54TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1121.

W. C. ROBINSON v. GEORGE P. HARRISON.

APRIL 4, 1896.—Ordered to be printed.

Mr. LEONARD, from the Committee on Elections, No. 1, submitted the following

REPORT:

[To accompany House Res. No. 233.]

The report of the subscribers, members of the Committee on Elections, No. 1, respectfully state that they have heard the arguments of the counsel for the respective parties in the election contest for the seat of Representative in the Fifty-fourth Congress for the Third Congressional district of the State of Alabama, wherein W. C. Robinson, the candidate of the Jeffersonian and People's Party, is contestant, and George P. Harrison, the candidate of the Organized Democracy, is contestee, and that they have duly examined all the papers and evidence submitted in the said contest, and have found the following conclusions to be established:

That each of the parties to the said contest was a candidate for Member of the Fifty-fourth Congress at the election held in said district on the 6th day of November, 1894; that the said Congressional district was then composed of the counties of Lee, Russell, Bullock, Henry, Barbour, Geneva, Coffee, and Dale. The counties of Barbour, Bullock, and Russell were and are denominated "black" counties because of the extent of their colored population. The contest includes certain election precincts in these counties, and also in the counties of Lee and Henry, and the entire vote of Geneva County. The aggregate votes returned were as follows:

Third district.	George P. Harrison.	Wm. C. Robinson.
	54th Cong.	*54th Cong.*
Barbour	3,116	520
Bullock	2,314	110
Conee	608	969
Dale	830	1,716
Geneva (no returns)	.....	.....
Henry	1,300	1,128
Lee	1,497	1,063
Russell	1,054	207
Total	10,719	5,713

Being a majority in favor of the Democratic candidate, the contestee, Mr. Harrison, of 5,006.

The contestant, Mr. Robinson, claimed that this majority was secured by intimidation of voters favorable to him, by bribery, illegality, and fraud.

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Preliminary to the consideration of the contest, as it was made to appear by proof contained in the record, an application was made on behalf of the contestant, Mr. Robinson, for leave to take further evidence on these and other alleged facts involved in the contest, and voluminous affidavits were produced and read in support of the application. Further affidavits answering those of the contestant, Mr. Robinson, were also produced and read on behalf of the contestee, Mr. Harrison. These affidavits, on each side, have been fully examined and carefully considered by the committee, and in the judgment of the members of the committee the result has been conclusively established that no ground exists on which the committee would be justified in directing the taking of further evidence on behalf of the contestant, Mr. Robinson, and his application for leave to take further proof is accordingly denied.

Upon the evidence which has been presented, the contestant, Mr. Robinson, claims that the entire vote of several precincts should be rejected, and in others that the vote returned for the contestee shall be rejected, and, also, that the vote of Geneva County shall be allowed, in which a majority in his favor of 402 votes was returned. If that disposition of the votes of these precincts and of Geneva County shall be allowed, then the contestant, Mr. Robinson, will appear to be elected as Representative in the Fifty fourth Congress from the Third Congressional district of the State of Alabama by a majority of 470 votes.

The state of affairs in the contested precincts and in Geneva County appears from the evidence to be substantially the following, to wit:

OPELIKA PRECINCT No. 2, LEE COUNTY.

Opelika precinct No. 2, in Lee County, returned 505 votes for the contestee, Mr. Harrison, and 318 for the contestant, Mr. Robinson.

The conduct of the friends of the contestee, encouraged by him, is relied upon as having an intimidating effect on the voting friends of the contestant. But the evidence proves that this occurred in the morning before the voting commenced, and the object of the disorderly demonstrations was to secure the proportionate appointment of election officers suggested in behalf of the contestee, in place of those which had been selected under the authority ot and by the friends of the contestant. That was finally conceded, and the disorder ceased, and the polls were opened and the election proceeded.

One of the persons so selected was Mr. Driver, who was, during part of the day, engaged in bribing colored voters. This he did by handing the voter who acted under that motive a slip of paper indicating that the vote was as it was desired, and the paper was presented to a confederate on the outside, who then handed money to the voter varying in amount from 50 cents to $1, or, at most, $1.25. The evidence proves that there were about or nearly 25 of these votes. It was a criminal proceeding, publicly and shamelessly carried on by the friends of the contestee. But the votes of legal voters, uninfluenced by mercenary motives, can not be lawfully sacrificed in consequence of this misconduct. It had no effect upon them, and is in no respect in conflict with their integrity. Their votes can be readily separated from those that were purchased, and where that can be done the law demands that it shall be done.

C. R. McCrary, one of the inspectors of the election, was sworn and examined as a witness for the contestant, and in the course of his evidence testified that, so far as he knew, the ballots were counted as cast.

He was a Jeffersonian Democrat and a supporter of the contestant. And, under the circumstances, the other evidence does not change this state of the facts, as the bribed voters voted for the contestee. Their votes must be deducted from the aggregate returned for him, which will reduce his votes at this precinct to 480.

WACOOCHEE PRECINCT No. 11, LEE COUNTY.

In Wacoochee precinct No. 11, 120 votes were returned for the contestee, Mr. Harrison, and 12 votes for the contestant, Mr. Robinson.

The evidence of official misconduct at this precinct is extremely slight. However, it does prove that 24 persons voted there for the contestant, and that 2 other persons stated to have voted did not vote. Adding 12 votes to those of the contestant and deducting 2 from the votes of the contestee will rectify the vote for this precinct. That will give 24 to the contestant and 118 to the contestee.

GIRARD PRECINCT No. 1, RUSSELL COUNTY.

Girard precinct No. 1 returned for the contestee 281 votes, and for the contestant 7 votes.

The election officers in this precinct were the friends of the contestee, giving them entire control in the management of the election, and thereby violating the laws of the State. It was proved that 20 persons voted for the contestant at this precinct, and that 22 others, whose names are on the poll lists as voting, did not vote. There was evident mischief and illegality in this precinct, as will generally be found to be the fact when the managers of the election are of one political division. How far the real illegality extended is not clear; but as it was admitted on the part of the contestant that the contestee received 75 votes at this precinct, he, at least, is certainly entitled to that number of votes.

SEALE PRECINCT No. 7, RUSSELL COUNTY.

In Seale precinct No. 7, in Russell County, 201 votes were returned for the contestee and 3 votes for the contestant.

Four persons are stated to have voted in this precinct who testify that they did not vote, which is too slight ground for rejecting the vote of this precinct.

A. L. Johnson was one of the managers of the election, and voted for the contestant. He testified that he used every effort to detect fraud at the election and to prevent it; that he detected no fraud. He asked for a clerk, which was not given to him; otherwise the election was all right, so far as he knew. And when the election was completed there were no more ballots than there were names on the poll list. It does not appear for whom the 4 votes not voted were given—if they were voted at all—but taking them from the vote of the contestee will still leave him 297 votes from this precinct, and these he should have.

UNION SPRINGS PRECINCT No. 3, BULLOCK COUNTY.

Union Springs precinct No. 3, Bullock County, returned 1,201 votes for the contestee, Mr. Harrison, and only 2 votes for the contestant, Mr. Robinson—an improbable statement on its face, for it is not credible that in so large a vote as this that so small a number was given for the contestant. It may well be said that fraud is appparent on the face of these returns. That conclusion is materially advanced by the fact that the contestant had no representation on the election board,

and the result could therefore be manipulated as the board desired it should be.

Twenty-seven persons whose names were on the poll list as having voted did not vote, and persons who were dead and persons who did not reside in the precinct are on the list as having voted. And the registration list was in part made up through the management of an itinerant and unauthorized person. No proof of votes actually given for the contestee was produced, and as no dependence whatever can be placed on the returns they should be wholly rejected, so far as the votes returned for the contestee are stated.

SUSPENSION PRECINCT No. 12, BULLOCK COUNTY.

The same disposition should be made of the vote returned by Suspension precinct No. 12 for very similar reasons as here given in regard to Union Springs precinct No. 3. The vote is stated as 202 for the contestee and 1 for the contestant.

MIDWAY PRECINCT No. 1, BULLOCK COUNTY.

Midway precinct No. 1 returned 217 votes for the contestee, Mr. Harrison, and 8 votes for the contestant, Mr. Robinson.

It was proved that 9 persons voted for the contestant. The election officers were all of the party of the contestee, acting, presumably, in his interest. And it was shown that no more than 136 persons entered the polling place on the day of the election. Assuming that they all voted, the contestant had 9 of them and the contestee the residue of 127 votes.

EUFAULA PRECINCT No. 5, BARBOUR COUNTY.

Eufaula precinct No. 5, Barbour County, returned 1,421 votes for the contestee, Mr. Harrison, and 7 votes for the contestant, Mr. Robinson.

The election officers of this precinct, except two, were the party friends of the contestee. One witness testified that no more than 230 colored persons entered the polling place nearly up to the closing of the polls, and that the white voters of the precinct did not exceed 500. It was also stated that the inspector friendly to the contestant was made drunk during the day. This fact was controverted by witnesses examined on the part of the contestee, and the precinct was shown to be very populous. The returns are not sustained beyond doubt, but they are so far as to prevent them from being altogether rejected. The vote of the contestee should, however, be reduced to 723, as the outside limit of the votes cast for him.

FORT BROWDER PRECINCT No. 4, BARBOUR COUNTY.

Fort Browder precinct No. 4, Barbour County, returned 127 votes for the contestee and 6 votes for the contestant.

He, the contestant, had one of the inspectors; the other election officers were of the party of the contestee. The vote in this precinct seems to have been largely overstated.

Mr. Smith, one of the election managers, and a friend of the contestant, testifies that at box 1 in the precinct no more than 32 persons voted. Mr. Johnson swore that he was at the election all day and not more than 125 to 130 attended there. He does not testify how many voted, but says that he saw or knew of no fraud, while Mr. Smith is

positive that no more than 32 voted. And this precinct should be reduced accordingly, which will give the contestant his 6 votes and the contestee 26 votes.

DOTHEN PRECINCT No. 3, BOX 1, HENRY COUNTY.

Dothen precinct No. 3, box 1, returned 383 votes for the contestee, Mr. Harrison, and 29 for the contestant, Mr. Robinson.

The contestant proved that 35 persons voted for him. Six votes should be taken from the contestee and be given to the contestant. The evidence is too slight to do more than that, and it will leave the vote of the contestee in this precinct and box 377 votes.

GENEVA COUNTY.

The Geneva County vote is stated by the counsel for the contestant not to have been among those canvassed, for the reason that the returns were received too late. And the probate judge certifies that the vote of that county was 687 for Robinson and 285 for Harrison, leaving a majority of 402 votes for the contestant, Mr. Robinson. These facts not being denied, the votes should be allowed, although not canvassed by the supervisors or the State officers. But the allowance will manifestly be of no final advantage to the contestant, for the contestee, Mr. Harrison, still has in his favor a majority of 2,254 votes.

No special attention has been given to the arrests of contestant's witnesses. With the explanation given there were but few arrests, and by active exertions the evidence might very well have all been obtained, so far as it would probably be of any material character.

In the most liberal view that can be taken of the evidence, and the probabilities established by it, the contestee, Mr. Harrison, was elected by the majority of the lawful votes of the Congressional district. It is true that the conduct of the election in the controverted counties can not be otherwise than condemned, for frauds were committed arising probably out of the discrimination in the personality of the election boards. That was a grave cause for complaint, but as the legal votes can be separated from the frauds, they are entitled to their full weight and effect, and, notwithstanding the frauds committed, and in the manner already stated, the result shows the election of Mr. Harrison, the contestee.

The adoption of the following resolutions is therefore respectfully recommended:

"*Resolved*, That W. C. Robinson was not elected a Representative in the Fifty-fourth Congress for the Third Congressional district of the State of Alabama at the election held in said district on the sixth day of November, eighteen hundred and ninety-four, and is not entitled to the seat.

"*Resolved*, That George P. Harrison was elected a Representative in the Fifty-fourth Congress for the Third Congressional district of the State of Alabama at the election held in said district on the sixth day of November, eighteen hundred and ninety-four, and is entitled to the seat."

CHAS. DANIELS, *Chairman.*
L. W. ROYSE.
FRED C. LEONARD.
R. Z. LINNEY.
W. H. MOODY.
E. D. COOKE.

We, the undersigned, members of the committee, concur in the foregoing report in so far as it recommends the adoption of the resolutions declaring that the contestant was not elected and is not entitled to the seat, and that the contestee was elected and is entitled to the seat. We do not concur in the detailed statements contained in the report with reference to the vote had in certain named precincts, nor in the conclusions reached and stated as to the existence of frauds and intimidation.

HUGH A. DINSMORE.
C. L. BARTLETT.
S. S. TURNER.

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