

persons who were non-residents, and of one minor were received and counted for the said Luke; that in the count of the ballots taken in the Second Election District, two votes which were cast for the contestant, Wilson, were considered as a double ticket and thrown out of the count; that in said count one more vote was given to Duke than he actually received, and that therefore, in the aggregate, the said Duke only received one thousand and thirty-seven votes, being four votes less than the contestant received.

In answer to this, the sitting member shows that three votes, which were illegal, were cast for the contestant—two of such illegal votes being cast by minors—and the remaining one by a party who was non-resident; and further claims that the returns made by the Judges of the 2d district were correct.

It will be shown by an examination of the testimony that all the votes claimed to have been cast illegally were cast by persons whose names appeared on the list of registered voters. This applies to both the contestant and the sitting member.

Whilst it may be competent for the Senate in the case of a contested election, to go behind the returns of the Judges, and even the registered lists, yet your Committee are of the opinion that it should never be done except upon the strongest and most indisputable testimony. They, therefore, in regard to the matter of receiving illegal votes at such election, have not been willing to receive any but documentary evidence. They have, therefore, admitted only the testimony in regard to this point, of the certificates from the Clerks of the Circuit Court, as to the conviction of five persons who are alleged to have voted for Duke, the sitting member.

As to the matter, therefore, of the ballots for both contestant and sitting member, from the proof before them, your Committee are of the opinion that Duke and Wilson received the same number of legal votes.

The contestant in this case, however, sets up a claim that two ballots which were received in the Second Election District, and which were by the Judges adjudged to be one double ballot, were in fact two ballots, and that they were cast for him, and that one vote more was counted to Duke than he actually received.

Your Committee, after a most thorough and searching examination of the testimony, cannot find that the claim thus set up is sustained, or at least so clearly established as to warrant them in admitting the contestant to a seat in this body.

There is, however, in the mind of your Committee, so much doubt as to the claim that the only solution of it is to refer the whole matter back to the people of Calvert county; and they therefore submit the following resolution: