

whether there was an election in Baltimore city on the 2d of November last. The testimony produced by the contestant raised such a *prima facie* case of violence and fraud as would entirely vitiate the election, and, therefore, all offers on the part of the claimant to scrutinize the polls—to produce witnesses who voted the Reform ticket with his name on it—to inquire into the peace and fairness of the election in the different counties, were overruled, because your committee were satisfied that, whatever may have been the motive which prompted such offers or demands, the short period of the session would not permit an investigation of such extent and labor; and, also, because the contestant, by his counsel, admitted that if the committee should find that there was a fair election in Baltimore city, he would make no claim to the office. The Constitution adjourns this House on the 10th of March, and the Act of 1853, chap. 244, makes it our imperative duty to pass upon all contests of the office of Comptroller. If, therefore, your committee proceeded with any *seeming* haste or rigor, it is the fault of the constitution and laws, and not of the committee or this House.

The same testimony was submitted to us in this case as in that of Kerr *vs.* Gaither, of which a report upon the law and facts has already been made. Your committee beg leave to reaffirm the positions therein taken.

This contest is distinguished, however, from the former, by the important fact that in the election of the Comptroller all the voters of the State participated, and, in the judgment of your committee, the only question is whether the contestant, having received a majority of the votes outside of the city of Baltimore, is thereby elected and entitled to the office.

Having already declared in two previous cases that there was no election in Baltimore city on the 2d of November last, it follows as a necessary and inevitable consequence that the vote of the city is not entitled to be counted, and if it is not so entitled to be counted the contestant stands with a majority in his favor of two thousand four hundred and ninety-two votes. Omitting the vote of the city from the count, and the contestant standing with this majority of the fair and legal votes in his favor, your committee are impelled to the conclusion that the claimant (Wm. H. Purnell) has not been legally elected to the office of Comptroller, and that he does not now rightfully hold the same, and further that the contestant (A. L. Jarrett) has been legally elected to said office, and that he is rightfully entitled to the same.

To legislate one man out of office and another in, is a very grave and responsible exercise of constitutional power, but its