governor, Bloxham received 18, Day received 7; for State senator, J. N. Krimminger received 7; John Suttor received 18; for member of assembly, William D. Sears received 7; Dan McAlpin received 17; for constable, John M. Peacock received 15.

Witness our hands at California, in the county aforesaid, this 8th day of November, A. D. 1870.

JOHN W. OWENS,
Inspector of Election.
THOMAS GREEN,
Inspector of Election.
JOHN F. MCCOLLOUGH,
Inspector of Election.
JOHN W. HAGAN,
Clerk of Election.

STATE OF FLORIDA, *La Fayette County:*

I, Howell Hawkins, clerk of the circuit court of the county and State aforesaid, do hereby certify that the within is a true copy of the returns of election held at California precinct, in the county and State aforesaid, and on file in my office.

Witness my hand and seal of office this the 1st day of April, A. D. 1872.

[SEAL.]

HOWELL HAWKINS, *Clerk.*

EXHIBIT C.

Certificate of the result of election to be signed by inspectors and clerk of election.—See section 23 of general election laws.

STATE OF FLORIDA, *La Fayette County:*

We, the undersigned, inspectors and clerk of an election held at Cook's Hammock precinct, in the county of La Fayette and State aforesaid, on the 8th day of November, A. D. 1870, under and by virtue of an act entitled "An act to provide for the registration of electors and the holding of elections," approved August 6, 1868, and an act amendatory thereto, approved February 19, 1870, do hereby certify that the result of said election was as follows, viz: Whole number of votes polled, 16; lieutenant governor, Bloxham received 15, Day received 1; for Congress, Silas L. Niblack received 16; for member of the assembly, Daniel McAlpin received 15, William D. Sears received 1; for constable, John Lockair received 1.

Witness our hands at Cook's Hammock, in the county aforesaid, this 8th day of November, A. D. 1870.

WILLIAM W. HANKINS,
Inspector of Election.
B. H. HANKINS,
Inspector of Election.
D. R. TOWNSEND,
Inspector of Election.
A. J. LEWIS,
Clerk of Election.

STATE OF FLORIDA, *La Fayette County* :

I, Howell Hawkins, clerk of the circuit court for the county and State aforesaid, do hereby certify that the foregoing is a true copy of returns of election, held at Cook's Hammock, in the county and State aforesaid, and on file in my office.

Witness my hand and seal of office this the 1st day of April, A. D. 1872.

[SEAL.]

HOWELL HAWKINS, *Clerk.*

STATE OF FLORIDA, *La Fayette County* :

I, David R. Townsend, judge of the county court of La Fayette County, Florida, do hereby certify that the foregoing evidence, contained on eighteen pages of paper, with the exhibits attached, were taken before me, and that the witnesses, William D. Sears, Redden B. Hill, Howell Hawkins, James J. Langford, I. J. Copeland, W. W. Hankins, and D. H. Hankins, were all duly sworn before me and their testimony taken down in my presence.

Witness my signature and seal of office this 1st day of April, 1872.

[SEAL.]

DAVID R. TOWNSEND,
County Judge.

LAKE CITY, FLORIDA, April 8, 1872.

Testimony taken in behalf of contestant.

GILES W. ELLIS, being duly sworn, says:

Question 1. Were you present in Lake City, Florida, on the 8th day of November, 1870, at an election held on that day for Representative to the Congress of the United States?—Answer. I was. I came to Lake City on the afternoon preceding the day of said election.

Q. 2. State whether, in coming to Lake City the afternoon before the election, you saw any one on the way coming to Lake City armed.—A. I did; I saw several.

Q. 3. State how many, and whether they were white people or colored people, and what kind of arms did they have.—A. In coming with Mr. J. J. Bunch on that day I saw a great many colored people coming, and we counted seventeen with guns. They stated they were coming to the election. I did not ask them what they were going to do with their guns.

Q. 4. State at what time you arrived at Lake City.—A. I arrived about half an hour, by sun, the day before the election, and remained there all night.

Q. 5. Did you see any one armed with guns after you arrived at Lake City, and before the election?—A. I did. We heard there was to be a speech in town at night, so Colonel Elder and I thought we would walk up. Well, when we got within seventy-five or eighty yards, or about that, of where the speeches were being made, we were halted, and we told the sentinels, "This is a strange arrangement. We are civil men, and want to go on and hear the speeches." Their answer was, "You can't go there." Well, we didn't go; we went to Dr. Luther's and went to bed. The sentinels were armed; they were colored. I do not know who was at the house where the speaking was, as we could not see in the dark at that distance. There were two sentinels, one standing on each side of the road; they were armed with guns; both sentinels were colored. I went within five or six feet of them. It was

at a house lying east or south of east of the depot, and about two hundred yards or two hundred and fifty yards from the depot, but don't know what the house is used for nor what it is called.

Q. 6. Was there any disturbance in town that night? And, if so, state what you know about it.—A. We heard a firing of guns and yelling, unusual for this place or any peaceable place at that time of night. There were four of us, Colonel Elder, Mr. Bunch, Doctor Leffers, and I. We said we would come down and see what the firing was, and we came down. After coming down town Marshal Stephenson asked for some one to go up with him to where the colored people were congregated. I saw lingering, it appeared, among the men, so I said I would go with him, and we went up. He said he wanted to reconcile this difficulty that had got up. After we got there it was a little cloudy. He commenced making a speech; some of the people gathered around him, and some of my old stock gathered around me. (This was not in the house but in the yard.) I advised with them. I told them it would not do for the races to be getting up difficulties; that this thing must be settled, and that it could not go on in that way. Two of the colored men, to wit, Fred and York Martin, talked to me and told me they would do all in their power to stop it. Others were cursing and going on with bitter oaths. I thought I was foolish to go in such a crowd, as some of them, I thought, were intoxicated. About that time a train came in, and they held up their guns, (I saw a great many guns then, but did not count them,) and waved their guns and yelled, and took after the train that was then checking its speed as it neared the depot. Fred and York Martin and some others of them remained near me, and we walked together to near the depot. At that time I heard a man say, "there was a hundred armed troops came on the train." Mr. Stephenson and I went to persuade the colored people to remain where they were, telling them to do so. I advised them to do so, and told them that, if they staid where they were, the white people were not coming to trouble them. I then came down town again, and saw a crowd of white men on the street. I left them, some lying and others sitting, on McLauren's store piazza—after I told them that the colored people were going to stay where they were. Then I went back to Dr. Luther's, and went to bed again. The white people agreed to remain where they were and not go near the colored people.

Q. 7. Did you on the afternoon before the election, while coming to town, or after you arrived in town, and before the disturbance took place that night, see the white people armed with guns or any other kind of arms?—A. I did not. I was busy till night, and after supper I went to hear the speaking and back to Dr. Luther's to bed, before the disturbance, but saw no white men with arms.

Q. 8. Was there any disposition manifested, on the part of the white people, to prevent the colored people from voting, or from voting for whom they pleased?—A. None that I saw. I visited the different places of voting several times that day; there were, I think, three places for voting.

Cross-examined by S. B. McLIN, for Walls:

Q. 1. When did you come to town the day before the election, how many white men were with you and were they armed?—A. Only one, Mr. Bunch; he had no gun; I was not armed.

Q. 2. When halted by the sentinels the night before the election, what demonstrations were made?—A. One sentinel only raised his gun from the ground, the other did not even do that; we asked if there was

any countersign required; they said: "You can't go dar," but they made no effort or demonstration to shoot.

Q. 3. What did you or Colonel Elder say to the sentinels?—A. The colonel did most of the talking. When told we could not go there, he said, in his usual style of talking: "Well, we can't go there; well, you can all go to hell, then, and I will go to bed." I felt indignant at being halted.

Q. 4. Did you not understand, when you started to the speaking that night, that it was at the colored people's church or meeting-house, and that it was a colored people's political meeting?—A. I did not know what the house was used for. I was told it was a radical meeting, and I wanted to go and see what occurred; I supposed the blacks were there to receive instructions from the whites.

Q. 5. Was not the house located near the suburbs of Lake City and in the part of town principally inhabited by colored people?—A. It was in the suburbs, but I don't know who lives in that part of town.

Q. 6. When you were aroused from your bed at Dr. Luther's that night, by the firing of guns, and came out in town, did you meet any white men and how many?—A. I met about twenty-five or thirty men; there might have been more or less; I was excited at the time. They were under considerable excitement, and then and there I saw guns.

Q. 7. Did you then hear any threats?—A. I did; I heard the white men say they would have satisfaction for what the colored men had done; that the colored men had fired first.

Q. 8. Do you know who fired first?—A. I do not; I was in bed, about three hundred yards off.

Q. 9. Do you know or not whether the disturbance that night caused colored voters to go home the next day without casting their votes?—A. I do not know it.

Q. 10. From the best of your judgment, was the crowd of colored voters as great the morning of the election as the night previous?—A. As far as I could see, it looked like the number was greater in the morning, because I could see them better.

Q. 11. Did you hear the colored people make any threats against the white people that night?—A. I saw them; some were cursing the rebs; said they would have satisfaction, and that one of them had been shot. Their language was threatening.

Q. 12. Did you have any trouble in quieting them?—A. I did not try with any but those around me. We staid about twenty or thirty minutes before the train came in, and they promised to do all in their power to reconcile the rest, and I brought the news to the white men. These were the only ones I talked with, and was satisfied, from what I saw and heard, that they would remain where they were and be quiet.

G. W. ELLIS.

Sworn to and subscribed before me April 8, 1872.

W. M. IVES, JR.,
Notary Public.

APRIL 8, 1872.

NIBLACK }
vs. } Forty-second Congress.
WALLS. }

GEORGE M. WHITSTON, sworn, says:

Question 1. Were you present at an election for Representative to

Congress, held in Lake City, Florida, on the 8th day of November, 1870?—A. I was.

Q. 2. Did you hold any official position in connection with that election in Lake City on that day, and if so what was it?—A. I was an inspector of election at the probate office precinct.

Q. 3. Who were the other inspectors at that precinct, and who the clerk of election?—A. George G. Keene and — Shuler, a colored man, were inspectors, and a Mr. Caldwell was clerk.

Q. 4. After the polls of said election were closed, did the inspectors make out a return, in duplicate, of the votes polled at said precinct, as required by law, and if so, were those returns signed by all the inspectors of that precinct?—A. We made out the returns as required by law, and the returns were signed by all the inspectors but one; — Shuler, the colored inspector, left before the votes were counted. He had no cause, that I know of, for leaving, as none of the members had spoken a harsh word all day.

Q. 5. Was Mr. Shuler present during the canvassing of the votes?—A. He was there part of the time, but was not present when we finished counting. We had him called three times, but he did not answer; then one of the other inspectors went out to where Shuler's horse had been hitched, and came back and said he was gone.

Q. 6. How long was Shuler absent before you concluded the counting of the votes?—A. About a half hour.

Q. 7. Please examine this [Exhibit A shown witness] copy and say if it is a correct copy of the original return, made out by the inspectors of that election at that precinct?—A. I cannot say positively, but from memory I believe this Exhibit A to be a correct copy of our return.

Q. 8. Did or did you not see, in the morning of the day of that election, a large number of colored people armed and marching up toward the place of voting, before the polls of the election were opened, and if so state particularly what you saw and heard?—A. I saw a large number of colored people marching up toward the polls; some of them had guns and some had pistols. I went out to them and said: "If they went down town that way, it would be a demonstration of fighting or of a row," or words of that effect; I prevailed on them to put up their guns and go down town in order, which they did, after my calling upon some of them that I was acquainted with, referring them to my intentions to keep the peace. At the same time I advised them to put a guard over their arms, so that they could not be taken advantage of in that way, assuring them at the time that there was no intention of doing so. They afterward came down town in order without their arms.

Q. 9. Did you see any demonstration on the part of the white people on the day of election to molest or interfere with the colored people in any manner whatever?—A. No. None whatever.

Q. 10. Was the election, at the precinct where you were an inspector, a peaceable and quiet one?—A. It was; as much so as any election I ever saw.

Cross-examined by S. B. McLIN, for Walls:

Q. 1. What was the manner of these colored men that you saw with guns on that day of election; were they demonstrative with their guns?—A. They were so much so that I had some difficulty in stopping them; they went round me instead of halting, till I found some I was acquainted with, and called them to my assistance, to get them to hear what I had to say to them. After I had spoken a few words to them, they agreed to put their arms down.

Q. 2. Was there anything threatening in their manner of carrying their arms?—A. No. I don't recollect that they made any threats at the time, or that there was anything threatening in their manner of carrying their arms.

Q. 3. Did you hold a commission as a peace officer at the time, that caused you to halt them?—A. No; I did it for the purpose of preventing a difficulty.

Q. 4. Did you have much difficulty in getting them to put up their guns, and if so what reasons did they assign for not putting them up?—A. At first I did. They seemed to think there were white men down town with arms, but when I assured them there were not they put up theirs.

Q. 5. Do you know whether or not white men were armed that day, with either guns or revolvers?—A. I do not.

Redirect:

Q. 1. Was it customary for persons to attend an election armed with pistols and guns, as you saw those colored men on the morning of that election?—A. It was not.

Re-crossed:

Q. Is it not very common, and almost a universal practice, for white men to carry secret arms in this county?

(Objected to as not relating to the day of election, and not pertinent to the issue. Question ruled out as not in response to redirect examination.)

GEORGE M. WHITSTON.

Sworn to and subscribed before me April 8, 1872.

W. M. IVES, Jr.,
Notary Public, Columbia County.

APRIL 8, 1872.

NIBLACK }
vs. } Forty-Second Congress United States.
WALLS. }

WILLIAM H. PASCHALL sworn for contestant.

Question 1. Did you attend the election held in Lake City on the 8th day of November, 1870, for Representative to Congress?—Answer. I did.

Q. 2. Did you hold an official position on that day, and if so what was it?—A. I did. I held the position of an Inspector at the precinct east of the public square. I think it was called the assessor's precinct.

Q. 3. Who were the other inspectors at that precinct?—A. Norman Ives was one, and a colored man named Carter the other.

Q. 4. Was there any disturbance at your precinct, or any effort or attempt made on the part of the white people to prevent the colored people from voting?—A. None whatever that I saw or heard.

Q. 5. State whether or not the colored people were not allowed the same privileges in voting that the white people were, and whether there was not a disposition on the part of the white people to allow the colored people to vote.—A. They were allowed all the privileges that the whites were, and the whites gave way to let the colored have their turn at voting, except early in the morning, when there was a great crowd, and the colored people seemed loath to crowd in. I then had the door

opened, with a sentinel at it, and admitted a great many of the colored people inside of the house, who voted inside.

Q. 6. Was or was it not stated to you by a colored man, a few days before the election, that the colored people had been advised to bring their guns to the election with them?—A. It was stated to me by a colored man, by the name of Green Hutchingson. I asked him a few days before the election "if he was going to the election." He said, "Yes, Mass Billy. They say we must carry our guns, but I am not going to carry mine."

Not crossed.

W. H. PASCHALL.

Sworn to and subscribed before me April 8, 1872.

W. M. IVES, JR.,
Notary Public, Columbia County.

NIBLACK }
vs. } Forty-second Congress United States.
WALLS. }

JAMES M. KEEN sworn for contestant.

Question 1. Were you present at the election for Representative to Congress, held at Lake City, Florida, on the 8th day of November, 1870?—Answer. I was.

Q. 2. Did you hold an official position on that day; if so, what?—A. I held the position of inspector of election, at precinct called City Hall, if I recollect correctly.

Q. 3. Who were the other inspectors of election at that precinct, and who the clerk of election?—A. A. J. Hutchinson and Alfred Holland, colored, were the other inspectors, and J. L. Mitchell, clerk.

Q. 4. Was it a fair and peaceable election?—A. So far as I know, it was. I saw nothing to the contrary.

Q. 5. Were the same facilities afforded the colored people for voting that there were to the whites?—A. There were.

Q. 6. Did the white people try or attempt in any way to prevent the colored people from voting at your precinct?—A. Not that I saw or heard.

Q. 7. Did J. L. Mitchell, the clerk of election, vote at said election?—A. He did.

Q. 8. Did his name appear as a legally registered voter on the registration list furnished you as inspectors?—A. It did.

Q. 9. Did you have any evidence other than the registration list furnished the inspectors that J. L. Mitchell was or was not a legal voter of the county?—A. We did not.

Not crossed.

J. M. KEEN.

Sworn to and subscribed before me April 8, 1872.

W. M. IVES, JR.,
Notary Public Columbia County.

(Exhibit B introduced as part of the testimony, being a certificate of clerk's office circuit court.)

LAKE CITY, FLORIDA, *April 8, 1872.*

S. L. NIBLACK
vs.
 JOSIAH T. WALLS. } Forty-second Congress United States.

JOSEPH M. TOLBERT sworn for contestant.

Question 1. Were you present at Lake City, Florida, on the 8th day of November, 1870, at an election held that day for Representative to Congress?—Answer. I was.

Q. 2. Where do you reside?—A. I reside in Columbia County, State of Florida, about eleven miles south of Lake City.

Q. 3. Did you come to Lake City, on the 8th day of November, 1870, to attend said election? If not, what day did you come?—A. I came the evening before, which was the 7th day of November.

Q. 4. In coming to Lake City the day before the election, did you see any persons coming armed to the election? If so, state whether they were colored people or white people, and how many?—A. I do not recollect seeing any persons coming to the election with arms, either white or colored.

Q. 5. After you arrived in town the evening before the election did you see any persons with arms? and, if so, state whether they were white people or colored people.—A. I saw some colored people with guns in their hands going in the direction of the church, which is a little north of this place—there were between eight and fifteen—and afterward I saw some with guns in their hands at the church.

Q. 6. Was there a disturbance in town the night before the election? If so, state how it occurred, and all the circumstances attending the difficulty that came under your personal knowledge.—A. After I left the church where the speaking had been going on, in company with several other white men, we came from the church down in town and stopped in the neighborhood of Joe Baya's store, and I thought the excitement or exercises of the evening were all over with. Some of the young men who were in company with me proposed to have a dance, and some talked of sending for Ridgell and his fiddle to play for them. I think I was then sitting on the door-steps of Joe Baya's store. Some of the others were standing on the plank-walk, near where I was sitting. Some, I think, were patting their feet on the walk as if they were going to have a jig there. The next thing that attracted my attention was a noise on the plank-walk up the street. I got up from where I was sitting and looked to see what it was, and I found it was a column of colored men, in double file, marching down the plank-walk. There I saw a great many more guns in the hands of those colored men, but I did not recognize them, as I am not acquainted with many colored people. I stepped a little to one side of the plank-walk, and just as the front of the column passed me I recognized Mr. Mahoney, who called to me to fall in with them. About that time, a little further up the plank-walk, I heard some pretty rough language being used by some of the parties. I went immediately to the place in order to keep down a fuss, if possible. When I got there I saw a colored man draw his gun down to about the position of present arms, or lower. He and a white man, it seemed, were in dispute. I stepped up to the white man and put my hand on his shoulder, and endeavored in the name of the State to command the peace. The colored man then turned his gun and took it by its muzzle and struck twice at the white man, the breech of the gun hitting the plank-walk pretty hard both times. About that time another white man caught this man, upon whom I had my hand, around the waist

and ran backward with him, and one or two colored men caught this colored man who had struck with his gun, and kept him from making further demonstrations. The colored men then passed down the plank-walk, and most of them turned off to the right in front of Reuben Hart's stables. Some of the white men came down toward the center of the town. The colored people, a good many of whom seemed to be drinking, were cursing pretty loud, and I went to them in front of Reuben Hart's stables, and I found that most of them seemed very indignant toward the whites; but one colored man that I recognized I found endeavoring to pacify them, and I joined in with him in order to keep them from making further demonstrations. I had not been there long before Mr. Stephenson, the deputy marshal, and Mr. Cline came, who joined us in endeavoring to keep the peace. After talking a little while most of the colored men started back up town, and I walked across the street to the plank-walk. About the time I reached the walk I heard the firing commence up the street a little ways. A good many balls I heard whistling over and striking the houses, and I thought I was in a dangerous place; so I took refuge behind one of the stores till the firing ceased, after which I heard one, two, or three making threats that they would burn the town to ashes. I was certain they were colored people. I was acting as deputy sheriff at the time. I was acting on the night before and the day of the election. I sent off to see if I could get Mr. Bush. He was absent, and I did not know where he was, and I came down town to where Joe Baya then lived and got him to go with me up to his store, and told him I wanted all the guns he had in his store, and ammunition to load them. Mr. Bush still had not arrived. After I got the guns out of the store I met Mr. Stephenson again; he was United States deputy marshal; he was in company with Major Giles U. Ellis. I told them I wanted them to go up to where the colored people were and try to pacify them. They said they would go. I then formed what white men I could into line in the street in front of Baya's store, and marched them out in a westward direction some three hundred yards from that place and halted them, and in my feeble manner made them a little speech, the sum and substance of which was that they must keep the peace, that they must act only on the defensive, but that if the colored people undertook to burn the town I should call on every one of them to assist in defending the town. We then broke ranks and came down town to the public square. I still did not find Mr. Bush, who was the sheriff. Afterward Mr. Stephenson, the United States deputy marshal, and Major Ellis returned from where the colored people were, and, as I recollect, said that the colored people had agreed to be quiet. I don't think there was any more disturbance during the night.

Q. 7. Do you know of your own knowledge who originated the difficulty or disturbance, the white people or the colored people?—A. I can't say that I do.

Q. 8. From your knowledge of the difficulty that occurred, which were to blame, the white people or the colored people, for its origination?—A. From what I saw, after I went to the parties quarreling on the walk, I think the colored man was to blame for the difficulty. I think he was drinking. I don't know what his name is.

Q. 9. At the time the difficulty occurred were the white people armed with guns?—A. They were not.

Q. 10. Did you see the white people armed with guns at any time during the night previous to the time you got the guns from Baya's store, after the difficulty had occurred?—A. I don't recollect of seeing them with any guns until I got the guns out of Baya's store.

Q. 11. Were there any unfriendly demonstrations on the part of the white people toward the colored people that night, before the difficulty occurred?—A. I did not see any or hear any.

Cross-examined by S. B. McLIN for Walls :

Q. 1. Were there many white voters who came to the election on the afternoon before the day of election?—A. I think there were several; there were probably between fifteen and fifty.

Q. 2. Is it customary in Florida for parties to go to an election the day previous?—A. It was the first election that I recollect of having gone to previous to election day. But on account of the precincts being held only in Lake City, I think it is customary for those who live from fifteen to twenty-five miles off, who go to elections in wagons, to start to the election the day previous, and of times a great many get to the town on the day previous to the election. I have known several instances where the precincts were held only in Lake City.

Q. 3. Were you captain of a company at the time of the election?—A. I was not; I did not belong to any company; I was not even a private.

Q. 4. Did you receive any notification from any one to come to the election the day previous; and if so, whom?—A. I did not. As I recollect, Mr. Bush had told me previously he wanted me to act as deputy sheriff on the occasion.

Q. 5. Did you see white people armed with guns or repeaters in Lake City on the night before the election?—A. I don't recollect of seeing any till I got the guns out of Baya's store.

Q. 6. Were you halted while *en route* to the church to hear the speaking that night, or did you see any sentinels?—A. I was not halted; neither did I see any one I would have termed a sentinel.

Q. 7. Were you interfered with in any way either while going to, at, or returning from, the church?—A. I was not.

Q. 8. What class of people composed the meeting?—A. While I was there they were mostly colored, but a good many whites. There was no disturbance at the church that I recollect.

Q. 9. Was the procession testified to in your direct examination a political procession, or was it formed for warlike purposes?—A. I do not know for what purpose the procession was formed.

Q. 10. Were you a republican at that time?—A. I was not.

Q. 11. Were you not invited by the leader of the procession to join it?—A. I was invited by Mr. Mahoney, who was near about the front file, but I don't know who was the leader.

Q. 12. Did the parties who engaged in the difficulty on the plank-walk (referred to in your direct examination) belong to the procession or not?—A. One of them did, the other did not.

Q. 13. Did the procession halt while the difficulty went on?—A. A good many that were in the procession made a halt.

Q. 14. Did the larger number go on?—A. They made a slight halt, but after the fuss went in front of Reuben Hart's stable.

Q. 15. What did you see after you came up to the parties in the difficulty, that led you to think the colored man was to blame?—A. I saw him draw his gun down, and I think he cocked it. I commanded the peace as deputy sheriff, and after I did he took hold of the muzzle of his gun and struck at the white man twice. I saw no demonstrations on the part of the white man, whatever, to fight. This led me to believe the colored man was to blame.

Q. 16. What reason did the colored people give, when you went to them in front of Reub Hart's stable, why they were indignant at the whites?—A. None that I heard.

Q. 17. Where were the persons you heard threatening to burn the town, so that you could see them or not?—A. They were up street some thirty or fifty yards; I don't recollect seeing them just at the time.

Q. 18. At the time the difficulty commenced, do you know whether or not the white people were armed, and could not they have been armed with repeaters without your knowledge?—A. If they were armed it was in such a manner I did not see them.

Re-examined :

Q. 1. Was there at the church where this public speaking took place anything in the conduct of the white people to give offense to the colored people?—A. I did not see anything and I do not know of anything.

Q. 2. Is it customary for men marching in a political procession to be armed with guns and pistols?—A. I never saw anything of the kind before.

Q. 3. Was or was not the marching of the colored people in procession that night, armed with guns and pistols, calculated to create alarm and apprehension on the part of the white people?—A. I thought then and I think yet that it was out of order and uncalled for.

Q. 4. At the time the difficulty occurred that night was there a greater number of colored people present than whites; and, if so, what was the relative proportion of each?—A. There was a greater number of colored people present. To the best of my recollection there were fifty, seventy-five, or perhaps a hundred colored people in the procession, and from twelve to twenty-five whites.

Re-cross-examined :

Q. 1. From the best of your knowledge, were there more whites than colored in the town of Lake City that night?—A. From my information I judge there were a great many more colored men than whites in Lake City that night.

J. M. TOLBERT.

Sworn to and subscribed before me April 8, 1872.

W. M. IVES, JR.,
Notary Public, Columbia County.

LAKE CITY, FLORIDA, April 9, 1872.

The court was opened at 8 a. m., in pursuance to adjournment, and the witnesses called in the case pending, to wit:

Hon. S. L. NIBLACK, Contestant.	} Contesting seat in the Forty-second Congress of the United States.
<i>vs.</i>	
Hon. JOSIAH T. WALLS, Contestee.	

ABEL J. HUTCHINGSON sworn for contestant :

Question 1. Were you present at the election for Representative to Congress held at Lake City, Florida, on the 8th day of November, 1870?
Answer. I was.

Q. 2. Did you hold an official position on that day ; if so, what ?—A. I was inspector at the City Hall precinct.

Q. 3. Who were the other inspectors of election at that precinct, and who the clerk of election ?—A. Mr. James Keen, and a colored man named Alfred Holland were the inspectors, and—Mitchell—I believe his name is J. L. Mitchell—was the clerk.

Q. 4. Was it a fair and peaceable election ?—A. Yes, so far as I saw ; I saw nothing to the contrary.

Q. 5. Were the same facilities afforded the colored people for voting that were to the whites ?—A. Yes.

Q. 6. Did the white people try or attempt in any way to prevent the colored people from voting at your precinct ?—A. I saw no attempt to hinder, nor no intimidation whatever.

Q. 7. Did J. L. Mitchell, the clerk of election, vote at said election ?—A. Yes ; I am pretty certain he did.

Q. 8. Did his name appear as a legally registered voter on the registration list furnished you as inspectors ?—A. Yes ; if his name had not appeared we would not have allowed him to vote, as we were very particular, and only one or two attempted it.

Q. 9. Did you have any evidence, other than the registration list furnished the inspectors, that J. L. Mitchell was or was not a legal voter of the county ?—A. That was all the evidence we had.

Q. 10. Was the registration list mentioned furnished you by the sheriff of the county, and certified to by the clerk of the court ?—A. I do not remember whether the clerk, Mr. Easton, or the sheriff, Mr. Bush, handed it to me, but I think Mr. Bush did. It was certified to by the clerk.

Not cross-examined.

A. J. HUTCHINGSOON.

Sworn and subscribed before me April 9, 1872.

W. M. IVES, JR.,
Notary Public, Columbia County.

THOMAS M. MICKLER sworn for contestant, Niblack :

Question 1. Were you present at an election for Representative to Congress held in Lake City, Florida, on the 8th day of November, 1870 ?—Answer. I was.

Q. 2. Were you present at the precinct held at the probate office, and, if so, who were the inspectors of election, and who the clerk of election at said precinct ?—A. I was ; but don't know all the inspectors. Mr. George G. Keen, Mr. Mike Whetstone, and a colored man, whose name I do not know, were inspectors. The clerk I don't know ; don't recollect.

Q. 3. After the polls were closed, were you present at the counting of the votes at said precinct, and were you present at the conclusion of the counting of said votes ?—A. I was. I went there in the morning, and remained all day till after the polls closed and the votes were counted out. At the request of the inspectors, I announced the closing of the polls.

Q. 4. Was the colored man, mentioned by you as one of the inspectors, present at the counting of said vote, and was he present at the conclusion of the counting of the votes ?—A. He was present at the commencement of the counting, but was not present at the conclusion ; the counting was about half through when he left.

Q. 5. Were you present when the inspectors made up their returns of the election at that precinct?—A. I was there.

Q. 6. Was the colored man (one of the inspectors mentioned) present at that time, and did he sign the return?—A. He was not, and did not sign the return. He remarked to Mr. Mahoney, who was in the office, "I will go and put up my horse." He then left, and did not return that night.

Q. 7. Were you in Lake City the evening before the election day?—A. I was.

Q. 8. Did you see any colored people armed, in Lake City, on the evening before the election, and, if so, how many?—A. I did. I saw quite a number at dusk pass by Mr. McLauren's; in that party I saw twenty-three with guns. I intercepted them and met them at Colonel Ives's office, (law office.) Knowing a number of them, I asked them "what they meant by coming to town with their guns," and advised them to put up their guns. They said they were going to the church to stack their guns, as they were directed to do.

Q. 9. Did you see any white people with arms on that evening?—A. I did not; nothing more than is usual in this place. Quite a number of men in this place carry their pistols, and I see them. I saw nothing unusual.

Not cross-examined.

T. M. MICKLER.

Sworn to and subscribed before me April 9, 1872.

W. M. IVES, JR.,
Notary Public.

NIBLACK }
vs. } Forty-second Congress United States.
WALLS. }

WILLIAM T. NIBLACK sworn for contestant :

Question 1. Were you present at an election held in Lake City, Florida, for Representative to Congress on the 8th day of November, 1870?—Answer. I was.

Q. 2. State whether you were told by any one on that day "that they had been advised to bring their guns with them to the election." State all you know about it.—A. I was told by a colored man—he gave me his name as Frank Morgan—"that he had been to hear Dr. Johnson make three or four speeches to the colored people, and every time he advised them to bring their guns, and, yesterday evening, there came along a gang with their guns to my house to get me to come with them to the election. I told them if they were fools enough to come to Lake City with their guns and run against the white people and get their brains knocked out that they could do so, but he (Morgan) should not come; and sure enough this morning when I got here they had had a row and some of them shot, and I went to a white man and told him to take Dr. Johnson's name off my ticket, for he was to blame, and I would not vote for him." That is all I heard him say.

Q. 3. Was Dr. Johnson, mentioned by you above, a candidate for any office at that election; if so, what political party was running him as its

candidate?—A. He was running as the republican candidate for the State senate.

Not cross-examined.

W. T. NIBLACK.

Sworn to and subscribed before me April 9, 1872.

W. M. IVES, JR.,
Notary Public, Columbia County.

APRIL 9, 1872.

HENRY P. EASTON sworn for the contestant, Mr. Niblack :

Question 1. Did you hold an official position in Columbia County, Florida, during the year 1870? If so, what?—Answer. I did. I was clerk of the circuit court.

Q. 2. Were you a member of the board of county canvassers of an election held on the 8th day of November, 1870, for a Representative to Congress in said county?—A. I was.

[Exhibit A shown to witness.]

Q. 3. Is Exhibit A a true copy of the original return of the inspectors of the election held at the probate office precinct?—A. From the best of my recollection it is. I can't say positively, unless I could see the original.

Q. 4. Was the original return from said precinct signed by all the inspectors? If not, by how many?—A. I think it was signed by only two inspectors and the clerk.

Q. 5. Was or was not J. L. Mitchell a registered voter of the county at said election?—A. Yes, he was a registered voter. I registered him.

Q. 6. Were you the proper registration officer of the county at that time?—A. I was.

[Exhibit B shown witness.]

Q. 7. As the keeper of the public records and files of the county at that time, state whether Exhibit B, a certificate of the record, is a correct exemplification of said record and files.—A. Yes; from the best of my recollection I think it is.

Q. 8. Did you administer the oath required by law to J. L. Mitchell at the time of his registration?—A. I did. I asked him, and he said he had been in the State twelve months and in the county six months. It was my duty to ask.

Not cross-examined.

H. P. EASTON.

Sworn to and subscribed before me April 9, 1872.

W. M. IVES, JR.,
Notary Public, Columbia County.

EXHIBIT A.

Certificate of the result of election to be signed by inspectors and clerk of election.

(See section 23 of the general election law.)

STATE OF FLORIDA, *Columbia County* :

We, the undersigned, inspectors and clerk of an election held at Lake

City, in the county of Columbia, and State aforesaid, on the eighth day of November, in the year of our Lord one thousand eight hundred and seventy, under and by virtue of an act entitled "An act to provide for the registration of electors, and the holding of elections," approved August 6, 1868, and an act amendatory thereto, approved February 19, 1870, do hereby certify that the result of the said election was as follows, viz: For Representative in Congress, S. L. Niblack received forty-four votes, and Josiah Walls received four hundred and thirty-eight ballots.

For lieutenant governor W. D. Bloxham forty-one votes, and Samuel T. Day four hundred and fifty-one votes.

For State senator Charles H. Ross received forty votes, and Elisha G. Johnson received four hundred and forty-five ballots.

For member of the assembly, J. P. Mahony received four hundred and fifty ballots; Wm. M. Duke received forty-two votes; J. H. Armstrong received four hundred and forty-six votes; and A. J. Flowers received forty-two votes.

For constable, I. J. Wells received four hundred and forty-eight votes; Peter Jones, four hundred and forty-seven votes; J. C. Miller, four hundred and forty-six votes; Henry P. Wilson, four hundred and forty-six votes; Don. Tompkins, four hundred and eighty-nine votes; Robert Smith, four hundred and forty-six votes; W. H. Paschal, forty votes; W. J. Raulerson, forty votes; C. P. Parnell, forty votes; J. W. Tompkins, one vote.

Witness our hands at Lake City, in the county aforesaid, this eighth day of November, in the year of our Lord one thousand eight hundred and seventy.

Josiah L. Walls, eight votes; and A. DeMott, two votes.

G. M. WHITSTON,
Inspector of Elections.
GEORGE G. KEEN,
Inspector of Elections.

Inspector of Elections.
JOHN M. CALDWELL,
Clerk of Elections.

N. B.—All of the blanks in the above certificate must be filled up in words written at full length.

The certificate must be signed in duplicate. One of the certificates must be delivered by one of the number signing it without delay, securely sealed, to the clerk of the circuit court, and the other to the county judge of the county. The poll-list and oaths of the inspectors and clerk must be transmitted, with the certificate, to the clerk of the circuit court, to be filed in his office.

STATE OF FLORIDA, *Columbia County:*

I, Keightley S. Waldron, clerk of the circuit court in and for the county of Columbia, State aforesaid, do hereby certify that the foregoing is a correct copy of the original on file in my office in Lake City.

Witness my hand and seal of office this the 8th day of April, A. D. 1872.

[SEAL.]

K. S. WALDRON, *Clerk.*

EXHIBIT B.

STATE OF FLORIDA, *County of Columbia* :

I do hereby certify that the name of J. L. Mitchell appears on the list of the registered voters of the county of Columbia, and his name appears also on the registration list furnished to the inspectors of election at the election held in Lake City on the eighth day of November, A. D. 1870. I do also certify that the election returns from the probate office precinct in Lake City, of the election held on the eighth of November, A. D. 1870, was signed by no more than two inspectors and by the clerk.

Witness my hand and seal of office this the 8th day of April, A. D. 1872.

[SEAL.]

K. S. WALDRON,
Clerk Circuit Court, Columbia County, Florida.

LAKE CITY, *March 18, 1872.*

Hon. JOSIAH T. WALLS :

SIR: You will take notice that I shall, on the 8th day of April next, before the Hon. A. B. Hagen, notary public, at his office in Lake City, Columbia County, take the testimony of the following-named persons, viz: James Stephenson, Henry P. Easton, A. J. Huchingson, Henry J. Kerby, Joseph M. Tolbert, Charles H. Ross, William T. Niblack, James M. Keen, Thomas M. Mickler, George M. Whetstone, George W. Keen, Benjamin F. Monroe, George M. Cline, Frank Morgan, William Paschall, Norman M. Ives, Herbert B. Elder, Giles U. Ellis, and Benjamin Niblack, as witnesses in my behalf, in the matter of the contested election between you and myself, as Representative to the Forty-second Congress of the United States from the State of Florida, and in case of the absence or inability of the said Hon. A. B. Hagen, notary public, to take said testimony, it will be taken before some other officer authorized by law to take the same.

S. L. NIBLACK,
Contestant.

STATE OF FLORIDA, *Alachua County* :

Before me personally appeared J. H. Roper, who, being duly sworn, says that he served a true copy of the within notice on Josiah T. Walls by leaving the same at his usual place of abode, with his wife, on this the 20th day of March, A. D. 1872.

J. H. ROPER.

Sworn to and subscribed before me the 20th day of March, A. D. 1872.

[SEAL.]

R. W. ROBERDS,
Justice of the Peace.

LAKE CITY, FLORIDA, *March 30, 1872.*

Hon. JOSIAH T. WALLS :

SIR: You will take notice that I intend to take the testimony of the following-named witnesses, on the 8th day of April next, at Lake City, in Columbia County, before the Hon. A. B. Hagen, notary public, viz: Robert O. Martin, Benjamin McNish, and Alfred Williams. All of said witnesses reside in Columbia County, Florida.

S. L. NIBLACK.

STATE OF FLORIDA, *Columbia County* :

Personally appeared before me, Reuben H. Charles, who, being duly sworn, says that he served the above notice by delivering a true copy of the same to Josiah T. Walls, in person, on March the 30th, 1872.

R. H. CHARLES.

Sworn to and subscribed before me April 3, A. D. 1872.

[SEAL.]

GEORGE G. KEAN,
Justice of the Peace.

STATE OF FLORIDA, *Columbia County* :

To James Stephenson, Henry P. Easton, A. J. Huchingson, Henry J. Kerby, Joseph M. Tolbert, Charles H. Ross, William T. Niblack, James M. Keen, Thomas M. Mickler, George M. Whetstone, George W. Keen, Benjamin F. Monroe, George M. Cline, Frank Morgan, William Paschall, Norman M. Ives, Herbert B. Elder, Giles U. Ellis, Benjamin Niblack, Robert C. Martin, Benjamin McNish, and Alfred Williams:

You are hereby commanded that, laying aside all business and excuses, you and each of you be and appear in your proper persons before me, at the court-house in Lake City, on the 8th day of April, 1872, at the hour of 10 o'clock a. m. of said day, to testify all and singular those matters and things which you or either of you know in the case of a contested election wherein Silas L. Niblack, as contestant, contests the election and seat of Josiah T. Walls as member of the Forty-second Congress of the Congress of the United States from the State of Florida, and in order that you may be then and there examined respecting the said contested election, in the manner prescribed by the laws of the United States, and this you shall in no wise omit, under the penalty prescribed by law.

Witness my hand and official seal this the 3d day of April, A. D. 1872.

[SEAL.]

A. B. HAGEN,
Notary Public.

I certify that a copy of the within subpoena was this day served on the within-named James Stephenson, H. P. Easton, A. J. Huchingson, Joseph H. Tolbert, William T. Niblack, James M. Keen, Thomas M. Mickler, George M. Whetstone, George M. Keen, Benjamin F. Monroe, William Paschall, Norman M. Ives, Giles U. Ellis, Benjamin Niblack, Robert C. Martin, Benjamin McNish, and Alfred Williams.

WARREN S. BUSH, *Sheriff.*

APRIL 4, 1872.

S. L. NIBLACK, }
vs. } Contested election case.
J. T. WALLS. }

Now comes the contestee, and protests against any testimony being taken in this case at this time, and, for grounds of protest, says that on the 9th day of March, A. D. 1872, he perfected service on the contestant, and notified him he would take testimony in this case at Jacksonville, in the county of Duval, on the 4th day of April, A. D. 1872.

He further says that he did commence to take testimony on that day, and that said case is still for hearing in said county, and unfinished, and that five days have not elapsed, as required by law.

J. T. WALLS.

LAKE CITY, April 8, 1872.

In answer to the protest of contestee against contestant's taking testimony in said case, stated by contestee, the contestant says that he served said contestee with notice that he, the said contestant, would take testimony in La Fayette County on the 1st day of April, 1872; that said notice was served on said contestee either on the 7th or 8th day of March last, and that after the service of said notice the contestee served the contestant with notice to take testimony at Jacksonville, in Duval County, on the 4th day of April instant. The contestant alleges and claims that the notice of said contestee was illegal and void, for the reason that five days had not elapsed from the time contestant took testimony in La Fayette County on the 1st day of April instant, and the taking of testimony by the contestee in Jacksonville, Duval County, on the 4th day of April instant, and that contestant has filed his protest against said contestee taking testimony at said time and place.

S. L. NIBLACK, *Contestant.*

S. L. NIBLACK }
vs. } Contested-election case.
 J. T. WALLS. }

Now comes the contestee and protests against any testimony being taken in this case before Washington Ives, notary public, and for grounds of protest says that the notice served upon contestee by contestant states that the testimony to be taken at this date was to be taken before A. B. Hagen, notary public, without mentioning any other person as officer, or providing for the absence of A. B. Hagen.

J. T. WALLS,
 Per attorney, S. B. McLIN.

LAKE CITY, April 8, 1872.

In answer to the protest of contestee in the case, stated by said contestee, the contestant says, notice was duly served on contestee that contestant would take testimony of certain witnesses named in said notice, on this day, in Lake City, said testimony to be taken before the Hon. A. B. Hagen, notary public, or in his absence or inability to attend, the testimony would be taken before some other officer authorized by law to take the same; that said A. B. Hagen is not able to attend the taking of said testimony, and that Washington M. Ives, a notary public, has been called in to act in the place of said A. B. Hagen.

S. L. NIBLACK, *Contestant.*

STATE OF FLORIDA, *Columbia County* :

I, Washington M. Ives, jr., a notary public in and for the county and State aforesaid, duly commissioned and qualified, do hereby certify that the foregoing testimony of the following-named witnesses—Giles U. Ellis, George M. Whetstone, William H. Paschall, James M. Keen, Joseph M. Tolbert, Abel J. Hutchingson, Thomas M. Mickler, William T. Niblack, and Henry P. Easton—was taken before me, in due form of law, on the 8th and 9th days of April, 1872, at Lake City, Columbia

County, Florida, in accordance with the notice served by the contestant upon the contestee; the same being taken before me owing to the inability of Andrew B. Hagen, notary public, to attend; and the following abstracts were admitted as evidence, to wit: abstracts A and B, (certificates.)

Witness my hand and official seal, at Lake City, Florida, this 9th day of April, A. D. 1872.

[SEAL.]

WASH. M. IVES, JR.,
Notary Public, Columbia County.

To Hon. S. L. NIBLACK:

You are hereby notified that I intend to take the depositions of the following-named persons, to be used as evidence for me and against you in the matter of the contested election in the Forty-second Congress of the United States for the State of Florida, in which contest I am contestee and you contestant. It is my intention to take all of said depositions before C. H. Edwards, mayor of Tallahassee, tender, or in default of his taking said testimony or depositions, then I will apply to some other officer authorized by law to take the same. I will, first, on the 27th day of February, A. D. 1872, at the office of said Edwards, in the city of Tallahassee, county of Leon, State of Florida, at 10 a. m., take the depositions of the following persons, residents of Jackson County, Florida: Washington Pope, Homer Bryan, Benjamin F. Livingston, Richard Pouser, W. K. Robinson, Charles Walker, Henry Beckwell, John Livingston, Daniel Kempt; also, the following witnesses residing in Leon County: Thomas Blount, Pete Hays, Emanuel Pope, Nopolun Pittman, Brouse Nichols, Hon. J. C. Gibbs, Hon. Sherman Conant, and Hon. A. R. Meek, Duval County; the following from La Fayette County: Wm. Vaughn, Pete Ashly, Columbus Sneed, Anderson Jackson, Ison Thinos, William Sears; and you are further notified, at the same time and place I shall continue the taking of depositions of said witnesses from day to day, Sundays excepted, until completed.

J. T. WALLS.

TALLAHASSEE, FLORIDA, *February 16, 1872.*

STATE OF FLORIDA, *County of Columbia:*

I hereby certify that I served the original, of which this is a true copy, on S. L. Niblack, in person, at Lake City, Florida, on the 17th day of February, A. D. 1872.

P. A. HOLT.

TALLAHASSEE, FLORIDA, *February 20, 1872.*

Hon. S. L. NIBLACK:

SIR: In the matter now pending between us as to who is entitled to represent the State of Florida in the Forty-second Congress, you will take notice that I withdraw the service made upon you by the Hon. P. A. Holt, to appear at Tallahassee on the 27th of the present month, and substitute in its place the notice served upon you by Sheriff Bush, of Columbia County, to the effect that I shall, on the 2d day of March, A. D. 1872, be in the city of Tallahassee, Florida, for the purpose of

taking depositions to be used in the case of S. L. Niblack *vs.* Josiah T. Walls.

JOSIAH T. WALLS.

Duly executed, by serving a true copy on S. L. Niblack, this February 21, 1872.

W. S. BUSH, *Sheriff*.

To Hon. S. L. NIBLACK :

You are hereby notified that I intend to take the depositions of the following-named persons, to be used as evidence for me and against you in the matter of the contested election in the Forty-second Congress of the United States for the State of Florida, in which contest I am contestee and you contestant. It is my intention to take all of said depositions before C. H. Edwards, mayor of Tallahassee, tender, or in default of his taking said testimony or depositions, then I will apply to some other officer authorized by law to take the same. I will, first, on the 2d day of March, A. D. 1872, at the office of said Edwards, in the city of Tallahassee, county of Leon, State of Florida, at 10 a. m., take the depositions of the following persons, residents of Jackson County, Florida : Washington Pope, Homer Bryan, Benjamin F. Livingston, Richard Pouser, W. K. Robinson, Charles Walker, Henry Beckwell, John Livingston, Daniel Kempt ; also the following witnesses, residing in Leon County : Thomas Blount, Pete Hays, Emanuel Pope, Nopolun Pitman, Bouse Nichols, Hon. J. C. Gibbs, Hon. Sherman Conant, and Hon. A. R. Meek, Duval County ; the following from La Fayette County : William Vaugn, Pete Ashly, Columbus Snead, Anderson Jackson, Isom Thimos, William Sears. And you are further notified at the said time and place I shall continue the taking of depositions of said witnesses, from day to day, Sundays excepted, until completed.

J. T. WALLS.

TALLAHASSEE, FLORIDA, *February* 16, 1872.

STATE OF FLORIDA, *County of Columbia* :

I hereby certify that I served the original, of which this is a true copy, on S. L. Niblack, in person, at Lake City, Florida, on the 21st day of February, A. D. 1872.

W. S. BUSH, *Sheriff Columbia County*.

Duly executed, by serving a true copy of this original on S. L. Niblack, February 21, 1872.

W. S. BUSH, *Sheriff*.

S. L. NIBLACK }
vs.
 J. T. WALLS. }

The contestant in the above-entitled case moves that the usual notice, as far as it affects the following-named witnesses, and consents that subpoenas in these cases may be made returnable forthwith : Simon Morris, Shack Pridgitt, Barney Nichols, Alex. Sims, Clem. Pridgitt, Lewis Evans, Washington Williams, Moses Baker, Anderson Baker, Jesse Robinson, Daniel W. Bryan, John Clements, Neptune Pitman,

Moses Baker, Lewis Glover, Jacob Gamble, William Anderson, Willis Gibson, Joseph Baker, Anderson Baker, James A. Shiver.

S. L. NIBLACK, *Contestant*.

TALLAHASSEE, FLORIDA, *March 2, 1872.*

Testimony in the matter of the contested election between the Hon. Josiah T. Walls, sitting member of the Forty-second Congress of the Congress of the United States from the congressional district of Florida, and the Hon. Silas L. Niblack, contestant, taken before Charles H. Edwards, mayor of the city of Tallahassee, in said congressional district, on the 2d day of March, A. D. 1872.

The parties met agreeable to notice, and by consent adjourned until 12 o'clock m. on March 4, A. D. 1872.

MONDAY, *March 4, 1872—12 m.*

The parties met pursuant to adjournment. The contestee having announced that he would proceed to take testimony under the fifth paragraph of his answer to contestant's notice of contest, the contestant offers the following, and prays that it may become a part of the record :

In the matter of the contested election between Silas L. Niblack, contestant, and Josiah T. Walls, sitting member of the Forty-second Congress.

The contestant, the said Silas L. Niblack, by protestation, denying the truth of all and every of the allegations set forth in paragraph fifth of the answer of the sitting member to the notice of the contestant, upon the grounds of which said allegations the sitting member asks for the rejection of the votes of the county of Jackson, and not admitting the truth of all or of any of the said allegations; nevertheless he, the contestant, concedes the demand of the said sitting member that the votes of the said county of Jackson be altogether rejected, with a view to avoiding the expense and time required to take testimony in regard to the issues involved in respect to the election in said county; he therefore, and on the foregoing grounds, objects to the examination of any witness or witnesses in regard to the election held in said county of Jackson.

SILAS L. NIBLACK,
Contestant.

TALLAHASSEE, FLORIDA, *March 4, 1872.*

Whereupon the contestee offers the following, and prays that it may become part of the record :

In the matter of the contested election between Silas L. Niblack, contestant, and Josiah T. Walls, contestee, Forty-second Congress.

Now comes the contestee, Josiah T. Walls, and, in reply to the proposition of the contestant "that the votes of the said county of Jackson be altogether rejected," declines said proposition, and says that he does not ask in paragraph fifth that all the votes in the said county of Jackson be rejected, but that a fair construction of said paragraph will only reject such votes of said county as were illegally or improperly cast, or concerning which fraud can be clearly proven,

J. T. WALLS, *Contestee.*

TALLAHASSEE, FLORIDA, *March 4, 1872.*

Hereupon the contestee gives notice that he will waive taking testimony under paragraph fifth for the present, in order to accommodate witnesses now present, and will proceed to take testimony under paragraph tenth.

Hereupon the contestant introduced the following objection :

The contestant objects to the introduction of any testimony under paragraph 10th of the answer of the contestee to the notice of the contestant, on the ground of the vagueness, indefiniteness, and want of certainty in the allegations set forth in said paragraph, and the absence therein of all specification of counties and precincts the votes of which are proposed to be rejected.

Objection overruled and exception taken.

HOMER BRYAN, of Jackson County, State of Florida, was then sworn on the Holy Evangelists. Deposeth and answers to the following questions as follows, to wit:

Question 1. What is your name and where do you reside?—Answer. Homer Bryan is my name, and I reside in Jackson County, near Marianna, in the State of Florida.

Q. 2. Was that your place of residence on the 8th day of November, A. D. 1870?—A. Yes, sir; it was.

Q. 3. Did you hold any State or county office at that time?—A. I was county treasurer during that year, or a portion of it.

Q. 4. Were you present at the election held in Marianna on the 8th day of November, A. D. 1870?—A. I was.

Q. 5. Did you vote on that day at Marianna?—A. I did.

Q. 6. If during the hours of election on the day above specified you noticed any disturbance in the immediate vicinity of the polls, or saw any violence committed by any party or parties, which was calculated to intimidate or frighten people from the poll, please state the nature of said disturbance or violence, when and how it occurred; and if any parties left the poll, or the immediate vicinity of said poll, so state.

(The contestant objects to this question, and to any answer being given thereto, on the ground that the contestee, in his answer, makes no objection to the vote at the precinct of Marianna, in Jackson County, or to the proceedings on the election day at that precinct; and on the further ground that he, the contestant, has already conceded the demand of the contestee, as made in paragraph fifth of his answer, to have the vote of said county of Jackson rejected. Objection overruled. Contestant excepts.)

A. I did see at one time a disturbance between the voters and an officer appointed to keep the peace. The men living the farthest from Marianna seemed to be the most anxious to vote first. Some were attempted to be carried to the polls, and the police officer seemed to be clearing the way for them, but those around did not desire to give way for these parties. The police officer then assaulted the parties who refused to yield or make room for the new-comers. The man the police officer struck bled pretty smart, which made those that did live far off leave the polls for a short distance and get out of the way; and they did not get a chance to get back to the polls, and in a short time left for home. All this occurred at about 1 or 2 o'clock during the day. Does not distinctly remember the number of the poll. It was either No. 1 or No. 2. The parties left the poll and remained around there a short time, and were there when I left the poll. I then went to poll No. 3, and saw

these people on their way home. I staid at No. 3 poll about an hour; then returned to No. 1 or 2, and there saw a big fuss, but don't know how it raised. Some men unknown to me had hold of Mr. Coker, among whom was young Jim Baker, trying to get a pistol out of Mr. J. P. Coker's hand. To the best of my knowledge, at least one hundred and fifty voters went off then from all the polls. Mr. Coker and a colored man had a row about something, and were fussing when I arrived there. The colored man was Jerry Robinson. I staid there until the polls closed. There was no further fuss that I saw. About one hundred and fifty people then left, having been unable to get in their vote. The polls closed between 4 and 5 o'clock p. m.; the sun was not down. I voted at No. 3, being the last man to deposit a vote there. Having went to No. 3 to get my horse, after the disturbance with Mr. Coker, and seeing a chance to vote at No. 3, I voted. There were fully fifty men at No. 3 who had not voted. This fifty is a part of the one hundred and fifty above mentioned. I was at No. 1 or 2 when the judge ordered the poll to be closed. There were three polls in Marianna. Poll No. 1 was fifty feet, more or less, from No. 2, No. 1 being in the court-house and No. 2 in Captain Dickerson's office. No. 3 was in the judge of probate's office, being about one hundred and fifty yards from Captain Dickerson's office. After the fuss with the police officer some went away, and lots of people went away after the fuss with Mr. Coker. I live thirteen miles from Marianna, and did not get home until a good while after dark. Do not know whether No. 2 poll was closed before sundown, and is not certain whether No. 3 poll was closed before sundown or not. Had proceeded a right smart distance after voting, before dark; was then on the road home. Is positive that No. 1 poll was closed before sundown.

HOMER BRYAN.

The next witness called was JESSE ROBINSON, who, being duly sworn, deposeth as follows:

Question 1. What is your name and where do you reside?—Answer. My name is Jesse Robinson; resides in Jackson County, State of Florida.

Q. 2. Were you present in Marianna on the 8th day of November, A. D. 1870?—A. Yes, sir.

Q. 3. Were you a candidate for any office on that day; if so, what office?—A. Was a candidate for the assembly of the State.

Q. 4. State what you know of any disturbance occurrng at or near the polls in Marianna on that day?

(The contestant objects to this question and to any answer to the same, on the same grounds above set forth in his objections to the answer to a similar question on the part of the witness Homer Bryan. Objection overruled and exception taken.)

A. On that same day I was at precincts Nos. 1 and 2, walking between them. While walking, Dr. Tennell slapped me in the mouth and at the same time kicked me. I looked back then, and saw Mr. Coker and Jerry Robinson fighting, and Mr. Coker was fixing to shoot Robinson. I then saw a good many people going home. Then I asked to be let vote, and was refused, so I did not vote at all, but staid there during the day. The biggest disturbance I saw was when they struck me and Jerry; this caused the rest to scatter.

Q. How many went away at the time of the disturbance between Dr. Tennell, Mr. Coker, Jerry, and yourself?—A. I think about two hundred, or one hundred and fifty at the lowest.

Q. Were they mostly colored men?—A. Yes, sir; they were all colored.

Q. Do you know or do you not whether they voted before leaving?—A. They did not vote.

Q. Which of the two, Mr. Niblack or Mr. Walls, would you have voted for had your vote been allowed?—A. I should certainly have voted for myself and Mr. Walls.

Q. Did you see poll No. 1 or 2 closed, or both of them closed?—A. Yes, sir; saw No. 2 shut down.

Q. Were you at No. 1 after it was closed?—A. Went to No. 1 and saw that it was closed.

Q. About what time were these two polls closed?—A. I think it was between the hours of 4 and 5 o'clock.

Q. Are you positive that both Nos. 1 and 2 were closed before sundown?—A. I am not positive that they were.

Q. How long before dark were these polls closed?—A. I think it was about an hour and a half.

Q. How do you get the idea that it was about an hour and a half?—A. Because I know how far I can walk in an hour. I can walk 5 miles an hour, and I walked at that time 8 miles before dark. I can walk 5 miles an hour all day long.

Q. When the polls were closed at No. 1 and 2, how many were waiting to vote?—A. About one hundred and fifty; the window was shut down on a man's hand. We voted through a window.

Q. Were you a registered voter in that county?—A. Yes, sir.

Q. Had you not for two years prior to this election, held on the 8th day of November, A. D. 1870, been a member of the assembly of the State of Florida, from Jackson County?

(Objected to as leading and not pertinent. Objection overruled and exception taken.)

A. Yes, sir; I was a member.

JESSE ROBINSON.

The next witness called was DANIEL W. BRYAN, who, being duly sworn, deposes as follows:

Question. What is your name and where do you reside?—Answer. Daniel W. Bryan; and I reside in Jackson County.

Q. State what you know of any disturbance occurring at or near the polls in Marianna, on the 8th day of November, A. D. 1870.

(The contestant objects to this question and to any answer to the same, on the same grounds above set forth in his objections to the answer to a similar question on the part of the witnesses Homer Bryan and Jesse Robinson. Objection overruled and exception taken.)

A. I saw little Jim Baker hung to Mr. Coker, trying to get his pistol from him; and Dr. Tennell struck Jesse Robinson in the mouth. This I saw. Dr. Tennell then came on and kicked me and said, "Forty acres of land, God damn you, without a mule." I turned around and said, "Doctor, I want you to let me alone." I then went off to my home.

Q. State if it was owing to this disturbance that you went off and others.—A. Yes, sir; it was owing to this disturbance.

Q. About how many went off this time?—A. I thought about one hundred left then.

Q. Were these colored or white men that went off?—A. They were colored men.

Q. State if you had any trouble in voting.—A. I had to push right hard to get in, there being a large crowd there, all trying to get to the polls.

Q. Did these men have a chance to vote that went off?—A. No, sir; they could not get there.

DANIEL W. ^{his} + BRYAN.
_{mark.}

NOTE.—The contestant declines to ask any questions.

Both parties consenting, they adjourned until 9 o'clock to-morrow.

TUESDAY, *March 5, 1872*—9 a. m.

The parties met pursuant to adjournment.

The first witness called was WASHINGTON POPE, who, being duly sworn, deposes as follows:

Question. What is your name; where did you reside on the 8th day of November, A. D. 1870?—Answer. Washington Pope; Jackson County, in the State of Florida.

Q. Were you present at the election held in Jackson County on the 8th day of November, A. D. 1870, at Marianna, in said county?—A. I was.

Q. State what you know of any disturbance occurring at or near the polls in Marianna on that day.

(The contestant objects to this question, and to any answer to the same, on the same grounds above set forth in his objections to the answer to a similar question on the part of the witness Homer Bryan and others. Objection overruled, and exception taken.)

A. The first I saw was a fuss with Jesse Robinson and Dr. Tennell and Jerry Robinson and Mr. Coker; in that disturbance a great many voters left for home. After the fuss was quieted down, the voting went on again until about between 4 and 5 o'clock in the afternoon; the polls then closed. Also, a good many voters were shut out by the polls being closed.

Q. What kind of a disturbance was it between Mr. Coker and Robinson?—A. Coker was trying to fight, and had a pistol.

Q. Did you hear Mr. Coker or Dr. Tennell say anything during the fuss?—A. They were talking loud, and I heard Dr. Tennell say, "Forty acres without a mule."

Q. Did you hear Dr. Tennell say anything else?—A. Yes, sir; he said, "Forty acres without a mule, God damn you."

Q. If you heard Colonel Coker say anything during the row, say so.—A. I could not understand what he was saying, but he had his pistol drawn on Jerry Robinson. Do not recollect, specifically, what was said at the time.

Q. Did you, or did you not, hear either Colonel Coker or Dr. Tennell say, "We want you niggers to get out of the way, as it is getting late in the day, and let us white folks vote, as you have trampled on us long enough?"

(The contestant objects to this question as leading, and suggesting words to the witness. The question objected to, and objection sustained.)

Q. State if you heard either Dr. Tennell or Colonel Coker say anything that you have not repeated, at the time of this disturbance.

(Objected to by the contestant, on the ground that the witness has already stated all the conversation that he recollects.)

A. I don't recollect hearing them say anything else.

Adjourned until 2 o'clock p. m.

Two o'clock p. m. the parties met pursuant to adjournment.

Q. State what occurred when the disturbance above referred to took place.—A. There were a great number of persons went off from the poll on account of the disturbance.

Q. What class of people were they?—A. They were colored people.

Q. Did they go away without voting?—A. They went away without voting.

Q. How many would you judge left without voting?—A. About one hundred or one hundred and fifty; somewhere along there.

Q. State if you were a registered voter at that time.—A. I was.

Q. State if you held any official position at that time.—A. I was county commissioner at that time.

Q. If there is anything further connected with that disturbance which you have not recollected, so state.—A. There is nothing further that I can recollect.

WASHINGTON POPE.

The contestant did not cross-examine or question the witness.

The next witness called was HENRY BLACKWELL, who, being duly sworn, deposed as follows:

Question. What is your name, and where do you reside?—Answer. Henry Blackwell; reside in Jackson County, State of Florida.

Q. Were you present at the election held in Marianna on the 8th day of November, A. D. 1870?—A. I was.

Q. State what you know of any disturbance occurring at or near the polls in Marianna on that day.

(The contestant objects to this question and to any answer to the same, on the same grounds above set forth in his objections to the answer to a similar question on the part of the witness Homer Bryan. Objection overruled and exception taken.)

A. Well, I saw Mr. Coker have his pistol and going to shoot Jerry Robinson, and if it had not been for little Jim Baker he would have shot him. I also saw Dr. Tennell kick Jesse Robinson, and hollered out "Forty acres and a mule, God damn you." This is all I saw or recollect about the row.

Q. Were Jesse and Jerry Robinson colored or white men?—A. They were colored men.

Q. Are you a registered voter in that county?—A. Yes, sir.

Q. State whether or not you voted on that day.—A. I did not vote.

Q. Why did you not vote?—A. Because they said they could not find my name.

Q. What did you do when you found that you could not vote?—A. I did not stay at the poll; I went down the street.

Q. Was this before or after the row that you found you could not vote?—A. It was before the row.

Q. After the row happened, what did you do?—A. I said, at the row, after I left the polls, "Look yonder at that man; he is going to shoot Jerry Robinson." Then that frightened me and I left.

Q. Did you see other people leave at the same time?—A. I saw two leave.

HENRY ^{his} + BLACKWELL.
mark.

The contestant did not cross-examine or ask the witness any questions.

The next witness called was JOHN CLEMONS, who, being duly sworn, deposed as follows :

Question. What is your name and where do you reside?—Answer. John Clemons; live in Jackson County.

Q. Were you present at the election held in Marianna on the 8th day of November, A. D. 1870?—A. I was.

Q. State what you know of any disturbance occurring at or near the polls in Marianna on that day.

(The contestant objects to this question and to any answer to the same, on the same grounds above set forth in his objections to the answer to a similar question on the part of the witness Homer Bryan. Objection overruled and exception taken.)

A. I heard Mr. Coker say, as Jesse Robinson passed by him—some more colored men were standing with him—he said, “That is a delegate, now, that comes by here,” and said, “He may watch me, God damn him, him and all the rest of them;” and I left him then and went to poll No. 3, and heard Mr. Lawrence say, if the niggers didn’t vote the way he was going to vote, they would have but a bad chance to vote to-day; and I went to Mr. McLean, James McLean, (one of the men who came to the assembly from Jackson County,) to let him fix a chance for me to vote; and he said, “I will, John, you are a good fellow;” and as he made the colored people give back to carry in some white men, I followed on behind, voted, and went home. Whilst on my way home, I saw some men from Marianna going home—about fifty men. This was about 3 o’clock, or between 3 and 4 four o’clock. I believe this is all that I can think of right now.

Q. If you know from which poll these men came, say so.—A. They came from No. 2. I saw them leave there.

Q. At which poll was this disturbance you saw?—A. At No. 2 poll.

Q. How soon after the occurrence between Jesse Robinson and Mr. Coker was it when these men went home?—A. About twenty minutes.

Q. Is the Mr. Lawrence you spoke of a white man?—A. Yes, sir; he was a white man.

JOHN CLEMMONS.

The contestant did not ask the witness any questions or cross-examine.

The next witness called was BENJAMIN F. LIVINGSTON, who, being duly sworn, deposed as follows :

Question. What is your name and where do you reside?—Answer. Benjamin F. Livingston, and I reside in Jackson County, State of Florida.

Q. Were you present at the election held in Marianna on the 8th day of November, A. D. 1870?—A. I was.

Q. State what you know of any disturbance occurring at or near the polls in Marianna on that day.

(The contestant objects to this question and to any answer to the same, on the same grounds above set forth in his objections to the answer to a similar question on the part of the witness Homer Bryan. Objection overruled and exception taken.)

A. At precinct No. 1, several times during the day, I saw parties taking men, white men taking white men and carrying them up to the polls, and said, "You niggers get out of the way, and let white folks vote." Sometimes they would punch them with sticks, and I called the attention of the peace officers to what these men were doing, taking in their party and making others get back; and Mr. Lawrence and two or three other young men said that "This is a white man's country, and we intend to rule," and that I had better dry up and leave there; and I said that I was here for the purpose of voting, and was told to do it and shut my damn gab. I soon left there and went to precinct No. 3, and remained most of the time afterward at precinct No. 3, and passed back to Nos. 1 and 2, but did not stay at either place long. I saw Mr. Baker have Mr. Coker and try to get his pistol out of his hand. Mr. Baker asked Mr. Coker for his pistol, and told him to go and make up with that negro, or it might cost him a great deal of trouble. He (Coker) said, "I won't do it; I would rather kill him;" and I left then and went back to No. 3. That was all that I saw or recollect.

Q. Did you see any people leave precinct No. 2? If so, how many, at the time of the disturbance referred to?—A. I think, to the best of my knowledge, that 150 or 200 people left.

Q. Where did they go?—A. The most of them left town.

Q. Did any go to No. 3 poll? If so, what for?—A. Some went to No. 3 to try to vote there.

Q. How many, do you think, went to No. 3 with you?—A. I think 50, at least, went.

Q. Did you see them vote or try to vote?—A. They challenged pretty nearly every one until the polls were closed, and cursed them; but some I know voted, whilst others could not vote.

Q. What time did the poll close at No. 3?—A. I don't know at what hour, but it closed before sundown.

Q. Were any people waiting to vote when the polls closed?—A. At least 75 or 100 were crowded around the window and some had their hand in the window waiting to deposit their vote, and I urged the inspector to allow those to vote who had their hand in the window.

Q. Do you know when the polls closed at the other places?—A. Yes, sir; I think they closed 15 or 20 minutes sooner than No. 3 closed.

B. F. LIVINGSTON.

The contestant did not ask the witness any questions or cross-examine.

The next witness called was JOHN H. S. LIVINGSTON, who, being duly sworn, deposed as follows:

Question. What is your name and where do you reside?—Answer. John H. S. Livingston is my name and I reside in Jackson County, Florida.

Q. Were you present at the election held in Marianna on the 8th day of November, A. D. 1870?—A. I was.

Q. State what you know of any disturbance occurring at or near the polls in Marianna on that day.

(The contestant objects to this question and to any answer to the same, on the same grounds above set forth in his objections to the answer to a similar question on the part of the witness Homer Bryan. Objection over-ruled and exception taken.)

A. The first disturbance that I saw was at poll No. 1. Dr. Tennell was kicking Daniel Bryant and said, "Forty acres of land without a mule, God damn you;" this was about 12 o'clock in the day; then I left for a while, and in returning back saw considerable confusion. I passed on swiftly to poll No. 2, and saw Colonel Coker running after some one or at some one with his hand behind him, under the coat, as if getting something, and Jim Baker after him. Jim Baker overtook him and seized him around the waist, and Coker labored hard to get away from him. I passed on down the way and asked, "Where is the sheriff?" and, "What is the reason he don't stop the row?" And as the people were going away from the polls I said to them to stay and vote or we will lose the election; some left and some remained. That is about all that I saw of the row. This, to the best of my memory, was about 2 o'clock; did not see any more disturbance.

Q. Were you present at any of the polls when they closed? If so, state it.—A. I was at No. 1 when they closed, and just as they were closing I asked if I could vote.

Q. Did you get a chance to vote?—A. No, sir.

Q. Was the sun down when No. 1 poll closed?—A. No, sir; it was not down.

Q. If you had had an opportunity would you have voted for Mr. Niblack or Mr. Walls?—A. Mr. Walls. I saw some men trying to vote when the poll closed; several had their hands in the window.

Q. Did you see if the men who had their hands in the window had tickets in their hands?—A. Yes, sir; there were two men who had tickets in their hands; but I don't know whose name was on the ticket for Congress; these men were colored; after the closing of No. 1 I passed to No. 2 and asked to vote there, and they would not allow me to vote.

Q. Why not?—A. Because the poll was closed.

Q. Was the sun down when you got to No. 2?—A. No, sir.

Q. Were there others at No. 2 besides yourself trying to vote?—A. Yes, sir; I passed from here and went to No. 3.

Q. What happened at No. 3?—A. The voting here was 8 or 10 minutes longer; but I did not get a chance to vote.

Q. Did this poll close before sundown?—A. Yes, sir, to the best of my judgment it closed 10 or 15 minutes before sundown.

Q. Who ordered these polls closed?—A. Judge Anderson. I heard him give the order at No. 1 and 2.

Q. Were most of the men colored whom you saw trying to vote when the polls closed?—A. Yes, sir.

Q. From your knowledge of the colored people in Jackson County, would they, as a class, if all had an opportunity of voting, have cast their ballots for Mr. Walls, in preference to Mr. Niblack?

(The contestant objects to this question, on the ground that the manner in which these persons would have voted cannot be proven by this witness, either from hearsay or from a knowledge of their character. Objection sustained and exception taken.)

JOHN LIVINGSTON.

The contestant did not ask the witness any questions and did not cross-examine.

The next witness called was RICHARD POOSER, who, being duly sworn, deposed as follows:

Question. What is your name and where do you reside?—Answer. Richard Pooser, and I reside in Jackson County, State of Florida.

Q. Were you present at the election held in Marianna on the 8th day of November, A. D. 1870?—A. I was.

Q. State what you know of any disturbance occurring at or near the polls in Marianna on that day.

(The contestant objects to this question and to any answer to the same, on the same grounds above set forth in his objections to the answer to a similar question on the part of the witness Homer Bryan. Objection overruled and exception taken.)

A. I was at poll No. 1. Dr. Tennell came up to poll No. 1 and said, "God damn you, forty acres of land without a mule," and kicked Daniel Bryant, and said, "God damn you, we want you to vote a white man's ticket." Bryant said, "I want you to let me alone." Tennell then said, "If you don't vote as we want you to vote, you will repent of it after the election is over." Tennell then came to me whilst I was standing at the poll with my ticket in my hand and said, "Pooser, God damn your radical soul to hell, forty acres of land without the mule." The next thing he said was that "This has been a negro Government, but now it is going to be a white man's Government. You have been voting for niggers, carpet-baggers, and scalawags, and we white men are going to put a stop to it." He then took a hickory stick, which he had in his hand, and waved it over their heads, telling them to get back from the polls, that they wanted white men to vote. The colored men at poll No. 1 said they would die before they would give up their rights. Tennell then left the polls and came across Jesse Robinson, between polls Nos. 1 and 2, and said to Robinson, "What are you doing here?" Robinson answered, "I have come to do my duty; to vote for my people and myself;" and he told him, "Forty acres of land without the mule, God damn you," and struck him in the mouth and kicked him. Tennell then said to Robinson that "You have come here to influence the negroes and tell them how to vote," and kicked Robinson again. Colonel Coker came to poll No. 2 with a crowd of white men and told the colored men to stand back; they replied that they had not voted. Coker then said that he did not care a God damn, and told them to get back. He then commenced punching the people with his walking-stick; but finding this did not do any good, he took the stick and commenced beating them. I was standing within ten feet of the poll. And the colored people said, "Mr. Coker, we have not voted yet, sir." Coker told them that they had been there long enough, and if they did not give way he would clear the very last one of them out. The colored people seemed to think this was foul play and unfair. Coker said, "Fair play or foul play, if you don't give way I will have blood or guts—one." They replied, "Mr. Coker, there is a law allowing us to vote." Coker then said, "God damn the law," and that he didn't ask the law any odds; that it was not a white man's law; that it was a nigger's law. He then rushed in with the white men and carried them to the polls. This caused the colored people to fall back. The colored men then thought that they would not all give back, and a good many of them crowded in. Coker finding they would not give back for the white men, he told them that, if they did not fall back, "God damn you, I won't leave enough of you to tell the tale, let alone to send the news to Reed." Then they did fall back sure enough. Then Coker pulled out his pistol. Jerry Robinson was standing behind his back. Coker wheeled around and asked Robinson what

he was doing there. Robinson replied that he was there to vote. "Didn't you hear me give the order for you God-damn niggers to leave the poll?" Robinson told him that he had not yet voted, and was not going away until he voted. Then Coker said he would kill him, and the voting then entirely ceased for a half hour. This was at poll No. 2. This is all I believe that I saw Coker do. At that time there must have been 170 leave the poll during the row. I was right at the poll and saw it all. This 170 that left were colored men. The colored people cried out.

Q. Did you see some of these 170 people trying to vote before the row?—A. I did, sir.

Q. Did you see them have ballots in their hands?—A. I did, sir.

Q. When they left the poll, during the row, had they still the ballots in their hands?—A. Yes, sir.

Q. Did they have a chance to get back to the polls to vote?—A. No, sir; they scattered and did not come back.

Q. Do you know of any going to any other poll?—A. Some went to No. 3.

Q. Do you know of any who went off home?—A. Yes, sir. Mr. Daniel Kemp, Emanuel Pope, John Livingston, went home.

Q. Did you see any of this crowd vote at No. 3?—A. No, sir. I did not go to No. 3. When the row stopped, and polls Nos. 1 and 2 were closed, No. 2, where I was standing, there were a great many that had not voted; I think there were 50. No. 1 closed after No. 2. Both polls were closed before sundown. At No. 1, 25, to my best judgment, were left who had not voted; some had their hand in the window, intending to vote. I saw three men with their hand in the window, and one got his hand mashed; but I don't know whether he voted or not.

Q. What was the color of the tickets?—A. Saw tickets with the United States flag on them—republican tickets in their hand; white paper with a blue flag on them.

Q. Do you remember anything further about the disturbance at polls 1, 2, and 3?—A. Colonel Coker said that the niggers were obliged to vote the democratic ticket; if they did not do so, they would have to leave Jackson County. This was at poll No. 2. He further said that they intended to carry the election; that he had men enough to carry it out. I believe that is all I recollect.

Q. State what kind of a color the ticket had that the 170 men above referred to had in their hand when they left the polls.—A. They had the ticket with the flag on it.

Q. When Dr. Tennell said you had voted for carpet-baggers, niggers, and scalawags, did you understand it to refer to you individually or to the people; or, in other words, to whom did he address that remark?—A. He said it to the whole crowd of colored men.

Q. Was that statement, that you had voted for carpet-baggers, &c., a correct one?

(The contestant objects to this question as not pertinent to the issue involved. Objection overruled and exception taken.)

A. It was correct.

his
RICHARD + POOSER.
mark.

The contestant did not cross-examine or ask any questions.

By consent, the parties adjourned until to-morrow morning, at 9 o'clock.

WEDNESDAY MORNING, *March 6, 1872*—9 o'clock a. m.

The parties met pursuant to adjournment.

The first witness called was DANIEL KEMP, who, being duly sworn, deposed as follows :

Question. What is your name and where do you reside?—Answer. Daniel Kemp is my name, and I reside in Jackson County, Florida.

Q. Were you present at the election held in Marianna, Jackson County, on the 8th day of November, A. D. 1870?—A. I was.

Q. State what you know of any disturbance occurring at or near the polls in Marianna on that day.

(The contestant objects to this question and to any answer to the same, on the same grounds above set forth in his objections to an answer to a similar question on the part of the witness Homer Bryan. Objection overruled and exception taken.)

A. When I was going from No. 1 to No. 2 polls, at about 3 o'clock, I saw Mr. Coker running after Jerry Robinson, and Mr. Baker ran after Mr. Coker and took his pistol away. After that I turned back home. As Mr. Coker was running after Jerry I saw a great many people leave No. 3 polls. After I went home I staid there some considerable time, and then went back to the polls; and on my way back to the polls I met about twenty men, and I staid around the polls a while, trying to get a chance to vote, and whilst waiting they shut down the door, and I could not vote. Several others stood around trying to vote when the polls closed. When the polls closed I looked at a friend's watch, and it was a little after 4 o'clock. This is all I know.

Q. Do you know who the managers of the election at Marianna were?—A. No, sir.

Q. Did you have a chance to vote?—A. No, sir; the polls closed before I could vote.

Q. If you had a chance to vote, who would you have voted for for Congress; Mr. Walls or Mr. Niblack?—A. I should have voted for Mr. Walls.

Q. Were the men who you saw that failed to vote white or colored men?—A. They were colored men.

Q. How many were they?—A. There were four or five standing where I was.

Q. Which class of people number the most in Jackson County; the white or colored?—A. From the congregation, I think the colored people number the most.

Q. To which political party do the colored voters in your county belong?

(Objected to as not pertinent to the issue involved. Objection overruled and exception taken.)

A. To the republican party.

Q. Were the managers of the election white or colored men?—A. Some were white and some were colored. This was at No. 1 poll.

Q. Were the managers of the election at No. 1 mostly white or colored?—A. They were white, except one, who was colored. I saw three men as managers.

Cross-examination :

The contestant presented the face of a watch to the witness and asked him what time it indicated. The witness replied, a little after 7 o'clock, whereas the actual time shown on the watch was ten minutes past 10. Another watch shown the witness, belonging to the contestee, which

indicated 10 o'clock, the witness's reply was correct when asked what the time was by the contestee's watch. A third watch was shown to the witness, on which the time marked was 7 o'clock. Witness looked at the watch and said it was 6 o'clock. The clock in the room was shown the witness, and in answer to what time it indicated, replied 10 o'clock, as he had but a few minutes ago heard the bell on the town clock strike ten; and he further said that some of the watches must be wrong, but the clock says 10, and it is right.

Explanation: When I said I looked at a friend's watch, I meant that I asked a friend what time is it; and he replied, a little after 4 o'clock. The friend's name was Frank White.

DANIEL ^{his} + KEMP.
mark.

The next witness called was PETER HAYS, who, being duly sworn, deposed as follows:

Question. What is your name and where do you reside?—Answer. Peter Hays, and I live in Jackson County.

Q. Were you present at the election held in Marianna on the 8th day of November, A. D. 1870?—A. I was.

Q. State what you know of any disturbance at or near the polls in Marianna on that day.

(The contestant objects to this question and to any answer to the same, on the same grounds above set forth in his objections to an answer to a similar question on the part of the witness Homer Bryan. Objection overruled and exception taken.)

A. When I got to poll No. 2, there was a very large majority there trying to vote, and Mr. Robert Baker told them to stand back and let the white people vote first. The colored people said to Mr. Baker, "Mr. Baker, we live a good ways from town, and have come here to vote." He, Mr. Robert Baker, then struck a colored man; cracked him over the head with a sword. "Stand back, God damn you," says he; "if you don't, I'll knock you back." I said "Please, Mr. Baker, let me vote," and he said, "You all stand back; there will be a chance for you to vote directly. Let the white color vote first. This is the day we come to vote, ourselves." After he spoke these words, I asked Mr. Baker if there is any chance for me to vote here at all. He said, "Peter, if you will stand back a little while, and let all the whites vote, there will be a chance then for all you colored men;" and by them crowding so—so many trying to get to the poll—there was no chance for me to vote. I went from there then to No. 3, and they were crowding there so that I staid there about one hour, and seeing no chance to vote here, on account of the crowd, I went away, and returned to No. 1, and just before I got there a disturbance was raised with Dr. Tennell and Jerry Robinson. Jerry was trying to get to the poll, and Tennell said, "Forty acres of land, God damn you, without a mule." Jerry then said, "I want to get to the poll." As he spoke this, Tennell hauled up and kicked him, and said again, "Forty acres of land without the mule, God damu you." Then Mr. Coker said to Jerry, "What do you want?" Jerry said, "Mr. Coker, I want to vote." Coker said, "God damn you, stand back." Jerry replied that he would not do it, and said he was going to vote. Coker then hit Jerry with his stick and drove him from the poll, pulled out a pistol and was going to shoot Robinson, but young Jim Baker meets him half way, and said, "Mr. Coker, stand back; I am a man,

too. This course will bring on trouble;" and Coker said he didn't care a God damn. Then I went to No. 1 poll, and asked Frank Phillips if there was a chance for me to vote here to day. He said I was a little too late; "We are going to close the poll now;" so I went down to No. 2, and staid there about a half hour. Just before the poll closed there, another man walked up and handed in his ticket; then I stepped up and spoke to Mr. Frank White, and said, "Please take my ticket." Mr. McKay then got up and called Judge Anderson, and asked what time it was, and Anderson said it was five o'clock. I still stood there, and said, "Mr. McKay, will you take my ticket?" He said it was too late; that I was an hour behind time. McKay then shut down the poll and told me that I would have to come another time.

Q. Who were the inspectors of No. 2?—A. Mr. McKay, Frank White, and, I think, Mr. Charley Davis. Frank White is a colored man; the rest were white. I did not get a chance to vote at all.

Q. Did you see any others who did not vote?—A. No, sir; I did not see any others. If I had been allowed to vote I would have voted for Mr. Walls.

Q. Are the colored people or the white people the most numerous in your county?—A. The colored people are the most numerous.

Q. How do you know there are more colored people than white?—A. Well I judge there is more colored than white because I saw more colored around the voting.

Q. To which political party do the colored people in your county belong?

(This question is objected to by the contestant on grounds above stated.)

A. They all belong to the republican party. Mr. Robert Baker was an officer that day to keep order at the polls.

his
PETER + HAYS.
mark.

The contestant did not cross-examine or ask any questions.

The next witness called was NEPTUNE PITMAN, who, being duly sworn, deposed as follows:

Question. What is your name and where do you reside?—Answer. Neptune Pitman and I live in Jackson County.

Q. Were you present at the election held in Marianna on the 8th day of November, A. D. 1870?—A. I was.

Q. State what you know of any disturbance at or near the polls in Marianna on that day.

(The contestant objects to this question and to any answer to the same, on the same grounds above set forth in his objections to an answer to a similar question on the part of the witness Homer Bryan. Objection overruled and exception taken.)

A. I went to No. 2 between 8 and 9 o'clock in the morning. The poll was crowded pretty much at the time, and I stood about there for about an hour. While standing there waiting for a chance to vote, Dr. Tennell came along and Jesse Robinson, within about twenty feet of me, and Tennell hauled away and struck Robinson with his fist, in the mouth and said, "Forty acres of land, God damn you, without the mule." Then I hurried up to No. 2 poll and scrouged in and threw my vote. Then I came out and started home, and in coming out I heard a

fuss and stopped to see what was the matter, and I saw young Jim Baker hung to Mr. Coker, and heard Baker say, "Colonel Coker, you can't do that." I was too far off to know what it was he said he should not do. Then I went home. This is all that I saw that day. When I left for home it was between 2 and 3 o'clock.

Q. How many years have you lived in Jackson County?—A. I have lived there forty-three years. Think the colored people are more numerous than the white and that their politics are republican.

NEPTUNE ^{his} + PITMAN.
mark.

By consent of the parties, a recess was taken until 2 o'clock.

2 O'CLOCK P. M.

The parties met pursuant to adjournment; and, owing to the absence of important witnesses, they agreed to adjourn until Friday morning at 10 o'clock.

FRIDAY MORNING, *March 8*—10 a. m.

The parties met pursuant to adjournment.

The first witness called was MOSES FAY, *alias* BAKER, who, being duly sworn, deposed as follows:

Question. What is your name and where do you reside?—Answer. Moses Baker is my name and I reside in Jackson County, Florida.

Q. Were you present at the election held in Greenwood on the 8th day of November, A. D. 1870, in Jackson County, Florida?—A. I was.

Q. State what you know of any disturbance at or near the polls in Marianna on that day.

(The contestant objects to this question and to any answer to the same, on the same grounds above set forth in his objections to an answer to a similar question on the part of the witness Homer Bryan. Objection overruled and exception taken.)

A. Does not know of any disturbance in Marianna on the day of election. Did not go to the polls in Marianna; only went to a store.

Q. What time did you get to Marianna?—A. About a half hour before sundown.

Q. Did you see any one voting in Marianna when you arrived there?—A. I reckon they were through when I got there, for I saw them scattered around. I don't know where the polls were in Marianna.

Q. Where did you vote on that day and about what time of the day?—A. I voted in Greenwood about dinner-time, and after voting I went to Marianna.

Q. Did you see any disturbance at Greenwood?—No, sir; I do not know of any row or disturbance there that day.

MOSES ^{his} + BAKER.
mark.

The next witness called was LEWIS GLOVER, who, being duly sworn, deposed as follows:

Question. What is your name and where do you reside?—Answer. Lewis Glover is my name and I reside in Jackson County, Florida.

Q. Were you present at the election held in Marianna on the 8th day of November, A. D. 1870?—A. I was not there.

Q. State what you know of any disturbance at or near the polls in Marianna on that day.

(The contestant objects to this question and to any answer to the same, on the same grounds above set forth in his objections to the answer to a similar question on the part of the witness Homer Bryan. Objection overruled and exception taken.)

A. Does not know of any disturbance; was not there.

Q. State if you tried to go to Marianna on that day; and if you were prevented, so state.—A. I live twelve miles from Marianna, and started for Marianna the night before the election, in a crowd of about thirty or forty, and went to Long's Bottom, about four miles from Marianna. When we got there we were told to halt by somebody. Don't know who it was. There were about thirty or forty or fifty stretched from one side of the road to the other.

Q. How were these men dressed?—A. I think they were dressed in black.

Q. Did they have any faces on them?—A. I don't know, sir; can't tell what kind of hats or coats they had.

Q. Could you tell whether they had anything over their faces.—A. Their faces were black, not white faces.

Q. Was there anything that indicated that they were black or white?—A. One man who was white passed us and hollered out, "They are coming;" and when we got to Long's Bottom they told us to halt. The man passed us when we were about two miles from Long's Bottom. The white man that passed us came from Greenwood, and was going to Long's Bottom. He was on horseback. They told us to halt, and commenced firing into us; and told us we should not pass there to-night; and they asked some of the boys where they were going, and they said, "To Marianna." The party that stopped us then said, "What are you going to Marianna for; why don't you go to Greenwood?" They did not answer this question. This is all I know about it. The men that fired into us then went toward Greenwood. Three of us turned around and went back home that night. I saw the others that were with us start off toward Marianna. The men did not say anything else to us after firing into us, but before that they told us to, "Halt; God damn, you shan't cross the road to-night," and hollered, "Order! march! fire!" When we left we ran, and the party continued shooting at us.

Q. Was it owing to this firing that you went back home?—A. Yes, sir.

Q. Did you vote at all at that election?—A. No, sir.

Q. If not, why?—A. It was nearly daylight when I got home. When I started for Marianna I did not expect any difficulty when I left home.

Q. Why did you not try to vote that day somewhere else?—Did not know there was an election anywhere but at Marianna.

Q. Why did you not try to go to Marianna the next morning?—A. I started back the next morning, and Mr. Glover said it wasn't worth while to go back.

Q. Why did you not go back to Marianna?—A. Because I was scared.

Q. What scared you?—A. The shooting that night scared me out.

Q. If you had been allowed to vote, which ticket would you have voted?—A. The republican ticket.

Q. How far do you live from Greenwood?—A. Six miles from Greenwood and twelve miles from Marianna. On that night the moon was shining bright.

LEWIS ^{his} + GLOVER.
mark.

The next witness called was JACOB GAMBLE, who, being duly sworn, deposed as follows :

Question. What is your name, and where do you reside ?—Answer. My name is Jacob Gamble. I reside in Jackson County.

Q. Were you present at the election held in Marianna on the 8th day of November, A. D. 1870.—A. I was not.

Q. State if you tried to go to Marianna on the 8th day of November, A. D. 1870, and if you were prevented, so state.—A. I lived then at Mr. Hays, 11 miles from Marianna, and started after supper-time for Marianna. The night before the election there were 30 or 40 with me. When about 4 miles from Marianna, at a place called Long's Bottom—at this place some men met us, told us to halt, and fired on us; did not hear them "cuss;" they told us to halt, and fired at us. I guess there were about 50 of them stretched across the road. We stopped, and they commenced firing at us. We then went off as fast as we could get off, for we were scared. I went home to Mr. Hays's. I was going to Marianna to vote, and started at night in order to get there in time; did not try to go back again, because I thought we would meet up again with them.

Q. Why did you not want to meet them again ?—A. They done got after us once, and I didn't want to be bothered any more, for I was scared.

Q. What kind of men were these you met with at Long's Bottom ?—A. I can't tell exactly what kind of men they were. They looked as if they had black clothes on.

Q. Do you know whether they were black or white ?—A. I can't tell whether they were white or black men. A white man passed us on the road, and said, "They are coming." I could not tell from their voice whether they were black or white men. There were no white men in our crowd.

Q. How many went home with you ?—A. Two others went with me, and the others went toward Marianna. At first they all ran off and separated, but finally went around toward Marianna, as if they were going to Marianna.

Q. If you had a chance to vote that day what ticket would you have voted ?—A. The radical ticket. I live 5 miles from Greenwood and 11 miles from Marianna, being the same place as when I started that night for Marianna.

Cross-examination:

Q. How did you 40 meet together ?—A. We all, or the most of us, met at Mr. Hays's.

Q. If you had got to Marianna that night what did you intend to do there ?—A. Nothing; only stay there till the next day.

his
JACOB + GAMBLE.
mark.

The next witness called was WILLIAM ANDERSON, who, being duly sworn, deposed as follows :

Question. What is your name and where do you reside ?—Answer. My name is William Anderson, and I live in Jackson County.

Q. State if you tried to go to Marianna on the 8th day of November, A. D. 1870, and if you were prevented, so state.—A. I started from Mr. Hays's, where I lived then and live now, on the night before the election;

was going to Marianna for the purpose of voting; I think there were about fifteen with me; the main crowd of about forty were on ahead of me. I reckon I got about four miles, or four and a quarter miles from Marianna, near a place called Long's Bottom. I saw twelve men come up to the wagon where I was—these twelve were on horseback—and stopped the wagon, looked in, and then went toward Campbelltown. I did not see them have any guns; could not tell whether they were white or colored men; they had black clothes on; did not see anything on their heads but their hats. The rest of my party left me and went on to Marianna. I was sick; and after they left me I laid in the woods until the next day, and then went home, as I could not ride horseback. The firing commenced before my crowd left me.

Q. What do you know about the firing?—A. I heard the firing; was with the fifteen men when the firing commenced; was traveling along; the twelve men came up and passed our wagon after the firing.

Q. Did anybody say halt before the firing?—A. No, sir. We were in the crowd behind; it was the crowd ahead of us that were fired into.

Q. What did your crowd of fifteen do when they heard the firing?—A. They traveled on until some rushed back and gave a signal; then we got out of the way.

Q. Did any of the crowd in advance come back to you?—A. Yes, sir; three came back after the firing; then we got out of the road.

Q. When the twelve men came up and looked into your wagon, where had the fifteen men of your crowd gone to?—A. They had squabbled out into the woods when the signal was given.

Q. Were you close enough to tell whether they had on false faces or not?—A. No, sir, I was not close enough.

Q. What became of your crowd of fifteen?—A. They said they went on to Marianna.

WILLIAM ANDERSON.

The next witness called was WILLIS GIBSON, who, being duly sworn, deposed as follows:

Question. What is your name and where do you reside?—Answer. My name is Willis Gibson, and I reside in Jackson County.

Q. State if you tried to go to Marianna on the 8th day of November, A. D. 1870, and if you were prevented, so state.—A. I started from Mr. Hays's, where I lived then and live now, to go to Marianna; this was the night before the election; there were about forty of us; we went on and got as far as Mr. Long's Bottom, where the road was strung along with men who told us to halt. We stopped, and they hollered, "Forward, march!" then we whirled around back into an old field, and these men commenced shooting at us. We scattered; some went toward Marianna, but I went home. It looked to me as though there were about fifty of the men who were strung along the road and told us to halt. I did not try on the next day to go to Marianna, because I was afraid I might get into the same fracas as I did in the night; there were three besides me that went home with me.

Q. If you had voted on election day, which ticket would you have voted?—A. The republican ticket.

The men that I saw were all dressed in black; I could not see their faces.

Cross-examination:

Q. When this firing occurred was any one killed or wounded?—A. No, sir; none that I know of.

Q. How far were the men from you when they fired?—A. As near as I can guess they were about forty yards from us.

Q. What time of night was it when you heard the firing?—A. I reckon it was about 9 o'clock in the night.

Q. Did you see any guns?—A. No, sir.

Q. Did they get any nearer to you than they were when they fired?—A. I don't know. I ran, and heard the balls whistling.

Q. What were the names of the three that went back with you?—A. Jacob Gamble, myself, Henry Jones, and Lewis Glover.

Q. How far do you live from Greenwood?—A. Five miles from Greenwood and eleven from Marianna.

When they were fired into I don't know of any one that was hurt.

Does not know of any but his four that did not go back to Marianna the next day.

WILLIS ^{his} + GIBSON.
mark.

The next witness called was JOSEPH BAKER, who, being duly sworn, deposed as follows :

Question. What is your name and where do you reside?—Answer. My name is Joseph Baker, and I reside in Jackson County, in the State of Florida.

Q. Were you at Marianna on the 8th day of November, A. D. 1870?—A. I was.

Q. State what you know of any disturbance at or near the polls in Marianna on that day.

(The contestant objects to this question and to any answer to the same, on the same grounds above set forth in his objections to the answer to a similar question on the part of the witness Homer Bryan. Objection overruled and exception taken.)

I was at Marianna when the polls were opened and when the sun set, but did not get any chance to vote, because there was such scrounging and pushing that I could not vote. The white people kept the colored people back. All the white people did not vote, as there were two white men besides myself who did not vote. I got near enough to the poll to hand my ticket, but they would not take it; said I was too late. The poll that I tried to vote at was in Captain Dickinson's office, and the polled closed at exactly sunset. I looked at the sun and looked at my ticket, and I never will forget it if I live to be a thousand years old. I could not get up there any sooner, because there were so many larger men that they smothered me; they did all they could but fight me; they wanted to get to the poll and I wanted to get to the poll. Nobody punched me in particular. The colored people had to march up in a lane—a narrow lane—wide enough for a man to walk up in. The white people went to the window where the polls were, walked up outside of this lane, and kept crowding the colored people back; the white people had the best chance to vote. When the polls closed I think there were about forty colored people at that poll that did not vote, and I don't know of but two white people that did not vote at that poll.

Q. If you had been allowed to vote, which ticket would you have voted?—A. I should forever vote the republican ticket. I am a colored man.

JOSEPH ^{his} + BAKER.
mark.

The next witness called was ANDERSON BAKER, who, being duly sworn, deposed as follows:

Question. What is your name, and where do you reside?—Answer. My name is Anderson Baker, and I reside in Jackson County.

Q. Were you present at the election held in Marianna on the 8th day of November, A. D. 1870?—A. I was.

Q. State what you know of any disturbance at or near the polls in Marianna on that day.

(The contestant objects to this question, and to any answer to the same, on the same grounds above set forth in his objection to the answer to a similar question on the part of the witness Homer Bryan.

Objection overruled and exception taken.)

A. There was no disturbance with me in getting in to vote. I got my vote in after trying once or twice, and all the disturbance that I know of is when me and Peter Baker were standing and discoursing about the men being fired into the night before. Whilst we were standing and discoursing about it, Mr. Coker walked up and said, "What is that you are talking about?" and I told him we were talking about the shooting over night; and he asked me who done the shooting; and I told him that I did not know; that the boys said the shooting was done; and Coker said, "By God, you all had better hush up that thing; there is more than one day; you're talking that thing here, and, by God, you might get yourself into difficulty." I answered him that this was a public day, and any one could speak what they had a mind to. We then parted. I never saw anything more to disturb the election but this one thing. Several young white fellows were carrying tickets like ours around and offering them to colored people. I told them they ought not to do that. They asked me why, and I told them I did not think it a fair game. They asked why wasn't it a fair game, and I told them our colored people are ignorant, and might be led into something they didn't wish to go into.

Q. Did Colonel Coker say anything about the white folks being strong enough to carry the election?—A. He said we will carry it.

ANDERSON ^{his} + BAKER.
mark.

The parties agreed to take a recess until half past 4 o'clock. 4.30 p. m., the parties present.

Mr. JONATHAN C. GIBBS, the secretary of state, was the next witness called, who, being duly sworn, deposed as follows:

Question. State your name and official position.—A. My name is Jonathan C. Gibbs; I am the secretary of state of the State of Florida and a member of the board of State canvassers.

Q. How long have you held such position?—A. Since November 6, 1868.

Q. State what you know in your official position of the state of society in Jackson County, as far as violence was concerned, immediately preceding and subsequent to the general election which occurred on the 8th day of November, A. D. 1870.

(The contestant objects to this question and to any answer to the same, on the same grounds above set forth in his objections to the answer to a similar question on the part of the witness Homer Bryan. Objection overruled and exception taken, and the contestant further

objects to this question, and any answer thereto, on the ground that both the official and personal residence of the witness is at Tallahassee, the capital of the State, many miles distant from Jackson County, and that he has, as secretary of state, no official duties to discharge outside of said city, and can know, officially, nothing of the social condition of Jackson County; and, further, on the ground that the condition of society in Jackson County immediately preceding and following the election is an immaterial issue in this contest. Objection overruled and exception taken.)

A. I know that a highly disturbed state of affairs existed in Jackson County. I was there in the month of August, preceding the election, with the member of Congress, Mr. C. M. Hamilton. I know that a committee of citizens at that time—

(The contestant objects to the witness telling anything which occurred during the month of August, as not responsive to the interrogatory.)

I received letters addressed to me officially as secretary of state. One letter I particularly remember. I received it, I think, after the month of August; it was signed "Welsh;" but I don't know whether this name was correct or not. The letter has since been destroyed. The writer threatened, because I had attested the proclamation issued by the governor offering a reward for the murder of Judge Carraway, to cut my heart out, and to do sundry other wicked things, which I don't recollect now. He stated distinctly that he was a Ku-Klux; that he belonged to that organization, and intended to assassinate me. I have strong corroborative evidence that this threat was not a myth. Judge Anderson, the county judge of Jackson County, now deceased—

(Objected to as hearsay evidence. Objection overruled and exception taken.)

Judge Anderson stated to General Varnum that certain parties were coming from Jackson County to take Governor Reed's life and my own. In about a half hour afterward Judge Anderson came into my office. I said, "Judge, I have learned that certain persons are coming here from Jackson County to assassinate Governor Reed and myself." I was sitting quite close to him. He looked at my eyes direct, and turned away, and began talking about something else, evidently not desiring to talk about it; and I replied, "Judge, that is bad business—ugly business." To this he made no reply, but went on talking about something else. Afterward I received tidings from other parties that persons were coming to take my life, and I left my house and did not sleep in it for a week, as there was evidence of the parties being in Tallahassee. Governor Reed left, and went to Jacksonville. All these circumstances were in connection with the election held November 8, A. D. 1870, as these parties wrote stating that they did not believe they were fairly counted out, the witness being a member of the State board of canvassers. I have frequently received letters from parties living in Jackson County mentioning the disturbed state of affairs, and, in return, I have written letters to the prominent men, deploring the *status* of affairs in that county. I have a letter from Captain J. Q. Dickinson, dated February 23, 1871, (said Dickinson was assassinated at Marianna, April 3, 1871.) The State canvass was completed for the returns of the member of Congress on the 27th day of December, A. D. 1870.

The contestee offers the following letter in evidence. The contestant objects on the ground that it in no wise refers to the election held on the 8th day of November, A. D. 1870. Objection overruled and exception noted:

MARIANNA, JACKSON COUNTY, FLORIDA,
February 23, 1871.

SIR: Your letter of the 14th instant, requesting certain information as to outrages committed in this county since reconstruction, as to the spirit of the press, &c., &c., was received last night. The high stage of water on the Appalachicola River delayed the mails.

I regret the fact that outrages upon loyalty in this county are always so vivid a reality of the present, and so fearful a probability of the future, that we have failed to think of the past. I cannot, without considerable time and research, give you any history of the different terrible scenes through which I have passed here. You intimate that your information must be immediate, and I will give you the best view of the situation I can under the circumstances. Since reconstruction there have been about seventy-five persons violently killed in this county. More than nine-tenths of these were republicans, and nearly nine-tenths colored. Practically the civil rights of the colored man are subordinate to those of the white man.

The press has been, and is, disgustingly un candid, abusive of everything republican, and, at times, openly seditious. Human life is counted cheap, when passion or policy calls for its sacrifice; and the frequency and cold blood which have characterized our murders has not been to me so fearful a fact as the carelessness with which the public learns of a new outrage. Public sentiment is terribly demoralized in this direction.

Within the last few days our sheriff has been shamefully beaten on the public streets, and two colored men fatally assaulted. Neither of them are yet dead, but I believe no hopes are entertained of their recovery. For myself I blush to say that for nearly three years I have managed to live here only by dexterously compromising the expression of my opinions, and by a circumspect walk. To say that the colored man here has through my agency uniformly obtained even-handed justice would be a lie; to say that I have striven, even to a loss of self-respect and several times by incurring personal danger, to do the best thing under the circumstances, is to tell the whole truth.

If more particular information is required, I shall require time to prepare it.

Very respectfully,

J. Q. DICKINSON.

P. S.—February 23.—One of the colored men I spoke of died last night, and I have held an inquest to-day. Verdict, "Unknown." Everybody in the county knows the murderer, and he has left for Alabama. I learn just now that the other man is dead, and I also hear it disputed. I shall immediately investigate.

In haste,

J. Q. DICKINSON.

Hon. J. C. GIBBS,
Secretary of State.

Q. What was the republican majority, as shown by the State canvassers, for the republican member of Congress on the 8th of November, A. D. 1870?—A. Four votes.

Q. Has there been any election ordered by the governor in Jackson County since November 8, A. D. 1870?—A. Yes, sir; there has.

Q. For what officers?—A. For members of the assembly, one in place of Mr. McLean, deceased, and one vice Mr. Barfield, resigned.

Q. Were you present at said election?—A. I was.

Q. When was said election held?—A. It was a special election held on the 19th day of December, A. D. 1871.

(The question regarding the time of holding this election on the 19th of December, A. D. 1871, is objected to by the contestant on the ground of not being pertinent.

Objection overruled and testimony admitted.)

Q. Who were the republican candidates for the assembly from Jackson County?—A. B. H. Neal and W. K. Robinson.

Q. Who were the conservative or democratic candidates for the assembly?—A. W. H. Milton and H. G. Bryan.

Q. What was the number of votes polled at said election, and for whom?—A. Neal received 1,064; Robinson, 1,057; Bryan, 508; Milton, 504.

Q. How do you get this result—from what official paper?—A. This result is obtained from the proper return received from the clerk of the court in Jackson County, and is filed herewith, marked Exhibit A.

EXHIBIT A.

Certificate of the county canvassers.

[See section 24, act of August 6, 1868.]

STATE OF FLORIDA, *Jackson County* :

We, the undersigned, William H. Milton, judge of the county court of the county stated, and C. W. Davis, clerk of the circuit court of the county aforesaid, and Adam McNealy, a justice of the peace of the county above mentioned, constituting the board of county canvassers in and for the county stated, do hereby certify that we met at the office of the clerk of the circuit court of the county aforesaid on the twenty-third day of December, A. D. one thousand eight hundred and seventy-one, and publicly canvassed the votes given at a special election held in the county of Jackson, and State aforesaid, on the nineteenth day of December, in the year of our Lord one thousand eight hundred and seventy-one, under and by virtue of an act entitled "An act to provide for the registration of electors and the holding of elections," approved August 6, 1868, and an act amendatory thereto, approved February 19, 1870. We do hereby certify, from the returns on file in the office of the clerk aforesaid, that the whole number of votes cast for member of the assembly was three thousand one hundred and thirty-three, (3,133,) as follows, viz: Benjamin H. Neel received ten hundred and sixty-four, (1,064;) W. K. Robinson, ten hundred and fifty-seven, (1,057;) H. G. Bryan, five hundred and eight, (508;) William H. Milton, five hundred and four, (504.)

Witness our hands and seals of office, at Marianna, in the county aforesaid, this twenty-third day of December, in the year of our Lord one thousand eight hundred and seventy-one.

[SEAL.]

W. H. MILTON,
Judge of the County Court of Jackson County.

C. W. DAVIS,
Clerk of the Circuit and County Courts of Jackson County.

[SEAL.]

ADAM McNEALY,
Justice of the Peace of Jackson County.

N. B.—The canvassers should meet at the office of the clerk, on or before the sixth day after the election, to canvass the votes.

In case of the absence, sickness, or other disability of the county judge or clerk, the sheriff shall act in his place.

The certificate must be signed in duplicate, and must contain, *in words and figures written at full length*, the whole number of votes given for each office, the names of the persons for whom such votes were given for such office, and the number of votes given to each person for such office.

The clerk of the circuit court should record the certificate in the book required by law to be kept for that purpose.

One of the certificates shall be immediately transmitted *by mail* to the secretary of state, and the other to the governor of the State.

OFFICE SECRETARY OF STATE, *State of Florida* :

I, Jonathan C. Gibbs, secretary of state, hereby certify that the foregoing transcript is a true and correct copy of the original on file in my office.

In testimony whereof I have hereunto set my hand and affixed the great seal of the State of Florida, at Tallahassee, the capital, this 22d day of March, A. D. 1872.

[SEAL.]

JONATHAN C. GIBBS,
Secretary of State.

The contestee asks that an attachment be issued for William D. Sears, a witness who has been properly subpoenaed, but fails to appear. Attachment granted.

By consent the parties adjourned until Wednesday morning, 10 o'clock.

WEDNESDAY MORNING, 10 O'CLOCK.

The parties met pursuant to adjournment, and agreed to postpone further investigation until Monday, 10 o'clock, on the 18th day of March.

The parties met pursuant to adjournment Monday morning, 10 o'clock.

Hon. JONATHAN C. GIBBS, the secretary of state of the State of Florida, was again called to the stand, and testified as follows:

Question. In your answer to the sixth question, as regards your testimony taken on the 27th day of February, 1871, before the Hon. C. E. Dyke, mayor of Tallahassee, you state that the returns from Suwannee, Taylor, Calhoun, La Fayette, Sumter, Manatee, and Brevard were thrown out for informality, either as to the time of their receipt or informality in form. Were these the only reasons; if not, state what reasons actuated the board?—Answer. These were not the only reasons. Prominent among them was a suspicion of fraud. Some of the returns were not sent direct to the board, but were sent by hand, and had the appearance of having been broken open. They *were* broken open, and came by private hands.

Q. Were more returns sent you from some counties than the law requires?—A. There was; from some counties two and three returns were received.

Q. You also state, in answer to the fifth question, that in addition to the returns as canvassed by the State board, there were on file in your office documents purporting to be the official returns from the counties of Suwannee, Taylor, La Fayette, Sumter, Manatee, and Brevard; that as to Brevard, you are not certain. Were these all the documents pur-

porting to be official returns of said election which were on file in your office at the time therein spoken of?—A. I think not; Monroe County was left out; why, I do not know. I gave to Mr. S. L. Niblack all the returns he asked for.

The parties then adjourned until to-morrow morning, at 11 o'clock.

The parties met, pursuant to adjournment, Tuesday morning, March 19. The examination of Mr. GIBBS was continued:

Q. Was there anything particular about the return from Manatee County which caused its rejection by the board of State canvassers?—A. It was behind time, and it was not sent to the board of State canvassers, but was sent to Mr. W. H. Pearce, of Polk County. Mr. Pearce came before the board and testified that he had received this return from a courier from Manatee County; it was addressed to Mr. S. L. Niblack.

(The following extract from the minutes of the board of State canvassers, in regard to Manatee County, with the envelope in which said return was inclosed, also returns from said county, are hereby admitted in evidence:)

OFFICE SECRETARY OF STATE,
Tallahassee, Florida, Saturday, December 10, 1870—10 a. m.

The board met pursuant to adjournment.

Present, Hon. J. C. Gibbs, Hon. R. H. Gamble.

Mr. W. H. Pearce, from Polk County, appeared before the board and delivered a certified copy of the return from Manatee County, which he states was placed in his hands by a courier from Manatee County, inclosed in an envelope addressed to S. L. Niblack. He also states to the board that he was requested by telegram from Lake City to open said envelope, and telegraph to Lake City the contents, which he did.

S. L. NIBLACK,

Lake City,

Florida.

There being no more business before the board, upon motion, adjourned until Monday morning, 10 o'clock.

Certificate of the county canvassers.

[See section 24, act of August 6, 1868.]

STATE OF FLORIDA, Manatee County:

We, the undersigned, E. E. Mizell, judge of the county court of the county stated, and John J. Bartholf, clerk of the circuit court of the

county aforesaid, and H. A. Decoster, a justice of the peace of the county above mentioned, constituting the board of county canvassers in and for the county stated, do hereby certify that we met at the office of the clerk of the circuit court of the county aforesaid on the twenty-eighth day of December, A. D. one thousand eight hundred and seventy, and publicly canvassed the votes given at a general election held in the county of Manatee and State aforesaid, on the 8th day of November, in the year of our Lord one thousand eight hundred and seventy, the same being the Tuesday next succeeding the first Monday in said month, under and by virtue of an act entitled "An act to provide for the registration of electors and the holding of elections," approved August 6, 1868, and an act amendatory thereto, approved February 19, 1870. We do hereby certify, from the returns on file in the office of the clerk aforesaid—

That the whole number of votes cast for Representative in Congress was one hundred and fifty-three, as follows, viz: Silas L. Niblack received one hundred and fifty-three votes.

That the whole number of votes cast for lieutenant governor was one hundred and forty-three; of which S. T. Day received fourteen, and William D. Bloxham received one hundred and twenty-nine.

That the whole number of votes cast for State senator was one hundred and fifty-nine, (159,) as follows, viz: Walter O. Maloney received one hundred and eighteen, (118;) James D. Green received thirty-five votes; J. W. Locke received six votes.

That the whole number of votes cast for member of the assembly was one hundred and forty, as follows, viz: E. M. Graham received one hundred and thirty-three; A. W. Garner received five votes; J. W. Whidden received two votes.

That the votes cast for constables were as follows, viz: E. M. Slate received sixteen votes; David Mizell received thirty-three votes; O. A. Turner received twenty votes.

Witness our hands and seals of office, at Pine Level, in the county aforesaid, this first day of December, in the year of our Lord one thousand eight hundred and seventy.

E. E. MIZELL,

Judge of the County Court of Manatee County.

JOHN J. BARTHOLF,

Clerk of the Circuit and County Courts of Manatee County.

N. H. DECOSTER,

Justice of the Peace of Manatee County.

[SEAL.]

N. B.—The canvassers should meet at the office of the clerk, on or before the sixth day after the election, to canvass the votes.

In case of the absence, sickness, or other disability of the county judge or clerk, the sheriff shall act in his place.

The certificate must be signed in duplicate, and must contain, *in words and figures written at full length*, the whole number of votes given for each office, the names of the persons for whom such votes were given for such office, and the number of votes given to each person for such office.

The clerk of the circuit court should record the certificate in the book required by law to be kept for that purpose.

One of the certificates shall be immediately transmitted, *by mail*, to the secretary of state, and the other to the governor of the State.

The contestee offering the return from Monroe County, the contestant offers the following objection:

The contestant objects to any testimony being taken in regard to the vote in Monroe County, and to admitting and appending any so-called election returns from that county, on the ground that the sitting member, in paragraph eleventh of his answer, has admitted and affirmed that the board of State canvassers lawfully rejected the returns from that county, on "the ground that the returns from said county were not returned as the law directs, and that the said returns were not made out as the law requires," the contestant not denying but that said returns from said county were properly rejected.

Objection overruled and the return admitted.

Certificate of the county canvassers.

[See section 24, act of August 6, 1868.]

STATE OF FLORIDA, *Monroe County*:

We, the undersigned, James W. Locke, judge of the county court of the county stated, and William S. Allen, clerk of the circuit court of the county aforesaid, and William C. Tinker, a justice of the peace of the county above mentioned, constituting the board of county canvassers in and for the county stated, do hereby certify that we met at the office of the clerk of the circuit court of the county aforesaid, on the twelfth day of November, A. D. one thousand eight hundred and seventy, and publicly canvassed the votes given at a general election held in the county of Monroe and State aforesaid, on the eighth day of November, in the year of our Lord one thousand eight hundred and seventy, the same being the Tuesday next succeeding the first Monday in said month, under and by virtue of an act entitled "An act to provide for the registration of electors, and the holding of elections," approved August 6, 1868, and an act amendatory thereto, approved February 19, 1870. We do hereby certify, from the returns on file in the office of the clerk aforesaid—

That the whole number of votes cast for Representative in Congress was seven hundred and eighty-nine, (789,) as follows, viz: S. L. Niblack received three hundred and fifty-nine, (359;) J. T. Walls received four hundred and twenty-eight, (428;) and Lemuel Wilson received two, (2.)

That the whole number of votes cast for lieutenant governor were seven hundred and ninety-two, (792,) as follows, viz: Samuel Day received four hundred and thirty-two, (432;) and W. D. Bloxham received three hundred and sixty.

That the whole number of votes cast for State Senator was seven hundred and eighty-eight, (788,) as follows, viz: James W. Locke received four hundred and forty-nine, (449;) Walter C. Maloney, jr., received three hundred and thirty-nine, (339.)

That the whole number of votes cast for member of the assembly was seven hundred and ninety-four, (794,) as follows, viz: Henry A. Crane received four hundred and twenty-four, (424;) Frederick Filer received three hundred and seventy, (370.)

That the votes cast for constables were as follows, viz: Richard Curry received three hundred and fifty-two, (352;) Christopher Bravo three hundred and fifty-nine, (359;) T. A. Franklin received three hundred and sixty-one, (361;) F. McNulty received three hundred and fifty-eight, (358;) George R. Pearce received four hundred and seventy-seven, (477;)

Jose Castro Castellanos received four hundred and twenty-seven, (427;) William A. Bethel received four hundred and thirty-one, (431;) Jeremiah Pent received four hundred and twenty-eight, (428;) R. Thompson received four hundred and twenty-six, (426;) Charles Brown received four hundred and ten, (410;) José Garcia received two, (2.)

Witness our hands and seals of office, at Key West, in county aforesaid, this twelfth day of November, in the year of our Lord one thousand eight hundred and seventy.

[SEAL.]

JAS. W. LOCKE,
Judge of the County Court of Monroe County.

[SEAL.]

WM. S. ALLEN, *Clerk,*
Per SAM. C. CRAFT,

- *Deputy Clerk of the Circuit and County Courts of Monroe County.*

[SEAL.]

WILLIAM C. TINKER,
Justice of the Peace of Monroe County.

N. B.—The canvassers should meet at the office of the clerk, on or before the sixth day after the election, to canvass the votes.

In case of the absence, sickness, or other disability of the county judge or clerk, the sheriff shall act in his place.

The certificate must be signed in duplicate, and must contain, *in words and figures written at full length*, the whole number of votes given for each office, the names of the persons for whom such votes were given for such office, and the number of votes given to each person for such office.

The clerk of the circuit court should record the certificate in the book required by law to be kept for that purpose.

One of the certificates shall be immediately transmitted, *by mail*, to the secretary of state, and the other to the governor of the State.

Q. Was this return from Monroe County received and placed on file in your office?—A. It was.

JONATHAN C. GIBBS,
Secretary of State.

Cross-examination :

Q. You stated in your direct examination that you visited the county of Jackson in August immediately preceding the election, and that there was a highly disturbed condition of things there. Did you, or did you not, attend and address a public meeting of the citizens, white and colored, at Marianna?—A. I did.

Q. Did the citizens offer any interruption to your address?—A. They offered no disturbance to the address, and gave me a respectful hearing. There were quite a number of armed men present.

Q. Did you, or not, on that occasion, in your speech, publicly charge W. J. Purman, United States tax-assessor, brigadier general in the Florida State militia, and State senator representing Jackson County, with being responsible for the bloodshed and disorder that existed in Jackson County, or had occurred in that county up to that time; or, if you did not use those words, did you not use words of a similar effect; if so, what were the words, to the best of your recollection?—A. I answer deliberately that I did. The armed men present, spoken of above, consisted of both white and colored men.

Q. For what object was the meeting called?—A. It was called ostensibly for the purpose of dedicating a school-house.

H. Mis. 34, pt. 2—5

Q. Do you or not know, or have reason to believe, that it was through the influence of W. J. Purman that a large number of the colored men were assembled with arms?

(Objected to by the contestee. Question overruled, and exception taken by the contestant.)

Q. About what time did you receive the letter signed "Welsh?"—A. It was about the time of the election, but whether it was before or after I don't recollect.

Q. What time was it when the conversation occurred between you and Judge Anderson, which you have mentioned above?—A. I think it was early in the spring of 1871.

Q. You stated that Judge Anderson told Mr. Varnum, as Mr. Varnum told you, that certain parties were coming from Jackson County to take Governor Reed's life and your own. State whether or not, during the last session of the legislature, you were not in your office put on your guard against being poisoned by W. J. Purman, or others of the so-called "ring of Federal office-holders in this State?"—A. I was cautioned against being poisoned, but no one in particular was mentioned.

Q. Did you not understand that the ring was alluded to, or to whom did you understand that caution to refer?—A. No one particularly was designated at the time the remark was made, nor did I attach as much importance then as I did afterward, after the debate in the senate, in which I was violently attacked by Mr. Purman, and the newspaper discussions.

Q. Can you recollect when the return from Monroe County, which is appended to your evidence, was received at your office?—A. I think the return from Monroe and Manatee came in about the same time, on or about the 10th of December, A. D. 1870.

Q. You have mentioned certain reasons which governed the members of the board in rejecting certain returns. Who were the members of the board of State canvassers at the time you completed the canvass?—A. Sherman Conant, R. H. Gamble, and myself.

Q. Can you say positively that these reasons actuated others of the board besides yourself?—A. I am very sure that the reasons assigned operated upon my mind, and I am pretty sure the same reasons operated upon Mr. Conant. I think so from the fact that I heard Mr. Conant say, the same day, within an hour after the canvass closed, in conversation with Mr. Papy, that he was willing to assume almost any responsibility on account of the threats of personal violence through the newspapers, such as "cleaning out the capital and the board of canvassers, republicans," &c.

Q. Were or were not these threats based on the idea in the minds of the persons making them that the party having the majority of votes were likely to be defrauded out of them by the State canvassers?—A. Some may have persuaded themselves to that effect, but the men who made the most talk about it I honestly don't think had any idea that they were about to be defrauded out of the result of the election by the board of State canvassers; it was done more to keep up a spirit of intimidation.

Q. Did you or did you not, on that or some other occasion, hear Mr. Conant say that he was convinced that Bloxham and Niblack had received a majority of the votes cast at the election?

(Objected to by the contestee; objection withdrawn.)

A. I have no recollection of such conversation.

Q. Were not duplicate returns received from the county of Manatee?—A. I think there were; one was sent to the governor and one to myself.

It was the return that was sent to me that came through the hands of W. H. Pearce.

Q. Did or did not the return which came from Manatee to the governor come in due form?—A. I know nothing to the contrary.

Q. Was the action of the State canvassers, on the day which they concluded the canvass and their consultations in regard thereto; taken when all together or otherwise?—A. I think that at some of the discussions and consultations Mr. Gamble was absent; but at the last day of the meeting of the board I remember going into the governor's office for some purpose—I think in connection with the canvass—but what it was I don't immediately recollect. While there Mr. Conant came in also. When we declared the result all of the board were present in my office. Mr. Gamble did not assent to the action of Major Conant and myself.

Redirect:

Q. Please state the reason why you charged in your speech in August, in Jackson County, the disorders of said county to Major W. J. Purman.—A. I did so because I knew of his giving advice and counsel contrary to the peace and welfare of all parties; he was wild and erratic in his course.

Q. Was your evidence based upon hearsay or personal knowledge?—A. My conclusions were based both upon personal knowledge and hearsay from others.

Q. Is there not an unfriendly feeling existing on your part toward Major Purman?—A. There is no friendly feeling toward him from me, because he has acted unjustly toward me; still, I want justice accorded him, and my prejudice is not sufficient to cause him injustice; but I don't think Major W. J. Purman is anxious for justice in his case.

Q. Have you, in your serious and candid moments, believed that you were in danger of being poisoned by Major Purman or any other Federal office-holder?—A. I honestly and truthfully believe that Major W. J. Purman is so treacherous that no one can tell exactly what he will do.

Q. As regards the return from Manatee County, which were sent to the governor, have you any personal knowledge how or when it came?—A. I have no recollection of that return, how it came; the governor kept the returns sent him himself.

JONATHAN C. GIBBS,
Secretary of State.

(Contestee here offers in evidence the following bill of indictment against Alexander St. Clair Tennell, and asks that it be admitted in evidence. Contestant objects, on the grounds that the clerk who certifies to it is not the clerk of the eastern division where the indictment purports to have been found, and that an indictment, without conviction, is no evidence of the crime charged. Objection overruled and exception taken. Indictment allowed.)

In the district court of the United States for the northern district of Florida, in the fifth circuit.

At a stated term of the district court of the United States for the northern district of Florida, in the fifth circuit, begun and held at the city of Jacksonville, within and for the district and circuit aforesaid, on the 4th day of December, A. D. 1871, and continued by adjournment to and including the 4th day of December, in the year A. D. 1871.

NORTHERN DISTRICT OF FLORIDA, ss :

The grand jurors of the United States of America, impaneled and sworn within and for the district aforesaid, on their oath present that, heretofore, to wit, on the 8th day of November, in the year of our Lord one thousand eight hundred and seventy, at Jackson County, within the district aforesaid, and within the jurisdiction of this court, an election was then and there held for Representatives to the Congress of the United States, at which said election Representatives to the Congress of the United States was then and there voted for; and at said election Jesse Robinson, Richard Pooser, Jerry Robinson, and other citizens to the said grand jurors unknown, being then and there secured and guaranteed the right of suffrage by the fifteenth amendment to the Constitution of the United States, and being then and there present at said election at said county for the purpose of exercising then and there at the said election the right of suffrage aforesaid, one Alexander St. Clare Tennell, by threats of violence and by violence, did then and there attempt to prevent, hinder, and control the said Jesse Robinson, Richard Pooser, Jerry Robinson, and the said other citizens from exercising and in exercising the right of suffrage aforesaid at the said election at said county, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States.

H. BISBEE, JR.,
United States District Attorney.

United States district court, fifth judicial circuit, northern district of Florida.

I, Philip Walter, a clerk of the district court in and for the district and circuit aforesaid, do hereby certify that the foregoing indictment is a true copy of the original on file in the clerk's office of the eastern division of this district.

In testimony whereof I hereunto set my hand and affix the seal of this court, at the city of Tallahassee, this 18th day of March, one thousand eight hundred and seventy-two, and of the Independence of the United States of America the ninety-sixth year.

[SEAL.]

PHILIP WALTER, *Clerk*

The next witness called was W. D. SEARS, of La Fayette County, who, being duly sworn, deposed as follows:

Question. State your name and residence.—Answer. My name is William D. Sears, and I reside near New Troy, in La Fayette County, Florida.

Q. Where were you on the 8th day of November, A. D. 1870?—A. I was at New Troy on that day.

Q. How many precincts were there in that county?—A. There were six established by the county commissioners, but only five were used in voting, as follows: New Troy, Cook's Hammock, California, Summer-ville, and Governor Hill.

Q. What official capacity did you occupy at that time?—A. I was sheriff and acting county canvasser, taking the place of the county judge.

Q. Do you know of any violence or intimidation or fraud at the New Troy precinct?—A. There was some fighting there at the public square. The poll was at the court-house, and the court-house was in the public

square. No fighting immediately at the polls. A colored man and boy were struck. The boy was not entitled to vote. Also one white man was struck.

Q. How far was this from the poll?—A. Some forty yards.

Q. From what you saw, was this disturbance sufficient to frighten people from the poll?—A. I don't think it was sufficient to frighten people from the poll. The fight arose from an argument on politics. This was true in the case in which the white man was struck. I was unable to make the arrest because of resistance.

Q. Do you know of any fraud at the New Troy precinct?—A. There must have been fraud committed, but how I do not know. I was present when the votes were counted at the New Troy precinct. There were 42 votes counted out for Josiah T. Walls for member of Congress. I was one of the county canvassers. There was no legal sign of a return giving J. T. Walls a vote at that precinct.

Q. What do you know about the precinct at Governor Hill?—There was no return from the inspectors on file. When the vote was canvassed by the county canvassers, the ballot-box appeared to have been broken open. The head was knocked in. When the ballot-box was opened in my presence, there were a few tickets and some tax returns in the box. They were schedules of taxable property. There was no poll-book return from this precinct.

Q. Do you know anything about the California precinct?—A. I do. The ballot-box was not sealed. There were some returns in the box; returns of the inspectors; the same man that brought the box to the clerk's office brought the key with it; the returns were badly scabbled up, and in such a condition that they could hardly be called returns; they were signed by the inspectors. This is about all that I know about this precinct.

Q. What do you know about the Cook's Hammock precinct?—A. One of the returns from Cook's Hammock was made out on a county canvasser's blank, the other was made out on an inspector's blank; one gave votes for the State senator and the other did not. The reason for sending two was, that one was intended for the county judge and the other for the county clerk. I did not see on any of the returns signed by the inspectors from all the precincts any votes for Josiah T. Walls.

Cross-examination :

Q. Were you a candidate for any office at that election?—A. I was; for member of the assembly.

Q. Was the county judge a candidate for any office at that time?—A. He was not at that time. The county judge then was David R. Townsend.

Q. What party did he belong to? A. Mr. Townsend is considered a republican.

Q. Who were the county commissioners at that time?—A. J. C. Rouse, R. P. Langston, Howell Hawkins, B. I. Townsend, and Dennis Driggers, sr.

Q. What was their politics?—A. I think they were all republicans at that time.

Q. Who were the inspectors of election at New Troy?—A. James A. Shiver, R. P. Langston, and John C. Rouse.

Q. Were they republicans?—A. I considered them such at that time.

Q. Who had the appointing of inspectors of election for the different precincts?—A. The county commissioners.

Q. Judging from the signatures and your knowledge of the men

appointed inspectors, would you not think they were men of limited education?—A. I think they were, though they were all able to sign their names. I don't think, from what I know of the men, that they erred through design or intention.

Q. What vote did you receive for assemblyman at the New Troy precinct?—A. I received 100 votes counted out of the ballot-box. I ran as a republican.

Q. How did it happen that you acted as county canvasser instead of the county judge?—A. Because the county judge was absent.

Question by the contestee, redirect:

Q. Is there any thing further regarding the precincts which you recollect?—A. As regards the California and Summerville precincts, the returns and everything else were inside of the ballot-box.

Q. Did not some of the inspectors at the different precincts belong to the conservative or democratic party?—A. I think so, sir; at Summerville and Cook's Hammock.

WM. D. SEARS.

The next witness called was JAMES A. SHIVER, who, being duly sworn, deposed as follows:

Question. State where you were on the 8th day of November, A. D. 1870.—Answer. At New Troy, in La Fayette County, State of Florida. I was one of the inspectors at that precinct, and was present when the vote was counted out and declared.

Q. If Josiah T. Walls received any votes at said precinct, for member of Congress, state the number.—A. I do not know the exact number, but to the best of my recollection it was 42; I know he received some votes.

Cross-examination:

Q. Did you sign the returns at that precinct?—A. I did.

JAMES A. SHIVER.

The next witness called was ISHAM THOMAS, of La Fayette County, State of Florida.

Question. State where you voted on the 8th day of November, A. D. 1870.—Answer. I voted at the New Troy precinct, in La Fayette County, State of Florida.

Q. Who did you vote for for member of Congress?—A. Josiah T. Walls.

ISHAM ^{his} + THOMAS.
mark.

The next witness called was ANDREW JACKSON, from La Fayette County, State of Florida, who, being duly sworn, deposed as follows:

Question. State where you voted on the 8th day of November, A. D. 1870.—Answer. At New Troy, in La Fayette County, State of Florida.

Q. Who did you vote for for member of Congress?—A. Mr. Walls.

ANDREW ^{his} + JACKSON.
mark.

The next witness called was COLUMBUS SNEED, who, being duly sworn, deposed as follows:

Question. State where you voted on the 8th day of November, A. D. 1870.—Answer. At New Troy.

Q. Who did you vote for for member of Congress?—A. Mr. Walls.

COLUMBUS ^{his} + SNEED.
mark.

The contestant having given notice that he would examine John Varnum, adjutant general of the State of Florida and a citizen of Leon County, and it being desired to close the testimony to be taken at this place now, and the said John Varnum not being present, the sitting member, the said Josiah T. Walls, admits that the said Varnum is now and was at the time of said election a republican in politics, and that he was present as deputy United States marshal at Marianna, in Jackson County, at said election, by appointment of the United States marshal for the northern district of Florida, and that if present now here, he, the said Varnum, would testify that said election in Marianna was an orderly and peaceable election.

Tuesday, March 19, 1872.—The contestee here rests as far as taking testimony in Tallahassee is concerned.

STATE OF FLORIDA, *Leon County*:

I, C. H. Edwards, mayor of the city of Tallahassee, do hereby certify that the testimony herewith transmitted, from page 1 to page 86, inclusive, was taken before me, and that the accompanying papers, to wit: Notice of time of taking testimony, dated February 16th, 1872, with proof of service, dated February 17, 1872; withdrawal of said notice, dated February 20, 1872, with proof of service, February 21, 1872; new notice, dated February 16, 1872, with proof of service February 21, 1872; agreement signed March 2, 1872, and subpoena to witness, were produced before me on said examination.

In testimony whereof I hereunto set my hand and affix the seal of the city of Tallahassee, in the State of Florida, this twenty-second day of March, A. D. 1872.

[SEAL.]

C. H. EDWARDS,
Mayor City of Tallahassee.

In the matter of the contested election wherein Silas L. Niblack contests the election of Josiah T. Walls, returned member of the Forty-second Congress of the United States.

TALLAHASSEE, FLORIDA, *March 9, 1872.*

To Hon. SILAS L. NIBLACK:

SIR: You will take notice that I intend to take testimony of the following-named persons, to be used in my behalf in the above case; said testimony will be taken before the Hon. C. H. Edwards, notary public at large, at the court-house in Quincy, county of Gadsden, or, in his absence, before some other competent officer, on the 20th day of March, A. D. 1872, at 10 o'clock a. m., to wit: Hubbard Peoples, James McFane.

Jerry Richardson, Caroline Carraway, George Hopkins, John Kilby, J. P. Johnson, M. L. Stearns, and Fayette Mitchell.

J. T. WALLS, *Contestee*.

Also the following-named witnesses in addition to the above :

Prince Albert, William Anderson, James Allen, Thomas Abner, Samuel Allison, Robert Aitkens, Joab Alexander, Jerry Anders, Lewis Anderson, David Atkins, Benjamin Austin, Davy Benjamin, William Baker, Robert Byrd, Henry Bamer, Samuel Bowen, Robert Bright, Parish Bacon, Robert Brisborn, James Bowie, William Black, Robert Brown, J. A. Beasley, James Baldwin, Alexander Bryant, Adam Blackwell, John Bowles, James Baldwin, James Baker, Abraham Baldwin, James Byrd, Richard Bradwell, Jane Bradwell, Wright Byrd, Joseph Brown, Charleton Banks, Russell Buie, James Baker, Henry Battles, William Byrd, Frederick Brown, Isaac Bowles, James Battles, Samuel Black, William Baker, William Brown, George Byrd, Alexander Byrd, Thomas Brackstine, Richard Bush, Caroline Carraway, Hampton Cloud, Matthew Cook, Thomas Cook, Robert Carey, Charles Carter, Thomas Coleman, George Cox, Henry Cogburn, Robert Cooper, Ellis Cox, Caesar Cooper, George Campbell, Caesar Carter, James Conty, Nelson Colburn, Henry Campbell, Milton Capers, James Chandler, Aaron Chappell, John Cash, July Cowens, Cannon Crooms, Henry Cooper, James Cash, Moses Chandler, Henry Cox, Josiah Chandler, John Constance, Jarrels Coleman, Washington Carroll, Jerry P. Campbell, Damon Cooper, Calvin Doyle, Columbus Dickenson, Marcus Davidson, Solomon Doctor, Benjamin Davis, John Dickson, William Donaldson, Robert Daniels, Isham Denmark, August Day, Archibald Du Pont, Charles Darkins, Tyler Doyle, John Douglass, Robert Du Pont, Willis Dickson, Stephen Everett, Franklin Evans, Sanders Epps, Gillum Epps, Nathan Epps, Harrison Evans, Jackson Edwards, Lewis Frazier, Peter Franklin, Peter Fitzgerald, Clinton Fletcher, James Farrow, Wallace Foreman, William Follin, Joseph Foster, Joshua Foreman, Joseph Fagg, Toney Fields, Benjamin Fields, Nathaniel Flemming, Jockey Ford, Toney Gilburn, Anderson Gee, Levi Greene, Michael Gregory, Nat. Gaines, Richard Green, Lloyd Gibson, John Gregory, Isaac Gaines, Henry Goodson, William Green, John Grice, Joseph Grice, Benjamin Gibbs, Isaac Gordon, Allen Grey, Joseph Goodson, Israel Goodson, David Hill, Reuben Hartridge, Samuel Heines, Jefferson Hantley, Lott House, Adam Hendricks, Cupid House, Samuel Harrison, James Hunter, Isaac Harrison, Berry Hilliard, John Harrison, George Harrison, David Hill, George Hopkins, Jacob Howard, Aaron Hardin, Lewis Holmes, Henry Hinson, Willis Harvey, Fuller Hutchinson, Benjamin Harrison, Quash Hatcher, Benjamin Halliter, Solomon Hogan, Daniel Hawsburry, Hampton Honor, Frank Harris, Josiah Henderson, Jacob Holmes, Green Harrison, Young Harrison, Nathan Henderson, Jonas Isaac, Joseph Jones, Abram Jackson, William Jenkins, Abraham Johnson, Berry Johnson, Robert Johnson, Samuel Johnson, Thomas Jones, Arch. James, Powell James, Harry Johnson, Harry Jenkins, Wilson Jones, Israel Johnson, Daniel Johnson, John Jones, Nathaniel Johnson, Alex. Johnson, Wiley Jenkins, Louis Jackson, Turner Johnson, David Jones, Solomon Jackson, Charles Jackson, Anthony Jones, Samuel Jackson, John Kilby, Isham Kidd, William Keekan, Henry Laing, Jordan Littleton, Thomas Lott, Arch Lloyd, Robert Longworth, Aaron Love, William Londy, April Levy, Adam Leonard, Ellis Lemmons, Green Little, Moses Madrid, Anthony Moore, James McFaul, Lot Mumford, William Marshal, Charles McKendrick,

James Munroe, Jackson Mason, sr., Caswell Moore, Mack Madison, Andrew Moore, Noah Mumford, Harper Martin, Richard McElvy, Henry Moore, William Morgan, Pleasant McMillan, George McQuinn, Henry Marshall, Henry Martin, George Marshall, Richard Mason, Jerry Miner, Doctor McDonald, William Mackle, Isaac Mason, Milton McGriff, Mack McGriff, Prince Moseley, Haywood McGriff, Solomon Matthews, Nelson Mitchell, Thomas Norton, Caleb Nero, Henry Nickolson, William Nelson, Wisdom Nicholson, Frank Nichols, Handy Nelson, Carter Nicholson, Aaron Neil, Peter Oliver, Green Owens, John O'Neal, Hulburd Peoples, Lewis Patrick, Benjamin Peoples, Joseph Pollard, Levy Plummer, Austin Purdy, Harris Prior, Allen Richardson, Joseph Robinson, William Robinson, Perry Robinson, John Randolph, Dennis Richardson, Vincent Richardson, Ned Richardson, Rufus Reid, Samuel Reed, Daniel Robinson, John Robinson, George Richardson, Morton Roster, David Randolph, Jefferson Rogers, Isham Richards, Frank Rea, Nelson Roundtree, Jesse Robinson, Albert Rogers, Troup Stephenson, David Sylvester, Isaac Smith, Frank Singleton, Andrew Sweet, Moses Scott, York Scott, Peter Spate, William Smith, Josiah Smith, Reuben Smith, Edward Simmons, Alex. Stockton, Alex. Stewart, Julius Stephens, Ebby Shaw, Barber Smith, January Smart, Henry Stephens, Joseph Smart, John Smith, Norwood Stephens, William Simmons, Wiley Sams, Punch Spivy, Mark Spivy, Jesse Seals, Joseph Simmons, Handy Seagal, Julius Smith, David Sadbury, Emanuel Sweet, Isaac Simmons, Jeff Shaw, Michael Taylor, Joshua Thomas, Harry Temples, Thomas Thomas, Samuel Tillman, Charles Thomas, Levi Turner, John Traverse, Jackson Traverse, William Tover, Julius Turner, Edward Temples, Stephen Thomas, Jesse Thomas, Jeremiah Tate, Benjamin Urby, Allen Umphrey, Lewis Ufaula, Joseph Vincent, Daniel Williams, Jerry Waiters, Peter Writman, Joseph West, Garnett Weaver, David Washington, Lafayette Wynn, Caesar Wyatt, Samuel Wright, George Wilder, Abraham Wilkins, Albert Washington, Lewis Williams, Allen Williams, Nelson Wilson, Pivey Ward, Clennet Walker, Robert Williams, Edenborough Williams, James Washington, Hamilton Whaley, Lewis White, Jackson Williams, Frank Warren, Murray Williams, Joseph Williams, Tony Williams, George Williams, Pluto Williams, Chas. Whiddon, Robert Williams, Prince Williams, James Wiley, Stephen Williams, Daniel Webster, Dandy Williams, Anthony Wilson, Turner Wilson, Paul Werkley, Thos. Zeigler, Elias Zanders, Samuel Zeigler.

JOSIAH T. WALLS, *Contestee*.

Executed the within by serving copy of same on S. L. Niblack this 9th day of March, A. D. 1872.

W. S. BUSH,
Sheriff Columbia County.

Testimony in the matter of the contested election between the Hon. Josiah T. Walls, sitting member of the Forty-second Congress of the Congress of the United States, from the congressional district of Florida, and the Hon. Silas L. Niblack, contestant, taken before William E. Burleigh, the said Burleigh being a notary public for the State at large, and officiating in the absence of C. H. Edwards, a notary public for the State at large, at Quincy, Gadsden County, in said congressional district, on the 20th day of March, A. D. 1872.

The contestant, being absent, appeared by counsel, Messrs. Davidson & Love, and the contestee by A. A. Knight and *in personam*.

The counsel for contestant offered the following protest, in words and figures, as follows :

In the matter of the contested election between Silas L. Niblack *vs.* Josiah T. Walls, of the Forty-second Congress of the Congress of the United States.

The contestant objects to the returned member taking testimony on this the 20th day of March, at Quincy, according to his notice, on the following grounds, viz : That this contestant gave notice to said returned member that he would, on the 20th day of March instant, take the testimony of witnesses named in said notice before the Hon. W. A. McLearn, county judge of Duval County, at Jacksonville, in said county of Duval, and that said returned member acknowledged service of said notice before the said returned member gave notice to this contestant of taking testimony at Quincy, in Gadsden County, on the same day appointed by this contestant at Jacksonville, in Duval County, to wit, the 20th day of March instant, which is in direct violation of the act of Congress in relation to contested elections; and this contestant therefore protests against said notice and any proceedings under it as illegal.

S. L. NIBLACK, *Contestant.*

MARCH 20, 1872.

The contestee having notified the contestant that he would proceed to take testimony under the tenth section of the answer, the contestant objects to this section on the ground that it is too general in its terms. Objection overruled and exception taken.

The first witness called was the Hon. M. L. STEARNS, who, being duly sworn, deposed as follows :

Question. State your name and residence.—Answer. M. L. Stearns; Quincy, Gadsden County, Florida.

Q. Where were you on the 8th day of November, A. D. 1870?—A. At Quincy, Florida.

Q. State what you know of any disturbance occurring at the election on that day.—A. There were two voting polls in Quincy, and I was at poll No. 1 all day, and between the hours of 3 and 4 in the afternoon of that day the voting at poll No. 1 ceased, and the poll was still held by a line of persons that stood in front of the poll, so that many voters who were pressing forward were prevented from voting. Then a difficulty arose, owing to the pressure of persons trying to vote, and in the effort of the officers to clear the poll a difficulty or general row ensued, in which a number of knives, pistols, and clubs were shown, and the clubs were used to some extent. I don't think any pistols were fired. This difficulty was finally settled by the officers in about a half hour after it commenced. This is all I can recollect regarding the general particulars. This poll was occupied mostly by the white voters, while the other polls were used by the colored voters; and the taking possession of the poll was by persons who had voted and boys that were in the line, to prevent the colored voters from voting, claiming that this poll belonged to the white voters. I can't say how the difficulty commenced. The inspectors ordered the polls cleared; the officers, in attempting it, were resisted in their efforts to preserve order. I did not see any one in particular hurt, but saw knives and pistols flourished while looking from my window. I was inside of the court-house when the difficulty commenced, and immediately ran out to assist in quelling

the disturbance. The people still remained around the poll after the difficulty was quieted.

Q. Who seemed to be prominent in conducting the disturbance?
(Objected to by the contestant. Objection overruled and exception taken.)

A. The members of the democratic party seemed to be the most prominent in the disturbance.

Q. What were the names of the parties?—A. The most prominent that I saw was A. K. Allison. In forming the organized line in front of the polls and controlling it, he was the most prominent.

Q. Did you see him do anything in particular?—A. I saw him passing up and down the line, but owing to the noise I was unable to hear what he said, until I went out from the porch to speak to the voters, when he cried out to shoot him down, referring to myself, and he made a great deal of disturbance at the time, cursing. He had his knife in his hand at the same time.

The contestee here offers in evidence a certified copy of the indictment against said Allison, and the sentence of said Allison, marked Exhibit B, and is herewith appended.

The contestant excepts to the evidence and indictment. Objection overruled and exception noted.

EXHIBIT B.

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA,
Tallahassee, Monday, February 12, 1872.

THE UNITED STATES <i>vs.</i> ABRAHAM K. ALLISON.	}	Indictment for obstructing, delaying, and preventing citizens from voting.
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The jury having been out some time, came into court and delivered the following verdict, viz: "We, the jury, find the prisoner guilty; so say we all."

EDWARD BARKER,
Foreman.

Wherenpon the court sentenced him to imprisonment for and during the term of six months and to pay a fine to the United States of two hundred and fifty dollars, and to stand committed until such fine be paid, and the said imprisonment to be executed in the county jail of Leon County, in the northern district of Florida.

A true copy from the record.

In the district court of the United States for the northern district of Florida, in the fifth circuit.

At a stated term of the district court of the United States for the northern district of Florida, in the fifth circuit, begun and held at the city of Tallahassee within and for the district and circuit aforesaid, on the sixth day of February, A. D. one thousand eight hundred and seventy-one, and continued by adjournment to and including the fifth day of March, in the year A. D. eighteen hundred and seventy-one.

NORTHERN DISTRICT OF FLORIDA, *ss* :

The grand jurors of the United States of America, impaneled and

sworn within and for the district aforesaid, on their oath present that Abraham K. Allison heretofore, to wit, on the eighth day of November, in the year of our Lord one thousand eight hundred and seventy, at Gadsden County, within the district aforesaid and within the jurisdiction of this court, at an election then and there held, at which said election Representatives to the Congress of the United States were then and there voted for, by force, bribery, threats, intimidation, and by unlawfully crowding and pressing, with other persons, around and in front of the ballot-box at said election, at said county, and by threats of violence and other unlawful means, did then and there hinder, delay, obstruct, and prevent, certain citizens, to wit, Samuel Zeigler, Carolina Caroway, Aaron Neal, and other citizens, from voting at said election, held as aforesaid, the said Samuel Zeigler, Caroline Caroway, Aaron Neal, and the said other citizens, being then and there qualified voters at said election, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States.

And the grand jurors aforesaid, upon their oath aforesaid, do further present that heretofore, to wit, on the day and year aforesaid, at Gadsden County, in the district aforesaid, at an election then and there held, at which said election Representatives to the Congress of the United States were then and there voted for, one Abraham K. Allison did then and there unlawfully combine and confederate with others, and unite with other persons in forming a crowd of persons about and in front of the polls and ballot-box used at said election at said county, with intent to hinder, delay, prevent, and obstruct certain citizens, to wit, Samuel Zeigler, Carolina Caroway, and Aaron Neal, and other citizens from voting at said election at said county, the said Samuel Zeigler, Carolina Caroway, Aaron Neal, and the said other citizens, being then and there qualified voters, contrary to the form of the statute in such cases made and provided, and against the peace and dignity of the United States.

And the grand jurors aforesaid, upon their oath aforesaid, do further present that heretofore, to wit, on the day and year aforesaid, at Gadsden County, in the district aforesaid, at an election then and there held, at which said election Representatives to the Congress of the United States were then and there voted for, Abraham K. Allison did then and there prevent, hinder, control, and intimidate, and did then and there attempt to prevent, hinder, control, and intimidate certain persons, to wit, Samuel Zeigler, Carolina Caroway, and Aaron Neal, and other persons, from exercising and in exercising the right of suffrage at said election at said county, to whom the right of suffrage was then and there secured and guaranteed by the fifteenth amendment to the Constitution of the United States, by means of bribery, threats, threats of violence, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States.

H. BISBEE, JR.,

United States District Attorney.

I, Philip Walter, clerk of the United States district court in and for the northern district of Florida, do hereby certify that the foregoing is a true copy of the indictment on file in my office.

In testimony whereof I do hereunto affix my hand and attach the seal of my office, at Tallahassee, in the northern district of Florida, this ninth day of March, A. D. one thousand eight hundred and seventy-two, and of the Independence of the United States the ninety-sixth year.

[SEAL.]

PHILIP WALTER,

Clerk United States District Court.

Q. Do you recollect anything further regarding violence at that poll?—A. There were many voters prevented from voting on that day, owing to this organized disturbance, and that numbers of the conservative party came into the town with arms, which they deposited in various buildings around the public square, as though they contemplated difficulty.

Q. How large a number would you judge were prevented from voting?—A. Some two hundred voters turned away from the polls when the polls closed, having been unable to deposit their votes. These people could have voted had there been no disturbance at the polls on that day. These all were members of the republican party.

Q. Do you know at what hour the polls closed?—A. I think at about the hour of sundown. The polls were hurriedly closed, while many were waiting to vote.

Cross-examination :

Q. You speak of an organized line in front of the polls on that day; was not this line suggested and advised by the sheriff in order to expedite voting?—A. Not to my knowledge.

Q. Were not the voters at both polls, Nos. 1 and 2, formed into line on that day?—A. Yes, sir; but not such a line as I spoke of in direct testimony.

Q. In your opinion, did not the formation of these lines expedite voting on that day?—A. I should say that it did.

Q. Had there been any disturbance up to the hour of 3 in the afternoon; and did not good humor and feeling seem to prevail?—A. It did as far as I know.

Q. Was not this disturbance you spoke of caused by an altercation between two individuals?—A. I think not.

Q. Do you know how the disturbance originated?—A. I know of no other way than above stated, and the effort of the officers to clear the poll.

Q. Who were these officers?—A. The sheriff of the county and his police.

Q. You say you saw quite a number of pistols and knives on that day; were any pistols fired?—A. I think not.

Q. In the effort of the officers to clear the poll, did you see any person resist the officers?—A. I did not.

Q. In what manner was General Allison most prominent in assisting at the disturbance?—A. He was active about the poll, and appeared to me to be in a frenzy. When he came up to deposit his vote he was very much excited, and struck his hand upon the table and used an oath.

Q. Have you not seen people at elections similarly excited like General Allison?—A. I never did.

Q. Were not a number of conservatives and republicans excited and demonstrative on that day?—A. Nothing more than is usual at elections, up to that time on that day.

Q. In your opinion, was not the excitement and demonstration of General Allison on that day caused by the interest he manifested in the election, and not from any anger toward the crowd, or any desire to hinder persons from voting?—A. I think it was something more than zeal; he seemed to be angry with everybody.

Q. Was there any personal difficulty between you and General Allison?—A. There was not.

Q. Do you know who were around you, standing near you at the time of the remark made by General Allison?—A. I could not state who

were there with me at that time. Colonel Love and Mr. Smith walked out of the room with me, and were on the porch.

Q. At the time General Allison made this remark, did he not curse and swear some?—A. He did.

Q. Don't you think his conduct at that time and his swearing was caused by being excited, without any intention or desire to execute his threats?—A. I don't know what his intentions were.

Q. Did he make any attempt to shoot you, or do violence to you?—A. He did not.

Q. How do you know that a good many voters were prevented from voting on that day?—A. I know so because I saw them. I saw them struggling to get their votes in, and knew that they were going to vote.

Q. How do you know that they were going to vote?—A. I judged so from the manner in which they acted.

Q. What prevented them from voting?—A. The polls closing prevented them from voting at that time.

Q. Were not the polls closed at about the legal hour?—A. I think they were.

Q. Did you state in your direct examination that about two hundred voters were prevented from voting on that day?—A. Yes, sir; but they were not all prevented from voting by the disturbance above mentioned; a good many were challenged, and delay caused in the latter part of the day; the residents and some old citizens were challenged.

Q. How do you know that the two hundred voters that were prevented from voting on that day were all republicans?—A. Because I know that no democrat was prevented.

Q. How do you know that no democrat was prevented from voting on that day?—A. They had sufficient opportunity, and no interruption prevented them from voting at the poll where I was.

Q. Were not there some colored men who had declared they would vote the conservative ticket threatened on that day?—A. I don't know.

Q. Were not there some colored men in this two hundred that did not intend to vote for either ticket?—A. Not out of the two hundred, I think they all intended to vote; without any hinderance from disturbance, I believe the two hundred could have voted on that day.

Q. How many ballots were received in a minute, and taken down in the poll-book, in your opinion?—A. Some votes were taken quicker than others, but, on an average, I should judge, one ballot per minute would have been a good average.

M. S. STEARNES.

By consent, a recess was then taken until 3 o'clock p. m.

3 O'CLOCK P. M.

The parties present.

The next witness called was GEORGE HOPKINS, who, being duly sworn, deposed as follows:

Question. State your name and residence?—Answer. George Hopkins; I reside in Gadsden County.

Q. Where were you on the 8th day of November, A. D. 1870?—A. I was in Quincy.

Q. Were you at that time a registered voter? A. I was.

Q. Did you vote on that day?—A. No, sir.

Q. Why not?—A. When it came my turn to vote, a fuss was kicked

up, and before I could vote the polls were closed. The fuss lasted about a half hour, to the best of my judgment.

Q. If you had been allowed to vote would you have voted for Mr. Walls or Mr. Niblack?—A. I would have voted for Mr. Walls.

Q. Did you see many colored men who were kept from voting like yourself?—A. Yes, sir; a great many of them.

Cross-examination:

Q. You say you did not vote that day?—A. Yes, sir.

Q. Did you go off then?—A. No, sir; I staid here until the vote was counted out. No one told me I should not vote. The fuss I spoke of lasted about a half hour. No one in particular threatened me, or in general; I was present when the fuss occurred, and would have voted afterward, but the polls closed.

GEORGE ^{his} + HOPKINS.
mark.

The next witness called was ANDERSON GEE, who, being duly sworn, deposed as follows:

Question. State your name and residence.—Answer. Anderson Gee; I reside in Gadsden County.

Q. Where were you on the 8th day of November, A. D. 1870?—A. At Quincy, Florida.

Q. Were you a registered voter at that time?—A. I was.

Q. Did you vote on that day?—A. I did not.

Q. Why not?—A. Because they crowded me so I could not vote.

Cross-examination:

Q. Where did you live in 1870?—A. Down the fork of the Ocklocknee; I lived with J. J. Williams.

Q. Do you know when the election was held in 1870?—A. I don't know exactly, but I was here on that day.

Q. Did you march in that day?—A. No, sir.

Q. Where did they crowd you on election day?—A. At the window where the colored people voted, mostly; don't know the number of the poll where I was. I lived about eight miles from town, and left town about sunset.

Q. What colored men crowded you at the poll?—A. It was the white men; they were all around; every man around there was crowding, some more than others.

Redirect:

Q. Who crowded you the most, the white or colored people?—A. The white people crowded me.

Cross-examination:

Q. Did not more of the colored people have sticks than the white people?—A. Yes, sir.

Redirect:

Q. Did not the white people have more pistols and knives than the colored?—A. Not that I saw.

Q. Which ticket would you have voted if you had had a chance?—

A. I should go the way the Constitution went. There was a big crowd that day, of white and black.

ANDERSON ^{his} + GEE.
mark.

The next witness called was ADAM LEONARD, who, being duly sworn, deposed as follows:

Question. State your name and residence.—Answer. Adam Leonard; I live in Gadsden County.

Q. Where were you on the 8th day of November, A. D. 1870?—A. I was here.

Q. Were you a registered voter at that time?—A. I was.

Q. Did you vote on that day?—A. I did not.

Q. Why not?—A. I was pulled and hauled about so at the election that I let it alone; I could not get a chance to get at the poll.

Q. If you had had a chance to vote, would you have voted a republican ticket or a democratic ticket?—A. I would have voted the republican ticket.

Cross-examination:

Q. What time did you leave town on that day?—A. Between 10 and 11 o'clock in the morning. If I had voted I should have voted the republican ticket. The reason I cleared out was that they kept after me so.

ADAM ^{his} + LEONARD.
mark.

The next witness called was JERRY ANDERS, who, being duly sworn, deposed as follows:

Question. State your name and residence.—Answer. Jerry Anders; I live in Gadsden County.

Q. Where were you on the 8th day of November, A. D. 1870?—A. I was here.

Q. Were you a registered voter at that time?—A. I was.

Q. Did you vote on that day?—A. No, sir.

Q. Why not?—A. Because Mr. Harris said he could not find my name.

Q. If you had had a chance to vote, how would you have voted?—A. The republican ticket.

Cross-examination:

Q. You say the reason you did not vote was that Mr. Harris told you he could not find your name on the registration book.—A. Yes, sir. I then went to the other poll. The men who were receiving the ballots said that they could not find my name on the books; these men were the inspectors at that box the colored people voted most at.

Redirect:

Q. Did you then try to vote at the other window, where the white people voted?—A. Yes, sir; and was forced away.

Recross-examination:

Q. Did any one force you away?—A. I came around there to vote,

and there was a big crowd, and I was forced away. I saw a rattling-box, which frightened me. The man that stood around there kept me away. I was determined to vote.

EXPLANATION.—The Mr. Harris referred to above was Mr. A. M. Harris.

JERRY ^{his} + ANDERS.
mark.

The next witness called was THOMAS CORK, who, being duly sworn, deposed as follows :

Question. State your name and residence.—Answer. Thomas Cork ; I live in Gadsden County.

Q. Where were you on the 8th day of November, A. D. 1870 ?—A. I was here.

Q. Were you a registered voter then ?—A. I was.

Q. Did you vote on that day ?—A. No, sir.

Q. Why not ?—A. I went to the poll where the colored people were voting, and was told by Mr. A. M. Harris, who was receiving the ballots, that my name could not be found on the list. I did not try to vote at the other poll.

Q. Would you have voted the republican or democratic ticket ?—A. I would have voted the republican ticket.

Cross-examination :

Q. What time in the day did you offer your vote ?—A. At a little past 12 o'clock.

THOMAS ^{his} + CORK.
mark.

The next witness called was ELIAS ZANDERS, who, being duly sworn, deposed as follows :

Question. State your name and residence.—Answer. Elias Zanders ; I live in Gadsden County.

Q. Where were you on the 8th day of November, A. D. 1870 ?—A. I was here.

Q. Were you a registered voter then ?—A. I was.

Q. Did you vote on that day ?—A. I did not.

Q. Why not ?—A. Because I could not get a chance to vote, there were so many in the way, and when I tried to get to the polls I could not get there. No one scared me away. I went to both polls.

Q. If you had had a chance to vote, which ticket would you have voted ?—A. The republican ticket.

ELIAS ^{his} + ZANDERS.
mark.

The next witness called was EBBY SHAW, who, being duly sworn, deposed as follows :

Question. State your name and residence.—Answer. Ebbey Shaw ; I live in Gadsden County.

Q. Where were you on the 8th day of November, A. D. 1870?—A. I was here.

Q. Were you a registered voter on that day?—A. I was.

Q. Did you vote on that day?—A. No, sir.

Q. Why not?—A. I could not get to where they were voting; the people crowded around the window so that I could not get to it. If I had had a chance to vote I would have voted the republican ticket.

Cross-examination :

Q. Did you try to vote at both boxes?—A. Yes, sir; I was in the ranks where the colored people voted, but was so crowded that I left and went to the other window, and could not vote there because of the crowd.

Q. Do you remember the republican ticket; if so, state what names were on?—A. Mr. Walls, Major Stearns, and the men for the legislature.

EBBY + SHAW.
his
mark.

The next witness called was THOMAS COLMAN, who, being duly sworn, deposed as follows:

Question. State your name and residence; where you were on the 8th day of November, A. D. 1870; were you a registered voter on that day; did you vote; if not, why?—Answer. Thomas Coleman is my name; I live in Gadsden County; was in Quincy on the day of election; was a registered voter, and did not vote because the polls was shut down against me. I had my ticket in my hand holding it in at the window. If I had had a chance to vote I would have voted the republican ticket.

Cross-examination :

Q. Who were the republican candidates on that day?—A. Major Stearns, Fred Hill, Harry Cruse, Mr. Walls, and Charles T. Day; I offered my ballot at the time the polls closed, at the window where the colored people voted. I had previously tried to vote at the other window, but could not. At the time I offered to vote the polls were closed by the proclamation of the sheriff.

THOMAS COLMAN.

The next witness called was DANIEL WEBSTER, who, being duly sworn, deposed as follows:

Question. State your name and residence; where you were on the 8th day of November, A. D. 1870; if you were a registered voter on that day; and if you voted; if not, why?—Answer. Daniel Webster is my name; I live in Gadsden County; I was at Quincy on the 8th of November, 1870; was registered; did not vote because every time I attempted to vote Mr. Allison rejected it, and at the window where the colored people mostly voted was so crowded that I could not get there; and the window where the white people mostly voted Mr. Allison objected to my voting; when the way was clear, and I stepped up to vote, Mr. Allison said, "Stand back," and I tried until the polls were closed at night. I would have voted the republican ticket if I had a chance to.

DANIEL + WEBSTER.
his
mark.

The next witness called was GEORGE WILDER, who, being duly sworn, deposed as follows :

Question. State your name and residence; where you were on the 8th day of November, A. D. 1870; if you were registered, and if you voted; if not, why?—Answer. George Wilder; I live in Gadsden County; was at Quincy on the 8th of November, 1870; was registered; did not vote because I could not get a chance to, because they could not go through fast enough; I tried to vote at the window where the colored people were voting, but could not get in. In the evening I understood that colored men could vote where the white people had been voting; I went to do so, but was told by the white men to stand back. If my vote had been taken I would have voted the radical ticket.

Cross-examination:

Q. Were you very anxious to vote on that day?—A. Yes, sir; that is what I came in town for; I don't know that any one tried to shoot me, but pistols were presented, and I was repeatedly told to stand back. I then ran away, and heard a rattling which made me increase my speed.

GEORGE ^{his} + WILDER.
mark.

The next witness called was AARON NEAL, who, being duly sworn, deposes as follows :

Question. State your name and residence; where you were on the 8th day of November, A. D. 1870; if you were registered on that day, and if you voted; if not, why?—Answer. Aaron Neal is my name; I live in Gadsden County; was at Quincy on the 8th day of November, 1870; did not vote; was a registered voter; did not vote because Mr. Allison was on the box, and he said to Sam Zeigler that he should not vote here; if he came up to his poll he would "cut his damned throat; this is our poll;" this scared me, and I left. I could not get up there. If I had voted I should have voted the republican ticket.

Cross-examination:

Q. Did General Allison, or any one else, threaten you?—A. No, sir. There were two polls that day.

AARON ^{his} + NEAL.
mark.

The next witness called was MILTON CAPER, who, being duly sworn, deposed as follows, to whom the same questions-in-chief were asked as the last witness:

My name is Milton Caper; I live in Gadsden County; was at Quincy November 8, A. D. 1870; was registered; did not vote, because I could not get a chance, owing to the crowd. There was no trouble as far as I was concerned or know; I tried only to vote where the colored people were voting. If my vote had been deposited, it would have been a republican one.

MILTON ^{his} + CAPER.
mark.

The next witness called was BENJAMIN DAVIS, who, being duly sworn, deposed as follows. The same questions-in-chief were asked him:

My name is Benjamin Davis; I live in Gadsden County; was in Quincy on November 8, A. D. 1870; was registered; did not vote because of a fuss which was raised; I started for the window, and then backed out; the fuss scared me; I thought we were going to have a fight; I would have voted the republican ticket if I had had a chance.

Cross-examination:

Question. Did any one want to fight you, or threaten you, on that day?—Answer. No, sir.

his
BENJAMIN + DAVIS.
mark.

The next witness called was WASHINGTON CARROLL, who, being duly sworn, deposed as follows, the same questions-in-chief being asked him:

Washington Carroll is my name; I live in Gadsden County; was in Quincy on the 8th of November, A. D. 1870; was registered; did not vote; I attempted to vote, but failed because the polls were crowded at each place. I then went to the window where the white people were voting, but it was so crowded that I could not vote, and finally the polls closed. I would have voted the republican ticket if I had had a chance.

Cross-examination:

Question. You said the crowd prevented you from voting?—Answer. Yes, sir. No one hindered me, or scared me away by threats.

his
WASHINGTON + CARROLL.
mark.

The next witness called was WILLIAM SMITH, who, being duly sworn, deposed as follows, the same questions-in-chief being asked him:

My name is William Smith; I live in Gadsden County; was at Quincy on November 8, A. D. 1870; was a registered voter; did not vote because my name could not be found by the man taking the ballots. I would have voted the republican ticket if I had had a chance to.

his
WILLIAM + SMITH.
mark.

The next witness called was PRINCE BACON, who, being duly sworn, deposed as follows, the same questions-in-chief being asked him:

Prince Bacon is my name; I live in Gadsden County; was at Quincy on November 8, A. D. 1870; was registered. Did not vote, because I got in here about 10 o'clock, and the polls were badly crowded, and I attempted to vote, but owing to the crowd in the forenoon I failed. I tried it at No. 1 after dinner, about 3 o'clock, and there was no chance for me, and I did not get a chance to vote at all. Would have voted the republican ticket if I had had a chance to.

Cross-examination:

Question. What name did you register in?—Answer. Prince Bacon.

I did not vote because the man taking the ballots told me my name could not be found on the book.

PRINCE ^{his} + BACON.
mark.

The next witness called was JOHN SMITH, who, being duly sworn, deposed as follows, the same questions-in-chief being asked him :

John Smith is my name ; I live in Gadsden County ; was in Quincy on November 8, A. D. 1870 ; was registered. Did not vote because I tried and could not get a chance to vote ; the polls were so crowded that I could not get in and vote. If I had had a chance to vote I would have voted for the republican party.

Cross-examination :

Question. Where did you live in 1870?—Answer. In Quincy. No one threatened me or frightened me away on that day.

JOHN ^{his} + SMITH.
mark.

The next witness called was ALLEN RICHARDSON, who, being duly sworn, deposed as follows, the same questions-in-chief being asked him :

Allen Richardson is my name, and I live in Gadsden County ; was in Quincy on the 8th of November, A. D. 1870 ; was registered. Did not vote. I did not get a chance to vote on that day. I staid in Quincy until 5 o'clock, and seeing no chance to vote I left. If I had voted I would have voted the radical ticket.

Cross-examination :

Question. Did any one keep you from voting by threats or force?—Answer. No, sir.

ALLEN ^{his} + RICHARDSON.
mark.

The next witness called was ISAAC SIMMONS, who, being duly sworn, deposed as follows, the same questions-in-chief being asked him :

My name is Isaac Simmons. I live in Gadsden County ; was at Quincy on the 8th of November, A. D. 1870 ; was registered ; did not vote. I tried to vote at the polls, but could not get in. I was standing at the colored people's poll when word reached me that we could vote where the white people had been voting. I then went there, but it was crowded, and I was told to stand back. I would have voted the republican ticket if I had had a chance to.

Cross-examination :

Question. Did any one threaten you or frighten you away from voting?—Answer. None ; only I was told to stand aside ; that I could not vote here.

ISAAC ^{his} + SIMMONS.
mark.

By consent, the parties adjourned until to-morrow morning at 10 o'clock.

THURSDAY MORNING, 10 o'clock.

The parties met pursuant to adjournment.

The first witness called was CAROLINA CARRAWAY, who, being duly sworn, deposed as follows:

Question. State your name and residence.—Answer. Carolina Carraway. I live in Gadsden County.

Q. Where were you on the 8th day of November, A. D. 1870?—A. I was in Quincy, Florida.

Q. Were you a registered voter on that day?—A. I was.

Q. Did you vote?—A. No, sir.

Q. Why not?—A. When I went up to vote Mr. Daniels and Mr. Allison stood up on the box, and Mr. Daniels caught me by the shoulder and pulled me back, and he had a pistol in his hand and said he could shoot as often as any other man; told us to stay away from this poll; that it was their poll, and we should not vote there. Mr. Allison was standing on the box, with a knife in his hand, and said if any God damned son of a bitch came up there he would cut his throat. This was Governor Allison. The row commenced shortly after. When it commenced I was standing by the window. Mr. Joe Wilson told us to come up and vote, which we tried, but the white men came and rushed us from the polls. This is about all I can be positive about. I saw a great deal, but don't positively recollect any of the details. I would have voted for the radical ticket if I had had a chance to.

Cross-examination:

Q. Was not this fuss you speak of caused by a difficulty between two men?—A. I don't know.

his
CAROLINA + CARRAWAY.
mark.

The next witness was JOHN KILBY, who, being duly sworn, deposed as follows. The same questions-in-chief were asked him as the above witness:

Answer. John Kilby is my name. I live in Gadsden County. Was in Quincy on November 8, A. D. 1870. Did not vote, because when I came to the polls to vote it was so badly crowded that I could not vote. This was in the morning. I then went off. After dinner I came back and tried it again, and the polls were still crowded. I staid there then until the row commenced; then I left and went back to my shop. Had it not been for the row I would have staid there till the poll closed. I would have voted the republican ticket if I had voted.

Cross-examination:

Q. This disturbance was of short duration, was it not?—A. It was. The disturbance occurred about two hours before the polls closed.

Q. How far was your shoe-shop from the polls?—A. Not over one hundred and twenty yards.

Q. Did anybody threaten you on that day?—A. No, sir.

his
JOHN + KILBY.
mark.

The next witness was HUBBARD PEEPLES, who, being duly sworn, deposed as follows, the same questions-in-chief being asked :

Answer. My name is Hubbard Peeples. I live in Gadsden County. Was in Quincy on the 8th of November, A. D. 1870. Was registered. Did not vote, because a row was raised, and I could not get up to the polls; and Mr. Davidson then arose and told me to hold on; that we should vote, if it was till after dark. But I did not get a chance to get to the poll at all. But this was not Mr. Davidson's fault. I would have voted for Mr. Stearns, Hill, Cruse, and for Congress would have voted for Mr. Reed. I should have voted for Mr. Walls to go to Washington.

Cross-examination :

Q. Did anybody try to hurt you on that day ?—A. No one but Mr. Daniels. He appeared to me to be drunk; he waved his pistol around, and it was cocked; this was at about 3 o'clock when the row commenced. Mr. Daniels was not then on the box.

his
HUBBARD + PEEPLES.
mark.

The next witness was HAMILTON CLOUD, who, being duly sworn, deposed as follows, the same questions-in-chief being asked him :

Answer. Hamilton Cloud is my name. I live in Gadsden County. Was in Quincy on November 8, A. D. 1870. Was registered. Did not vote, because of the row. When the row started we could not get to the polls. It was the row which kept us from the polls. If I had had a chance to vote, I would have voted the republican ticket.

Cross-examination :

Q. Do you know the name of this county ?—A. Yes, sir; it is Gadsden County.

Q. Did any one threaten to hurt you if you voted in any particular way ?—A. No, sir; no one threatened me on that day.

his
HAMILTON + CLOUD.
mark.

The next witness was CALEB NERO, who, being duly sworn, deposed as follows, the same questions-in-chief being asked him :

Answer. Caleb Nero is my name. I live in Gadsden County. Was in Quincy on November 8, A. D. 1870. Was registered. Did not vote, because I did not get a chance; the polls closed before I could vote. I was in the crowd before the window; if the polls had not closed, I could have shortly voted. I was around all day trying to vote. There were a heap behind me, and five or six before me trying to vote when the polls closed. I would have voted the republican ticket if I had voted.

Cross-examination :

Q. Did anybody prevent you from voting on that day by threats or otherwise ?—A. No, sir; no one threatened me.

Q. Had not the people behind you voted. Do you know whether or not they had voted ?—A. I know they did not vote, because I saw

tickets in their hands when the polls closed; and some said they had not voted.

his
CALEB + NERO.
mark.

The next witness was DAVID ATKINS who, being duly sworn, deposed as follows, the same questions-in-chief being asked him :

Answer. David Atkins is my name, and I live in Gadsden County. Was in Quincy on November 8, 1870. Was a registered voter. Did not vote. About the time I was preparing to vote a fuss occurred, and that knocked me out of it; so I did not get a chance to vote. I would have voted the republican ticket if I had voted.

Cross-examination :

No one threatened me on that day to prevent me from voting.

his
DAVID + ATKINS.
mark.

The next witness was MACK MADISON, who, being duly sworn, deposed as follows, the same questions-in-chief being asked him :

Answer. Mack Madison is my name, and I live in Gadsden County; was in Quincy on November 8, 1870; was registered; did not vote on account of the fuss; I did not get a chance to vote; I tried pretty hard to vote when at the polls; after the fuss started I went home; if I had voted I would have voted the republican ticket.

Cross-examination :

No one prevented me from voting by reason of threats or violence. I was about the polls all day.

his
MACK + MADISON.
mark.

By consent, a recess was taken until 3 o'clock p. m.

The parties met pursuant to adjournment.

The first witness called was PRINCE ALBERT, who, being duly sworn, deposed as follows, the same questions-in-chief being asked him :

Answer. Prince Albert is my name, and I live in Gadsden County; was in Quincy on November 8, 1870; was registered; did not vote because I could not get to the polls in time; there was a sort of a fuss kicked up which took my attention; I tried as hard as I could to vote; if I had voted I would have voted the republican ticket.

Cross-examination :

Q. Were you about the polls all day long on that day ?—A. I came to the polls about 9 o'clock in the morning and staid till about 9 o'clock at night. No one prevented me from voting, by force or threats. I tried hard to vote. I don't think I ever said to any one that I would not vote against my conservative or republican friends; and I never told any one, that I know of, that I would not vote at all at that election. I tried often to get to the ballot-box on that day, but a fuss was kicked up, and the box was closed before I could get to it. The polls were closed at sunset. The disturbance above referred to was in the even-

ing; I don't recollect what the time was; I was not engaged in the fuss, and no one was in a fuss with me. Don't know how long the polls were kept open after the fuss. The candidates for Congress at that election were, I think, Colonel Davidson; I know some of them, and think Colonel Davidson was one of them. I have no recollection of telling Colonel Davidson that I would not vote against him.

Redirect:

Q. Did this row frighten you?—A. I was sort of afraid of it.

Cross-examination:

I heard a rattling noise that frightened me some.

Redirect:

I tried to vote after the row.

his
PRINCE + ALBERT.
mark.

The next witness was CHARLES CARTER, who, being duly sworn, deposed as follows, the same questions-in-chief being asked:

A. Charles Carter is my name; I live in Gadsden County; was in Quincy on November 8, 1870; was registered; did not vote because I could not get there on account of the fuss. This was all the trouble I experienced; after the trouble the polls closed. I was at the polls all day, but could not get a chance to vote. If I had voted I would have voted the republican ticket.

Cross-examination:

No one threatened me or offered violence to prevent me from voting on that day. There was a large crowd around both ballot-boxes on that day, and this crowd kept me away; the colored people were mostly at one box, and the white people at the other. The republican candidates for Congress, I think, were Colonel Davidson and Lieutenant Stearns.

Redirect:

Q. Who was the republican man to go to Washington?—A. I don't know.

his
CHARLES + CARTER.
mark.

The next witness was JERRY CAMPBELL, who, being duly sworn, deposed as follows, the same questions-in-chief being asked him:

A. Jerry Campbell is my name, and I live in Gadsden County; was in Quincy on November 8, 1870; was registered; did not vote because I could not get to the box; the polls were so crowded that I could not get to them. This was the only trouble. The disturbance was a little in the way of my voting, and prevented me from getting to the poll. Would have voted the republican ticket on the day of election if I had voted. Some of the names on the republican ticket were J. T. Walls, for Congress, Frederick Hills, Harry Cruse, and M. L. Stearns.

Cross-examination:

There were a large number of people at the poll, and the polls were so crowded that I could not get to them. I tried to get to the poll, but could not. No one threatened me on that day or offered violence to

hinder me from voting. I remained in town, after the fuss, until dark. The polls closed, I think, about a half hour after the row. I am a married man; was a married man in 1870. The election took place in November, 1870. In 1869 I lived in Georgia, on the river, but, owing to sickness, I left Georgia September 1, and moved my family to Florida. I went back to Georgia afterward until the month of January; my family was then in Florida. I carried on business in Georgia until the end of 1869.

Redirect:

After moving my family into Florida I traversed back and forth to Georgia several times.

J. P. CAMPBELL.

The next witness called was JOSEPH WEST, who, being duly sworn, deposed as follows, the same questions-in-chief being asked him:

A. Joseph West is my name; I live in Gadsden County; was in Quincy on November 8, 1870; was registered; did not vote because I could not get a chance. I was at the river some distance from this place, and was some time getting here; after arriving here I could not get a chance to vote. I left home to vote the republican ticket, and kept the ticket for several weeks in my pocket; frequently pulled it out to look at when at work. The names of some of the men on the republican ticket were M. L. Stearns, Harry Cruse, Frederick Hill, and J. T. Walls was on for Congress.

Cross-examination:

No one threatened me or hindered me from voting on that day by force or violence. The ranks were so long that I could not get to the ballot-box.

his
JOSEPH + WEST.
mark.

The next witness was VINCENT RICHARDSON, who, being duly sworn, deposed as follows, the same questions-in-chief being asked him:

A. Vincent Richardson is my name; I live in Gadsden County; was in Quincy on November 8, 1870; was registered; did not vote. I was very busy that day, and when I came to the polls to vote, the body was so large that I could not get to the polls to vote; then I went back home and went to work. In the evening I took another start for the polls, and I heard of a fuss being there, so I did not come at all; so never voted. If I had voted I would have voted the republican ticket, and for Josiah Walls for Congress.

Cross-examination:

No one hurt me on that day. When at the polls I was not frightened, but while home I heard of a fuss at the polls, so I concluded I would not come out.

No one threatened me or hindered me from voting by force or threats. The crowd was the principal hinderance.

VINCENT RICHARDSON.

The contestee here offers in evidence a certified copy, from the clerk of the court of Gadsden County, of the registration, as found on the books in his office, in relation to the witnesses examined in this case, which is appended, marked Exhibit C.

STATE OF FLORIDA, *County of Gadsden*:

I hereby certify that I have examined the registration books in this county, on file in this office, and find that the names of the following persons were duly and legally registered voters on the 8th day of November, A. D. 1872, to wit: George Hopkins, Jerry Richardson, Caroline Carraway, John Kilby, M. L. Stearns, Adam Leonard, Jerry Anders, Thomas Cork, Washington Carroll, Elias Zanders, Ebby Shaw, James Cash, Thomas Coleman, Daniel Webster, Aaron Neal, Milton Capers, Benjamin Davis, Wm. Smith, George Wilder, Prince Bacon, Allen Richardson, John Smith, Isaac Simmons, Hubbard Peoples, Caleb Nero, David Atkins, Mack Madison, Hamilton Cloud, Addison Gee, Jerry Campbell, Joseph West, Prince Albert, Charles Carter, and Vincent Richardson.

[SEAL.]

S. E. STEWART,
Clerk Circuit Court, Gadsden County, Florida.

The contestee here announces that he rests; whereupon the contestant asked leave to introduce evidence in rebuttal, to which the contestee objects, on the ground that he has had no legal notice that contestant would introduce witnesses. Objection sustained and exception taken by the contestant's counsel.

Whereupon the case was closed as far as Gadsden County is concerned.

STATE OF FLORIDA, *Gadsden County*:

I, William E. Burleigh, notary public for the State at large, do hereby certify that the testimony herewith transmitted, from page one to page forty-seven inclusive, was taken before me, and that the accompanying papers, to wit: Notice of time of taking testimony, dated and served March 9, 1872, with a list of witnesses attached.

Witness my hand and seal this 22d day of March, A. D. 1872.

[SEAL.]

W. E. BURLEIGH.

In the matter of the contested election wherein Silas L. Niblack contests the election of Josiah T. Walls, returned member of the Forty-second Congress of the United States.

To the Hon. SILAS L. NIBLACK:

SIR: You will take notice that I intend to take the testimony of the following-named persons, to be used in my behalf in the above case. Said testimony will be taken before William E. Burleigh, notary public at large, at the court-house in Lake City, in the county of Columbia, or, in his absence, before some other competent officer, on the 30th day of March, A. D. 1872, at 10 a. m., to wit:

Adam Boggs, Wren Hampton, E. H. Armstrong, E. G. Johnson, Frank Myers, Joseph Dix, Wm. Dix, W. S. Bush, John Edwards, Jesse

S. Wood, John Vansant, jr., Nathan Shepard, George R. Cook, Colby Freeny, Hon. S. T. Day, Hugh Watrous, Abel B. Brown.

J. T. WALL,
Contestee.

TALLAHASSEE, FLORIDA, *March 9, 1872.*

(Indorsed :) Executed the within writ by serving copy of same on S. L. Niblack this 9th day of March, A. D. 1872.

W. S. BUSH, *Sheriff, &c.*

Testimony in the matter of the contested election between the Hon. Josiah T. Walls, sitting member of the Forty-second Congress of the Congress of the United States from the congressional district of Florida, and the Hon. Silas L. Niblack, contestant, taken before William E. Burleigh, a notary public for the State at large, at Lake City, in said congressional district, on the 30th day of March, A. D. 1872.

The first witness called was Hon. E. G. JOHNSON, who, being duly sworn, deposed as follows:

Question. State your name and residence.—Answer. My name is E. G. Johnson; I reside at Lake City, Florida.

Q. Where were you on the 8th day of November, A. D. 1870?—A. I was in Lake City.

Q. Are you acquainted with one J. L. Mitchell?—A. I am acquainted with a Mr. Mitchell, and I think J. L. is part of his name.

Q. Do you know when he came to this county?—A. I know what time he came to Lake City, but know only from his own statement when he came into the county. I was called to see him at Mr. H. J. Cason's, and the prescriptions I left were dated June 27 and 29, A. D. 1870; and I know that he had not been in Lake City exceeding ten days previous to my visit to him. He told me he had stopped some two or three days, either in Newnauville, Mikesville, or Ellisville, and from his conversation I inferred that he came from South Florida. I frequently conversed with him during his sickness and after he recovered. He had the *delirium tremens*. He often came to the store and asked for some stimulants prior to his sickness. All the conversation concerning his arrival in the county occurred during my visits to him during his sickness.

Q. Do you know where Mr. Mitchell is now?—A. I do not; I have not seen him for a year or more.

Q. Was he in a sober frame of mind when he spoke to you of his arrival here?—A. He was. This was during his illness and convalescence. After his recovery I had no conversation with him regarding his citizenship.

Cross-examination:

Q. Were your visits to Mr. Mitchell during his sickness professional?—A. They were; I visited him as a physician.

Q. Do you believe any statement made by a person suffering from *delirium tremens* reliable?—A. No, sir; when under this malady they are perfectly crazy, and deranged. This refers only to a severe attack.

Q. In what county is Mikesville and Ellisville?—A. Columbia County.

Redirect:

Q. Was Mr. Mitchell suffering so badly from this attack that he did

not understand you when you conversed with him about his time of coming to Columbus County?—A. He was not. The first day I called he was pretty bad, but recovered very soon after the medicine operated, and I think he was quite rational during my third and fourth visits.

Q. Was he perfectly rational when he talked with you about his coming to Columbia County?—A. Yes, sir; I regarded him so.

Q. In what county is Newnanville?—A. In Alachua County.

Cross-examination:

Q. How long does it require a patient to recover after an attack of the *delirium tremens*?—A. It depends a great deal upon the severity of the attack.

Q. Was Mr. Mitchell confined to his room when you had this conversation with him about his residence?—A. The conversation occurred, I think, either the third or fourth visit; he was then able to go from his room to the parlor.

Redirect:

Q. Are you sure this conversation occurred out of the room in which he was confined?—A. I cannot swear positively that it did, yet I think it was in the parlor, for it was there that I conversed with him most frequently.

E. G. JOHNSON.

The next witness called was W. S. BUSH, who, being duly sworn, deposed as follows:

Question. State your name and residence.—Answer. Warren S. Bush, Columbia County, Florida.

Q. Where were you on the 8th of November, A. D. 1870, the day of the general election?—A. I was at Lake City.

Q. What position did you hold at that time?—A. I was sheriff of Columbia County.

Q. Do you know of any disturbance occurring at Lake City, on the night previous to the election?—A. A riot broke out on the night before the election between the colored and white people. There were quite a number of people in town at that time representing both sides of politics; these people mostly came here to vote the next day; this is what I understood they came for. The disturbance occurred, I think, about eleven or twelve o'clock at night. I heard some firing guns, and heard the bullets whistle by. It occurs to me that I saw a man wounded in the arm; he was a colored man, but I have forgotten his name. There was considerable excitement occasioned by the riot. Don't know of my own knowledge of any parties leaving town at that time. The disturbance was of a nature to frighten people off. A number of colored people gathered at their church, and a good many whites about town.

Q. Judging from what you saw of the crowd on the night previous to the election, and what you saw of it on the day of election, should you judge the colored people were more numerous on the night previous to the election than they were on the day of election, or were they more numerous on the day of election than they were the night previous?—A. I hardly think there were as many present on the day of election as there were the night before.

Q. How many colored voters should you judge failed to vote on the day of election in Columbia County?

(Objected to by the contestant. Objection overruled, and exception taken.)

A. I think there were several who did not vote.

Q. How do the mass of colored people in this county vote?—A. They vote the republican ticket.

Q. Do you know who were the republican candidates on the day of election for the county?—A. Yes, sir; they were E. G. Johnson, J. P. Mahoney, and J. H. Armstrong. E. G. Johnson was for State senator; J. P. Mahoney and J. H. Armstrong were for members of the assembly.

Cross-examination :

Q. Do you know of any white people who did not vote that day?—A. I understood that there were some who did not come to town that day; do not know, of my own knowledge, whether this was the case.

Q. Have you a personal knowledge that there were any colored people who did not attend the election that day?—A. I don't know that I have.

Q. Did you see any colored people in Lake City, or coming to Lake City, the evening before election, armed with guns?—A. I saw some in town with guns before the riot, but don't know whether I saw any coming to Lake City armed.

Q. Did you see any white people armed with guns before the riot, on the evening before election?—A. I don't recollect that I did.

Q. Did you see any white persons with guns until after the riot commenced?—A. I don't recollect seeing them with guns.

Q. Were you present when the riot commenced?—A. I was not, but I heard guns discharged and balls whistle some 75 or 100 yards off.

Q. State the position of the colored and white people at the time the riot commenced, their relative numbers, and how it originated?—A. I was not present when the firing commenced; don't know who fired the first gun, as I was some 75 yards off. As soon as I heard the firing commence I started for the place where the disturbance seemed to be. The balls came pitching along, and I screened myself near a house. I then went to where the shooting seemed to have commenced, near Mr. Young's store, but the crowd had then dispersed. This was about five minutes or more from the time of the first firing.

Q. Was there any disposition manifested on the part of the white people, the evening before election, to hinder or prevent, by intimidation or otherwise, the colored people from voting on the day of election?—A. Nothing more than the riot; this might have scared them away. According to my knowledge, both parties seemed to be exerting themselves to their utmost to be ready for the election on the morrow; neither seemed to spare any pains to gain their object.

Q. From your knowledge do you think that a larger number of colored people were kept from the polls than the white, in consequence of the riot?—A. My knowledge does not extend very far, but I think that more colored people were kept away than white people.

Q. Can you, then, from your own knowledge, give the names of the white and colored people who were kept from the polls on account of the riot?—A. I cannot, because I did not take any particular notice of them.

Q. Do you know whether the whites and blacks who did not attend the election were registered voters of the county?—A. I do not know.

By consent a recess was taken until 2.30 p. m.

The parties met pursuant to the recess.

Redirect examination resumed:

Q. From what you know of the location of the white and colored people at the time of the riot, did you understand that they were going toward each other, or all coming from the same direction?—A. I could not say, as I was not present at that time.

Q. Where these missiles that whistled by you bullets or shot?—A. The noise sounded like bullets.

Q. Did you see any colored men with guns before the riot?—A. Yes, I saw a number with guns, among whom were Doctor Ceasar, and others whom I cannot recollect. I suppose there were between 25 or 50 with guns; I cannot be positive about this, as it was in the night.

Q. When you got to the place where the riot occurred, what did you see?—A. I saw some men there, mostly white. Don't recollect seeing any colored men there. The white men had arms—pistols. I don't remember seeing any gun there. The men were standing on the plank walk, talking loudly about the riot which had just taken place. I don't recollect seeing any colored man there then. I think I saw a few white men armed with pistols before the riot. After the riot I saw about 30 or forty white men with guns. This was some little time after the riot. These white men with guns were mostly from the country; some few were from the town. I saw them about an hour after the riot.

Q. Did you see any members of a militia company in town, on the evening previous to the election, of which one Pulaski Farnell, or Parnell, was a member?

(This question is objected to on the ground that it is new matter; was not brought out in the examination-in-chief, or in the cross-examination. Objection overruled, and exception taken.)

A. I saw Mr. Parnell here at that time, and some 15 or 20 men who probably belonged to his company. I am certain that 15 of the men belonging to his company were here. I was formerly captain of that company and knew the men. One time when I saw these men they were armed. This was after the riot. The boys seemed to be rallying against the colored men, and the colored men against the white. The prospect looked like war at that time. I saw a few of these men armed with pistols before the riot. These men who belonged to Parnell's company lived in the country, some 12 or 14 miles from Lake City; they could not have had time to go home and get arms and then return, from the time of the riot until I saw them with arms.

Q. You speak of some of the men living within two or three miles of town; how many of them did you see with guns after the riot?—A. That night, I think, I saw between thirty or forty white men armed with guns.

Q. Were or were not a majority of the armed men you saw from the country?—A. I think they were.

Q. In addition to the number of white men you saw with guns, how many did you see with pistols?—A. I don't know that I saw any.

Q. On the day of election did you see any armed men?—A. On the day of election some men rode into town with guns, but they put them away, and did not molest any one, and everything passed off quietly, as far as I know.

Q. Did you see any men other than those who rode in armed?—A. Early in the morning I saw some men armed with guns, but the town authorities had them put away, which was done readily.

Q. How large a number of men do you think had arms during the

day?—A. There were thirty or forty around town that rode in with arms, but these were put away. I think the most of the men that I saw with guns in the morning were white men. Some colored men had arms at the lower end of the town. There were equally as many colored men with arms as there were white. The colored men were at one end of the town and the white men in the other.

Q. Were these white men nearer to the polls than the colored men?—

A. They were in the morning; when the polls opened the colored men came up and voted as they saw fit. Don't recollect seeing any colored men in the upper part of the town in the morning with arms; there might have been some.

Cross-examination :

Q. The men that you spoke of seeing on the sidewalk immediately after the riot, were they then armed with guns?—A. They did not have any guns; I saw some with pistols.

Q. How long was it after you saw them on the sidewalk that they had guns?—A. About an hour afterwards.

Q. Was there any attempt on the part of the white people on the day of election to prevent the colored people from voting, as far as your knowledge extends, and was not the election a very quiet and peaceable one?—A. The election passed off quietly; there was no disturbance that I know of. I don't know of any one trying to interfere with the colored people voting.

WARNER S. BUSH.

The next witness called was ABEL B. BROWN, who, being duly sworn, deposed as follows :

Question. State your name and residence.—Answer. Abel B. Brown, Columbia County, Florida.

Q. Where did you reside on the 8th day of November, A. D. 1872?—A. Seven miles south of Lake City.

Q. Do you know anything of armed men coming to Lake City on the day of election?—A. I saw some men with guns coming into town on the morning of election, probably eight or ten; some of them were white men, and one man that I saw was colored; did not see them with pistols; saw guns. I came into town that morning at about 8 o'clock. There was no excitement here on election day that I saw. I left town about 3 o'clock. A man came to me in the country, and asked me to go into town with a gun. It was dark at the time, but I took him to be Mr. Thomas Ruff. There was a young man named John Hunter at my house telling me that there was some excitement in Lake City, and said they wanted me to go into town with a gun.

Q. Do you know of any disturbance on the day of election at Lake City?—A. There were two or three pistols that I heard fired about 75 yards from the poll; don't know anything further; did not see anybody leave or go away on account of it; don't know who fired them.

Q. Were Mr. Ruff and Mr. John Hunter, you spoke of, white men?—A. They were.

Cross-examination :

Q. These eight or ten men you spoke of coming into town with guns, did you see them after you got to Lake City; and, if so, did they then

have their arms?—A. I think I saw the most of them, probably all of them, in town; but they did not have their guns with them.

Q. As far as your knowledge extends, was it not a quiet and peaceable election on that day in town?—A. It was.

A. B. BROWN.

The next witness called was G. R. COOK, who, being duly sworn, deposed as follows:

Question. State your name and residence.—Answer. G. R. Cook, M.D. I live near Ellisville, in Columbia County, Florida. I resided there on the 8th of November, A. D. 1870.

Q. On or about the day of election, were you present at a political meeting which Mr. Niblack addressed, (the contestant in this case;) if so, did he advise the people to come armed to the election?

(Objected to by the contestant, on the ground that it has reference to a prior date to the evening of the election and the day of election. Objection overruled and exception taken.)

A. I was not present within ten days of the election.

Q. Were you present at any meeting prior to the election at which Mr. Niblack advised people to come in armed?

(Question objected to. Objection sustained and exception taken.)

Q. Did you see men, on the evening prior to the election, come in armed?—A. I did not the evening before; but saw some armed men come into town on the day of election. I saw several, probably four or five. The masses of the people had come to town before I arrived. Some men came to my house about daybreak, armed—one white man and two colored men. The men that passed me in the morning, armed, were white men.

Q. Were you present at the election in Lake City?—A. I was.

Q. Do you know of any disturbance occurring on that day?—A. There seemed to be some confusion, in which pistols were fired, about 12 o'clock. Some of the colored people had sticks. I was near where the colored people voted. A rush was made *en masse* toward the square by the colored men; they were rushing toward the direction of the firing. They were met by the officers at the square, and the officers succeeded in pacifying them by telling them that the affray originated between two white men. They then returned to their former places of voting, and seemed pacified. I saw no other disturbances during the day. I left at about 3 o'clock.

Cross-examination:

Q. How far was this firing from where the colored people were voting?—A. About two hundred yards.

Q. Did you see any white person, on the day of election, molesting or attempting to molest, hinder, or prevent, by threat or any other means of intimidation, the colored people from voting as they saw fit?—A. I did.

Q. Did they succeed in preventing the colored people from voting?—A. I don't know; don't think they did.

Redirect:

Q. Do you know of any other colored men besides those you have referred to who were prevented from voting by threats, or intimidation, or violence?—A. I saw several; met them as I came into town and

asked them if they had voted. They said no, that it was too hot for them in there.

Cross-examination :

There were three or four of the men that I met who told me they had not voted.

Q. Do you know whether they were registered voters of the county?—

A. I don't know whether they were registered voters or no. I do know that they had voted at previous elections. They might have went off and then returned, but I know they had voted at elections previously held here.

G. R. COOK.

The next witness called was JOHN EDWARDS, who, being duly sworn, deposed as follows :

Question. State your name and residence.—Answer. John Edwards. I live in Lake City, Columbia County; was in Lake City on the day of election held November 8, A. D. 1870.

Q. Do you know whether or not colored people came into town on the night before the election?—A. A great many came in. They came in to attend the election. They did not all remain and vote the next day.

Q. Was there a riot here the night before the election?—A. There was.

Q. How many colored men did you see go away without voting?—A. I counted 40 who left in the morning before the polls were opened. They went off because they were afraid to come up to the polls and vote.

Q. During the day of election did you see any disturbance?—A. Not among the colored people. There was some shooting going on, which disturbed matters a little. A little row took place in the morning. Dr. E. G. Johnson, State senator, was confronted by Pulaski Farnell and Edgar Collins, and cursed by them, and a good many of the colored people were scared at this. The colored people then turned and went off, saying they would not be bothered with the election. Dr. Johnson then went into his house and shut himself up in his house until late in the evening, before he dared come out. At the time of the trouble with Dr. Johnson, some eight or ten went off.

Q. Did you see any white men armed on the day of election or the evening before the election?—A. I saw some on horseback, with guns, the evening before election.

Cross-examination :

Q. You say that some forty colored men went away in the morning before the polls were opened. Will you please give their names?—A. There was a great deal of excitement at the time, and I can't give the names of them. Some of them lived on Mr. Myers's place, and others lived far off, and them I did not know.

Q. Were you acquainted with any of them?—A. I knew one, whose name was Joe Aleck, who formerly belonged to Albert Myot; the rest I did not know.

Q. How do you know that they did not vote?—A. I saw them making their way out of town. I left the church and came up the street. The colored people who left did not go through town; they went around the back streets. I afterward saw them on the edge of the town. There were some four or five living on Myot's plantation, among the crowd that did not vote. Don't know whether they were registered voters.

Q. You said that, at the time of the trouble with Dr. Johnson, some eight or ten went off; had these people voted?—A. I don't know. I saw them go off, and heard them say they would not be bothered with the election.

JOHN EDWARDS.

The next witness called was HUGH WATSON, who, being duly sworn deposed as follows:

Question. State your name and residence.—Answer. Hugh Watson, I live in Lake City, in Columbia County, Florida. Was in Lake City on November 8, 1870, the day of election.

Q. State what you know of any disturbance on the night before the election and on the day of election.—A. On the evening before election, between sundown and dark, I came into town. When about a mile from town, there were six white men and a parcel of us colored men—about ten of us; these white men came along by us and cussed us as damn radicals, and had their pistols out, waving their pistols over their heads, and cussing us as damn radicals. To all of this we said nothing, but came into town. These men passed by us, and we did not see them any more until we came into town and had a meeting at the school-house. Then, if I mistake not, all of the men we met were present when we were holding the meeting, and just before the meeting broke up, they left and went up town; and after they left, we broke up, and then met them on the sidewalk. They had their pistols in their hands. At this time, we colored people were walking two deep, on the plank-walk. I was one in the front rank when we met these men on the sidewalk, and they were standing two deep. When they met up with us they commenced cussing, waving their pistols over their heads, and one pushed me off of the sidewalk, and pushed me alongside of the head with his pistol. Then we stepped aside and gave them the plank-walk, and came up the street. After we had passed them they followed us up. After we had gone a right smart piece we stopped and turned up another street. This party still followed us. We again stopped, and they then retreated and went back to the sidewalk. We then turned back, passed by them, and went back toward the school-house. After we had passed them a short distance, we were fired into from behind. They fired at us three times. This was the first commencement of the firing. After they fired at us some of our party fired into them. That was the last of it that night. Nathan Shepard, who was standing by me, was shot in the hand; another colored man was shot, but I don't know his name. I also saw some disturbance on the next day. Just before the polls opened we came down town, and as we colored people were marching to the polls we met Dr. Johnson, the State senator, on the way. Some white gentlemen commenced cursing and dogging him. That started a disturbance then, and some of the colored men that came up with me on the evening before the election went off home and did not vote. They came into town with me, and when the white people started the fuss, on the morning of the election, with Dr. Johnson, they told me that they were going home; that they could not stand any such fuss as that. They then went home and did not vote. Those that left were Arthur Lewis, or Ginyard, Simon Watson, and Joe Aleck. These men I know did not vote.

Cross-examination :

Q. Did you see any colored men come into town the evening before election, or on the day of election, armed with guns?—A. I did not.

Q. Were any of the colored people that marched through the town on the night before the election armed with guns?—A. I was in the front rank and did not know what they shot with behind me, whether pistols or guns.

Q. Do you know whether it was the white or blacks that shot first?—A. Yes, sir, I do; it was the white people who shot first.

Q. How do you know this?—A. Because I saw them.

Q. How long was the colored people's procession; how many men were in the line?—A. I reckon that there were about fifty or sixty in the line of march or scattered about.

Q. Where were you when the shooting took place?—A. After we had marched awhile I fell out of the line and got on the side of the procession, and the firing was toward my side.

Q. Did they fire into the rear or side of the procession?—A. The firing was from behind, for we were going from them.

Q. Who were these six white men who passed you on the road, waved their pistols and cursed you for damned radicals?—A. One was James Barr; the others I don't know.

Q. How do you know the party you met on the sidewalk were the same men you met when coming into town?—A. I am not certain they were the same men, but if I mistake not they were.

Q. Do you know whether Arthur Lewis, or Ginyard, Simon Watson, and Joe Aleck were registered voters?—A. Yes, sir; they registered when I did.

HUGH ^{his} + WATSON.
mark.

The contestee here offers in evidence the following :

Certificate of the result of election, to be signed by inspectors and clerk of election.—See section 23 of the general election law.

STATE OF FLORIDA, *Columbia County :*

We, the undersigned, inspectors and clerk of an election held at city hall, Lake City, in the county of Columbia and State aforesaid, on the 8th day of November, A. D. 1870, under and by virtue of an act entitled "An act to provide for the registration of electors and the holding of elections," approved August 6, 1868, and an act amendatory thereto, approved February 19, 1870, do hereby certify that the result of the said election was as follows, viz :

For Representative in Congress, Silas L. Niblack received 334 votes and Josiah T. Walls received 13 votes.

For lieutenant governor, William D. Bloxham received 324 votes and Samuel T. Day received 24 votes.

For State senator, Charles H. Ross received 331 votes and Elisha G. Johnson received 13 votes.

For member of the assembly, William H. Duke received 332 votes, Andrew J. Flowers received 327 votes, J. P. Mahoney received 13 votes, and J. H. Armstrong received 14 votes.

For constable, Donald Tompkins received 338 votes, C. P. Farnell received 315 votes, J. J. C. Wells received 340 votes, W. H. Paschall received 324 votes, W. J. Raulerson received 334 votes, J. C. Miller re-

ceived 16 votes, A. De Mot received 12 votes, P. Jones received 13 votes, H. P. Wilson received 13 votes, and Robert Smith received 13 votes.

Witness our hands, at Lake City in the county aforesaid, this 8th day of November, A. D. 1870.

A. J. HUCHINGSON,
 JAMES M. KEEN,
 ALFRED HOLLIN,
Inspectors of Election.
 J. L. MITCHELL,
Clerk of Election.

N. B.—All of the blanks in the above certificate must be filled up in words written at full length.

The certificates must be signed in duplicate. One of the certificates must be delivered by one of the number signing it, without delay, securely sealed, to the clerk of the circuit court, and the other to the county judge of the county.

The poll-list and oaths of the inspectors and clerk must be transmitted, with the certificate, to the clerk of the circuit court, to be filed in his office.

STATE OF FLORIDA, *Columbia County* :

I, Keightley S. Waldron, clerk of the circuit court in and for Columbia County, State of Florida, do hereby certify that the foregoing is a correct copy of the original on file in my office. Witness my hand and the seal of the circuit court this the 30th day of March, A. D. 1872.

[SEAL.]

K. S. WALDRON,
Clerk,

Per S. FRENCH,
Deputy Clerk.

Dr. E. G. JOHNSON was then recalled to the stand and testified as follows :

Question. Was the Mr. Mitchell, who you testified concerning this morning, the same Mitchell who was clerk of the City Hall precinct, held at Lake City, on November 8, A. D. 1870?—Answer. Not being at the City Hall precinct on that day, I cannot say it was the same man.

Q. Were you assaulted in the morning sufficiently to cause you to leave the polls and go home?—A. I was passing through the public square early in the morning and surrounded by a number of men in a threatening manner; was driven into my house, where I remained until late in the evening, when I went out and voted just before the polls closed, when the crowd had dispersed.

Q. Do you know anything about the number of colored men who left town on account of the riot the evening before election and on account of disturbances on the day of election, and who failed to vote?—A. I know some men who told me they left without voting, on account of the disturbance. I don't remember all their names, but among them were Joseph Dix and his son William, J. H. Armstrong, and a number of others, but I don't remember their names.

Explanation : Joseph Dix and his son William are white men.

E. G. JOHNSON.

The next witness called was Governor S. T. DAY, who, being duly sworn, deposed as follows:

Question. State your name, residence, and official position.—Answer. My name is Samuel T. Day; I reside in Lake City, Columbia County, Florida, and am lieutenant and acting governor of the State of Florida.

Q. Did you hear the testimony given by Dr. E. G. Johnson regarding a Mr. Mitchell?—A. I heard a part of it.

Q. Do you know the Mitchell to whom he referred?—A. I know a Mr. Mitchell, but am not certain whether it is J. L. or J. S. Mitchell. He told me he was clerk of the precinct on the day of election, at the city hall. He told me in conversation about how long he had resided here prior to the election. He told me he had not been here six months prior to the election. The Mitchell I refer to is the same one who had the *delirium tremens* and was attended by Dr. Johnson. Within a few days after I first saw him he was walking around town drinking and making the acquaintance of every one. John Vansant, jr., who was clerking in a store at Ellisville, said to me that he requested me to collect a small bill for him from Mitchell, which was due on an article purchased by Mitchell from him at his store, which I made a note of in a small book that I carried with me. A few days before the election, upon examination of the registration-books, I discovered that he had registered. Being satisfied that he had not resided in the county six months, I saw Mr. Maloney and told him to put him on the list for challenge. Mr. Mitchell came to me a few days after and admitted that he had not been in the county six months, but begged me to say nothing about it, as he said he would vote the republican ticket.

The parties adjourned until Monday morning, at 9.30 o'clock, April 1, A. D. 1872.

MONDAY MORNING, 9.30 o'clock.

The parties met pursuant to adjournment.

Examination of Governor S. T. DAY resumed.

Question. Was Mr. Mitchell challenged on the day of election; if not, why?—Answer. I do not suppose he was, as the republican candidates had no regular challengers appointed for that day. The republican candidates had quite a large list to be challenged, and the candidates were to meet on the morning of election, to appoint a challenger for each voting-place, who were to be furnished with a list of those that were not considered entitled to vote. On that list was the name of J. L. Mitchell, who subsequently acted as clerk at the City Hall precinct. Owing to the condition of affairs on the night prior to the election, I, as candidate for lieutenant governor, not considering it prudent for any of the republican candidates to attend the election on the next day, left on the early morning train for Jacksonville, and subsequently learned, from the other republican candidates, that there was no meeting to appoint challengers, and that the republican party had no challengers at the election.

(The contestant's counsel objects to this statement, on account of its being hearsay. Overruled by the court, on the ground that it is evidence directly bearing on the subject, and was from the candidate's own mouth. Exception taken to the ruling.)

Q. What was the occasion for your leaving and what was the state of the community about the time you left?—A. A riot was imminent. The republicans were at one end of the town, near the school-house, and

the democrats were in town, in possession of the voting-places, a great many of them armed, and they had sent runners into the country for others to come in armed. This I learned from observation and reliable information. A good deal of whisky was being drunk, and threats being made by the white men. Personal friends of both political parties visited me during the night and urged me to leave, stating that they did not believe it would be safe for me or any prominent republican candidate to attend the election next day, believing that there would certainly be some fighting and that I would be one of the first that would suffer from it. I did not see any parties shooting, but saw the flashes of the guns at the time of the riot.

Q. Were the colored men advised by the republican leaders to come in armed?—A. They were not advised by me. It was reported by democrats that certain republican leaders advised them to do so, but when I asked them if such was the case they informed me it was not. I did not see more than four republicans with guns. I was on the streets and in a good place to observe things. These four said their object in coming in with guns was to protect themselves in passing through Ellisville and points along the road.

Cross-examination :

Q. You stated that you were not here on the day of election?—A. I did.

Q. What time did you leave?—A. I left on the morning train, between the hours of 2 and half past 4 o'clock. There was no riot at that time; parties were on the lookout, and everything seemed to indicate a riot. I heard that Mr. J. Baya's store was broken open by the white men and the guns taken out and ammunition distributed. I was down town on the evening before election until about 9 o'clock; was not on the main street principally. There were a large number of republicans in town on that night. I don't remember seeing more than a twenty-five colored men together walking along the sidewalk. From what I saw or heard I do not think there were as many republicans in town as there were democrats.

Q. From observation and circumstances within your knowledge, do you not think there were more than four armed republicans in town that night?—A. From what I learned I have reason to believe there were about twenty-five or forty in town armed. The voting-places were in the vicinity of the public square. When I say the democrats had possession of the town around the voting-places, I mean that republicans could not have gone there without a fight. From the best evidence I could obtain, the majority of the republicans camped near the school-house before the riot, because it was the part of the city where the colored people lived. I heard from a democrat that the republicans were advised by a candidate to come in armed. I went to the candidate and he told me he had not advised them to do so; this was E. G. Johnson, the candidate for senator; don't recollect the democrat's name that gave me this information. Several told me the same thing. This was the evening before the election. Personally I received a number of anonymous communications, threatening me with violence, but I do not place any reliance usually on communications from such sources. The expressions of the democracy to me were that the election should be peaceable and quiet. I was sitting on my piazza when I first saw the flashes of the guns. This was not between me and the public square. The public square is southwest of my house and the shooting was west

of my house. I do not know, of my own knowledge, which political party commenced the riot.

Redirect :

Q. Did you attach any importance to the anonymous communications you spoke of receiving?—A. I do not usually attach any importance to such things, but to some of them received at that time, I did think should be heeded. I did not see any democrats armed with guns, but believe a large number had side-arms.

Cross-examination :

On public occasions and public gatherings it is customary for the white people in this country to carry side-arms.

SAML. T. DAY.

The next witness called was CALEB FREENEY, who, being duly sworn, deposed as follows:

Question. State your name and residence.—Answer. Caleb Freney, I live in Columbia County.

Q. Where were you on the 8th of November, A. D. 1870?—A. I was in Lake City. I came to town on the evening before election, and stopped within a half mile of town, and came into town early on the morning of election. There were nine of us in a crowd, but only four staid at the same place I did, viz, Lewis McNish, Arch Niblack, Benjamin McNish, and myself. Don't know where the others went, but think they went to the school-house; two of my sons were with them and Fred. Martin. I did not get a chance to vote. I was a registered voter, and had voted before on other occasions. I know that Bush McNish, my son, and several others went off and did not vote, and several others in the settlement where I lived did not vote; they went away. Besides those mentioned, I judge some five or six others left without voting. I think their reason for leaving was that they were frightened; they said they were afraid to stay, for fear of violence.

Cross-examination :

Don't know of my own knowledge that the five or six men I referred to as leaving without voting did not vote. I learned that they did not vote from themselves; was not with them all day. I went up to the polls on the morning of election to vote. I did not ask the managers to let me vote; did not know that I had to do so. There was no noise around the polls that I heard at that time, nor did I see a gun at that time or during the day; no one offered to threaten or molest me on that day. I saw several colored men with guns the evening before election, outside of the town, but don't know whether they carried the guns into town.

Redirect :

I saw white men with pistols; they came from the direction of Ellisville. They stopped near where I was, and had a speech from one of their number. Four of them had pistols.

Cross-examination :

Mr. Bush and Mr. Tolbert were in the crowd that stopped near where I was, and made speeches. I think Mr. Bush is the sheriff of the county. He told us to vote the republican ticket.

Redirect :

Mr. Tolbert told us in his speech to all come to town and vote, and be quiet and peaceable while voting and during the day of election. The Ellisville crowd were present when Mr. Bush and Mr. Tolbert addressed the people. Mr. Tolbert's remarks were addressed particularly to the Ellisville crowd of white men.

CALEB + FREENEY.
his
mark.

The next witness called was WREN HAMPTON, who, being duly sworn, deposed as follows:

Question. State your name and residence.—Answer. Wren Hampton. I live on Mr. Tom Collins's place, about twenty-three miles from town.

Q. Did you start or attempt to come to Lake City on the day of election, November 8, A. D. 1870?—A. I did. As I was coming toward Lake City I met Mr. Harmon Laue on the road, and asked him for a chew of tobacco. He asked me if I knew him. I told him that I did. While I was standing there talking to him, Mr. Corley, Mr. Rowe, and Mr. Turner came up. Mr. Corley asked me where I was going with my gun. I told him I was going to Lake City, to the election. He told me to put that gun down. I did not do so, and he repeated his order for me to put that gun down on the ground. Then I jumped off my mule to run, and as I jumped off he (Mr. Corley) fired at me. After he fired I ran about fifteen steps, when he fired again and broke my arm. I left my mule and started home. I did not see the other men with arms; don't think they had any. I was a registered voter then in the county. If I had not been shot I should have kept on, and if I had had a chance to vote I would have voted the republican ticket. I was down sick after I was shot, and don't know whether Mr. Corley was arrested. I had nothing more to do with it.

Cross-examination :

I have lived in Bradford County, but never voted there, because, when I attempted to vote, Mr. Stringfellow took my vote and asked me if I did the thing charged with—stealing cotton. I was indicted for it and was convicted. I was living in Bradford County at the time I came to Lake City to vote. Our party were advised by Mr. Walls, at a meeting in Lake City, to come to Lake City and vote.

Redirect :

No one told me personally to come to Lake City to vote. Mr. Walls gave this advice in a speech to the voters; but the same thing was advised in a speech by others at Providence, in Bradford County. I did not hear Mr. Walls or any one else advise the residents of Bradford County to vote in Columbia County. I registered in Bradford County the same fall as the election. I was never sent to jail, and never paid a fine. I was told that I was indicted. I saw the governor about my case, and he told me to get Mr. King, the State attorney, to write to him (Governor Reed) about my case. I then went to Jacksonville, and when I came back Mr. King said that the governor said I was as free a man as ever. I saw the governor at a hotel, and took him out and told him that they only tried one side of my case. I talked with Governor Reed about two hours about it. Mr. King told me a pardon for me was in his office.

(The contestant objects to the testimony of this witness, on the ground

that he is disqualified from giving in testimony, by reason of his conviction of the crime of larceny. Objection overruled and exception taken.)

WREN ^{his} + HAMPTON.
mark.

The next witness was NATHAN SHEPARD, who, being duly sworn, deposed as follows:

Question. What is your name and where do you reside?—Answer. Nathan Shepard. I live about twenty-four miles from Lake City, in Columbia County. I came to Lake City the night before election, held November 8, A. D. 1870; about twenty-five or thirty came with me. The night before the election we started down town, and met the opposite party about Mr. Myers's store. By the opposite party, I mean the democratic party. When they met us they flourished their pistols, and said, "Get off of this walk, you damn sons of bitches; get down in the sand." At that time we passed them. I then turned and went back with my brother John and Joe Tolbert, a white man. The democrats and republicans met up by the livery-stable, and stopped and cursed each other. The colored people then started back for the school-house. When we got to Mr. Adolphus Ross's silver-shop, I heard the democrat party say, "Look out, God Almighty God damn your soul, for we am coming." At that time I stopped. I was not in the bunch of men, and when I looked around I saw the flash from their pistols. Me and my brother John went on to the school-house, and when I got there I found out I was shot. And on the day of election I passed through the street, and the democrat party asked me who I was going to vote for. I told them Walls, Day, Armstrong, Johnson, and Mahoney. They then told me if I didn't get out of this public square they would give me another pistol-ball. I voted, but know of several who did not vote. There were twenty-five who told me that they did not vote. This I know only from them saying so. I saw Reuben Freney and Wash try to vote, but they failed. The democratic party fired first that night. I saw the flash of the pistols from their bunch of men. At the time of the shooting there were about sixteen or seventeen colored men marching along. They did not have any guns that I saw. I was at the rear part, and Mr. Joseph Tolbert walked up to where I and my brother stood, and I asked Mr. Tolbert what this fuss was for. He said he did not know.

Cross-examination:

I was standing off from the crowd. The republicans and democrats were mixed up together. When the republicans started for the school-house the democrats broke open a store.

Redirect:

When the firing commenced the republicans had started for the school-house, and were not mixed up with the democrats.

NATHAN ^{his} + SHEPARD.
mark.

The next witness was JOSEPH DICKS, who, being duly sworn, deposed as follows:

Question. State your name and residence.—Answer. Joseph Dicks; I live in Columbia County; I am a registered voter; was in Lake City

on November 8, A. D. 1870; did not vote because of the excitement; I did not like the looks of things, and for that reason did not vote. I, with my two sons, took a by-road and went home; we did not wish to be disturbed; I was attacked once before, and feared a second attack. The time I was first attacked was several months prior to the election; I was attacked on account of my politics. I went off on election day about 11 o'clock. There was no shooting during the day that I know of. I did not consider it safe to remain here, and for that reason went home. I was one of the county commissioners at that time. The county commissioners did not establish any place for voting but Lake City, in Columbia County. I am a republican in politics.

The contestee here offers in evidence the following:

BOARD OF COUNTY COMMISSIONERS OF COLUMBIA COUNTY.

Court met pursuant to recess, October 13, 1870.

Ordered, that all orders heretofore passed establishing precincts at Ellisville, Benton, and Mikesville, and elsewhere in Columbia County, be, and they are hereby, rescinded.

It is hereby ordered, that the precincts be established at three (3) different places in Lake City.

Ordered, that the polls be opened in three places in Lake City, to wit: at the probate office, at the City Hall, at the assessor's office.

The following-named electors to be, and they are hereby, appointed inspectors:

At the probate office—M. M. Walker, George G. Keen, Andrew Shooler.

At the assessor's office—Charles Askew, William Dieks, Cato Carter.

At the City Hall—James M. Keen, A. J. Huchingson, Alfred Hollins.

It is hereby ordered, that the clerk post up notices, precincts and inspectors, in accordance to law.

Court adjourned until the 19th day of October, A. D. 1870.

FRANK MYERS,
President of the Board.
JOSEPH DICKS,
Commissioner.
PRIMUS HARRISON,
Commissioner.
EDMUND WILLIAMS,
Commissioner.
JAMES M. KEEN,
Commissioner.

STATE OF FLORIDA, *Columbia County:*

I do hereby certify that the foregoing is a correct copy of the original on file in my office in Lake City, being extracted from the proceedings of the board of county commissioners of Columbia County, on the 13th day of October, and embracing all the action of that session of the board, relating to precincts or inspectors of elections.

Witness my hand and seal of office this 30th day of March, A. D. 1872.

[SEAL.]

K. S. WALDRON,
Clerk Circuit Court, Columbia County.
Per S. FRENCH,
Deputy Clerk.

I met armed men as I came into town ; they had guns.

Cross-examination :

No one tried to interfere or prevent me from voting, nor do I know of any one trying or preventing others from voting. I was one of the board of county commissioners that appointed the inspectors of the election.

It is admitted that a majority of the inspectors, appointed by the county commissioners for the election, were republicans.

A petition was sent the commissioners requesting more precincts for voting, and it suggested that better order would be preserved thereby.

EXPLANATION.—The reason the precincts were established here was, that troops were expected, and it was thought that by having them here it would be more conducive to peace.

JOSEPH ^{his} + DICKS.
mark.

The next witness was WILLIAM DICKS, who, being duly sworn, deposed as follows :

Question. State your name and residence.—Answer. William Dicks. At the time of election, November 8, A. D. 1870, I lived in Columbia County. Was a registered voter then in Columbia County. Did not vote on account of the disturbance here. I considered it unsafe to remain here, and went home with my father, Joseph Dicks, (the last witness.) I am republican in politics.

Cross-examination :

No one tried to prevent me from voting that day, nor did I see any one else threatened or prevented from voting. I left for home between 11 and 12 a. m.

WILLIAM ^{his} + DICKS.
mark.

Sheriff W. S. BUSH recalled :

Question. Did you open the polls by announcement in proclamation in Lake City?—Answer. I did. The City Hall precinct was the first one opened.

Q. Who was clerk of that precinct?—A. J. L. Mitchell. He is the only man of that name that I knew in the county. When the precincts were opened the inspectors were not all present, and it bothered me a little to get new ones in their places. There were two or more absent at one precinct.

Cross-examination :

Don't recollect who filled the places of the absent inspectors, whether the majority were republicans or not.

W. S. BUSH.

Adjourned *sine die*, as far as taking testimony in Lake City is concerned.

W. E. BURLEIGH,
State Notary Public.

STATE OF FLORIDA, *County of Columbia :*

I, William E. Burleigh, notary public at large, do hereby certify that the testimony herewith transmitted was taken by me, and that the accompanying documents were duly before me while engaged in taking said testimony at Lake City, Florida.

In testimony whereof I hereto set my hand and seal this first day of April, A. D. 1872.

[SEAL.]

WILLIAM E. BURLEIGH,
State Notary Public for the State of Florida.

In the matter of the contested election, wherein Silas L. Niblack contests the election of Josiah T. Walls, returned member of the Forty-second Congress of the United States.

To the Hon. SILAS L. NIBLACK :

SIR: You will take notice that I intend to take testimony of the following-named persons, to be used in my behalf in the above case. Said testimony will be taken before William E. Burleigh, notary public for the State at large, at the court-house in Jacksonville, county of Duval, or, in his absence, before some other competent officer, on the 4th day of April, A. D. 1872, at 10 o'clock a. m., to wit: Pulaski Farnell, or Parnell, W. H. Gleason.

J. T. WALLS.

S. L. NIBLACK	}	Forty-second Congress.
vs.		
J. T. WALLS.		

Testimony in the matter of the contested election between the Hon. Josiah T. Walls, sitting member of the Forty-second Congress of the Congress of the United States, from the congressional district of Florida, and the Hon. Silas L. Niblack, contestant, taken before William E. Burleigh, a notary public for the State at large, at Jacksonville, in said Congressional district, on the 4th day of April, A. D. 1872.

The contestant appeared by counsel, Messrs. Wheaton & Anno, who filed the following protest against the taking of testimony at this place:

In the matter of the contested election between Silas L. Niblack, contestant, and J. T. Walls, respondent.

And now on this day comes Silas L. Niblack, by his attorneys at law, Wheaton & Anno, and protests against the taking of testimony by Josiah T. Walls, the said contestant, under the notice served on him, the said Silas L. Niblack, contestant as aforesaid, by him, the said Josiah T. Walls, respondent as aforesaid, upon the following ground, to wit:

That subsequent to notice by contestant to respondent that he, contestant, would take testimony on the 1st day of April, 1872, in La Fayette County, Florida, he, respondent, notified contestant that on the 4th day of April, 1872, he, respondent, would take testimony in Duval County, Florida, not allowing five days to elapse in taking testimony at

one place before the taking testimony at another place, contrary to the act of Congress of the United States in such case made and provided.

Dated at Jacksonville, Duval County, Florida, April 4, 1872.

S. L. NIBLACK, *Contestant*,
By WHEATON & ANNO,
• *Attorneys for Contestant.*

The parties then adjourned until to-morrow morning at 10 o'clock.

THURSDAY MORNING, 10 o'clock.

The contestee's counsel, A. A. Knight, present. The contestant's counsel, Messrs. Wheaton & Anno, failed to appear.

The first witness called was W. A. McLEAN, who, being duly sworn, deposed as follows:

Question. State your name and residence.—Answer. W. A. McLean. I reside at Jacksonville, in Duval County, State of Florida.

Q. What official position do you hold in said county?—A. I am judge of the county court.

Q. Were you a member of the board of county canvassers who canvassed the result of the election held on the 8th of November, A. D. 1870?—A. I was.

Q. On what day was that canvass held?—A. On the 14th day of November, A. D. 1870.

Q. How many precincts were established in said county, and what were their names?—A. Five, I think, viz: Jacksonville, Mandarin, Baldwin, Mayport, and Yellow Bluff.

Q. What precincts were admitted by the board in their canvassing?—A. Jacksonville and Mandarin.

Q. Which were rejected?—A. Baldwin, Mayport, and Yellow Bluff. The returns from these three precincts were not admitted by the board, and not included in the certificate of results.

Q. Why were they rejected?—A. The return from Baldwin was, in the opinion of the board, irregular and illegal. There was no return from that precinct sent to the county judge. No return from Mayport was sent to the county judge; none at least was received by him. I saw the return that the clerk of the court received from Baldwin, and the number of votes received for each candidate was in figures, and not written in full; and as regards the number of votes cast for Mr. Walls, it looked as though 14 had been set down and afterward altered to 4; that is, the figures 14 were erased, and 4 substituted. As to the Yellow Bluff precinct I feel safe in saying that the return was not received by me, and also that I never saw the return. But in order that my testimony may be fully understood, it is necessary that I should give my reasons for believing and saying that I did not receive the return from that precinct, and the reasons are as follows: On the 11th day of November, 1870, a man, giving his name as George W. Calder, handed me a sealed envelope, remarking as he did so that he was requested to deliver the same to me. I opened said envelope and found therein what purported to be a return of the election at the Yellow Bluff precinct; but the man Calder, upon seeing said paper, declared in the most positive terms that it was not the return from that precinct, and further stated to me that he (Calder) was one of the inspectors at Yellow Bluff; that the whole number of votes polled at that precinct was one hundred and six-

ty-four, and not three hundred and eighty-three, as shown by the paper handed me by him. He further stated that the said envelope was handed to him by a stranger, with the request that it be delivered to the county judge. I then asked Mr. Calder if he, as inspector of election at Yellow Bluff precinct, considered the paper handed me by him as being the return from that precinct; he answered emphatically no, and further stated that he did not present that to me as the return, as he very well knew that it was not. I therefore very naturally concluded that if an election was held at that precinct, the return (if any was prepared) had been suppressed. No papers purporting to be a return from that precinct (other than the one above referred to) was ever received by me; nor did I ever see any other, except a duplicate of the same paper, in the possession of the clerk of the court of Duval County, Florida, for which reasons the result of the election at that precinct was not included in the certificate of the county canvassers.

W. A. McLEAN.

The next witness called was A. R. MEEK, who, being duly sworn, deposed as follows:

Question. State your name and residence.—Answer. A. R. Meek; I reside at Jacksonville, Duval County, Florida.

Q. What official position did you occupy on the first Tuesday after the fourth Monday in November, A. D. 1870?—A. I was attorney general of the State of Florida, and *ex officio* member of the board of State canvassers.

Q. State what returns were rejected?—A. The returns from three counties, Suwannee, Taylor, and Calhoun, were placed at the foot of the list for future consideration, and I resigned as attorney general before these returns were again reached. They were placed at the foot of the list because they did not conform to the law.

Q. Why was not the canvass completed before your resignation?—A. It was stopped by an injunction issued by Judge P. W. White, of the second judicial circuit.

Q. On what day did you resign?—A. I think it took effect on the 5th day of December, A. D. 1870.

A. R. MEEK.

The next witness called was F. A. DOCKRAY, who, being duly sworn, deposed as follows:

Question. State your name and residence.—Answer. F. A. Dockray; I reside at Jacksonville, Florida.

Q. Where were you on the 8th day of November, A. D. 1870?—A. I was at the Yellow Bluff precinct, in Duval County, and administered the oath to the inspectors and clerk of the ———

Q. State if you heard the inspectors declare the result of the election for member of Congress.—A. I did; and the official return showed 164 votes.

Q. Who were the inspectors at that precinct?—A. Isidore Van Balsam, George W. Calder, and R. Toombs. The clerk's name I don't recollect.

F. A. DOCKRAY.

The contestee here offered the following certified copy of indictment and sentence of one Isidore Van Balsam, who was one of the inspectors at the Yellow Bluff precinct:

In the district court of the United States for the northern district of Florida; in the fifth circuit.

At a stated term of the district court of the United States for the northern district of Florida, in the fifth circuit, begun and held at the city of Jacksonville, within and for the district aforesaid, on the fifth day of December, A. D. one thousand eight hundred and seventy, and continued by adjournment to and including the tenth day of December, in the year A. D. one thousand eight hundred and seventy.

NORTHERN DISTRICT OF FLORIDA, ss:

The grand jurors of the United States of America, impaneled and sworn within and for the district aforesaid, on their oaths present that W. R. Toomb, Isadore Van Balsam, and G. W. Calder, heretofore, to wit, on the eighth day of November, in the year of our Lord one thousand eight hundred and seventy, at Duval County, within the district aforesaid, and within the jurisdiction of this court, were officers of an election then and there held, in said county, at which said election Representatives in the Congress of the United States were then and there voted for, and were created and appointed such officers of said election, by and under a law of the State of Florida, and, being such officers, and being then and there such officers of and at the election precinct of Yellow Bluff, in said county, at said election, at which said election and election precinct Representatives of the Congress of the United States were then and there voted for, created and appointed as aforesaid, after the canvass had been completed at said election precinct, the said officers, to wit, the inspectors of the said election precinct, then and there done up duplicate certificates of the result of said election, at said election precinct, as then and there required by law; and, as it was then and there the duty of said officers to do, the said certificates containing then and there the names of each voted for, for each officer, and the number of votes cast for each person for such officers, which said certificates were then and there signed by the said officers and inspectors of said election, at Yellow Bluff Precinct, and securely sealed, and were then and there delivered to said Isadore Von Balsam, said Isadore Von Balsam being then and there one of said officers and inspectors; and the said certificates being then and there in the hands of the said Isadore Von Balsam, an officer and inspector aforesaid, it was then and there the duty of the said Isadore Von Balsam, as an officer of and inspector of said election, without delay, then and there to deliver, securely sealed as aforesaid, one of said certificates to the clerk of the circuit court of said county, and the other of said certificates to the county judge of said county. And the said grand jurors do present that the said Isadore Von Balsam, an officer and inspector of said election, did then and there knowingly neglect and refuse to deliver then and there one of said certificates to the said county judge, and the other of said certificates to the said clerk of the circuit court aforesaid, with intent to affect the result of said election; and did then and there violate said duty, and then and there withhold, conceal, and destroy the said certificates; the same then and there pertaining to and concerning the election of Representative to the Congress of the United States, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States. And the grand jurors afore-

said do further present that heretofore, to wit, on the day and year aforesaid, at the county and district aforesaid, Isadore Von Balsan was then and there an officer of an election at the election precinct of Yellow Bluff, in said county and district, duly created and appointed under a law of the State of Florida, at which said election Representatives to the Congress of the United States were then and there voted for; that the duplicates certified of the result of said election at said precinct being then and there drawn up, signed, and sealed, by the officers at said precinct, as then and there required by law, and in conformity to law were then and there delivered to the said Isadore Von Balsan, an officer and inspector of election precinct at said election and of said election; and the said Isadore Von Balsan, an officer and inspector aforesaid, then and there knowingly neglected and refused to deliver one of said certificates to the clerk of the circuit court of the said county, and the other of said certificates to the county judge of said county, as it was then and there the legal duty of him, the said Isadore Von Balsan, as an officer and inspector aforesaid, then and there to do without delay; and the said Isadore Von Balsan, aforesaid, an inspector aforesaid, did, then and there, violate said duty, with intent to affect the result of said election, and knowingly withhold, conceal, and destroy the said certificates, the same then and there concerning and pertaining to the election of Representative to the Congress of the United States, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States.

H. BISBEE, JR.,
United States District Attorney.

A true bill:

LEMUEL WILSON,
Foreman.

Filed January 23, 1871.

J. E. TOWNSEND,
Clerk.

A true copy of the original, as of file in this office, this 5th day of April, A. D. 1872.

J. E. TOWNSEND,
Clerk.

United States district court, northern district of Florida.

THURSDAY MORNING, *February 9, 1871.*

THE UNITED STATES }
vs. }
ISADORE VON BALSAN. }

Indictment for concealing, withholding, and destroying election certificates; verdict, guilty.

Sentence of the court.

The prisoner, Isadore Von Balsan, being brought before the court, the following sentence was passed upon him: "Ordered by the court that the prisoner, Isadore Von Balsan, do pay to the United States the sum of

five hundred dollars and the costs of this prosecution ; and that he stand committed until the sentence of this court is complied with."

A true copy from the records of said court, this 5th day of April, A. D. 1872.

J. E. TOWNSEND,
Clerk.

The next witness called was PULASKI FARNELL, who, being duly sworn, deposed as follows :

Question. State your name and place of residence.—Answer. Pulaski Farnell; I live in Ellisville, Columbia County, State of Florida.

Q. Where were you on the 8th of November, A. D. 1870, the day of the general election?—A. I was in Lake City.

Q. State what you know of any disturbance on the day of election.—A. There was no disturbance on the day of election that I know of. I came to Lake City the evening before the election ; five men started with me from Ellisville, and four joined our party at a place called White Church. When I got to Lake City our party numbered some nine or ten men. I was armed with a pistol, and I think Mr. Jim Barr had one also ; but don't know whether the others had side-arms. I saw about twelve men belonging to my militia company in Lake City the evening I arrived there. I saw the row when it started in Lake City that night. My party, including about eight or ten men, were standing on the sidewalk in front of Mr. Baya's store when the row commenced ; don't know who fired first. It is likely that my party were armed, but I cannot assert so positively. Do not know whether Mr. Baya's store was broken open or not ; guns and ammunition were taken out of the store ; don't know by whom ; I only know that we had the guns ; probably half a dozen shots were fired. The row lasted about a half hour ; the crowd numbered about seventy-five, including black and white people. I left for home about an hour before sundown on election day. Mr. Tolbert told me that he heard Mr. S. L. Niblack say that he heard Mahoney and Johnson were going to have some armed negroes in town on election day, and that it would be well for the militia company of Ellisville to come to Lake City and see what the negroes intended doing ; and, as I had command of the militia company at Ellisville, Mr. Tolbert delivered Niblack's message to me, and I told some of the boys to come up to Lake City, which some of them did.

C. P. FARNELL.

The next witness called was W. H. GLEASON, who, being duly sworn, deposed as follows :

Question. State your name and residence.—Answer. W. H. Gleason ; I live in Biscayne, Dade County, Florida, and am clerk of the circuit court of said county.

Q. Were any returns ever made to you of an election held in your county on the 8th of November, A. D. 1870?—A. No returns were sent me.

Q. Besides being clerk of the court, what other official position do you hold?—A. I am a member of the Florida general assembly.

Q. When were you elected?—A. At a special election held on the 20th day of December, A. D. 1870.

Q. Why was a special election called?—A. Because there was no regular election held for member of the assembly or any other officer, either State or congressional.

W. H. GLEASON.

The next witness called was SHERMAN CONANT, who, being duly sworn, deposed as follows :

Question. State your name and residence.—Answer. Sherman Conant ; I reside in Jacksonville, Florida.

Q. What official position did you occupy as regards the State canvass in the year 1870?—A. I was attorney general of the State of Florida.

Q. To whom was you a successor?—A. I was appointed early in December, 1870, and was a successor to A. R. Meek, esq., and was *ex officio* a member of the board of State canvassers.

Q. What returns were not canvassed by the board of State canvassers?—A. Suwannee, Taylor, Calhoun, Sumter, Manatee, Monroe, La Fayette, Brevard, and Dade.

Q. Why were they not canvassed?—A. Generally because under the laws of the State of Florida they could not be canvassed. Quite a number of them were not received in time; others were so defective in manner and form that we held them to be no returns at all. There were circumstances at that time that indicated that the returns were being kept back so that they might be altered in a way that would change the result of the general election as canvassed. One circumstance that led me to this conclusion was the fact that, previous to my appointment as attorney general, on learning that the returns were not being sent forward from several counties, together with a number of prominent republicans, I employed Harry E. Russell, of Ocala, Florida, to visit the counties of Sumter, Hernando, Hillsborough, Manatee, and Polk, and to endeavor to ascertain why the returns from some of these counties were not made public. Mr. Russell went to Tampa, and from there started in a private conveyance to visit these counties. Some little distance from Tampa he was met by a party of armed men, who told him they knew his business, and that he must leave that section of the State at once if he valued his life. I have since been told by Mr. Henderson, a democratic senator from Tampa, that if it had not been for his intercession Russell would have got into serious trouble at Tampa. I also received information, which I considered authentic, that the paper purporting to be the election return from La Fayette County was a fraud from beginning to end. I also knew that in some of the largest colored counties in the State hundreds of voters had been kept from the polls by intimidation and violence—by hell raised in general.

SHERMAN CONANT.

STATE OF FLORIDA, *County of Duval* :

I, William E. Burleigh, notary public for the State at large, do hereby certify that the testimony herewith transmitted was taken before me, and that the accompanying papers were used before me, and that they, as transmitted, are a portion of said case.

In testimony whereof I hereunto set my hand and seal this 8th day of April, A. D. 1872, at Jacksonville, Florida.

[SEAL.]

WILLIAM E. BURLEIGH,
State Notary Public for the State of Florida.

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