

MOSES-MANNING CONTEST.

THE EXECUTIVE COMMITTEE HEARS IT.

From Daily Item, September 22.

The County Executive Committee was called to order in the Court House at 10.30 o'clock this morning with Chairman Purdy in the chair. Messrs R. W. Shand and Mark Reynolds, attorneys for Mr. E. I. Manning, and Mr. A. B. Stuckey, attorney for Mr. Altamont Moses, were granted the privilege of the floor.

The following resolution was introduced by Mr. Dabbs:

Resolved, 1st. That in the matters brought before this committee to-day no action will be taken, nor debate allowed except upon resolutions or written amendments or substitutes.

Seconded by Mr. J. S. Dwight. Carried. Mr. Dabbs also introduced the following resolution, which was seconded by Mr. J. E. DuPre:

Resolved, 1st. That we now hear counsel from both sides in the contested case of Moses vs. Manning.

Resolved 2nd. That we request said counsel to be as brief as possible and to submit all their evidence.

The resolution was discussed by Messrs. Marion Moise, Altamont Moses, E. W. Dabbs, R. W. Shand, A. B. Stuckey, Mark Reynolds. Mr. Moses and Mr. Stuckey took the ground that the reply of the contestee and the evidence introduced by him should contain no new matter, but be confined strictly to the matters in issue and on which the appeal was taken to the state committee.

The attorneys for Mr. Manning took the ground that under the ruling of the state committee they had the right to put in a reply and to introduce any evidence to show that irregularities, other than those complained of in Mr. Moses' protest, had occurred and that these irregularities counterbalance those complained of, as well as to introduce evidence in rebuttal of the allegations contained in the protest and contest of the contestant.

Mr. Dabbs spoke in favor of having Mr. Moses' complaint read and then hearing Mr. Manning's answer.

Chairman Purdy ruled that it was in order to hear the grounds of protest and contest as entered by Mr. Moses at the meeting of this committee.

The complaint of Mr. Moses was read by Mr. Stuckey.

Mr. Shand asked permission to read the answer of Mr. Manning.

The request was discussed in a general way by different members of the committee without any decision being reached.

Mr. W. D. Rhodes introduced the following resolution:

Resolved: That contestee be permitted to read his answer to protest of contestant and file the same with his exhibits.

Seconded by Mr. Dabbs.

Mr. Stuckey, speaking on the resolution said, we do not object to contestee reading his answer, and it is proper for him to do so and to deny any allegations in the complaint of the contestant, but we do object to the introduction of new matter. If the answer contains new matter and contains anything like a contest of any box, it is a new contest or protest and cannot be entertained under the rules of the party, for the time for making contests and protests is limited to five days and properly so, for to permit the introduction of new matter and to entertain new contests at any time would prevent any settlement of the matters in issue, as one contest would pile up on the heels of another indefinitely, and answers would follow answers in the same way.

Mr. Reynolds contended that it was necessary for the contestee to support his answer by exhibits, and that as he had no counsel to represent him at the former meeting of the committee and in consequence had not made an exhibit of facts on which to support his case before the State committee, he should now have opportunity to make his showing and have it become a part of the record.

Chairman Purdy ruled that if contestee is permitted to read his answer it will be properly in and the question will then come up as to whether it is responsive to the complaint of the contestant or not.

Mr. Stuckey objected to the introduction of exhibits at this stage, as none are properly in and none can be properly made now, as they should have been made within the time specified by the rules of the party.

Mr. Shand stated that they proposed to show that, granting the irregularities claimed by the contestant, there were other irregularities to more than counterbalance all claimed and still leave Mr. Manning the legal and rightful nominee of the party. This was their right and they claimed nothing more.

Mr. Moise thought that the duty of the committee was to consider the contests before the committee and to hear the answer in reply, without the introduction of new and extraneous matter. Mr. Shand's demand would open up the case anew and require the

contestant to prove a negative. It would, in effect, make the contestee a contestant in some instances and a contestee of the contestant in others.

Mr. Moise introduced the following amendment to Mr. Rhodes' resolution:

That so much of the answer and exhibits as are in reply to the contest filed by Mr. Moses be filed.

Seconded by Mr. Scarborough.

The amendment was opposed by Mr. Reynolds, as it would prevent the introduction of all their evidence and they had a right under the action of the state committee, to recount every box and to bring evidence in support of a demand for a recount.

Mr. Dabbs opposed the amendment, as he was sure that the state committee contemplated that the county committee would go into the whole matter and sift it to the bottom and get at the facts.

Mr. Manning thought that time was being consumed in unnecessary discussion, that the whole purpose in recommitting the contest to the county committee was to do justice to all parties and to get at the facts. He wanted all the facts to be brought out and to go on record. He therefore moved to table Mr. Moise's amendment. Seconded by Mr. Dabbs.

Mr. Moise stated that he did not want to be misunderstood. He did not want to shut out evidence but he simply objected to the introduction of new matter and the unnecessary prolongation of the case.

Mr. Dabbs said he favored a thorough investigation and the introduction of all evidence obtainable, so that the committee could go clear to the bottom and settle the matter finally.

The Moise amendment was tabled on an Aye and No vote.

The Rhodes motion was put to a vote and carried.

Mr. Reynolds read the answer of Mr. Manning and a mass of affidavits in rebuttal of the allegations contained in the Complaint of Mr. Moses and in support of charges of various irregularities at different precincts.

The only affidavit that caused discussion was one by Mr. J. S. Dwight to the effect that during the meeting of the committee when the returns of the first primary were tabulated he saw "a man sitting in the Court House with his hand in one of the ballot boxes" from which the managers' return had been taken, but which still contained the ballots. He was asked to give the name of the man and to have the name inserted in the body of the affidavit. He stated that the man referred to was Mr. W. G. Wells, but he disclaimed any intention to charge that Mr. Wells was tampering with the ballots or that fraud was committed.

Mr. Wells, who was present, rose to a question of personal privilege and stated that he did open one of the boxes at the time specified and examined some of the ballots, but that he was a member of the committee, and he looked into the box in the presence of the full committee while the returns were being tabulated.

Both Messrs. Shand and Reynolds hastened to disclaim any intention to impute fraud or to cast reflection on Mr. Wells by the introduction of the affidavit, which was brought out solely for the purpose of illustrating and showing how easy it would have been to tamper with the ballot boxes when they were exposed in the Court House.

The Secretary was directed to reduce the statement of Mr. Wells to writing.

A motion was made and carried to proceed to recount the votes in the contested boxes.

Sumter box was first taken up and is in progress when this report was closed.

Messrs. E. W. Dabbs, E. D. Smith, W. D. Scarborough and R. P. Stackhouse were appointed as a sub-committee to make the recount.

From Daily Item, September 23.

The recount of the ballots in the Sumter box was completed by the committee appointed by the chair, and at the conclusion of the count Mr. Dabbs reported for the committee that the vote in the box was Moses 235, Manning 111; 15 ballots for State officers were found in the box, three challenged ballots in sealed envelopes and one sealed ballot on which all magistrates in the county were voted for which had been placed in an envelope by the precinct managers for action by the county committee. Four other ballots were produced and brought to the attention of the committee—two contained the name of neither of the candidates for Senator, one had both names scratched and one was torn and marked across the name of the candidate for Senator, supposedly in scratching.

The fifteen state tickets were placed in an envelope and returned to the box; the ballot containing the names of all candidates for magistrate was counted for Senator; the ballots on which there were the names of no candidates for Senator, and the one on which the names of both candidates were scratched were not counted. The ballot which was torn and marked was referred to the whole committee, the sub-committee not being able to arrive at a decision, three favoring throwing it out and one favoring counting it. This ballot was critically examined by each member of the committee and a vote was taken on the question of counting it. Ten

voted to count and seven to throw out as a scratched ballot, one member, Mr. Rhodes, asked to be excused from voting as he could not see well enough to be satisfied Mr. Manning did not vote. The ballot was accordingly counted for Mr. Manning.

The vote in detail was:

To count the ballot—Peter Thomas, J. E. DuPre, W. J. Dinkins, E. B. Colclough, H. G. McKagen, J. S. Dwight, J. B. Raffield, E. W. Dabbs, J. T. Frierson and Fren Mellett.

Not to count—R. P. Stackhouse, W. L. Osteen, W. D. Scarborough, Marion Moise, W. S. Dinkins, E. D. Smith and J. M. N. Wilder.

Mr. Moise entered a protest against the counting of the ballot and asked that it be sealed up in an envelope, properly endorsed, and the circumstances be made a part of the record.

The sealed ballot of J. J. Dixon, challenged at the primary on August 30th on the ground that he was an inmate of the Poor House, was taken up. It was admitted by both sides that he was an inmate of the Poor House on August 30th and had been for a considerable length of time prior to that date. Mr. Manning stated that on August 30th, the day of the primary, Mr. Dixon had come to him, as a member of the county board of commissioners, to ask his assistance in securing a discharge from the Poor House, and that at the next meeting of the county board Mr. Dixon will be discharged from the Poor House.

Mr. Stuckey was heard in reference to the law prohibiting paupers to vote. He quoted from the State election law, which declares in explicit terms that no pauper may vote in a State election, and from the rules of the party, which declare that only white democratic voters may vote in a primary election.

Mr. Shand in reply quoted from the rules of the party stating that the vote of no white man shall be rejected at a democratic primary. He argued at length on this point and declared that it was the duty of the committee to count the vote of Mr. Dixon because he is a white man and a democrat.

Mr. Reynolds also spoke in favor of counting Mr. Dixon's vote. He claimed that the democratic party should not disfranchise a man because of his misfortune.

Chairman Purdy ruled that a pauper, insane person, or criminal is not a legal voter under the laws of the State. He decided that the vote of J. J. Dixon could not be counted.

Mr. Dabbs moved that the vote of J. J. Dixon be counted by the committee. Seconded by Mr. H. G. McKagen.

Col. Scarborough and Maj. Moise favored an adherence to the rule and argued that the ruling of the chairman was strictly in accord with the rules and the State law and should be sustained. Mr. Moise asked the pertinent question if the committee proposed to disregard the law in this case would they also disregard it in an analogous case and accept the vote of a convict, who happened to be a white man?

Mr. Shand spoke in reply, arguing in favor of counting the vote of J. J. Dixon.

Mr. Reynolds stated that several other paupers had voted at the same primary, their votes had not been challenged and were therefore counted. He read a statement from Col. T. V. Walsh, clerk of the county board of commissioners, that J. D. McKellar was and is an inmate of the Poor House. Mr. Reynolds asserted that the said McKellar voted in the primary and his vote was not challenged.

Mr. Stackhouse asked for information as to the number of paupers who had voted in the primary. If other paupers had voted and their votes had not been challenged, he could not vote to throw out the vote of Dixon.

The motion to count Dixon's vote was carried. The envelope was opened and found to be for Manning for Senator, and it was counted for him.

Mr. Moise made objection to the counting of Dixon's vote and requested that the ballot be sealed in an envelope and endorsed to show what it was.

The sealed ballot of Henry David was taken up and on motion was ordered counted. It was cast for Altamont Moses and was counted for him.

The final result of the recount of the Sumter box was announced and declared to be Manning 154, Moses 236.

Mr. Dabbs raised the question of the negro voters who were allowed to vote in the Sumter box without the proper certificates of their democracy.

Mr. Reynolds stated that he would not press this matter at that time but reserved the right to recur to it.

Taylor's box was recounted on the request of Mr. Moise.

The recount gave the following result: Manning 41, Moses 13—a loss of one to Mr. Manning from the return of the managers. The recount showed that the number of votes counted for Senator corresponded with the number of voters on the poll list.

Mr. Smith, who represented Taylor's club, explained the Taylor's vote. He said that when the managers counted the votes they found one more ballot in the box than the poll list called for and they could not understand the discrepancy, but accounted for it on the ground that the clerk must have neglected to enter the name of one voter on the

poll list. He was satisfied that the managers at Taylor's were as honest men as are to be found in the county and that the election at that precinct was as fairly conducted as any. The failure of the Taylor's box to be in the hands of the committee within the required time was due wholly to his own neglect to send for it, as he had promised the managers to do, and send it to the committee. It was his carelessness and neglect and not the fault of the managers.

Manchester box was recounted on the request of Mr. Moise. The committee announced that the recount gave Manning 52, Moses 12—a gain of one for Moses and a loss of one for Manning from the returns of the managers.

Mr. Manning made a statement in explanation of the charges that one of the managers at Manchester was drunk on the day of the election. Mr. Moiseley, he said who was one of the regularly appointed managers was incapacitated and did not serve, but another man was sworn in and served as a manager throughout the day. Mr. Moiseley only went to the polls to vote and returned home.

Gaillard's X Roads box was recounted at the request of Mr. Moise, the recount giving Manning 20, Moses 13. The challenged vote of a resident of Lee County was not counted.

Providence box was recounted at the request of Mr. Moise, the recount giving Manning 15, Moses 11.

Earle box was recounted at the request of Mr. Moise. The committee reported that they had counted for Manning 26 and Moses 60; that there were four ballots so illegibly written or scratched that they could not decide for whom they should be counted.

Mr. DuPre moved that the original returns of the managers, to wit, Manning 28, Moses 62, be accepted.

The motion was discussed at some length and then being put to a vote was carried. Ayes 11, No 6.

Mr. Moise requested that the ballots be closed in an envelope, endorsed and sealed by the chairman and placed with the record to be sent up to the State executive committee.

Mr. DuPre moved to reconsider the vote to accept the original returns of the managers. The motion was carried.

A motion was then made and carried to number the ballots 1, 2, 3 and 4 respectively and vote on them in turn to count or reject.

The result of the vote was, No. 1 was counted for Mr. Manning by a vote of 11 to 7; No. 2 was counted for Mr. Moses by a vote of 14 to 3; No. 3 was rejected by unanimous vote; No. 4 was rejected. The vote on No. 4 was, to count for Moses 5, to reject 8.

The four ballots were placed in a sealed envelope and endorsed to be placed with the record.

Mr. Stuckey announced that he would rest the case of Mr. Moses for the time being.

Mr. Reynolds requested in behalf of Mr. Manning that Farmers box be recounted.

The recount gave Manning 28, Moses 44—a gain of one for Mr. Moses on the return of the managers.

Mr. Reynolds requested a recount of Scarborough box. The recount gave Manning 13, Moses 30.

Mr. Reynolds objected to the count on the ground that four of the votes had been cast in the State box and were taken therefrom by the managers, counted and placed in the county box with the other ballots. He read affidavit of Mr. W. A. Sparks that he was one of the managers at Scarborough and assisted in making the count, that he knew that one or more of the four ballots for county officers found in the State box were for Manning and one or more were for Moses; reference was made to an affidavit to the same facts by Col. Scarborough. Mr. Reynolds then asked that the committee deduct the four irregular votes wrongfully taken from the State box and counted by the managers, from the total vote of the candidate receiving the highest number of votes at that precinct, viz; the deduction to be made from the vote of Mr. Altamont Moses, who was the candidate receiving the highest vote for Senator at that precinct.

Maj. Moise objected strongly to the proposition because it would be a flagrant injustice to one of the candidates, an injustice apparent to all, for the affidavits introduced show that one or more of the votes were for Mr. Manning and one or more for Mr. Moses. The only fair thing to do is to let the count stand as it is, or deduct two votes from the total vote of each of the candidates. If there was any way to ascertain exactly how many votes were cast for each of the candidates it would be fair and just to deduct them from the vote of the candidate for whom they were counted. He did not think the state committee contemplated this action proposed and did not think the committee had the right to do as Mr. Reynolds demanded.

Mr. Shand read a decision of Judge O'Neill in relation to the disposition of illegal and surplus votes found in a ballot box. Judge O'Neill held that the votes should be deducted from the total vote of the candidate receiving the highest vote. He argued that the ruling of Judge O'Neill should be followed in this instance.

Maj. Moise conceded that Judge O'Neill's ruling did not apply to this case, the two cases were not exactly parallel, that the committee had nothing to do but obey the order of the State committee and to do exact justice to all parties. The proposition to deduct all four votes from one candidate was eminently unfair and unjust and should not be done.

Mr. Sparks was given the privilege of the floor to make an explanation of his affidavit. He stated that he could swear that one and perhaps more of the votes were for Manning and one and perhaps more of them were for Moses, but that he could not say and has never said that he was positive that either of the candidates for Senator had a majority of the votes taken from the State box.

Mr. Shand admitted that in view of the affidavits produced he thought that one vote should be deducted from the vote of Mr. Manning and the other three from the vote of Mr. Moses.

Maj. Moise objected to this on the same grounds that he had stated before—that it would not be carrying out the instructions of the State committee and would be an injustice.

Mr. Stuckey objected to any consideration of the four votes as it was entirely new matter, a new challenge of the Scarborough box and of the returns of the managers, of which the contestant had had no notice. With proper notice and time the contestant might be able to show that a majority of the votes were cast and counted for the contestee, besides the contest and protest against these votes should have been made within the five days allowed by the rules.

The matter was further discussed at great length by Messrs. Dabbs, Stuckey, Moses, Manning, Shand, Moise. The entire question relative to the disposition that was made of the county tickets found in the State boxes at seven different precincts was gone into and discussed.

Mr. Dabbs offered the following resolution at the suggestion of Mr. Manning:

Resolved, That one ballot from Scarborough box be deducted from Mr. Manning, one from Mr. Moses and that the remaining ballots be mixed and then two ballots be drawn from it and these votes be deducted from the candidates for whom they were cast.

The resolution was discussed at length by various members of the committee, during which there was a snappy colloquy between Mr. Dabbs, Col. Scarborough and Mr. Sparks in reference to remarks to the effect that the vote in Scarborough box had been "tampered" with. Both sides disclaimed intention to reflect on the managers of Scarborough or on any of the committee. An Aye and No vote on the resolution resulted, Aye 11, No 5.

One Manning ballot and one Moses ballot were taken from the box and then the ballots were thoroughly stirred. Two ballots were drawn at random from the box. Both were Manning ballots. The secretary was directed to make the deductions from the vote of the two candidates, one from Moses, three from Manning in accordance with the terms of the resolution. The four ballots were placed in envelopes and sealed.

On the request of Mr. Reynolds the Laborers and Mechanics box was recounted, resulting Manning 14, Moses 40, which corresponded to the managers' returns.

Mr. Reynolds demanded that the votes of the negroes who were permitted to vote in the Sumter box be stricken out on the grounds set forth in the affidavit of Sol Pringle. He demanded also that the votes so stricken out be deducted from the total vote of the candidate who received the highest vote, viz: from the vote of Altamont Moses.

Mr. DuPre moved to strike out the votes of the negroes who voted in Sumter box, and the motion was seconded.

Mr. Reynolds furnished the names of the negroes as follows: Barton Levan, Jas. Levan, Sol Pringle, Julius T. Edwards, Frank Seals, J. A. Sanders, Joseph Levan and Joseph Bensebaley.

Mr. Stuckey objected to the proceedings as it was the introduction of new matter.

Mr. DuPre spoke in favor of sticking to the rules and being governed by them in deciding these matters. He contended that the negroes should not have been permitted to vote without the proper certificates.

Col. Scarborough asserted of his own knowledge that Joseph Bensebaley was not a negro and that neither he nor any of his family for several generations had been regarded as negroes, that he was a Turk and that any number of men could be found to make affidavit that they are not negroes. As to Joe Levan he said it was a shame to challenge his democracy for he had given it time and again from '76 to this day, and that his services in times of danger were too well known to be questioned or doubted by anyone.

Maj. Moise said he was in doubt on this matter, for the rules of the party were clear and explicit and required certain certificates, which were wanting, but he knew that some of these negroes were as good democrats as himself or any other white man; that Joe Levan was, and that his sons had been raised up as democrats. However, if this committee decides to throw out the negro

votes in the Sumter box it must be consistent and go ahead and throw out the negro votes in every box in the county.

Mr. Reynolds asked that the name of Joseph Bensebaley be stricken from the list of negro voters. He introduced the affidavit of W. J. Reese concerning the negro voters at Stateburg.

Col. Scarborough introduced the following resolution and requested Mr. DuPre, who had just spoken in favor of sticking to the rules, to second it:

Resolved, That in the further proceedings of this committee the rules and regulations of the democratic party be strictly adhered to.

Not seconded.

Mr. DuPre refused to second the resolution in the midst of a general laugh and it failed for the want of the second.

Mr. Dabbs offered the following resolution:

It appearing to the committee that Joseph Levan, James Levan, Barton Levan, Solomon Pringle, Julius Edwards, Frank Seals, J. A. Sanders, who are negroes and voted at the Democratic primary on August 30th, at the Sumter precinct without the evidence of their democracy as required by the rules of the Democratic party.

Resolved, That these votes be deducted from the candidate who received the highest number of votes for State Senator at said box.

Seconded by E. B. Colclough.

A general discussion followed on the resolution and the whole question was canvassed on the lines of the previous discussion of the proposition to throw out the negro vote and deduct it from the vote of the candidate having the highest vote.

Mr. Dabbs finally asked permission to withdraw his resolution, and his second consenting, it was withdrawn. Mr. Dabbs then offered the following resolution:

Whereas, This committee has endeavored to bear all the objections raised by each candidate as to the regularity of the election on August 30; and

Whereas, we have recounted the votes in all boxes requested by either candidate:

Resolved, 1st. That it is the sense of this committee that we cannot undertake to correct the irregularities shown by these contestants and that therefore we reaffirm our action of the 2d of September, and declare Mr. Manning the nominee for Senator; because we are satisfied that returns of the managers more nearly represent the will of the people and these votes were counted for other candidates and if these votes had been thrown out it would have changed the result as to a few of the candidates for other offices.

Seconded by E. B. Colclough.

Mr. Shand spoke in support of the resolution and read from the report of a contested election case in Charleston in 1822 when an appeal was taken to the Legislature and a recount had. The recount changed the result, but the Legislature finally decided to sustain the original return of the managers and seat the contestee.

In the discussion that followed by Messrs. Dabbs, Reynolds, Shand, Stuckey and Moise much was said about the safety with which the boxes had been kept since the first meeting of the committee and the possibility of the boxes having been changed. Those who spoke of this "possibility" disclaimed any intention to charge that the boxes had been tampered with for the purpose of committing fraud, but the insinuation was there all the same.

Mr. Stuckey introduced the affidavit of Shepherd Nash, Clerk of Court, in whose custody the boxes were placed by Chairman Purdy after the first meeting of the committee, as to the means he had adopted to keep the said ballot boxes in safety and to prevent the possibility of their being tampered with.

Mr. Dabbs asked Secretary J. M. Knight if he was prepared to swear that the boxes reached him in the same condition in which they left the hands of the managers. Mr. Mr. Knight replied that he could not.

Mr. E. D. Smith made a speech on the situation in which the committee found itself, and said among other things that he was thoroughly ashamed of the day's proceedings. He said the committee had got at last to the place where it had either to do the fair, square thing or not to do it, and he plead with them to do what was right no matter whom it hurt.

Maj. Moise raised the issue that the Dabbs resolution was out of order and in violation of the resolutions of the State executive committee, which directed in clear terms what this committee must do. The Dabbs resolution provides for action in direct conflict with the orders of the State committee.

Chairman Purdy ruled that this committee is a law unto itself and if it sees fit to take action in this line it can do so. An appeal can be taken to the State committee, which has the power to review the action of the county committee and reverse it if it sees fit.

Maj. Moise's point of order was noted in the minutes by request.

An Aye and No vote was demanded on the Dabbs resolution. The vote resulted: Aye, 11; No, 4.

Mr. Stuckey asked that an exception be noted in behalf of Mr. Moses to the adoption of the resolution.

An affidavit of Secretary J. M. Knight, relative to the keeping of the boxes when they came into his possession before the meeting of the committee, was introduced.

A committee was appointed to find the High Hills box, which Mr. Reynolds asserted could not be produced when called for. It was found in a few minutes with the other boxes only a few feet from the desk of the chairman of the committee.

The minutes of the meeting were read by Secretary Knight and corrections and amendments noted as made by members of the committee. The minutes were then approved. The committee then adjourned.