

ing short of the impossibility of ascertaining *for whom the majority of the votes* have been given, ought to vacate an election."

But there is a more recent case which in our judgment decides that now under consideration. The seat of Hon. J. Morrison Harris, in Congress, was contested in 1858, by Wm. Pinkney White, Esq., upon the same grounds assigned by Mr. Jarrett, and an immense mass of testimony was taken going to show in a part of the District such riot, violence, intimidation, etc., as, was alleged, should cause the ejection of Mr. Harris from his seat. The testimony was much stronger than that in this case; it was regularly taken under the Act of Congress, and was free from many objections which exist in regard to this. But calm people looking over the cloud with which political excitement and high party feeling surrounded the case, could not avoid seeing that the disorder proved to exist, did not constitute such a riot in law, as rendered this election void, and that assuming the illegalities to be proved, still it was not *impossible to ascertain for whom the majority of the votes were given*; and the House of Representatives voted down a resolution reported by a majority of the election committee to unseat Mr. Harris. The resolution of the majority in this case, appended to their report appears to have been copied *verbatim* from the resolution in the case of Whyte vs. Harris, (Daily Globe, 16th and 17th, Dec. 1858.) In the face of this decision of the House of Representatives, made in reference to an election in the city of Baltimore less than two years ago, it cannot be very important to this House, how the House of Commons decided in reference to "the election of Pontefract, on the 28th of May, 1624," or that of "Southwark on the 10th December, 1702," referred to by the majority of the committee. It was the decision of a Democratic House of Representatives against a prominent Democratic contestant, whose talents and abilities were acknowledged by those who felt constrained by a high sense of duty, to retain his competitor in his seat.

But even if such riot, intimidation and violence had been proved in this case as should avoid the election in the city of Baltimore, the undersigned submit that the recommendation of the majority of the committee to install Mr. Jarrett, is unheard of and monstrous in the extreme. The whole vote of the State, at the election in November, was about 86,000. The vote of the city of Baltimore was about 23,000, being less than a third and more than one-fourth of the whole. Baltimore as a separate district elects a judge of the Court of Appeals, a commissioner of public works, and one-seventh of the House of Delegates.

The Constitution declares that the qualified electors of the