

would be a *nullity*. There is no legal designation on the thirty-six ballots, but "For Governor" and "For the Senate," and therefore, William J. Ross and five other gentlemen have one and the same designation, viz: "For Senator," and under the plain interpretation of the election laws, were rated for Senators; consequently the ballots cannot, legally be counted for Senators or Delegates, because the law says, "if there be found any more names written or printed on any of them than there ought to be" . . . "such ballots shall be rejected and not counted:" This House cannot disregard the plain letter of the law. That would be a virtual repeal, which requires the three departments of this government. It cannot pronounce on its unconstitutionality, for that would encroach on the judicial department, but must acquiesce in the law *as it is*, till it be repealed or modified.

Now, as to the impropriety of going into the ballot box. It is a well settled principle, when no fraud or corruption in the judges of election is alleged, that the decision of the judges ought not to be disturbed, "Biddle and Richard vs. Way," "contested in Congress." If you go to the ballot box, there is no authority to make a voter declare his vote, "Easton vs. Scott, *ib.*" nor on his voir dire, make him criminate himself, "Declaration of Rights, 20 sec." Therefore, the minority of the committee think the evidence which is the thirty-six ballots, now in the possession of this House, is incontrovertible as to the right of the said John H. Worthington, to retain his seat as a delegate from Frederick county. They therefore, recommend that the said Edward Buckey, be permitted to withdraw his memorial from the files of this House. Therefore,

1st. Resolved, That John H. Worthington, is entitled to his seat in this House.

2nd. Resolved, That Edward Buckey, is not entitled to a seat in this House.

All which is respectfully submitted.

N. H. WARE,  
FRANCIS GALLAGHER,

January 20th, 1845.

Which was read.

Mr. Hollyday, of Cecil, offered as a substitute for said report of the majority and minority of said committee, the following:

Whereas, by the ninth article of the Constitution of Maryland, it is declared "that the House of Delegates shall judge of the election and qualification of Delegates." And whereas, also by the Act of Assembly, passed at December session 1805, chapter 97, section 12, it is directed, that at the time of holding the elections, "every voter shall deliver to the judge or judges of the election in the district in which he offers to vote, a ballot on which shall be written or printed, the name or names of the person or persons voted for, and the purpose for which the vote is given plainly designated." And whereas, the requirements of the law are imperative, and binding upon the House of Delegates and its mem-