

JOSEPH SEGAR.

PAPERS

IN RELATION TO

THE CLAIM OF JOSEPH SEGAR

AS

A representative of the first congressional district of Virginia in the 37th Congress.

JANUARY 6, 1862.—Referred to the Committee of Elections, and ordered to be printed.

No. 465 NINTH STREET,
December 18, 1861.

Indisposition having prevented me from appearing before the committee to bring to its notice the subject of the election of a member of Congress from the first congressional district of Virginia, I beg leave to submit a brief statement of the facts and law of the case, and on it to ask as early a decision as may suit the convenience of the committee. I shall be indebted to the committee for action before the recess, if it be possible:

1st. The election was held at Hampton, the only precinct in the county of Elizabeth City which was accessible to the voters, all the rest of the district being in the military occupancy of the rebel States.

2d. Elizabeth City county is one of the counties composing the first congressional district. The counties composing such district are Middlesex, Westmoreland, Richmond, Essex, Northumberland, King and Queen, Lancaster, Gloucester, Matthews, James City, (the City of Williamsburg,) New Kent, York, Warwick, Northampton, Accomac, and Elizabeth City.

3d. It was held under the proclamation of Governor Pierpoint, of which a copy, taken from the National Intelligencer of the 17th of October, is appended, as follows:

THE COMMONWEALTH OF VIRGINIA.

EXECUTIVE DEPARTMENT, *Wheeling, October 12, 1861.**To the People of Virginia:*

Whereas several of the congressional districts of this State are unrepresented in the House of Representatives in the Congress of the United States, by reason of failure to elect on the fourth Thursday in May last, caused by armed men in rebellion against the Constitution and laws of the United States and of this State; and it being the right of the loyal inhabitants in each district to be represented in said House by a representative of their own appointing, the convention of Virginia, on the 20th day of August, 1861, passed an ordinance directing an election to be held on the fourth Thursday in October instant, (24th,) in every district of the State so unrepresented and where vacancies exist. It is further made the law, by virtue of the ordinance aforesaid, that any person who is prevented from attending such election, by reason of the occupation of his own county by armed men in hostility to the government, that such voter may vote anywhere in his congressional district. It is further ordained that the election shall be conducted, and the result ascertained, declared, and certified, in the manner directed in the code of Virginia of the edition of 1860. By the 11th section of chapter 7th of that code any two freeholders may hold an election directed by law at any place of voting, if no commissioner to superintend the same appears and is willing to act, or if no commissioners have been appointed to hold the election.

Now, therefore, in consideration of the premises, I, Francis H. Pierpoint, governor of the Commonwealth of Virginia, do hereby entreat the loyal voters of this State to hold elections in their several districts on the day above mentioned, to the end that the people may be represented, the principle of representative government sustained, and the State have her due weight in the national legislature.

F. H. PIERPOINT.

4th. The polls were opened by two freeholders, in the absence of commissioners, as allowed by law, and as advised in the governor's proclamation.

5th. The commissioners, (the two freeholders,) and the writer and conductor at the polls, made return that I received all the votes cast, and that having received all the votes cast, I am "duly elected to represent the first congressional district in the Congress of the United States." They certify, also, that no election was held elsewhere in the district.

6th. The act of the code of 1860 expressly provides that the officers conducting the election shall "*declare elected the person having the greatest number of votes in the whole district.*" The foregoing quotation is the exact wording of the law.

On these facts the question comes up, am I entitled to a seat in

the House of Representatives of the United States? I maintain that I clearly am.

First. The government ordained by the Wheeling convention is the rightful, legal government of Virginia.—(See *Luther vs. Borden*, 7th Howard, p. 1.) In which the Supreme Court decided that where there are two governments claiming to be such within a State, that is the legal, rightful one which is recognized by the federal executive. Now, the Wheeling government *has* been so recognized, and is therefore *the* government of Virginia. I maintain that this is right, because the *loyal* citizens of Virginia are *the people* of Virginia, in the sense political. Besides, Congress has recognized the Wheeling government by admitting two senators and four members of the House of Representatives under the Wheeling government. And this concludes the legal question.

Secondly. The Wheeling government being the legal one, Governor Pierpoint, acting under the laws of that government, acted legally in issuing his proclamation, and an election held under it is a legal election.

I see but one objection to these conclusions, and that is, that the vote is a small one. To this I reply:

First. That the *number* of votes, so it be the greatest number of the votes cast, is altogether immaterial, because the laws of Virginia provide that *he* shall be regarded elected who has the greatest number of the votes given. And the presumption of reason and of law is, that those *not* voting are presumed to have acquiesced, either by choice or necessity, in the action of those that *did* vote.

Secondly. That the House of Representatives has admitted gentlemen to seats who received a most inconsiderable portion of the whole vote of their respective districts, as in the cases of Mr. Whaley and Mr. Upton.

Thirdly. In these revolutionary times of civil war and fierce and wicked rebellion, a broad liberality, not a narrow rigor, should be observed. How otherwise are the loyal people of Virginia and other States similarly situated, to be represented at all? I maintain, with all respect, that wherever it can possibly be done, the loyal people of the seceding States should be represented in the national councils. They have rights and interests in the federal Union which should not be forfeited by the omissions or commissions of the disloyal and rebellious. It would be indeed a hard case, such, I am sure, as Congress will scarcely make for them.

I deem it due to myself to state that I knew nothing of the election in my district until after it had taken place. An exile from my State and family and home, I was at the time in Boston, or at some other point in New England, hoping to cheer the gloom of banished hours by visiting a section of our common country I had never seen before, and learning something of a portion of my countrymen of whom I personally knew but little, towards whom I had never learned to cherish a prejudice, and of whom I was desirous to know more.

Nor did I determine to accept the proffered honor until my doubts as to the legality of the election (which were grave and hard to be

removed) had been dispelled by the lucid arguments of several eminent legal gentlemen of Boston, who were pleased to manifest an interest in my possession of the seat. And now, after the most virulent denunciation, and most contumelious and heartless abuse from the press and people of my native State, for the part I have taken in this and other matters connected with this unhappy conflict, I have resolved to meet the momentous responsibilities of the occasion, and if the House of Representatives shall choose, give my aid and co-operation, so far as an humble capacity and a full-hearted devotion to the Union will go, in crushing out the wickedest treason recorded in the history of man, and restoring the blessed Union of our fathers. A portion of the loyal people of my *district*—once my neighbors—themselves, in my absence far away, thought fit to open a poll for me, and, as I think, duly elected me their representative in Congress. I desire to carry out their loyal wishes. I covet the honor and the glory of representing them, few though they be, in the House of Commons of the Union; and if but one loyal voter had gone to the polls and voted for me, that one loyal voter I would be proud to represent, as in law I should be entitled to do.

When the case shall be taken up in committee, I shall be happy to make such explanations as may be required, and will then furnish the return of the officers of election, and such laws as may be needed in the premises.

I have the honor to be, very respectfully, your obedient servant,
 JOS. SEGAR.

Hon. H. L. DAWES,
Chairman Committee of Elections.

Poll opened at Hampton, in Elizabeth City county, State of Virginia, for the election of a member of Congress for the 1st congressional district of Virginia, on the 24th day of October, 1861, in pursuance of a proclamation of Francis H. Pierpoint, governor of Virginia, bearing date the 12th day of October, 1861.

JOSEPH SEGAR AND W. W. JACOBS.

Names of voters.	CANDIDATES.	
	Segar.	Jacobs.
J. S. Moody.....	1	.....
K. Whiting.....	1	.....
Harvey Robbins.....	1	.....
William Stacy.....	1	.....
William Howell.....	1	.....
Levi Dinno.....	1	.....
Henry House.....	1	.....
Henry Whitaker.....	1	.....
Thomas Watson.....	1	.....
Parker Millson.....	1	.....
John Sharwood.....	1	.....
William J. Burdick.....	1	.....
M. R. Muzzey.....	1	.....
Jacob Miller.....	1	.....
John Watson.....	1	.....
James E. Howell.....	1	.....
S. Kelley.....	1	.....
James Latimer.....	1	.....
Willis Wilson.....	1	.....
William Bartlett.....	1	.....
Sol. D. Myston.....	1	.....
Samuel Watson.....	1	.....
John McCunn.....	1	.....
Theodore Tennis.....	1	.....
Thomas Dobbins.....	1	.....

We, Alexander Worrall, conductor and writer, and Thomas Dobbins and T. S. Tennis, freeholders of the county of Elizabeth City, acting as commissioners of election in pursuance of the act of assembly, and in the absence of commissioners required by law to be appointed by the county court of said county, (which said court has not assembled for several months in consequence of the existing war,) having been duly sworn and qualified according to law, do hereby

certify that the foregoing is a correct poll of the votes taken at Hampton, the court-house precinct of Elizabeth City county, in the State of Virginia, for an election of a member of Congress for the first congressional district of the State aforesaid; and that at said election Joseph Segar, of Elizabeth City county aforesaid, received all the votes cast as per poll aforesaid; and we do further certify that there was no poll opened at any other precinct in said county, and that so far as we can learn and confidently believe, there was no poll opened or election held for member of Congress in any other county or city or town of said first congressional district, owing to the fact that all the other counties and elector precincts of said congressional district were, on the 24th day of October last, within the lines and under the influence and control of the seceding and rebel States; and we do further certify that at the election held in pursuance of the proclamation aforesaid, at Hampton, on this 24th day of October, 1861, in the said county of Elizabeth City, which is one of the counties composing the first congressional district of the State of Virginia, Joseph Segar, esq., having received all the votes polled, was duly elected to represent the said first district in the Congress of the United States.

Given under our hands and seals this 29th day of October, 1861.

ALEXANDER WORRALL.	[SEAL.]
THOMAS DOBBINS.	[SEAL.]
T. S. TENNIS.	[SEAL.]

CHINCOTEAGUE ISLAND, *December 11, 1861.*

A special election was held this day, under the provincial law, to elect a member of Congress to represent Accomac and Northampton counties, including Chincoteague and Assateague islands:

*For member of Congress—*JOSEPH SEGAR.

Charles S. Jester	Leonard P. Pruitt
Charles E. Babbitt	Daniel Burch
Robert Watson	Dr. James A. Hudson
Kendal Mungar	Parker Bowden, sr.
Richard Carter	George L. Bowden
C. W. Lofland	Miles B. Thornton
Revel Carpenter	Wm. P. Thornton
Wm. T. Tatham	Wm. H. Watson
Joshua W. Reid	Daniel Wheatton
James H. Loan	Kendal Thornton
John Beeley	William Mason
John W. Marshal	James Thornton
John W. Watson	James Pointer
William S. Thornton	William Townsend
Charles W. Bradford	Parker Thornton
William J. Clanille	Burton Jones
James T. Burch	Henry Pruitt

Thomas Sneed
 James Jester
 William Jester, jr.
 William T. Lewis
 John E. Lewis
 William B. Bowden
 James Mason, sr.
 John W. Sharpley
 Dr. Geo. N. H. Scherer
 John Reid
 Wm. M. Freeman
 Joshua Chericks
 Zadock Carter
 Henry Hopkins
 Isaac Daisey
 Samuel Mathews
 James M. Sneed
 Robert Sneed
 David Daisey
 William Daisey, jr.
 William Andrews
 William Buck
 William Daisey, sr.
 Crippin Bowden
 George Clanille
 William F. Burch
 Kendal Jester
 Edward Hall
 Isaac I. Jones
 David Lewis
 Daniel I. Sharpley
 Joshua Burch
 George Burch
 William W. Sharpley
 John Hill
 Daniel Chericks
 Littleton Hill
 Levin Townsend
 Henry Boston
 Thomas Cullin
 James Dalley
 James Daisey, sr.
 James Daisey, jr.
 Inory Bowden
 Timothy Hill
 John Booth
 James T. Miers
 Charles Bradford
 John Sneed
 Joshua Wheatton
 Thomas Melvin

Samuel Melvin
 Ivory Melvin
 Elijah Russel
 John Lewis, of E.
 Daniel Lewis, of J.
 Henry Clanille
 Michael Chericks
 James Pain
 Isaac Jester
 Selby Jester
 Thomas Burch
 Henry Burch
 John Burch
 Joseph Burch
 James Burch
 Elijah Blocksome
 Joseph Andrews
 Isaac Andrews
 James Chericks
 Theodore Young
 Selby Williams
 John Thornton
 Littleton Williams
 William Booth
 William Porter
 John Daisey, jr.
 William Adams
 William Jester
 John Russel, jr.
 Luke Lewis
 John Wheatton
 John Caulk
 Elea. Jester
 Richard Blocksome
 Thomas Hall
 George Hall
 James Cluff
 William Risley
 John Daisey, sr.
 John Russel, sr.
 Alfred Lewis
 Richard Reynolds
 John A. M. Wheatton
 John Tarr
 Parker Thornton
 Crippin Bowden, jr.
 Arthur Latherbery
 Andrew Stubbs
 John Jones, of Assateague
 island
 Edward Jones.

CHINCOTEAGUE ISLAND, *Virginia.*

In pursuance of an election held on Chincoteague island, on Wednesday, the 11th day of December, 1861, under the provincial law, for the purpose of electing a member of Congress of the United States, at Washington—

We, the undersigned, having been chosen or appointed as judges of said election, after being duly sworn according to law, do say on our oath that all the voters whose names are attached to this paper, or election roll, are, according to the best of our knowledge, legal voters and residents of this island and Assateague island, which we solemnly affirm or swear, so help us God.

We also swear or affirm that 136 of the within named votes were cast for Joseph Segar, (now, or formerly, of the town of Hampton, near Fortress Monroe, Virginia,) for member of Congress, to represent Accomac and Northampton counties, including Chincoteague and Assateague islands, Virginia.

JAMES A. HUDSON.

WM. W. + SHARPLEY, JR.
his
mark.

REVEL + CARPENTER.
his
mark.

Witness to the last signatures—

LEWIS W. LAW.

JOHN CAULK, government officer, conducting the election.

By the governor.—A proclamation.

Whereas the people of Virginia, in convention assembled at Wheeling, on the 20th day of August, 1861, did ordain, "that in every congressional district where, from any cause, an election of representative in the Congress of the United States was not held on the fourth Thursday in May last, an election for such representative shall be held on the fourth Thursday in October next, which shall be conducted, and the result ascertained and certified in the manner directed in the second edition of the code of Virginia."

And whereas, in pursuance of said ordinance, an election was held in the first congressional district of Virginia, composed of the counties of Middlesex, Westmoreland, Richmond, Essex, Northumberland, King and Queen, Lancaster, Gloucester, Matthews, James City, the City of Williamsburg, New Kent, York, Warwick, Northampton, Accomac, and Elizabeth City, on the twenty-fourth day of October, 1861, at which a majority of the votes cast were given for Joseph Segar, esq.:

Now, therefore, I, Francis H. Pierpoint, governor of the Common-

wealth of Virginia, do declare, by this my proclamation, the said Joseph Segar, esq., duly elected to represent the first congressional district of Virginia in the thirty-seventh Congress of the United States of America.

Given under my hand and the great seal of the Commonwealth, at Wheeling, this 20th day of December, in the year of our Lord [L. s.] one thousand eight hundred and sixty-one, and in the eighty-sixth year of the Commonwealth.

FRANCIS H. PIERPOINT.

By the governor:

L. A. HAGANS,

Secretary of the Commonwealth.

