

# THE NORTH-CAROLINA STAR.

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TERMS—Two Dollars in Advance.

THOMAS J. LEMA, Editor

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## LEGISLATIVE PROCEEDINGS.

Tuesday, Oct. 5, 1852.

A message was received from the House of Commons, informing the Senate of the organization of that body, and of its readiness to proceed to the discharge of public business.

On motion of Mr. Bower, a similar message, announcing the organization of the Senate, was sent to the House of Commons.

The following members appeared, were qualified and took their seats: Charles McCles, Senator from Washington and Tyrrell; Gov. H. McMillan, from Onslow; James P. Speight, Lenoir and Greene; Thos. J. Person, Northampton.

Mr. Steele presented a resolution, directing the principal door-keeper to provide seats for Reporters in the rear of the Speaker's chair, which was adopted.

Mr. Lillington presented a communication from Wm. Hill, Esq., Secretary of State, announcing that Seaton Gales, Esq., had contracted to execute the printing of the present Legislature, which was read and sent to the other House.

On motion of Mr. Brogden, it was ordered that the Rules of Order for the Senate of that session be in force until otherwise ordered.

A message was received from Commons, proposing to raise a joint select committee of two on the part of each House to wait on the Governor and inform him of the organization of the two Houses, and of their readiness to receive any communication which he may think proper to make; which was agreed to, and Messrs. Brogden and Joyner were appointed the Senate's branch of said committee. Mr. Joyner subsequently reported that the committee had discharged the duty assigned them, and that they were instructed to say the Governor would make a communication to the Legislature to-day at 12 o'clock.

## CONTESTED ELECTION.

The Senate proceeded to the consideration of the unfinished business of yesterday—the question being on the amendment of the Senator from Buncombe to the resolution of the Senator from Lincoln in regard to the applicant for the seat as Senator from Currituck and Camden.

Mr. Jones, from Perquimans and Pasquotank submitted the following preamble and resolution: as a substitute for the resolution of Mr. Woodfin; upon which the latter withdrew his name and accepted the said substitute, to wit:

Whereas, the Sheriff of Currituck County has certified to the Senate that John Barnard, on the 5th of August last, was duly elected a member of the Senate from the 2nd Senatorial District, composed of the counties of Camden and Currituck;

Whereas, the Sheriff of Currituck County, who was alive on the day the election was held, died before the day fixed by law for comparing polls; whereupon the coroner of said Currituck County has certified that H. M. Shaw is elected Senator in said District;

Whereas, the certificate of said Coroner, if admissible at all, can (as it is insisted) be justified by taking from said Barnard one vote certified by him to Camden County, because on the certified return from that precinct, the votes counted and numbered by the Clerk, and by giving two votes the said Shaw in Currituck County, because two votes were found in the Governor's box at a precinct, without counting two votes the number of votes listed and the number of votes counted out, were the same;

And whereas, neither applicant has an in behalf the evidence required by law, before taking a seat to represent the freedom of North Carolina in this Senate, and to enable the Senate to do justice to both, investigation is necessary;

Resolved, That it be referred to a select committee of seven, whom duty shall first to report the facts of this case at the very earliest day convenient.

Mr. Jones said he proposed to make a few remarks on the subject. Coming as he did from that section of country, he was more familiar with the facts than any other gentleman, perhaps, on the floor of the Senate; and he was unwilling that that body should vote without a knowledge of the same. He proposed, however, first to comment on the evidence of his claims to the seat, presented by the two claimants. They came with perhaps equal evidence, tho' he contended that that submitted by Mr. Barnard was entitled to the greater weight. The law, he said, required that the certificates of the Sheriffs or other returning officers, should be given under their hands and seals. Did Dr. Shaw, he asked, present any such certificate? He did not.—He had presented the certificate of the Coroner, without even his seals; whereas Mr. Barnard had presented the certificate of the Sheriff, setting forth his election, with seal in due form; which was prima facie evidence of his title.

In regard to the facts, Mr. Jones said some of these were stated in his resolution. It was then stated that the Sheriff of Currituck was living on the day of election. It had been said he was dead before the election. He was not; he was living, and an investigation would show that he was, and voted on a sick bed, by proxy, for Dr. Shaw. Another fact shows that the certificate of one precinct in Camden was altered after it was signed by the poll-holders without their knowledge or consent, and one vote given to Mr. Barnard written out from the polls of the District were compared. He had ascertained these were facts; and they ought to go to a committee. At this precinct 79 votes were counted in the box, and the names of only 78 votes were registered on the poll-book—showing the omission of one name by the clerk; but the poll-keepers, believing the 79 votes had been bona fide cast, gave their certificate for that number, of which Barnard received 62 and Shaw 17. Mr. Cherry, the Inspector, without authority from the two poll-keepers, ran his pen through the 2 in the number given to Barnard, and reduced it to a 1. Does the Senate desire to investigate this matter? Ought they not to do it? That certificate returned in its original purity, would prove a lie; which being made known to the Sheriff of Camden, he proposed to the Coroner to proceed to hold the statute direct, upon ascertaining these facts, pronounce it a lie. But these were only some of the facts which a committee would elucidate. There were others material in the case. It would be ascertained that at one precinct Currituck Sheriff were two votes given for Shaw in and counted in the Governor's box, which were two votes more than the list of voters showed had

been given. One vote was put in that box, and the mistake discovered at the time, and it was agreed to count it. Well, let that be counted; but the Senate should have these facts before them; and they could not get them in evidence, except through a committee; and how could any Senator refuse a committee in such a case?

Mr. Jones next proceeded to remark on the resolution of the Senator from Lincoln, (Mr. Hoke.) That resolution declared, from the evidence, that Dr. Shaw was duly elected.—What, he asked, was this evidence? Why, simply the Coroner's certificate, without the seal required by law, and founded upon a vitiated poll. Was that such evidence as should satisfy the Senate? But the Sheriff certifies to John Barnard's election, under seal.—Why does he so certify? Because he demanded of the Coroner of Currituck to show the returns, which he refused, except from the polls compared, that Barnard was elected.

This refusal, he contended, was illegal, and read from the Senate that show that the Sheriff or other returning officer shall meet to compare polls; that a certificate shall be affixed to the polls; and that the polls so certified shall be examined and compared by the Sheriffs of the district.—Section 9th, said Mr. Jones, requires that in districts composed of more Counties than one, the poll-books of each county shall be made out, and accompanied by the certificates of the inspectors, shall be produced before the district Sheriffs, that they, the judges, may then determine who of the candidates are elected. The Sheriff of Camden, under oath, certifies that he demanded these books, and was refused. Now could the Senate be prepared to say that Shaw was entitled to his seat, when this was refused? The Sheriff of Camden did exhibit his books, and certifies to Mr. Barnard's election. Does Mr. Shaw present as good a title to the seat as Mr. Barnard? But he admitted with the evidence now before the Senate, they could not be prepared to say which was entitled to a seat.

The Senate had been in the habit of admitting applicants to a seat with a certificate; but it was when there was no controversy.—In this case there was controversy. It was without precedent on that floor; and he had hoped, on account of its novelty, and for fear of injustice without investigation, it would be referred to a committee to ascertain and report the facts.—Dr. Shaw, he said, exhibited the certificate only of the Coroner, the Sheriff being dead; but this was without seal, and the Sheriff, without seal, would be illegal.

Would the Senate undertake to ride over the law? He then appealed to the Senate, if in a case of such difficulty, they would not refer it to a committee, to report upon it, and say which shall be entitled to a seat; or if the gentlemen on the other side, the friends of Dr. Shaw, chose, they could send it back to the people to decide. He would pledge the acquiescence of the friends of Mr. Barnard. No notice of intention to contest having been given by either party, if the resolution of the Senator from Lincoln was adopted, the door to investigation would be shut, and there would be no opportunity to contest the seat. It would be fair to both sides to give it to a committee.

After Mr. Jones had taken his seat, the Speaker announced a message from the commons, transmitting a message from the Governor, with a proposition that the message of the Governor be printed, five copies for each member. The message was read, stating the reasons for the call of the extra Session; and the proposition of the House agreed to.

The question then recurring on the resolution of Mr. Jones.

Mr. Caldwell called for the reading of the papers connected with the matter; which was ordered.

Mr. Bynum called the attention of the Senate to the affidavit of poll-keepers at Canal Bridge precinct, stating that the list of voters showed one vote less than was counted from the box, and that their certificate had been altered after their authority.

Mr. Caldwell spoke at some length. He commented upon the facts stated by the Senator from Perquimans, (Mr. Jones) said they were not stated in the certificates, were not in evidence, and not to be received. The Coroner's certificate was evidence of the death of the Sheriff. Could it be shown that he was not dead? That certificate was the only evidence on which the Senate could act.—There was nothing here to show that there were illegal votes. The Senator from Perquimans had contended that this was a case of contested election; and he had shown that there was no notice given. Could it be gotten before a committee without this notice? But he presumed every Senator was as capable of deciding as a committee. All that they asked was the certificate; and the Sheriff of Camden, by his own certificate, showed that the poll-books was compared. Now it was rumored abroad that there was foul play in the election, and reported facts had been collected and brought up here. Shall they be put in the record in relation to the certificates? and shall we resort to such special pleading, in regard to these certificates, as that employed on the other side of the House? The Sheriff of Camden had very cautiously drawn his certificate. He took counsel no doubt. He stated facts—said the books were not produced; but did he say there and there? This certificate, however, he contended, amounted to nothing; that of the Coroner of Currituck was the proper evidence; and it appeared from that, that Dr. Shaw was entitled to his seat.

Mr. Bynum called for the reading of the signature of the returning officer from Currituck; and asked if it was under seal; to which the Clerk responded, no.

Mr. Hoke said they stood there to revise the acts of the sheriffs. That was all they could do. The only power they had was to over-look their acts, and that was as far as they could go. There was a certificate which states that Dr. Shaw was elected by one vote; they could not go behind that; a committee they could do nothing. The only thing they could do would be probably a delay the matter one or two months. In regard to what had been said relative to comparing the polls, he contended that the acts of assembly simply require the Sheriffs to compare the votes, when they meet. The Sheriff of Camden had no right to demand the poll-books. All that every plain man can desire is to get at the justice of the case; and the certificate of the Coroner enabled them to do this. Nothing could be gained by a prolongation of the matter.

Mr. Jones, in reply to Messrs. Caldwell

and Hoke, said it was not pretended by him that there was evidence before the Senate that there were illegal votes, or that the Sheriff was dead or living on the day of election; but he asked if the Senate were willing to decide on this question without investigation? If gentlemen on the other side were determined to set upon the bare face of the certificates (which he acknowledged was the only legal evidence), without referring it to a committee, it would be evidence that they are unwilling to bring the facts to light. Admitting that both certificates are of equal weight, (which he did not admit,) then the Senate should investigate. It was contended that the Sheriff had not a right to demand the books, when an alteration had been made in a certificate by an unauthorized person. He asked if this allegation had been made if it ought not to be investigated? If the record does not speak the truth in judicial proceedings, he asked if it was not the practice to order them to be amended? If the record of the proceedings of this body to-morrow should be found not to speak the truth, would they not be ordered to be amended? So it was their duty to make all their records speak the truth. The gentleman from Rutherford (Mr. Bynum) had called the attention of the Senate to the fact, that the books show that at one precinct there was one more vote given than was recorded; and that an unauthorized alteration was made in the vote after the poll had been certified. Should this be passed over in silence? He reminded Mr. Hoke that the law required the names to be recorded and certified to, which constituted the polls to be compared by the Sheriffs; and asked if an altered return had been sanctioned by the Sheriffs, if this body had no right to correct it? He asked gentlemen, if they were unwilling these facts should be gone into! If so, he had nothing more to say.

Mr. Caldwell rejoined, contending that the Sheriffs were only ministerial officers; and all they could do was to count the votes and proclaim who was elected. What! Sheriffs purge the polls? No, they can only count, add, up, and certify to the result. He contended, also, that the want of the seal did not invalidate the certificate; and a member might be admitted to a seat even without a certificate. If the Governor refused to give a certificate to a member of Congress, it could not prevent him from taking his seat.

Mr. Lillington followed. He did not know that he could throw any light on the subject; and would not say anything but for a remark of the Senator from Lincoln, that nothing could be gained by referring this matter to a committee. If he meant to say that Senators were now as well prepared to act as they would be after more light—such as might be thrown on the subject by the Senator from Pasquotank and Perquimans, or the Senator from Mecklenburg—he denied the position.—The Senate was not prepared to do justice to the claimants and their constituents. If justice be the object, then investigation by a committee is necessary. But if the gentleman means that it is the determination to vote in the one without regard to facts, that is a foregone conclusion, then let the people of North Carolina know it; the sooner the better.

He hoped, however, it would not be that a party contest. It was a matter of great importance, involving the purity of the elective franchise and the rights of the people. He was struck with the ingenuity of the Senator from Mecklenburg (Mr. Caldwell). He took the ground that we could not go beyond the record, and contended that these certificates were the record. Mr. Lillington contended that there was no judicial officer in the State who would not pronounce the certificates utterly deficient. He asked the gentleman from Mecklenburg if the law does not require the seal? This was omitted. The Senator from Lincoln, (Mr. Hoke) had said, all the Sheriffs had to do, was to compare the polls, &c. How could they do this without the poll-books? The Senator from Perquimans (Mr. Jones) had stated facts that ought to be investigated. There was one fact in the certificate which needed investigation of itself; that there was one vote more given at one precinct than was registered. He appealed to the Senate to divert themselves of all improper feelings, as far as poor human nature would allow, and grant an impartial investigation, which will give satisfaction to all parties. This is a purely judicial question, and should be so treated. If this was not granted, then he would say, but not in the language of menace, that the only resort that will be left, will be an appeal to the great body of the people.

Mr. Hoke said Mr. Lillington had taken occasion to manufacture some indignation upon a remark of his, that nothing could be gained by a committee. All he meant by that was that after all, a committee could not act upon the certificates. The Senator from Rowan and Davie seemed to have made up his mind in favor of Mr. Barnard. He could not see what an investigation could do. In regard to the one vote Dr. Shaw might have cheated out of it, or Mr. Barnard. We could not ascertain which. The Senate must decide upon the certificates, the case must be decided by the record, and they were the only judges.

Mr. Lillington said the Senator from Lincoln was mistaken in supposing he had made up his mind; and proceeded to remark that the Senate from Mecklenburg was unfortunate in alluding to members of Congress having the right to take their seats without the certificate of the Governor, and cited a case or two showing the contrary.

Mr. Jones offered a paper for the information of the Senate.

Mr. Hoke objected to its being read. The question on the reading was decided in the affirmative. The said paper was then read. It was the certificate of Henry Chamberlain, &c.

[Certificate of Henry Chamberlain and Elijah Barnham, poll-keepers at Canal Bridge, Camden, certifying that they kept the polls; that Mr. Cherry was inspector, and did equal justice to both candidates; and when he counted out the votes, he counted out 79 from the box which gave Dr. Shaw 17, and Mr. Barnard 62; but they had recorded on the poll-books only 78 votes, making a difference of one more in the box than was counted in the polls; that they believe the mistake was caused by the crowd of people looking over the polls during the day, that they must have omitted to record one of the voters; that the certificate to the certificates, which contained the 62 votes for Mr. Barnard, also the 17 for Dr. Shaw, said did not contain the 79 votes; Mr. Cherry's certificate was correct; they also state that if Mr.

Cherry altered the certificate, he did it without their knowledge or consent; and further say, that they are convinced in their own minds that Mr. Barnard is entitled to the 62 votes which was first set forth in the certificate drawn up by Mr. Cherry and signed by them the evening the polls were closed.—Sworn to before a justice of the Peace.)

The Senate then, on motion, adjourned until to-morrow morning 10 o'clock.

## HOUSE OF COMMONS.

TUESDAY, Oct. 5th, 1852.

The Speaker took his seat at 10 o'clock, and called the house to order. The Journals of Monday were read and approved.

On motion of Mr. Sprull, Messrs. J. L. Jones of Tyrrell, and J. B. Bynum and B. F. Lockhart, of Northampton, were qualified and took their seats.

The Speaker then announced that the business in order was the motion of Mr. Avery of Burke, to lay upon the table the Resolution of Mr. Caldwell, of Guilford, to have baize curtains placed at the upper windows of the Commons hall.

Mr. Avery withdrew his motion; and the question recurring on its adoption.

Mr. Wilder, of Wake, said he was opposed to the resolution, unless it was understood to be a temporary arrangement. He desired something more suitable than baize and more durable.

Mr. Caldwell hoped it would only be a temporary arrangement, but circumstances would admit of delay. The House at the last session had adopted a resolution to have baize suitably furnished, and the Senate refused to concur. He feared a proposition for this purpose now, would meet with a similar fate. He was ready however at any time, heartily to co-operate with others in having the House furnished in a becoming style.

On motion of Mr. Cherry, of Brunswick, the resolution was amended so as to specify that the baize curtains were only intended for the temporary use of the House; whereupon the rules were suspended, and it passed its three readings.

On motion of Mr. Cherry, a Message was sent to Senate to inform that body that the House was organized and ready to proceed with business.

Mr. John H. Wheeler introduced a resolution to adopt the rules of order of the last Session for the temporary government of the House, and to appoint a committee of five to report rules for the permanent government of the House, also one to send a message to the Senate proposing to raise a select committee to prepare rules to govern the intercourse of the two bodies; both of which were adopted.

Messrs. Wheeler, Pargear, Cherry, Dobbin and Leach were appointed the committee to prepare rules of order.

Mr. S. P. Hill, of Caswell, introduced a Resolution to send a message to the Senate proposing to raise a joint committee select of two from each House, to take into consideration the subject of furnishing each House so as to provide for the comfort and convenience of the members thereof; which was adopted.

A message was received from the Senate, informing the House of its organization and readiness to proceed with business.

On motion of Mr. W. K. Martin of Franklin, it was Resolved that a message be sent to the Senate, proposing to raise a joint committee of two, on the part of each House, to wait on the Governor and inform him of their readiness to receive any communication from him.

Messrs. W. K. Martin and S. F. Phillips were appointed the committee on the part of the House for this purpose.

A message was received from the Senate, transmitting a communication from the Secretary of State, informing the Legislature that Seaton Gales, Esq. had taken the contract for the printing of the two Houses.

Also a message concurring in the proposition to appoint a committee to wait upon the Governor.

Mr. Wheeler moved that a message be sent to the Senate proposing to go into the election of an Engraving Clerk to-morrow at 12 o'clock.

After a brief discussion in which Messrs. Wilder, Miller, Avery and Pargear participated, on motion of Mr. Avery the resolution was laid upon the table.

A message was received from his Excellency, David S. Reid, stating the objects for which the Legislature was called together at this time, and making suggestions in reference to the propriety of repeating the law fixing the time for the commencement of the regular Session, and of going into the business of the regular Session. [The message will be found in another column.]

The Message of the Governor having been read, on motion of Mr. Dobbin, a message was sent to the Senate, transmitting the communication of the Governor, with a proposition to print five copies of the message with the accompanying documents, for the use of each member.

Mr. Dobbin stated that he supposed that it would not be possible to refer the subjects presented in the Governor's Message until it was printed, and as these did not seem to be any other business to be taken up he would move that the House adjourn until to-morrow morning 10 o'clock; which was agreed to. So the House adjourned.

## SENATE.

Wednesday, Oct. 6, 1852.

Messages were received from the House of Commons, and concurred in, proposing to raise the following joint select committees:

A committee of two on the part of each House to take into consideration the furnishing each House in a manner suitable to the comfort and convenience of the members.—Messrs. Baring and Lillington were appointed the committee on the part of the Senate.—The House committee are Messrs. S. P. Hill and Cherry.

A committee of five on the part of the House and three on the part of the Senate, to prepare Joint Rules of Order for the government of the two Houses. Messrs. Bower, Thompson and Brogden were appointed the Senate's branch of this committee. Messrs. Wheeler, Waters, Avery, Wynn and Adams form said committee on the part of the Commons.

A committee of five on the part of the Senate, and nine on the part of the Commons, to take into consideration that part of the Governor's message which relates to the repealing for the session, the law fixing the time for the meeting of the General Assembly, and proceeding to the ordinary business of the

Legislature. Messrs. Caldwell, T. F. Jones, Hargrave, Drake and Albright were appointed on said committee on the part of the Senate. The House Committee are Messrs. Leach, Carmichael, Love, Black, Strasser, Amis, Wilder, Albright and Stubbs.

A committee on so much of the Governor's message as relates to the Electoral Districts Messrs. Hoke, Kelly, Thomas, Boyd and Woodfin, were appointed the Senate's branch of said committee. House Committee, Messrs. Dobbin, Pargear, Dobson, Lander, Wiley, J. Turner, Cherry, Dornch, and W. H. Sanders.

The message of the House, proposing to go into an election for Engraving Clerk, was laid on the table.

Mr. Watson introduced a resolution, providing that when the Senate is adjourned, it shall be to 10 o'clock, until otherwise ordered; which, on motion of Mr. Bynum, was laid upon the table.

## CONTESTED ELECTION.

The unfinished business of yesterday was taken up for consideration—the question pending being the resolution of Mr. Jones, providing for an investigation by a committee, offered as an amendment to the resolution of Mr. Hoke, declaring Mr. Shaw entitled to his seat as Senator from Camden and Currituck.

Mr. Jones asked leave to present a paper giving information to the Senate touching the subject matter under consideration.

Mr. Hoke objected to the reception, and raised a point of order.

The Speaker decided that it was a case that did not come under what was technically a rule of order. It proposed to give information to the Senate, and it was within its discretion whether it should be received or not.

The question was then taken on the reception, and carried; and the said paper was read.

It was the affidavit of Archibald Cherry, the Inspector of the poll at Canal Bridge precinct in Camden county, testifying to the facts stated in the certificate of the poll-holders at said precinct, and stating that he did take the responsibility, without authority from the poll-holders, after their certificate had been made out and signed, to make an alteration in the statement of the polls, by changing the figure two into one.

Mr. Caldwell moved that it be laid upon the table.

The President. The paper will, as a matter of course, go to the table, without dissent.

Mr. Bynum then proceeded to address the Chair upon the subject before the Senate, having obtained the floor for that purpose previous to the adjournment yesterday.

The proposition now before the Senate, said Mr. Bynum, is two fold or rather there are two distinct propositions. The proposition on the part of the friends of Mr. Barnard, is that the whole matter be referred to a committee to investigate and report the facts to the Senate, in order that we may act upon the subject with all the lights that can be afforded. The proposition on the part of the friends of Mr. Shaw, as embodied in the resolution introduced by the Senator from Lincoln, is that the certificate presented here on the part of Mr. Shaw, be entitled to his seat. These are the two distinct propositions which are before the Senate.

Now, sir, I propose to show to the Senate that there is no evidence before them, acting in the capacity they do, acting, I say, in the capacity of judges in this matter, which will justify them in pronouncing a decision as to who is entitled to the seat as Senator elect from the 2nd district. And, sir, if any one will take the pains to examine the act of the Assembly which has reference to this point, he can have no doubt whatever in regard to it.

Sir, there are two sorts of Senatorial Districts in the State. There are Senatorial Districts consisting of one county each. And there are Senatorial Districts consisting of more than one county; and the law is clear and specific in prescribing what course shall be pursued in those counties where more than one county compose a Senatorial District.—[Mr. Bynum here read from the Statutes.]—Here, he continued, is a law which expressly provides that the Sheriffs or other returning officers of the several counties composing the Senatorial District shall assemble and examine and compare the votes given in the different counties; and that they shall then give a certificate under their hands and seals. Now, I contend that no man can come here and properly claim a seat as a Senator, unless he produces evidence of the fact that both Sheriffs assembled and distinctly conferred together, or as to who was elected. The act provides that they shall meet together, and that they shall both examine the polls and compare them.

The Senator from Lincoln, yesterday, made a remark in which I desire to call the special attention of the Senate. I think he laid down exactly the true doctrine. I think this position is exactly that which ought to govern the Senate in their action in this case. The position is this: that when there is an informality existing in the certificates, or what are assumed to be certificates, which are exhibited here, as Senators ought to do, what was the duty of the Sheriffs to have done, at the time prescribed by law, and what they omitted to do. That is exactly the true position. But I wish the Senate to bear in mind that if we are to do what the Sheriffs neglected and failed to do, we must have before us the same state of facts that the Sheriffs had; and that is all that is proposed on this side of the House. All that we claim, all that we desire, is simply that this matter shall be placed in such a position that we, as Senators, can know the true facts which exist.

Now, sir, looking at the act of the assembly, it must be clear to every man here present, that neither of the gentlemen who claim the seat in this case has such evidence as the law requires, that he is elected. The evidence which is prescribed by the Statute is not produced by either. The evidence which is required by the act of the Assembly is that they shall produce certificates under the hands and seals of the Sheriffs or other returning officers of the counties of which the Senatorial Districts are composed, that they are duly elected. Neither of the gentlemen in this case has produced or offered to produce any thing of the kind. It is said that we must be governed by the testimony we have; that we must not go beyond the record. Well, what is the record; is there any thing in the law which makes that a position that we, as Senators, can know the true facts which exist.

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