

### St. Mary's Contested Election.

[Correspondence of the Baltimore Sun.]

ANNAPOLIS, Feb. 12, 1880.

#### CONCLUDING ARGUMENT OF COUNSEL—REPORT OF THE COMMITTEE—DECISION IN FAVOR OF GRAVES, REPUBLICAN, ETC.

The contested election case of Ignatius E. Mattingly for the seat of John N. Graves, of St. Mary's county, has been decided unanimously in favor of the sitting member, who is a republican. Argument was concluded in the case last night. For Mr. Graves several counsel have spoken, viz: Mr. Holmes, his colleague, J. Parran Crane, and finally S. Thos. McCullough, the latter being of Annapolis, and a nephew of the Speaker of the House of Delegates. Mr. McCullough contended that the requirements of the law had not been carried out in the mode of taking testimony for Mattingly, by failing to name time and place. He denied that there was intimidation on the part of Graves and his friends, but asserted that republican voters were intimidated. It is not shown who received the twenty-one votes alleged to have been cast in the sixth district in excess of the names registered, but the testimony shows that there were 15 pudding tickets for Mattingly. Granting that there were 21 pudding tickets, they were for Mattingly, and it is incumbent on him to show not only that there was an excess of ballots, but for whom they were cast. Admitting that they should be taken from Graves, it would still leave him 64 majority in the county—the majority returned being 85. He contended that the failure of judges to affix certificates to the poll-books in the first and sixth districts did not vitiate the election, where no fraud was shown and the accuracy of the returns was not questioned. If there were irregularities on the poll-books the right thing would be to send for the ballots. If

the election of Mr. Graves is upset, that of the county commissioners and other officers will next be contested. In conclusion, he made a strong appeal as a democrat himself for justice at the hands of the democratic party in this case.

Mr. Wm. A. Fisher, in replying for Mr. Mattingly, said that the chief ground had not been touched in anything that had been said or shown to the committee. Graves is returned as having received 88 majority in the whole county, but the returns from the first and sixth districts, which give him votes to overcome Mattingly's vote elsewhere, are not certified by the judges, and should not be counted. If they are thrown out it unseats Mr. Graves. The sitting member should have admitted to the canvassing board the failure to certify, and have offered evidence on which they could have certified that there was an election in these districts, and that Mr. Graves had received a majority.

The report of the committee says that the views presented and proofs submitted have been carefully considered. The committee are of opinion that the charge of the contestant of intimidation of voters in certain districts by friends of the sitting member is wholly unsubstantiated; that the election was honestly conducted, and that all parties entitled to vote were freely accorded that privilege. The next point made by the contestant was that the judges of election in the first and sixth election districts had not properly counted and returned the votes of those districts. Section 27, article 33, of the code requires that two plain and distinct statements shall be made out on the poll-books, certifying the number of votes each candidate received. The poll-books of district No. 1 showed that only one such statement had been made out.—The committee, however, were of opinion that the section of the code alluded to is simply directory and not mandatory, and that it was not essential to the validity of the election that the provisions of the section be strictly adhered to, on the principle that irregularities, which do not tend to affect the results, are not to defeat the will of the majority. In district No. 6 it appears by the poll-books that the proper certificates and returns were made by the judges of election of that district. The foregoing questions being the only ones before the committee for consideration, and they having been decided in favor of the sitting member, the committee respectfully recommend the adoption of the following:

*Resolved*, That John N. Graves be, and he is hereby, declared to have been duly elected as one of the Delegates from St. Mary's county to the House of Delegates at the election held in this State on November 4, 1879.

And your committee ask to be discharged from further consideration of the subject. B. F. Crouse, chairman, Jesse N. Bowen, William Grady, J. Marion Wooters, Thos. H. Crampton, Geo. W. Wilson, H. Clay Ridgely, Wm. T. Smith, Geo. W. Benschberg.