

CHRISTOPHER L. GRAFFLIN.

FEBRUARY 23, 1863.—Ordered to be printed.

Mr. DAWES, from the Committee of Elections, submitted the following

REPORT.

*The Committee of Elections, to whom were referred the credentials of Christopher L. Grafflin, claiming to have been elected a representative from the eighth congressional district in Virginia, report :*

That said district is composed of the counties of Frederick, Page, Warren, Clarke, Berkeley, Jefferson, Hampshire, Morgan, and Loudon. Writs of election were issued by the governor of the Commonwealth, bearing date the 13th of December, 1862, ordering an election of representative in this district on the 31st of said December. These writs were placed in the hands of Mr. O. D. Downey, who was instructed to visit the district and determine, from actual observation, whether the district was in a condition to hold an election at the time fixed in the writ; and, if from the presence of rebels or other causes connected with the war, he should deem an election at that time impracticable or unsafe, to appoint such other day as, in his judgment, would be, under all the circumstances, most suitable and proper. On the arrival of Mr. Downey in the district he found the condition of the people so unsettled (a strong force of the enemy occupying several of the counties, and in the immediate neighborhood of others, threatening those desirous of exercising the elective franchise) that he deemed an election upon the day fixed in the writ wholly impracticable. He accordingly fixed upon the 5th of January, 1863, as the time for holding this election. At that time there were cast in the county of Morgan 158 votes for Mr. Grafflin, and 58 for Joseph S. Wheat; in the county of Berkeley 115 votes for Mr. Grafflin; and in the county of Hampshire 69 votes for Mr. Grafflin, and two votes for Mr. Wheat; 342 votes, in all, for Mr. Grafflin, and 60 votes for Mr. Wheat—a total of 402 votes. No votes were cast in any other county, and in but two precincts in Hampshire and one in Berkeley. In the counties of Frederick, Page, Warren, Clarke, Loudon, and Jefferson, six out of the nine composing the district, there were

no votes cast. Of some of these counties the rebels had armed occupation, and into others guerilla bands were constantly making incursions, filling the people with terror, and threatening with imprisonment all who should participate in this election. To open the polls under such circumstances in these counties would have been worse than a farce: it would have been an invitation to the rebels to visit with violence the peaceful and loyal citizens so situated that our forces could not protect them.

This case comes within the precedent established in the recent case of Lewis McKenzie claiming a seat as a representative from the seventh district in Virginia by virtue of an election precisely similar to this. The laws of Virginia require the governor to fix in his writ the time for holding an election to fill a vacancy, and nowhere authorize him to delegate that power to another.

The election itself, had the day upon which it was held been authorized by law, like that in the case of McKenzie, already alluded to, was not a general election in the whole district, but only a partial and imperfect one, in which much the largest portion of the voters of the district took no part and had no opportunity to take part. No notices were served and no polls opened; and if there had been, no voter could, with safety to his property, his liberty, or his life, have voted in much the largest portion of the district. The committee regret that they cannot find any ground for pronouncing this an election in any just sense of that term. After a careful revision of the decision to which they arrived in the case of McKenzie, already stated, which was sustained by the House, they see no occasion to question its correctness, and they therefore report the accompanying resolution, and recommend its adoption:

*Resolved*, That Christopher L. Grafflin is not entitled to a seat in this House as a representative from the eighth congressional district in Virginia.

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PROCLAMATION BY THE GOVERNOR.

Whereas, on the 13th day of December, 1862, in pursuance of authority vested in me by the laws of this Commonwealth, I directed writs to be issued ordering an election for a representative in the thirty-seventh Congress of the United States to be held on the 5th day of January, 1863, in the eighth congressional district of Virginia, composed of the counties of Frederick, Page, Warren, Clarke, Berkeley, Jefferson, Hampshire, Morgan, and Loudon; and whereas it is certified to me by the proper officers that at said election, held in pursuance of said writs, in the county of Morgan one hundred and fifty-eight votes were cast for Christopher L. Grafflin, esq., and fifty-eight for Joseph S. Wheat, esq., and in the county of Berkeley one hundred and fifteen votes were given for said Grafflin, and in the county of Hampshire sixty-nine votes were cast for said Grafflin, and two votes for said Wheat:

Now, therefore, I, Francis H. Peirpoint, governor of the Commonwealth of Virginia, do declare that, from the returns made to me, the said Grafflin was elected representative as aforesaid.

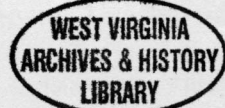
Given under my hand and the great seal of the Commonwealth, at the city of Wheeling, this 14th day of January, in the year of our Lord one [SEAL.] thousand eight hundred and sixty-three, and in the eighty-seventh year of the Commonwealth.

FRANCIS H. PEIRPOINT.

By the governor :

L. A. HAGANS, *Secretary of the Commonwealth.*

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