

Mr. Edelen has not made out a case which would entitle him to the seat in this House. Under the rule adopted almost unanimously in this Country no minority candidate can be declared elected, and under the English Rule, knowledge by the electors of the ineligibility of the majority candidate, or that it was a notorious fact is absolutely necessary and must be proved. In the present case, there is not one scintilla of evidence to show that the people who voted for Mr. Smoot knew of his ineligibility or that it was a notorious fact; on the contrary, he was allowed to remain on the registration books, without being noted or stricken off, and his supporters and electors had every reason to believe that he was eligible in the absence of statements to the contrary.

We have, therefore, determined that Mr. Edelen is not entitled to the seat made vacant by the ineligibility of Mr. Smoot, and recommend the following:

1. That James deB. Walbach was duly elected as a delegate from Charles county, and being eligible as such delegate, is entitled to a seat in this body.
2. That Hungerford Smoot, though returned as elected as a delegate from Charles county, being ineligible, is not entitled to a seat in this body.
3. That Benj. M. Edelen, Jr., who received a majority of the votes of the minority candidate is not entitled to the seat made vacant by the ineligibility of Mr. Smoot.

Respectfully submitted,

J. CHAS. LINTHICUM,

Chairman Committee on Elections.

Which

Upon motion

Was made the Special Order for March 29, 1904, at 1 p. m.

Mr. Smith, from Committee on Elections, submitted the following minority report in the contested election case in Charles county.