

vote for the contestants ; and that the number of legal voters so refused, and who offered to vote for the contestants, would, if received, give the contestants a large majority of the legal voters," your committee find is sustained in part, and to an extent to authorize the majority of your committee to declare that, in their judgment, the seats of two of the sitting members ought to be declared vacant, and that the same should be awarded to two of the contestants.

By a reference to the testimony spread upon the records of the contestants, it will be found that in Districts Nos. 1, 2, 3, 5, 10, 13, 14 and 15, a large number of legal and registered voters, who presented themselves at the polls on the day of election, and offered their votes, were refused and rejected by the judges, on a variety of unwarrantable and frivolous pretexts, the main one being the vague and general charge of disloyalty ; although these voters had been duly registered in 1866, at which registration their qualifications as voters, under the Constitution and laws of this State, had been fully inquired into and determined, and their right to vote finally ascertained and fixed beyond challenge or controversy.

The majority of your committee reached the conclusion, after a full review, and a protracted discussion of the constitutional provisions bearing on this subject, and of the registration law, that the registration of 1866 was binding and conclusive on the judges of election ; and it was incompetent and illegal for them to disregard it, and enter upon a trial of the voters' qualifications, or to put any oaths or tests whatever, as conditions of exercising the elective franchise.

The sole duty under existing laws, being confined to the reception and counting of votes, and making returns of the elections—purely ministerial offices, and if competent to go into an investigation at all, they are confined to the question of identity. Whether the voter claiming to vote under a certain name is the person he professes himself to be ; to that extent and no further does the judicial power formerly possessed by the judges of election now go under the constitution of 1864, and the Registration Act of 1865, Chapter 174. Under this view of the law, the majority of your committee hold that the rejection of the votes in the above mentioned Districts, on the grounds on which they were rejected, was illegal ; that the same ought to have been received and counted, as they were tendered, in which case the result would have been materially different from that announced in the returns.

By reference to these returns, a copy of which, under the seal of Allegany county court, is herewith appended and made part of this report, it appears that the following vote was cast for the Contestants and sitting members respectively, to wit: