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REDEEMING MAINE.

THE REPUBLICANS SUSTAINED.

THE SUPREME COURT DECISION—MR. SMITH ELECTED GOVERNOR BY THE FUSION LEGISLATURE—THE REPUBLICAN LEGISLATURE TO MEET TO-DAY.

The decision of the Supreme Judicial Court f Maine, which is given below, sustains the position held by the Republicans. The Republican Legislature will meet again to-day. Major Smith, the Greenback candidate at the September election, was elected Governor by the Fusion Legislature. Another Republican member was unseated by the Fusion House.

THE REPUBLICANS REJOICING.

THE LEGISLATURE TO MEET TO-DAY WITHOUT INTERFERENCE FROM THE FUSIONISTS.

AUGUSTA, Me., Jan. 16.—Dispatches were received in this city this evening stating that the Supreme Court solidly sustains the Republicans in every position. Hundreds of Republicans are in the city and there is great rejoicing among them. The Fusionists are correspondingly depressed. There are some here who are urging the Fusionists to resist the Court and go forward and impeach the Judges; but many Fusionists announce their intention to yield. Twenty are known to be in favor of submitting. There is a division in their ranks.

The Republican Senators and Representatives will meet to-morrow afternoon at the State House and continue the work of legislation. Many Fusion members will be glad when the matter culminates, and will participate with the Republicans.

Mr. Lamson, president of the Senate, has addressed a letter to General Chamberlain, in which he says: "I guarantee that the body which assembled in the House of Representatives on Monday last and adjourned to 2 o'clock to-morrow, and the body which met in the Senate Chamber and adjourned to the same time to-morrow, can meet at that time in their respective Houses without interference from any party."

BOSTON, Mass, Jan. 16.—A special dispatch to *The Herald* says: "Mr. Ingalls, one of the most prominent Fusionists, stated tonight that the Fusion Legislature will meet to-morrow, and adjourn to Tuesday next, and that no attempt will be made to prevent or interfere with the meeting of the Republican House in the afternoon."

THE DECISION.

BANGOR, Me., Jan 16.—To-morrow morning the subjoined document will be forwarded by the Supreme Judicial Court to Augusta. It is addressed to "The Hon. Joseph A. Locke, President of the Senate, and the Hon. George E. Weeks, Speaker of the House of Representatives," and opens with the following sentence: "The undersigned Justices of the Supreme Judicial Court have the honor to submit the following answers to the interrogations proposed, and based upon the accompanying statement of facts." [The questions submitted by the Republican Legislature were printed in full in THE TRIBUNE of Thursday, the 15th inst. The questions are answered in the order in which they were numbered]:

I. An election has been had by the electors of this State. The rights of several persons voted for depend upon the votes cast in accordance with the Constitution and the laws of the State. It was the duty of the Governor and Council thus to declare it. Any declaration of a vote not thus ascertained and declared is unauthorized and void. The Governor and Council examined the returns and undertook to declare the result as it appeared by the returns. Various questions involving the true construction of the Constitution and the statutes relating thereto arose, and the Governor, by virtue of his Constitutional prerogative, called upon this Court for its opinion upon the questions propounded. By the provisions of the Constitution the Court was required to expound and construe the provisions of the Constitution and statutes involved. It gave full answers to those questions. The opinion of the Court was thus obtained in one of the modes provided in the Constitution for an authoritative determination of "important questions of law." The law thus determined is the conclusive guide of the Governor and Council in the performance of their ministerial duties. Any action on their part in determining the vote as it appears by the returns in violation of the provisions of the Constitution and law thus declared, is a usurpation of authority, and must be held void. It only remains to apply those principles to the subjects embraced in the questions propounded. The Governor and Council have no right to summon a person to attend and take his seat in the Senate or House of Representatives, who by the returns before them was not voted for, or being voted for, was defeated. To summon one for whom no votes had been cast would be a deliberate violation of official duty; to summon those whom the returns show were not elected would be equally such a violation. Either would be intruders without right into the legislative body. The summonses thus given would be void, as in excess of any powers conferred by the Constitution. Grant the power and the right of the people to elect their officers is at an end.

IId, IIId and IVth—The IId, IIId and IVth questions may be answered together. The answer to the first question covers much of the ground embraced by these questions. Holders of summonses which are void, for the reason that the Governor and Council failed to correctly perform the constitutional obligation resting upon them, have no right to take part in the organization or in any subsequent proceedings of the the House to which they are wrongfully certificated. They are not, in fact members, but members rightfully elected, as shown by the official returns and the opinion of the Court upon the propositions heretofore presented by the Governor to the Court, are entitled to appear now and act in the organization of the Houses to which they belong, unless the House and Senate, in judging of the election and qualification of members, shall determine to the contrary. A member without a summons who appears to claim his seat, is prima facie entitled to equal consideration with a member who has a summons. He is not to be deprived of the position belonging to him on account of the dereliction of those whose duty it was to have given him the usual summons. The absence of that evidence may be supplied by other evidence of membership. The House and Senate have the same right to consider and determine whether in the first instance such persons appear to have been elected, and finally whether they were in fact elected, as they have of any and all the persons who appear for the purpose of composing their respective bodies. Under the facts recited in the statement submitted to us, we are of the opinion that Lewis Voter and his associates first named in the third question were not entitled to act, and that Cyrus A. Thomas and his associates lastly named in the contract were entitled to act in the House as members; and that Daniel W. True and those first named in the fourth question were not entitled to act; and that Andrew Hawes and others with him named were entitled to act as members of the Senate. In neither case did the Senate or House itself act upon the question of their membership. Both the Senate and House—meaning the bodies assembled to be organized as such—were debarred from any action thereon by the conduct of the presiding secretary and clerk. The assumption of such officers that no question should be entertained relative to the rights of persons whose names are not upon the rolls furnished by the Secretary of State, but who were claimants of seats, was unwarrantable. The statute of 1869 embodied in the Revised Statutes (chap. 2, sec. 25) cannot preclude either the Senate or House from amending and completing the rolls of membership according to the facts. Each House has the constitutional right to organize itself. The form provided for aid and convenience in effecting the organization does not confer upon a temporary presiding officer such conclusive power. We have not failed to carefully consider the Act of 1869, C. 67, incorporated into R. S. C. 2, chapter 25, and so far as it declares that "no person shall be allowed to vote or take part in the organization of either branch of the Legislature as a member, unless his name appears upon the certified roll of that branch of the Legislature in which he claims to act, we think it clearly repugnant to the Constitution, which declares that each House shall be the judge of the election and qualification of its own members. It aims to control the action of each within its constitutional powers till after a full organization with a majority determined and fixed by the Governor and Council. By their action in granting certificates to men not appearing to be elected, or refusing to grant certificates to men clearly elected, they may constitute each house with a majority to suit their own purposes, thus strangling and overthrowing the popular will as honestly expressed by the ballot. The doctrine of that act gives to the Executive Department the power to rob the people of the Legislature they have chosen, and force upon them one to serve its own purposes. It poisons the very fountains of legislation, and tends to corrupt the legislative department of the Government. It strikes a death blow at the heart of popular government, and renders its foundation and great bulwark—the will of the people, as expressed by the ballot—a farce. Each House has the same power, and is charged with the same duty—to declare the election of its own members and organize in any legitimate way—as before the passage of that act.

V. In the answers of January 3, 1880, this Court held that in cases like those stated in this question, it is the duty of the Governor and Council to hear the evidence and determine whether the record or return is correct, and if they determined the record to be correct to receive it, or a duly certified copy of it, to correct the return, as is provided in chapter 212 of the acts of 1877; but in such case they are required to determine an issue of fact—whether the record or return is correct—and, so far as their action is concerned in determining that fact, we think their determination is conclusive, subject, of course, to be reversed by the House. If, however, they should refuse to hear evidence and determine the question, and should by reason of such refusal issue the summons to the candidates not elected, the case would fall under the rule above stated.

VI.—If objection was made to the admissibility of the illegally summoned persons, as set forth in the statement presented to us, and the House took no action thereon, then an organization of House or Senate in the manner described in this question would be illegal and void. The Court expressed the opinion on a former occasion that the Senate could organize with less than a quorum of members (35 Maine, 563) where less than a quorum were elected, a condition of things that might happen when it required a majority of votes to elect Senators. That decision met the necessities of that occasion, but the doctrine of that case cannot apply when a quorum is in fact elected.

THE FUSION LEGISLATURE NOT LEGALLY ORGANIZED.

VII and VIII. Without a legal organization formed and legal officers chosen by 76 members present and voting in the House of Representatives, and by 16 members present and voting in the Senate upon the given measure, no officers can be chosen, no law passed, no business done, except to adjourn. No less than seventy-six members can constitute a quorum of the House of Representatives, nor can less than sixteen members, now that a plurality elects, constitute a quorum of the Senate, nor can either house without a legal organization formed and without legal officers chosen, compel the attendance of absent members. It is the House or Senate when formed and organized that has the power to compel such attendance, and it is not within the power of persons who are merely members-elect to do so. The attendance may, under our Constitution, be compelled by such penalties as each House may provide. Until a legal organization has been effected there is no House to provide penalties for such purpose. Until a legal organization is completed there is no officer in either House to issue a warrant against the absent members. No such power was committed, or intended to be committed, into the hands of persons not comprising and acting as an organized and completed House. It has frequently happened in our history that legislative bodies have been delayed days and sometimes weeks without being able to complete an organization for the want of a quorum.

IX. Not if the attention of the House is called to the fact that such persons are illegally summoned, and objection is reasonably made to the counting of such persons for the purpose of making up a quorum, and the House does not act upon the question of their admissibility. By the Constitution, Article 4, Section 5, "The Senate shall on the first Wednesday of January, annually determine who are elected by a plurality of the votes to be Senators in each district.

X, XI, and XII. These three questions, referring to the qualification of members by the administration of the required oath, may be answered together. By the Constitution, the oath is to be taken and subscribed in the presence of the Governor and Council. By the statute, R. S. Chapter 2, Section 23, the Clerk of the preceding House shall preside until the Representatives-elect "shall be qualified and elect a Speaker; and if no quorum appear, he shall preside, and the Representatives-elect present shall adjourn from day to day until a quorum appear, and are qualified, and a Speaker is elected." Thus it will be seen that while by the statute the clerk is to preside until a quorum shall appear and be qualified, it is not provided either in the Constitution or the statute that a less number than a quorum shall not be qualified, nor can the yea and nay vote on the motion to request the attendance of the Governor and Council for the purpose of administering the oath be deemed of any importance. If the Governor and Council had appeared without a motion or a vote, their authority would have been the same. We therefore answer that the qualifying oaths under the Constitution or the statute may be administered to the members-elect of either branch in any numbers, though a quorum must appear and be qualified before proceeding to an election of Speaker; and, if the whole number of votes for Speaker is less than a quorum and there is nothing on the record to show that a quorum was present and acting, there would be no election.

WHEN THE TERMS OF STATE OFFICERS EXPIRE.

XIII. The Governor's term of office, and also that of his Council, expired at midnight following the first Wednesday of January, 1880. The terms of the other officers mentioned in this question will expire when their several successors are elected, as provided by the Constitution.

XIV, XXIV and XXV.—Answer: To the fourteenth, twenty-fourth and twenty-fifth questions proposed we answer as follows: In the general provisions of the Constitution, Article IX, certain oaths or affirmations are prescribed for persons elected, appointed or commissioned to the offices therein mentioned. It appears that those before whom the prescribed oaths were to be administered refused to act, and that now there is no existing Governor and Council before whom they can be administered. The oath is prescribed; the terms are essential. Its binding force depends upon its terms, not on the magistrate by whom it is administered. If there are no Governor and Council, or, being a Governor and Council, they refuse to administer the oath to one representative or to all—for there can be a refusal to all equally as to one—what is the result? Is anarchy to triumph? Can the Government be destroyed, or its action paralyzed because there is no Governor and Council before whom the prescribed oath is to be taken? We think not. The prescribed oath, from the necessity of the case, may be taken before a magistrate authorized to administer oaths. The members must be sworn before they can act. It is by their action that a Governor and Council thereafter are to be elected and the Government continued. It cannot be presumed that the framers of the Constitution had in contemplation that the oath had better not be administered at all than administered by any other officer than the one designated therein. This is one of the most reliable tests by which to distinguish a directory from a mandatory provisional. (State agt. Smith, 67 Maine, 328).

XV.—Our reply to the fifteenth question is in the negative—that one whose only title to the Presidency of the Senate is by virtue of such an election cannot become the Acting Governor, because he is not the legal President of the Senate. If of the twenty voting at such choice of President of the Senate, eight did not appear to be elected by the official returns under the Constitution and the decision of the Court, and were not in fact elected, there was then no legal quorum and could be no valid election of permanent officers, notwithstanding the eight had been summoned by the Governor and Council. Without a legal quorum, and with these eight participating in the proceedings to the exclusion of those rightfully elected in their places, there could be no valid election of President of the Senate. To proceed with the organization of the Senate without first determining and declaring its own membership, when attention was properly called to the fact that persons were present and acting without right, and that members were excluded, the Secretary refusing to entertain a motion for the correction of the roll, and refusing to allow an appeal from his ruling, and the Senate taking no action, although protest was made, was illegal and void.

XVI. and XVII.—Under the letter of the Constitution it is at least doubtful whether the President of the Senate is required to take a new oath before exercising the office of Governor, when that office has become vacant in the manner specified therein. The practice since the organization of the State has, we believe, been uniform against requiring such new oath, and to such practical interpretation of the Constitution, in the absence of express provision or manifest intention to the contrary, we think effect should be given. To the sixteenth question we reply that a legally chosen President of the Senate may become Acting Governor without the administration of any other qualifying oath than that which he has taken in his office of Senator. The answer to the sixteenth question renders a reply to the seventeenth unnecessary.

THE CITY MEMBERS ENTITLED TO SEATS.

XVIII.—To the eighteenth question we answer as follows: It appears from the statement of facts that the members from the five cities of Portland, Lewiston, Rockland, Bath and Saco were duly elected, as well as by the returns before the Governor and Council; that by law a summons should, of right, have been issued to them; that, in fact, no summons was issued, and that their names were not borne on the roll certified to the House, as provided by R. S. W. C. 2, Sec. 25. A motion was seasonably made that these members, appearing by the returns before the House to have been duly elected, should be permitted to participate in the organization, but the Assistant Clerk refused to put the motion and to entertain an appeal. By the Constitution the returns were before the House. By those returns the Representatives above appeared to be elected; their seats were not contested. The Governor and Council could not, without a violation of their constitutional duty, neglect to issue to them a summons, nor the Secretary of State to place their names on the certified roll which it was his duty to furnish. The Governor and Council could not legally withhold their summonses from those appearing to be elected. They could not order a summons to issue to some appearing to be elected and withhold it from others. If they could, it would be in their power to select from the members appearing to be elected those who should and those who should not take part in the organization of the House. The section, 25 R. S. C. 2, restricts the vote to those whose names are borne on the certified roll. The restricting the vote to those only whose names are thus borne is at variance with the Constitution, in so far as it restricts and limits the action of the House to those whom the Governor and Council may select and not to those appearing to be chosen and to those the House may determine to be members. The twelve members had a right to act in the organization of the House. Their election was patent on an inspection of the returns. The House in no way denied their right. The question whether their names should be added to the roll was not submitted to its determination. Upon the facts set forth they appeared to be and were elected, and it is to be presumed that the House, knowing such facts, would have prohibited their action, if the clerk had permitted the question to be put. These members had a right to take part in the organization of the House, until it should otherwise determine.

XIX.—The House cannot legally organize or act under a certified roll of 139 names only, and giving no representation to the five cities named, provided the Representatives from the cities appeared and claimed their seats, and the House took no action whatever upon the question of their right to participate in the organization, the clerk refusing to entertain a motion made for that purpose, and refusing to entertain an appeal from his ruling thereon.

XX.—To question twenty we answer in the affirmative, unless the House has acted upon the question of their rights to act as members, and determined to the contrary.

XXI. and XXII. It is the opinion of the Court that questions 21 and 22 may be conveniently answered together. Our answer is this: circumstances may exist which will justify and render legal such an organization of the Senate and such an organization of the House. We think such organizations would be justified and rendered legal by the existence of such circumstances as are recited in the statement of facts submitted to us, and that such organizations, effected under such circumstances, would constitute a legal Legislature, competent to perform all the functions constitutionally belonging to that department of our Government. Tumult and violence are not requisites to the due assertion of legal rights. They should be avoided whenever it is possible to do so. They can never be justified except in cases of the extremest necessity. Such peaceful modes of organization are far preferable to a resort to violence. No rights should be lost by those who seasonably assert them and appeal to the Constitutional tribunals, instead of resorting to force.

XXIII. It will follow from the answers to questions 21 and 22, that this question, for the reasons and upon the circumstances there referred to, must be answered also in the affirmative.

XXVI.—One, who under such circumstances, returns his summons and resigns his seat, thereby makes a vacancy in the House which is to assemble, which vacancy may be filled by a new election, under the provisions of Article 4, Part 1, Sec. 6, of the constitution. That the proper steps may be taken by the municipal officers to that end, it is necessary to regard such resignation as irrevocable. If when once made it could be recalled at will, the municipal officers could never know that the seat was vacated by resignation. One who has thus resigned cannot be compelled to attend as a member. He is no longer a member. The language of the Court touching the power of the houses to compel the attendance of their members in the Constitutional opinion given in 35 Maine, 363, applies only to those who, without vacating their seats, absent themselves from the sessions of the body to which they were elected. It would be alike contrary to the spirit of our institutions and detrimental to public policy to hold that a man might be compelled to accept an office of such a character. We therefore answer the question in the negative.

XXVII.—In our recent answer to questions presented by the Governor, we said in substance that one of the objects of the Constitutional requirements of a record of the vote to be made at the same time and authenticated in like manner with the return, was to guard against the possible result of mistake, accident or fraud in the official returns of votes. When such returns of the vote for Governor are lost, concealed, or inaccessible by accident or fraud, the result of the election may still be ascertained by using certified copies of the official records mentioned in the question. Neither the carelessness nor the turpitude of the officers charged with the making or custody of the returns can be suffered to defeat the will of the people, as expressed in the election, so long as the Legislature can ascertain it from the records thus made. True, the Constitution provides that the Secretary of State shall, on the first Wednesday of January, lay the lists before the Senate and House of Representatives; but this provision is directory, and a failure to comply with it cannot defeat the right of the Legislature to ascertain and declare the result of the election. When the framers of our Constitution and our legislators have taken such pains to perpetuate the evidence of the votes cast, and to guard that evidence against the effect not only of accident, but of human fallibility or perfidy, it is not to be thrown away because the Secretary of the State fails, or is unable to comply with this direction. The Constitution is to be construed, when practicable, in all its parts not so as to thwart, but so as to advance, its main object—the continuance and orderly conduct of government by the people. We answer the question in the affirmative.

GENERAL CONCLUSIONS.

The questions before us are attested in the usual mode, and purport to come from organized bodies. They are of the utmost importance. Our answers are entirely based on the assumption of the existence of the facts as therein set forth. We cannot decline an answer if we would in a case like the present. The remarks of Chief-Justice Marshall in Cohens agt. Virginia, are peculiarly applicable: "It is most true," he says, "that this Court will not take jurisdiction. If it should not, but it is equally true that it must take jurisdiction if it should." The Judiciary cannot, as the Legislature may, avoid a measure because it approaches the confines of the Constitution. We cannot pass it by because it is doubtful. With whatever doubts or whatever difficulties a case may be attended we must decide it, if it be brought before us. We have no more right to decline the exercise of a jurisdiction which is given than to usurp that which is not given; the one or the other would be treason to the Constitution. Questions may occur which we would gladly avoid, but we cannot avoid them.

JOHN APPLETON, JOHN A. PETERS,
CHARLES W. WALTON, ARTHUR LIBBY,
WILLIAM G. BARROWS, JOSIAH W. SYMONDS,
CHARLES DANFORTH.

MR. SMITH ELECTED BY THE FUSIONISTS.

THE GREENBACK CANDIDATE FOR GOVERNOR UNANIMOUSLY ELECTED BY THE SENATE—A FULL LIST OF EXECUTIVE COUNCILLORS CHOSEN IN JOINT CONVENTION—MR. SMITH TAKES THE OATH AND DELIVERS A MESSAGE.

BOSTON, Jan. 16.—After unseating the Rev. Dr. Nathaniel Butler (Rep.) this morning, the Fusion House of Representatives at Augusta, Me., listened to reading of the report of the Committee on Gubernatorial Votes, which had been read and accepted in the Senate. The report was adopted by the House.

Mr. Dickey, of Fort Kent, then moved to suspend the rules, so that the House might fix a time for the choice of four candidates to be voted for by the Senate for Governor. The motion was carried, and an order was adopted fixing the time at 11:15 a. m.

Mr. Ingalls, of Wiscasset, thought the action unadvisable so long as there was a doubt of the legality of the House. He believed such action ought to be deferred.

Mr. Plaisted, of Lincoln, took an opposite view. He reviewed the situation, and said the time had come for immediate action. He made a severe attack upon General Chamberlain for refusing to recognize Mr. Lamson as Acting-Governor, and held him responsible for the present condition of affairs. He declared himself resolved to stand by the legality of the House so long as a drop of blood remained in his veins. This sentiment was loudly applauded.

At the conclusion of Mr. Plaisted's remarks, which extended past the time set for the choice of candidates, Mr. McLaughlin, of Carmel, by general consent, made a brief speech, indorsing Mr. Plaisted's views.

Mr. Swan, of Minot, moved, and the House ordered, that a committee of five be appointed to receive, assort and count the votes for candidates.

The Speaker appointed a committee at once.

The names of Joseph L. Smith and Alonzo Garcelon were the only ones printed on the ballots, and the report of the committee showed that Mr. Smith and Governor Garcelon each had 76 votes. The announcement was greeted with applause, and the report of the committee was adopted.

At 11:50 a. m. the House sent a message to the Senate informing it that Joseph L. Smith and Alonzo Garcelon had been selected as the constitutional candidates for Governor. A motion to receive the message and proceed to vote was made, Senator Strickland remarking that this was a legally constituted body in his belief, but should the proposed action be proved illegal, he wished it understood that it would lend no one. He was in favor of a peaceful solution of the difficulty, and not in favor of resistance.

A committee was appointed to receive, sort and count the votes for Governor. The vote was then taken, and resulted in the unanimous choice of Joseph L. Smith (Gbk.), 18 votes being cast for him.

After the election of Mr. Smith a convention of both houses of the Legislature was held, and the following gentlemen were chosen as Executive Councillors:

1st District—Edward C. Moody, of York.
IId District—Charles H. Chase, of Portland.
IIId District—John R. Redman, of Ellsworth.
IVth District—Henry H. Priest, of Vassalboro.
Vth District—William M. Rand, of Belfast.
VIth District—John B. Foster, of Bangor.
VIIth District—Charles R. Whidden, of Calais.

A special dispatch from Augusta to *The Herald* says:

A curious fact came to light during the ballot in the convention for members of the Executive Council. The printed ballots misspelled the names of two of the candidates. Edward C. Moody was called Edwin C. Moody, and J. R. Redman's name was changed to J. R. Redmon. The errors were not discovered until the committee had retired and counted the vote, but before they reported a new ballot was ordered.

Both branches of the Legislature reassembled at 4 o'clock this afternoon. The committee appointed to wait upon J. L. Smith and inform him of his election reported Mr. Smith's acceptance of the office.

At 4:30 o'clock a joint convention was held in the hall of the House for the purpose of administering the oath of office. A committee was appointed to wait upon the Governor-elect, and forthwith Mr. Smith appeared, accompanied by the heads of departments, the outgoing Council and the Adjutant-General. The oath was then administered by Acting-President Ellis, of the Senate, after which a proclamation was made by the Secretary of State and Governor Smith delivered a message.

A summary of Mr. Smith's message is given below:

After referring to the blessings which have been conferred on the State by Providence, Mr. Smith says the duty of the Legislature is earnestly to endeavor to comply with the will of the people and to promote the welfare of the State. "So long as we do not seek to evade or oppose the evident requirements," he says, "or to exceed the power it has conferred, we cannot go astray, or at least be deprived of the consciousness of an honest endeavor to subserve the best interests of our fellow-citizens."

"The charges of violence and intimidation in various State elections," Mr. Smith says, "I would refer to as a matter that causes great anxiety in every patriotic breast. Even in our own State there are like charges of fraudulent and oppressive means having been employed to control the action of voters, supported by evidence too strong and direct to admit of a reasonable doubt that such is the lamentable fact. And further, it is too notorious to deny that, not content with the employment of such criminal methods as are charged in our elections, there was devised, and actually put in operation, a scheme to overawe and intimidate our late Chief Magistrate in the legal and constitutional discharge of the duties of his high office. The firm and dignified manner in which he and his counsellors, under the abuse and indignities heaped upon them, discharged their responsible duties in conformity with the constitution, laws and precedents established by his predecessors in office, is worthy of, and will receive, the highest encomium of all citizens who truly have the welfare of the State at heart. The practical denial of the free right of suffrage, or undue influence over the exercise of that right, whether effected by bribes, by actual or threatened personal violence, or by threats of the withdrawal of employment or customage, is equally reprehensible. I would recommend that you first see that our own laws are so framed as to protect the purity of the ballot-box in our own State; and, second, that you express, by declaratory resolve, the convictions of this Legislature in that behalf."

Another joint convention was held after the reading of the message, and State officers were chosen as follows:

Secretary of State—F. A. Sawyer.
Treasurer—Charles A. White.
Attorney-General—W. H. McClellan.
Adjutant-General—M. M. Folsom.

Both branches of the Legislature adjourned until to-morrow at 9 o'clock.

THE PEACE TO BE PRESERVED.

AUGUSTA, Me., Jan. 16.—General Chamberlain has just issued the following order:

Whereas, Exciting rumors, which I believe to be entirely without foundation, are spread among the people that the State House is to be held by one party as against another, or is to be attacked by persons in the interest or some political party to gain possession of it for the purpose of excluding members-elect from the legislative halls, this is to give assurance that the rights and privileges of all parties shall be protected with complete impartiality. The halls are for the uses of members-elect to the Legislature, and shall be held inviolate for those uses. I give no credence to reports that either party would stoop to such a trick, or be rash enough to use violence to determine questions of right; but to allay any doubt or fear of this, I hereby give my personal guarantee that all rights shall be respected, and attempts to gain unfair advantage shall not be permitted.

Three companies of militia are under orders from General Chamberlain, but will not be brought to the city unless needed. The Capitol Guards of this city are ordered to appear at their armory at 7 o'clock to-morrow morning.

ELECTION OF THE YALE ALUMNI.

The annual meeting of the Yale Alumni Association of New-York, which was held at Delmonico's last night, was largely attended, over 200 being present. The secretary's report showed a large increase of membership, and the treasurer's report showed a balance on hand of $1,336 48.

General W. N. Armstrong, of Hampton, Va., a brother of the principal of the Normal Institute of that place, and a graduate of the class of 1858, read a paper on "Some Aspects of the Negro Question," treating of the negro as a factor in the future politics of the country. He questioned the wisdom of giving the ballot to so large a population of ignorant persons, but said that it would be a cause of retardation rather than a danger.

For the officers for the ensuing year there were four tickets offered. That presented by the nominating committee was headed by Charles Tracy, who was president last year. Other tickets named for president William Walter Phelps and Edwards Pierrepont. A letter was read from Mr. Pierrepont declining the nomination. The fourth ticket was prepared by those who thought the association should look to the "famous class of '56," and with the name of Benjamin K. Phelps for president, contained, with two exceptions, names from that class only. It was explained that it was as good a ticket as any of the others, and that it "fixed the responsibility somewhere," but it was suspected that something like a joked lurked in proposing this whole-souled honor to one class. The multiplicity of candidates retarded the voting, and at a late hour there remained to be chosen a second vice-president and three members of the Executive Committee. The officers then elected were: Charles Tracy, president; E. C. Stedman, vice-president; S. R. Betts, secretary; Joseph C. Jackson, treasurer; W. A. Linn and A. M. Dodge, of the Executive Committee.

NEWS FROM THE CAPITAL.

NOMINATIONS—COMMITTEE WORK.

MINISTERS TO ENGLAND AND RUSSIA APPOINTED BY THE PRESIDENT—FITZ JOHN PORTER'S BACK-PAY—PROPOSED CONSTITUTIONAL AMENDMENT ON THE ELECTION OF PRESIDENT.

Nominations to the English and Russian Missions were signed yesterday by the President, but the Senate had adjourned before the messenger reached the Chamber. The House Military Committee will consider to-day the report of the Sub-Committee on the Fitz John Porter case. An amendment to the Constitution in regard to the election of President and Vice-President has been prepared by the Sub-Committee of the House Special Committee. It is said that the Ute chiefs will be sent back to Colorado, with instructions to return with the twelve murderers.

THE VACANT FOREIGN MISSIONS.

MINISTERS TO ENGLAND AND RUSSIA NOMINATED BY THE PRESIDENT—ADJOURNMENT OF THE SENATE BEFORE THE NOMINATIONS WERE RECEIVED.

[BY TELEGRAPH TO THE TRIBUNE.]

WASHINGTON, Jan. 16.—The President signed the nominations of the new ministers to England and Russia yesterday, and sent them to the Senate; but before Mr. Pruden, one of the President's Secretaries reached the Capitol with the message, the Senate adjourned until Monday, and the nominations were returned to the White House.

Everyone who knows about these appointments declines to disclose the names of the new ministers, but it is definitely known that both of them are gentlemen already in diplomatic service who have been promoted and who have filled with credit the position they now hold. Mr. Evarts explains the preservation of the secret, after the nominations have been actually signed, by saying that possibly there may yet be some reason to make a change in one of the nominations before Monday.

In this connection there is a rumor that one of the gentlemen promoted has not yet signified his willingness to accept the new place, and it is possible that a definite decision may be received from him before noon on Monday. If he should positively decline before that time his name would not then be sent to the Senate.

FITZ JOHN PORTER'S CASE.

THE HOUSE COMMITTEE TO CONSIDER THE REPORT OF THE SUB-COMMITTEE TO-DAY—THE BILL REPORTED LIKELY TO PASS THE HOUSE.

[BY TELEGRAPH TO THE TRIBUNE.]

WASHINGTON, Jan. 16.—The House Committee on Military Affairs will hold a special meeting to-morrow to receive and consider the report of the sub-committee on the Fitz John Porter case. It is understood that the majority of the sub-committee have agreed to so modify the Bragg bill for the relief of General Porter that no appropriation of money to give General Porter back pay according to his rank will be required, but that they will insert in the bill a provision to appropriate and pay a lump sum to General Porter as a reimbursement to him on account of the expenses he has incurred during the investigation of his case. It is said that the sum recommended will be about the same that he would be entitled to as back pay—in round numbers, say, $100,000.

A leading Republican member of the House remarked to-day that he thought the bill agreed upon by the Military Committee would pass the House. The investigation had been a very thorough and exhaustive one, conducted by officers of high character, in whom the country had great confidence, and he thought the fact—added to the indisposition of many members to oppose a report by professional military men on a purely military subject—would be very likely to carry this measure through. This gentleman added that to his own personal knowledge General Terry, who was one of the members of the Board which reviewed General Porter's case, was at the outset so much prejudiced against that officer that he at first asked to be excused from service on the Board; and yet, as a result of taking part in the investigation, General Terry's views had experienced an entire change, and he had signed the report exonerating Porter from blame.

THE UTE CHIEFS.

RUMORS THAT THEY ARE TO BE RETURNED TO COLORADO—THE HOUSE COMMITTEE TO INVESTIGATE THE CAUSES OF THE OUTBREAK TO-DAY.

[BY TELEGRAPH TO THE TRIBUNE.]

WASHINGTON, Jan. 16.—Ouray had a second interview with Secretary Schurz to-day. It has been about determined to send Ouray, Jack and the other chiefs back to Colorado in charge of an agent, for the purpose of bringing, if possible, the twelve Ute murderers, or as many of them as can be induced to come. It is believed by those who are informed in Indian matters that the intention is to play upon the fears of the Indians with a view to settling on as good terms as possible. Ouray has persisted from the first that he has no power to bring in these Indians. He assures the Secretary that he cannot compel them unless he can kill them first, which he is personally willing to undertake.

After to-day the embargo on the Utes will be removed, and they will be allowed to see visitors. It is understood that General Hatch is already on the way, or about to start, from the Indian country with a second delegation of Southern Utes, who will come here in a few days. It is not likely that they will be allowed to go home until they have come to some agreement which will be satisfactory to the Government.

The House Committee on Indian Affairs will to-morrow morning resume its investigations of the causes of the recent Ute outbreak, and will examine Messrs. Fisk and Leeds, of New-York. Indian Commissioner Hayt has been invited to be present. The scope of the investigation will be confined to the recent outbreak and the causes that led to it, and will not extend to an inquiry into the affairs and management of the Interior Department. The investigation will be pursued privately by the committee, for the present, at least. The chairman, however, stated this morning that there was no desire or intention on the part of the committee to conduct a Star-Chamber investigation; on the contrary, it wishes that all material facts or results should be freely given to the press and the public.

COUNTING THE ELECTORAL VOTE.

CONSTITUTIONAL AMENDMENT PROPOSED BY THE SUB-COMMITTEE OF THE SPECIAL HOUSE COMMITTEE.

WASHINGTON, Jan. 16.—The sub-committee of the House select committee "on the state of the law respecting ascertainment and declaration of the result of election of President and Vice-President" at their meeting to-day decided to report favorably to the full committee the joint resolution introduced by Representative Bicknell providing for an amendment to the Constitution as to the election of President and Vice-President.

A meeting of the full committee will be called early next week, and the report of the sub-committee will probably be adopted without amendment and the resolution will be favorably reported to the House. The proposed amendment contemplates an election of President and Vice-President by the people of the several States, and prescribes the manner of counting the votes and determining questions of contest.

The electoral vote and fraction thereof of each person voted for as President in any State shall be ascertained by multiplying his entire popular vote therein by the number of the State's electoral votes, and dividing the product by the sum of all the votes given in the State for President, and the quotient shall be the number of electoral votes and fraction thereof to be assigned to such person, using for such fraction three decimals only.

The foregoing provisions shall be applicable to the election of Vice-President, but no person ineligible to the office of President shall be eligible as Vice-President.

In case of a contest in any State as to the election of President or Vice-President the same may be passed upon by its highest judicial tribunal, in accordance with its laws. The decision thereof shall be by it certified, and transmitted, sealed, to the seat of Government of the United States, directed to the President of the Senate.

The electoral votes shall be counted by the two Houses, as certified, unless rejected by both Houses; but if there be a certificate of decision by the highest judicial tribunal of any State upon a contested election therein, the electoral votes of such State shall be counted in accordance with such decision, unless the same be overruled by both Houses. If there be no such certificate of decision, the contested votes from any State shall not be counted unless both Houses concur therein. If there be more than one certificate of electoral votes from any State and no such judicial decision, or if there be more than one such decision from any State, in either case that certificate of electoral votes or that decision which shall be held by both Houses to be made by the rightful authority shall be conclusive, and the votes shall be counted accordingly, unless rejected by both Houses.

The above are the main points of difference between the present mode and that prescribed by the proposed Constitutional amendment.

CONTESTED SEATS IN THE SENATE.

TESTIMONY BEFORE THE COMMITTEE IN THE KELLOGG AND INGALLS CASES.

WASHINGTON, Jan. 16.—The Senate Committee on Privileges and Elections examined only one of Mr. Kellogg's witnesses this morning—Mr. L. B. Hubbard, who contradicted DeLacey's statement that he (Hubbard) was present and saw an envelope placed upon DeLacey's desk in the Louisiana House of Representatives, which DeLacey swore contained $150, and which he said, was intended to influence his vote for Kellogg as United States Senator. Senator Kellogg's counsel then asked that the testimony of E. L. Weber, who testified against Kellogg in New-Orleans, be either struck from the record, or that the witness be compelled to come here and submit to cross-examination. This question was held under advisement for future decision by the committee. Senator Kellogg submitted a letter claiming the right to introduce additional testimony in rebuttal of any original testimony that may be hereafter offered by Mr. Spofford, and also claiming the right to testify in his own behalf when all the evidence is in. Without deciding this question, the committee postponed further consideration of the case until Monday, and resumed consideration of the Ingalls case.

The first witness called in the Ingalls case was ex-Governor Anthony, of Kansas, who testified that about the time of the election he was approached by A. C. Dawes, who said he had been sent by Senator Ingalls to interview Anthony, and that if Anthony would withdraw his name and retire from the contest for the Senatorship he would place the resignation of the Postmaster at Leavenworth in Mr. Anthony's hands, and that Senator Ingalls would use his influence to secure the appointment of any person Mr. Anthony might choose to nominate for the position. This proposition, Governor Anthony said, he rejected then and there.

WASHINGTON NOTES.

WASHINGTON, Friday, Jan. 16, 1880.

The sub-committee to investigate the Star Route service will resume their examination of General Brady to-morrow morning.

The Senate committee appointed to investigate the causes of the exodus of colored people from Southern to Northern States will meet on Monday, for which date a number of witnesses, mostly colored, have been summoned.

The Treasury Department is in receipt of information that the British Government has issued orders (which took effect on the 1st inst.) under which sheep from the United States may be landed in Ireland without quarantine, and without being slaughtered at the place of landing.

At the meeting this morning of the House Committee on Claims, the report of the sub-committee in favor of the bill to reimburse the State of Georgia for expenses incurred in the war of 1777 was adopted by the full committee, and the chairman was instructed to report the same to the House.

GENERAL FOREIGN NEWS.

THE NEW FRENCH MINISTERS' POLICY.

PARIS, Friday, Jan. 16, 1880.

The Ministerial statement was read in the Chambers to-day. It is to the effect that the change in the Cabinet does not indicate the abandonment of the present policy, which is the best suitable to the internal affairs of France, but that it indicates that France may henceforth advance with decision in the path of necessary reforms and successive improvements. The Government will apply itself to the realization of these reforms without precipitation or vacillation, and it relies upon the energetic support of the Chambers. It says events have raised a certain number of questions which cannot be left in suspense without injuring the interests of the country. For each one of these the Government intends to bring forward a solution. This declaration was much cheered by the Left.

NO ARTIFICIAL DIAMONDS PRODUCED.

LONDON, Friday, Jan. 16, 1880.

James Mactear writes to *The Times* stating that he has held an interview with Mr. Maskelyne, and after a fresh investigation, l