

It was Mr. Jarrett's duty under this allegation to have gone into a full scrutiny of the poll, and this without regard to the length of time the investigation might occupy. The delay would have been no fault of his, if his assertions should prove to be well founded, but of the existing law in not prescribing some mode of taking evidence before the beginning of the session. But no objection was ever made by the committee to Mr. Jarrett's entering upon the scrutiny nor did he ever offer to do so.

3rd. The most liberal estimate of the number of votes, shown by Mr. Jarrett's evidence to have been deterred from voting by fear or intimidation does not exceed one hundred and seventy.

But nothing in the law of elections is better settled than that no such evidence should be received. The committee on elections of the House of Representatives, in the case of Bidle and Richard vs. Wing, (*Contested Elections*, p. 506,) hold this language, which expresses the well established principles of the law on this point. "Mr. Richard rests his claim to the seat on grounds which to the committee appear entirely novel. He does not pretend that he received the greatest number of votes that were actually given, *but that he would have received* the greatest number of votes, had not his friends at the election holden in Detroit, been intimidated from voting, by reason of the interference of deputy sheriffs and constables, who, it is alleged, under the pretence of keeping the peace, struck several persons on the head, and by that means prevented them, and many others from voting for Mr. Richard. The committee are of opinion that the duty assigned them, does not impose on them the examination of the causes which may have prevented any candidate from getting a sufficient number of votes to entitle him to the seat. If an elector, for any cause, should fail in presenting his vote for reception, the nature of the case precluded it from entering into the general result of the election, &c."

"In case of the application of the contrary doctrine, the greatest uncertainty must necessarily prevail, and should it be established it would be placing in the hands of a few riotous individuals, the power of defeating any election whatever. The law appoints a particular time and place for the expression of the public voice; when that time is passed, it is too late to enquire who did not vote or the reasons why."

This too was the doctrine contended for by the supporters of Gen. Whitfield, the delegate from Kansas, whose seat was contested on the ground that the presence of a large body of armed Missourians at the polls, intimidated voters of the Territory from casting their votes against him.

4th. There is not the slightest proof offered by the witness