

these claimants, entirely ex-parte. That testimony taken ex-parte cannot be considered by the Committee in an election case, *is well established*. See *Spaulding vs. Mead, Clarke and Hall*, p. 157.

Although the statute law of the State has not prescribed the rules of proceeding and evidence in cases of contest like the present, yet it is most respectfully submitted that the Committee and House are not without law in the premises; for it is laid down in a book of high authority, that "the same general rules by which Courts of law are governed in regard to the evidence in proceedings before them, prevail in cases of controverted elections."—*Cushing's Law of Legislative Assemblies*, sec. 211.

The claimants therefore submit that the allegations of the contestants, as against these claimants, are entirely unsupported by any evidence whatever, which is legally admissible, as against them.

It is considered by the Committee impracticable, within the limited time of the session of the House, to enter upon the proper investigation of this contest, according to those "same general rules by which Courts of law are governed," the fault does not lie with the claimants, and it would be unjust to them, that they should be prejudiced thereby. On the contrary, it is held by the same high authority, that "if a petition is presented at so late a period of the session, that an investigation cannot be conveniently had therein, no further proceedings will, in general, be allowed to take place."—*Cushing*, p. 77—56.

The claimants therefore respectfully submit, that in this case, no further proceedings ought to be allowed to take place, whereby their right to the office they hold, shall be questioned.

THOS. E. BALLARD,

DANIEL W. JONES, and

JOSEPH BRATTON,

by ISAAC D. JONES,

*their Attorney.*