

had a large bet on the result of the election. The selection of such a place is well calculated to excite the gravest suspicions as to the motives of the Judges in making such selection; and those suspicions receive additional strength from the fact developed in the testimony of Pagenhardt on page 60 of contestants' record, that after the polls were closed these Judges, instead of complying with their duty as prescribed by law, of *immediately* proceeding to open the ballot box, and to count and cast up the ballots, left the room, or cave, which was locked up by Powell, who retained the key; the Judges remaining away for an hour and a half, leaving a clerk in the room.

Such a dereliction of duty, in sworn officers is deserving the severest censure.

In regard to District No 10, a large amount of testimony has been taken, going to establish the fact of the presence of armed force at the polls of that District, on the day of election. By a reference to the testimony of Tobias S. Fisher and James Brafford, on page 59 of contestant's record, and to that of Upton F. Biggs, on page 19 of the record of the sitting members, it will be seen, that the presence of this armed force was in pursuance of a resolution adopted at a secret meeting of the friends and supporters of what was known as the Radical ticket in that district. In that meeting, Mr. James Chisholm, one of the Judges of Election, participated.

In dealing with this district, the majority of your Committee hesitated between counting the votes in favor of the contestants, of those who offered their ballots with the names of contestants upon them, and were refused their votes, and throwing out the vote of this district altogether. While the fact of the presence of the armed force, and that it was there by a preconcert and arrangement, is thus conclusively established; yet on the point, as to the effect of this array of armed men on the minds of the voters of the district, the testimony is conflicting; some swearing that its effect was to intimidate and keep away voters from the polls: others who attempted to vote and were refused by the judges, and who were examined on behalf of the contestants, swearing that they were not intimidated by this military display. That no actual violence or outrage ensued is a fact admitted by all. It seems to be further conceded that there was a custom prevailing, to a partial extent in the district for voters to carry their guns to the polls, for the purpose of shooting at a mark on election days.

On this state of the proof, the majority of your Committee did not, after mature consideration, deem themselves justified in throwing out of the count the entire vote of District No. 10; but adopted the other alternative of counting for the contestants the votes of those legal and registered voters who