

CHARLES H. UPTON.

PAPERS AND EVIDENCE

IN REGARD TO THE RIGHT OF

CHARLES H. UPTON

TO

*Hold his seat as a member of the House of Representatives from the
State of Virginia.*

JANUARY 2, 1862.—Ordered to be printed.

MEMORIAL OF S. FERGUSON BEACH, CONTESTING THE SEAT OF CHARLES H.
UPTON AS A REPRESENTATIVE FROM THE STATE OF VIRGINIA.

*To the honorable the House of Representatives of the Congress of the
United States:*

The memorial of S. Ferguson Beach, of the city of Alexandria, in the State of Virginia, respectfully represents: That in consequence of the revolutionary action of the convention of Virginia, which assembled at Richmond in February last, elections for members of the thirty-seventh Congress, on the day fixed by law for such elections, were obstructed and prevented throughout most of the congressional districts of the Commonwealth.

Such was especially the case in the seventh district, composed of Alexandria and adjacent counties, where, owing to the presence of large military forces, and to the operation of other influences scarcely less powerful, not a single poll is believed to have been opened.

By an ordinance of the convention of Virginia, lately sitting at Wheeling, passed on the 20th day of August, 1861, it was ordained that in all those districts where elections had thus been prevented, as aforesaid, elections should be held on the fourth Thursday of October then next; and it was also thereby provided, that voters who should be unable to vote at their usual places, by reason of the presence of those in armed opposition to the government, should be allowed to vote in any county of their district.

Under the provisions of this ordinance, and in response to the proclamation of Francis H. Pierpont, governor of the Commonwealth, calling upon the loyal citizens, wherever it was practicable, to avail themselves of said provisions, polls for the election of a representative for said seventh district were regularly opened in the city of Alexandria on the day appointed.

A small vote was cast, made up by voters from the counties of Alexandria, Fairfax, and Prince William, all, substantially, for your memorialist, as will appear by a regular and formal certificate of election which he now holds.

Your memorialist further represents, that upon the assembling of the present Congress, in extra session, on the 4th day of July, 1861, one Charles H. Upton, confessedly a citizen of, and voter in, the State of Ohio, at the presidential election in the November previous—neither then nor now a citizen of the State of Virginia—not even a *bona fide* inhabitant of Virginia, so far as can be ascertained, on the fourth Monday of May last appeared as the representative of said seventh district.

No one appeared to contest his right, since no person interested thereunto had any intimation whatever that any such right was pretended. On the contrary, it was matter of the most common notoriety that no election of a representative, either in form or substance, had been held in a single precinct of the district.

The urgent necessity for an immediate organization of the House precluded, at that time, any inquiry into minor matters, and the said Upton was accordingly admitted and sworn in as a member, without examination of his credentials.

The grounds upon which the said Upton claims to represent the loyal population of said district are entirely unknown to your memorialist and to all those who participated in the election lately held, on the fourth Thursday of October.

It is believed a slight examination will show that the claim rests upon no foundation whatever, and it is respectfully submitted that a decent regard for the rights and feelings of those interested requires that such examination shall be made.

On behalf, therefore, of them and of himself, your memorialist desires that the House, by its proper committee, will make due inquiry in the premises and dispose of the subject-matter in such way as the rights and interests of all concerned may appear to require.

S. FERGUSON BEACH.

ALEXANDRIA, *Virginia*, November 29, 1861.

ZANESVILLE, *Ohio*, June 27, 1861.

DEAR SIR: I have been informed that a Mr. Charles H. Upton, who was, until a few days past, one of the editors of the Zanesville Courier, designs to claim a seat in the House of Representatives, as member for the Fairfax, Virginia, district, upon the basis of an election pur-

porting to be held a short time since, but which, I have reason to believe, could not and was not held.

Aside, however, from the foregoing, it is not believed here that Mr. Upton is eligible, for the reason that he is, and claims himself to be, a citizen of Ohio. I was one of the clerks of the annual and presidential elections held in the first ward of this city in 1860, and when Mr. Upton presented his vote at the annual election in October I challenged it upon the ground of non-residence; when, after examination, the matter was postponed for an hour or two. In the meantime the judges consulted with General Goddard, and upon the re-appearance of Mr. Upton overruled my challenge and permitted him to vote. At the presidential election he voted without challenge. If Mr. Upton is now eligible to the office he claims, he may cause some notice of his case to be taken by the grand jury of this county for a violation of the election laws of Ohio. You are without doubt posted in the laws, and can determine whether he can, under their provisions, rightfully become a member. All that I can say is, that I trust justice will be done.

I am very truly, &c.,

JOHN COOPER.

Hon. S. S. Cox.

HOUSE OF REPRESENTATIVES, *July 8, 1861.*

I received this letter from Mr. Cooper, whom I know to be a citizen of Zanesville and a judge of the election. All I can do is to have this and the paper sent me referred to the committee.

S. S. COX.

MAY 29, 1861.

Zanesville Courier, published daily and weekly by C. H. Upton and J. T. Shryock.

(Office one door east of the court-house.)

Daily (in advance).....	\$6 00
Weekly	1 50

THIRTY-SEVENTH CONGRESS, SECOND SESSION.

CONGRESS OF THE UNITED STATES.

IN THE HOUSE OF REPRESENTATIVES,

December 9, 1861.

On motion of Mr. Dawes,

Resolved, That S. F. Beach, contesting the right of Hon. Charles H. Upton to a seat in this House as a representative from the seventh district of the State of Virginia, be, and he is hereby, required to serve upon the said Upton, within six days after the passage of this

resolution, a particular statement of the grounds of said contest; and that the said Upton be, and he is hereby, required to serve upon the said Beach his answer thereto in six days thereafter; and that both parties be allowed twenty days next after the service of said answer to take testimony in support of their several allegations and denials, before some person residing in said district or the District of Columbia, authorized by the laws of Virginia or of the United States to take depositions, but in all other respects in the manner prescribed in the act of February 19, 1851.

Attest:

EM. ETHERIDGE, *Clerk.*

HOUSE OF REPRESENTATIVES, *December 11, 1861.*

S R: When I had a conversation with you yesterday I had not seen, as I informed you, your memorial.

I have since read it. It is neither decorous in language nor truthful in substance; but as you have seen fit to serve it upon me under the rule adopted by the Committee of Elections, I shall take occasion, at the proper time, to reply to and disprove its unfounded allegations.

Yours, &c.,

CHARLES H. UPTON.

S. F. BEACH, Esq., *Alexandria, Va.*

ALEXANDRIA, *Va., December 14, 1861.*

DEAR SIR: Your note of the 11th instant was duly received. I regret that you should find anything in the phraseology of my memorial which appears to you exceptionable. I need scarcely say that nothing of the kind was intended.

The answer which you propose to file can be forwarded to me by mail, and its receipt will be duly acknowledged.

Very respectfully yours,

S. FERGUSON BEACH.

Hon. C. H. UPTON.

HOUSE OF REPRESENTATIVES,
December 19, 1861.

SIR: With your memorial before me, claiming your right, and denying mine, to the seat I hold in the 37th Congress of the United States, I proceed to answer your several allegations in the order in which you present them.

That there was a condition of things in Virginia, as you set forth, in the month of May last, and at the regular period for holding congressional and other elections, which made any attempt to adhere to the national standard, and rally the loyal people of Virginia thereto,

both difficult and dangerous, is most true; but that there was no poll opened in the seventh district at that time is untrue; and in answer to your carefully-worded charge, that "not a single poll is believed to have been opened," I will, at the proper time, of which you will be duly notified, prove by the testimony of the conductor, and one or more of the commissioners for holding the election at Ball's Cross Roads, in Alexandria county, that a poll was then and there, on the 23d day of May, being the fourth Thursday of May, regularly opened for a member of Congress.

As to the proclamation of Governor Pierpont, to which you refer, I call upon you to lay it before the Committee of Elections, that they may see whether it gave the citizens of Alexandria any authority for the step they took, or whether it referred only to "vacant and unrepresented districts."

As to the election held in the city of Alexandria on the fourth Thursday of October last, I have only to say that I took no notice of it, nor those concerned in it. But if the newspapers of the day are to be relied on, and there were, as I believe, more than five hundred Union citizens then in Alexandria; and as less than one hundred and fifty votes are said to have been cast on that day, it leaves the gratifying inference to me that a large majority of the loyal citizens there regarded the movement to embarrass me as both ungenerous and illegal.

What you say about my former residence in Ohio is immaterial; but when you represent that "one Charles H. Upton was not even a *bona fide* inhabitant of Virginia, so far as can be ascertained, on the fourth Monday of May last," I am compelled to believe that you have not made very strenuous efforts to "ascertain" this very important fact. At any rate, I will produce testimony to remove all obscurity upon this point.

As what you have alleged touching the manner in which I was admitted as a member of the House reflects upon the House itself, I will leave this body to bear your censure with what equanimity they can.

Having already objected to the general tone and substance of your memorial, I will only add that, as the memorial has been published, I will take the liberty of publishing also your note of the 14th instant.

Yours, &c.,

CHA'S H. UPTON.

S. FERGUSON BEACH, Esq.,
Alexandria, Va.

ALEXANDRIA, Va., December 21, 1861.

DEAR SIR: Your answer to my statement of the grounds on which your claim to a seat in the 37th Congress is contested has been duly received, and service thereof is hereby acknowledged.

Very respectfully yours,

S. FERGUSON BEACH.

Hon. C. H. UPTON.

HOUSE OF REPRESENTATIVES,
December 30, 1861.

SIR: Take notice that, under the rule of the Committee of Elections, I shall summon Hon. A. Lawrence Foster, Dr. Simon Groot, Dan'l E. Dulay, and H. W. Throckmorton, esqs., of Fairfax county; Rich'd Southern, Noah Drummond, and C. B. Graham, esqs., of Alexandria county; and Lewis Mackenzie, C. B. Shirley, and J. H. Lathrop, esqs., Alexandria, Va., to appear at the mayor's office in this city on Friday next, the 3d of January, at 10 o'clock a. m., to answer touching the matters set forth in your memorial denying my right, and setting up your own, to a seat in the House of Representatives of the United States.

Yours, &c.,

CHA'S H. UPTON.

S. FERGUSON BEACH, Esq.,
Alexandria, Va.

ALEXANDRIA, Va., December 31, 1861.

DEAR SIR: Your favor of yesterday, notifying me of your intention to take the testimony of divers persons in the matter of your right to a seat in the 37th Congress, is received. The notice is shorter than I could have desired, and it is possible that one or two professional engagements, to which I am committed, may prevent my attendance.

I will endeavor, however, to be present. In any event the examination of the witnesses can be proceeded with. I shall take no exception because of the shortness of the notice, nor for any other formal defect.

Respectfully yours,

S. FERGUSON BEACH.

Hon. C. H. UPTON.

To the House of Representatives of the thirty-seventh Congress:

I herewith present a statement respecting my claim to a seat in the House of Representatives.

Early in November, 1860, I left Ohio, where I had been engaged in editing a daily paper, and returned to Virginia with the intention of remaining there. I have resided in Virginia for more than twenty-five years, and have never ceased, from the time of my first inhabitaney there, to be the owner of land and a tax-payer to the Virginia treasury. I have never owned land nor dwelling elsewhere. When I left Ohio my partner in the newspaper business was authorized to dispose of my interest, either separately or conjointly with his own,

as might be most advantageous. For reasons entirely of a business nature my interest was not advertised for sale, nor was my name withdrawn from its head; but, on the contrary, I continued to write occasional letters for the paper from this city, where I was engaged for a time as clerk to the Committee on Naval Affairs. Some time in April last I received an appointment in the Patent Office, still, however, continuing to reside with my family in Fairfax county, Virginia. Immediately after the adjournment of the Richmond convention I went to Alexandria and called upon Hon. George W. Brent, who was a member of that body, (and elected by a very large majority as a Union candidate,) and requested him to announce himself as a candidate for Congress. He peremptorily refused. I then called upon Lewis McKenzie, esq., to take this position. He also declined. I then wrote a card announcing myself as a candidate, and again visited Alexandria with a view to its publication in the *Gazette*—a paper of large circulation in the seventh district, then published in that city. The editor of the *Gazette* promised to publish the announcement until the day of election, but failed to redeem his promise. Having waited for the fulfilment of the promise a reasonable time, I announced myself a candidate in two papers of this city—the *Republican* and *Star*—and also issued a circular addressed to the people, of which the following is a copy:

ADDRESS.

FALLS CHURCH, FAIRFAX COUNTY,

May 15, 1861.

On Friday last I visited Alexandria, and placed the subjoined announcement in the hands of the editor of the *Gazette*, who promised to publish the same if I would omit the portion contained in brackets. I consented to this change, but the promise has not been kept:

To the voters of the 7th congressional district:

I hereby offer myself as a candidate for election to represent you in the next (37th) Congress of the United States, upon the basis of the maintenance of the Union. [The recent convention at Richmond, called without authority, and usurping all authority, has undertaken to set aside the supreme law of the land in reference to elections to Congress.—Acts 1852-'53, ch. 3, § 7, p. 4.] As, therefore, in most of the precincts throughout the district no poll will be opened for members of Congress, I call upon Union men to open side polls, and preserve the evidence of the wishes of the people, a copy of which may be transmitted to me, at Falls Church, Fairfax county, or to Hon. John W. Forney, Clerk of the House of Representatives, at Washington.

CHARLES H. UPTON.

At Alexandria I witnessed the first fruits of the revolution now in progress ; the wharves were without shipping, many of the stores were closed, and the streets, excepting a few persons in regimentals, were almost deserted ; the silence of the ancient borough, where the immortal Washington once voted and worshipped, was almost oppressive, and it was with a sad heart that I looked upon all this. The leading spirits of this revolution talk about "Lincoln's government—the north invading the south—a mercenary army menacing Virginia ;" but all this is the language of bitter partisans. The north has never yet invaded the south—the foot of no armed soldier of the Union has yet pressed the soil of Virginia, nor has the existing administration done aught but defend the flag and property of the nation, cut a path to its beleaguered capital, and blockade the ports which refused to pay duties at the custom-houses of the Union. This is what has been done, and this is the whole of it ; and for thus performing his sworn duty, the President of the United States has been accused of "invading the south," and Jeff. Davis, whose supporters have all the while led the way in aggression, now talks of "accepting" the war which is made ! The siege of Fort Sumter must be blotted from history before the world will "accept" this reversal of truth. Everybody knows where, and by whom, this political saturnalia was begun ; the glory and shame of it belongs to South Carolina, whose public men openly avow that they have long sought an opportunity to overthrow the government established by Washington and Jefferson, and their compeers. The question whether Virginia will join the alliance formed by the Gulf States, for this purpose, is still before the people. The Richmond convention did not dare to take it from them ; yet we are told that all are traitors who do not indorse the ordinance of "secession," as it is called, passed by that convention. How is this ? Did this convention, among their secret acts, abolish the Virginia Bill of Rights, the magna charta of Virginia liberty ? If not, here is the second clause of that glorious instrument : "*That all power is vested in, and consequently derived from, the people ; that magistrates are their trustees and servants, and at all times amenable to them.*" This convention, then, is still amenable to the people, and the sixty-odd thousand Union majority which marked its election may hold it to account. The people have still one opportunity left (God grant that it may not be the last) to redeem their heritage, and restore the imperilled Union. The effort to deprive the people of their deliberate vote by clamor and threats, to put down freedom of speech and the press, by denouncing the speedy infliction of the penalties of treason upon all who dare to question the wisdom and authority of the convention, if it succeeds, will make the election of Thursday next a mockery. Union men of Virginia ! break the silence you have kept too long ; come forth in your full strength, and show the world that Richmond is not all of Virginia, and, if you cannot out-vote the troops which are now quartered upon you and eating out your substance, at least show a moral strength in your numbers which will serve to make those who for a time hold your destinies in their hands, pause before they finally determine that

Virginia, now the geographical centre of this great nation, shall be handed over to the new-fangled confederacy, to become their out-posts, their fence and shield from danger, that they may sow and reap in safety, while our crops are trampled down and wasted by armies and their camp-followers ; that their wives and children may sleep in security at their homes, while ours are scattered and flying from their dwellings.

My political creed, the same which Henry Clay believed, teaches me that my first obedience is due, not to Massachusetts, where I was born—not to Virginia, which holds all my earthly possessions, and where I have lived, with the exception of two brief intervals, for the last twenty-five years—neither to the State of my nativity nor to the State of my adoption, but to the UNITED STATES OF AMERICA ; and the government under which we live, instead of a blessing, will be a torment, a perplexity, and a curse to the citizen, until the pestilent heresy of State sovereignty is rooted out of the land. Look at the condition, fellow-citizens, in which we are likely to be placed after the troops have fired and drummed and bayoneted us out of the Union. If we adhere to the flag of our country, we commit treason against the Confederate States ; if we go over to the Confederate States, we commit treason against the United States ; and thus the two governments have each a halter ready for our necks. We might as well go hang ourselves at once, and save them both all further trouble about our miserable carcasses. For myself, I shall take on no new allegiance, train after no new banner. That I have lived under I will die under ; and in this connexion, I say, as Luther did at the Diet of Worms, “God help me—I can do no otherwise.”

CHARLES H. UPTON.

The editor of the Alexandria Gazette thereafter attempted to whistle me down the wind with the following notice:

[From the Alexandria Gazette of May 17.]

Mr. Chas. H. Upton, of Fairfax county, has authorized an announcement that he is a candidate to represent the seventh congressional district in the next Congress of the United States, “upon the basis of the maintenance of the Union,” and asking the Union men to furnish him with the evidence of their wishes. As the convention of Virginia has, by ordinance, declared that no election for members of Congress shall be held in this State at the ensuing election—as that ordinance is the law of the State—as an attempt to resist or contravene the ordinance would be highly illegal and improper, we trust that no one will countenance this proceeding by taking a vote or holding a poll ; and we have no doubt that those who are not in favor of secession will themselves condemn most pointedly that which can only promise mischief, and bring trouble upon parties persisting in being concerned in it. However, it is probable that all will, upon reflection, see the good sense of dropping the whole matter at once.

The editor of a small paper published at Fairfax Court-House also put forth the following notice:

[From the Fairfax County News of May 17.]

ELECTION OF CONGRESSMEN.

The convention of Virginia, representing the sovereignty of the people of the Commonwealth, and therefore speaking with *supreme authority*, passed the following on the 24th ultimo :

“The election for members of Congress for this State to the House of Representatives of the Congress of the United States, required by law to be held on the fourth Thursday in May next, is hereby *suspended* and *prohibited* until otherwise ordained by this convention.”

The obedience of every citizen of the State is not only due to the above, as the sovereign act of the Commonwealth, but is enforced by the pains and penalties of the law against treason.

On the day of election many of the precincts were visited and overawed by armed rebel forces, and threats of violence were made against any who should dare to vote for a member of Congress. The following letter from ex-Senator Mason, studiously prepared for the occasion, was also read at several precincts, (and probably throughout the district,) and deterred many from voting:

[From the Alexandria Gazette of May 22]

LETTER FROM SENATOR MASON.

To the editor of the “Winchester Virginian:”

The question has been frequently put to me, what position will Virginia occupy should the ordinance of secession be rejected by the people at the approaching election? And the frequency of the question may be an excuse for giving publicity to the answer.

The ordinance of secession withdrew the State of Virginia from the Union, with all the consequences resulting from the separation. It annulled the Constitution and the laws of the United State within the limits of this State, and absolved the citizens of Virginia from all obligation of obedience to them.

Hence it follows, if this ordinance be rejected by the people, the State of Virginia will remain in the Union, and the people of the State will remain bound by the Constitution of the United States, and obedience to the government and laws of the United States will be fully and rightfully enforced against them.

It follows, of course, that in the war now carried on by the government of the United States against the seceded States Virginia must immediately change sides, and under the orders of that government turn her arms against her southern sisters.

From this there can be no escape. As a member of the Union, all her resources of men and money will be at once at the command of the government of the Union.

Again: For mutual defence, immediately after the ordinance of secession passed, a treaty, or "military league," was formed by the convention, in the name of the people of Virginia, with the "Confederate States" of the south, by which the latter were bound to march to the aid of our State, against the invasion of the federal government. And we have now in Virginia, at Harper's Ferry and at Norfolk, in face of the common foe, several thousand of the gallant sons of South Carolina, of Alabama, of Louisiana, Georgia and Mississippi, who hastened to fulfil the covenant they made, and are ready and eager to lay down their lives, side by side with our sons, in defence of the soil of Virginia.

If the ordinance of secession is rejected, not only will this "military league" be annulled, but it will have been made a trap to inveigle our generous defenders into the hands of their enemies.

Virginia remaining in the Union, duty and loyalty to her obligations to the Union will require that those southern forces shall not be permitted to leave the State, but shall be delivered up to the government of the Union; and those who refuse to do so will be guilty of treason, and be justly dealt with as traitors.

Treason against the United States consists as well "in adhering to its enemies, and giving them aid," as in levying war.

If it be asked, what are those to do who in their consciences cannot vote to separate Virginia from the United States, the answer is simple and plain: honor and duty alike require that they should not vote on the question; and if they retain such opinions they must leave the State.

None can doubt or question the truth of what I have written, and none can vote against the ordinance of secession who do not thereby (whether ignorantly or otherwise) vote to place himself and his State in the position I have indicated.

J. M. MASON.

WINCHESTER, VA., *May 16, 1861.*

[From the National Intelligencer, May 20.]

FREEDOM OF OPINION.

The Alexandria correspondent of the Richmond Examiner has the following paragraph in one of his late letters:

"There is some talk here of an attempt to vote for a representative to the Congress of the United States from this district. While I am strongly opposed to lynch or mob law, I think a case might arise when it would be necessary to inflict some kind of a summary punishment, and an attempt of the kind alluded to would seem to be a case where the forms of law might be dispensed with."

Notwithstanding all these appliances, one precinct—that of Ball's Cross Roads, Alexandria county—was regularly opened, and despite the efforts of eighteen armed men to bully and overawe the voters,

ten votes were cast for me at this point, and one for George W. Brent. From other precincts irregular returns, under protest, were made, the evidence of which fact is before the committee.

Respectfully submitted.

CHAS. H. UPTON.

POLL-BOOKS OF THE ELECTION OF CHARLES H. UPTON.

BALL'S X ROADS, *Alexandria County, May 23, 1861.*

The undersigned legal voters and citizens of Virginia, some of whom were deterred by threats of violence from armed soldiers, and others led to believe that to vote for a member of Congress was illegal, do therefore give our votes for Charles H. Upton, of Fairfax county, as our representative in the 37th Congress of the United States.

R. H. Donaldson.
G. W. Reid.
Thomas Simmons.
Samuel Birch.
Robert Harrison.
Robert Marcy.
George Marcy.
John T. Birch.
Samuel Corsien.
G. Vandenberg.

Samuel Shreeve.
William Marcy.
William Shreeve.
Samuel Marcy.
Robert Hurst.
Lewis Marcey.
George R. Herrick.
James Marcy.
John Brown.

BRENTSVILLE, PRINCE WILLIAM COUNTY,
May 23, 1861.

We, the undersigned, citizens of Prince William county, claiming our right to a representative in Congress, do hereby cast our votes for Charles H. Upton, of Fairfax county, as our representative in the 37th Congress of the United States.

Wm. K. Stewart.
Hugh B. Draney.
C. H. Snow.
Jno. Depue.
Jacob Depue.
Abraham Depue.

William Kline.
Charles W. Vanscotin.
James G. Draney.
Samuel Drake.
R. C. Remy.
John M. Stewart.

ALEXANDRIA, VA.,
May 23, 1861.

No poll having been opened in any precinct of this city for the election of a member of the 37th Congress, the undersigned hereby vote for Charles H. Upton, esq., of Fairfax county, for this office,

claiming a right of representation, and Mr. Upton having announced himself as a Union candidate.

James T. Close.
 John F. W. Whitmore.
 John R. Dewey.
 Samuel Mahoney.
 Joshua Harrison.
 Silas M. Wilkins.
 John Hodgkin.
 J. H. Van Buren.
 Levin P. Walker.
 A. H. Bradt.
 Wm. Johnson.
 Robert H. Wade.
 Frederick Daw.
 T. A. Stoutenburgh.
 Edwin Henry.

H. S. Marting.
 Orrin Babcock.
 Thomas Emigh.
 Jacob Bowers, his \times mark.
 S. L. C. Sidebottom.
 John P. Whitmore.
 C. D. Gemmel.
 J. P. Whitmore.
 John A. Flocker.
 Charles C. Wade.
 John Doran.
 Jas. A. Stoutenburgh.
 Walter L. Penn.
 John Moore.

FALLS CHURCH, FAIRFAX COUNTY, VA.,

May 23, 1861.

Protesting against the act of the Richmond convention, in the attempt to shut us out of any representation in the next Congress of the United States, we do hereby cast our votes for Charles H. Upton, of this county, as our representative in the 37th Congress, and also protest against such act as illegal under the constitution and code of Virginia.

D. F. Dulany.
 B. Clock.
 W. H. Erwin.
 G. W. Haycock.
 Aaron Brott.
 C. Jos. Kirbey.
 Levi Parker.
 Wells Hatch.
 Reuben Ives.
 John Cornwell.

Wm. Pain.
 A. Bridle.
 Albert Ives.
 J. Galpin.
 J. Barrett.
 Reuben Kelly.
 Chas. Hardin.
 F. Mills.
 James E. Murray.
 A. B. Allen.

LEWENSVILLE PRECINCT, FAIRFAX COUNTY,

May 23, 1861.

Whereas the commissioners of election refused to open any poll for member of Congress at this precinct, we, legal voters and citizens of Virginia, protesting against such disfranchisement, do hereby cast

our votes for Charles H. Upton, of this county, as our representative in the 37th Congress of the United States.

Joseph Osmun.
Francis Crocker.
William A. Wilson.
Frank H. Janney.
Lewis P. Griffith.
Thomas H. Nelson.
J. Elliott.
L. Van Voast.

Oliver Hodges.
G. F. M. Walters.
John Gilbert.
J. D. Crocker.
B. D. Carpenter.
B. T. Carpenter.
Wm. Woodworth.

Poll for delegates to the house of delegates, and other officers, Thursday, May 23, 1861.

NAMES OF CANDIDATES AND OFFICES.

Names of voters.	STATE SENATE.		HOUSE OF DELEGATES.				MEMBERS OF CONGRESS.	
	Henry W. Thomas.	Louis McKenzie.	Wm. G. Cazenove.	Ed. Snowden, jr.	Louis McKenzie.	H. S. Wonder.	George W. Brent.	Chs. H. Upton.
T. B. Lawson.....	1	.....	.....	1	.....	.....	.....	.....
George Veitch.....	1	.....	1	.....	.....	.....	.....	.....
Wm. Burch.....	1	.....	1	.....	.....	.....	.....	.....
John Hicks.....	1	.....	.....	1	.....	.....	.....	.....
John W. Veitch.....	1	.....	1	.....	.....	.....	.....	.....
Jas. Roach.....	1	.....	1	.....	.....	.....	.....	.....
T. B. J. Fryy.....	1	.....	1	.....	.....	.....	.....	.....
Ed. Leble.....	1	.....	1	.....	.....	.....	.....	.....
H. S. Wonder.....	1	.....	.....	1	.....	.....	.....	.....
Wesley Carlen.....	1	.....	.....	1	.....	.....	.....	.....
John R. Johnston.....	1	.....	1	.....	.....	.....	.....	.....
George R. Herrick.....	1	.....	.....	1	.....	.....	1	.....
George C. Jackson.....	1	.....	1	.....	.....	.....	.....	.....
S. L. Summers.....	1	.....	1	.....	.....	.....	.....	.....
Wm. J. Minor.....	1	.....	1	.....	.....	.....	.....	.....
George A. Thomas*.....	1	.....	1	.....	.....	.....	.....	.....
Jas. O. Roach.....	1	.....	1	.....	.....	.....	.....	.....
Wm. R. Burch.....	1	.....	.....	1	.....	.....	.....	.....
H. W. Febrey.....	1	.....	.....	1	.....	.....	.....	.....

*From Alexandria.

Poll for delegates and other officers, &c—Continued.

NAMES OF CANDIDATES AND OFFICES.

Names of voters.	STATE SENATE.		HOUSE OF DELEGATES.				MEMBERS OF CONGRESS.	
	Henry W. Thomas.	Louis McKenzie.	Wm. G. Cazevoove.	Ed. Snowden, jr.	Louis McKenzie.	H. S. Wonder.	George W. Brent.	Chs. H. Upton.
Richard Williams	1	.....	1	.....	.....	.....	.....	.....
Noah Drummond .....	.....	.....	.....	.....	1	.....	.....	.....
J. T. Ball	1	.....	1	.....	.....	.....	.....	.....
Wm. F. Carlin	1	.....	1	.....	.....	.....	.....	.....
J. A. Cisson .....	.....	1	.....	.....	.....	1	.....	1
Marcus Pearl .....	.....	1	.....	.....	.....	1	.....	1
Allen Pearce .....	.....	1	.....	.....	.....	1	.....	1
John W. Bowen	1	.....	1	.....	.....	.....	.....	.....
Thomas Hitchcock	1	.....	1	.....	.....	.....	.....	.....
Robert Donaldson .....	.....	1	.....	.....	.....	1	.....	1
John Burch, jr. ....	.....	1	.....	.....	.....	1	.....	1
Smith Minor	1	.....	1	.....	.....	.....	.....	.....
W. D. Nutt	1	.....	1	.....	.....	.....	.....	.....
T. J. Suddath	1	.....	1	.....	.....	.....	.....	.....
Wm. C. Veitch	1	.....	1	.....	.....	.....	.....	.....
C. E. French .....	.....	.....	.....	.....	.....	.....	.....	1
Thos. A. Tucker	1	.....	1	.....	.....	.....	.....	.....
R. S. Shreves	1	.....	.....	1	.....	.....	.....	.....
George O. Wunder	1	.....	.....	1	.....	.....	.....	1
Isaac A. Veitch	1	.....	1	.....	.....	.....	.....	.....
E. J. Oxley	1	.....	.....	1	.....	.....	.....	1
Harvey Bailey	1	.....	.....	1	.....	.....	.....	1
B. F. Crabb	1	.....	1	.....	.....	.....	.....	.....
E. S. Javens	1	.....	1	.....	.....	.....	.....	.....
James Reynolds	1	.....	1	.....	.....	.....	.....	.....
J. T. Clark	1	.....	1	.....	.....	.....	.....	.....
N. B. Clarvoe	1	.....	1	.....	.....	.....	.....	.....
Richard A. Veitch†	1	.....	1	.....	.....	.....	.....	.....
George W. Donaldson .....	.....	.....	.....	.....	.....	.....	.....	1
C. B. Graham	1	.....	1	.....	.....	.....	.....	.....
Wm. Shreves	1	.....	.....	1	.....	.....	.....	.....
O. P. Evens*	1	.....	1	.....	.....	.....	.....	.....

*In camp.

†From Alexandria.

COUNTY OF ALEXANDRIA, *to wit*:

This day personally appeared before me, a justice of the peace in and for said county, H. S. Wonder, Wesley Carline, H. W. Febry, Richard Southern, commissioners appointed to superintend an election to be held at Ball's Cross Roads, in said county, on the 23d day of May, 1861, for a State senator and member of the house of delegates, and made oath that they would faithfully execute the office of commissioners.

Given under my hand this 23d day of May, 1861.

JOHN R. JOHNSON, *J. P.*

COUNTY OF ALEXANDRIA, *to wit*:

This day personally appeared before me, a justice of the peace in and for said county, Noah Drummond, conductor appointed to conduct the election to be held at Ball's Cross Roads, in said county, on the 23d day of May, 1861, for a member of the house of delegates and a State senator, and made oath that in conducting the said election he would not attempt to influence the vote of any one, or be guilty of partiality for any candidate or person voted for, and as far as depends on him he would make a true return of the result of the election according to law.

Given under my hand this 23d day of May, 1861.

JOHN R. JOHNSON, *J. P.*

COUNTY OF ALEXANDRIA, *to wit*:

This day W. B. Lacy personally appeared before me, conductor of election at Ball's Cross Roads, in said county, and made oath that in the election about to be held at Ball's Cross Roads, in said county, he would record the votes for the candidates faithfully and impartially.

Given under my hand this 23d day of May, 1861.

NOAH DRUMMOND.

Conductor of Election at Ball's Cross Roads.

ALEXANDRIA COUNTY:

Having carefully examined the above and the within transcript, from the poll-book of the conductor of the election held at Ball's Cross Roads on the 23d day of May, ultimo, I hereby certify that the comparison shows the same to be a correct copy.

Given under my hand this 1st day of July, 1861.

H. S. WUNDER, *J. P.*

Evidence presented by Charles H. Upton.

OFFICE OF THE MAYOR OF WASHINGTON,
January 3, 1862.

Testimony taken before me this day, under a rule of the Committee of Elections of the House of Representatives of the United States, in the matter of S. Ferguson Beach, esq., and Hon. Chas. H. Upton.

Dr. S. J. GROOT, called.

Question. (By Mr. Upton.) Where do you reside, and of what State and county are you a citizen?

Answer. My present residence is Washington, but I am a citizen of Fairfax county, Virginia.

Question. How long have you lived in Fairfax county?

Answer. Between twelve and thirteen years.

Question. Were you formerly postmaster at Falls Church, and who had that office established?

Answer. I was, and you procured the establishment of the office.

Question. Have you read the memorial of S. Ferguson Beach?

Answer. I have.

Question. Is it true, as there set forth, that I was not a *bona fide* inhabitant of Virginia on the fourth Monday of May last?

Answer. It is not true.

Question. Was I not at my house, now known as Upton's Hill, for months preceding that day, and taking an active part in the angry political controversies there existing?

Answer. Yes.

S. J. GROOT.

J. H. LATHROP, esq., called.

Question. (By Mr. Upton.) Where is your residence?

Answer. Alexandria, Virginia.

Question. Have you read the proclamation of Governor Pierpont in the National Intelligencer of 18th October, ultimo?

Answer. I have.

Question. Is this (Exhibit A) the proclamation as you understand, under which Mr. Beach claims to have been elected to Congress?

Answer. It is.

J. H. LATHROP.

LEWIS MCKENZIE, esq., called.

Question. (By Mr. Upton.) Where is your residence and what your occupation, Mr. McKenzie?

Answer. I am a resident of Alexandria, Virginia, and mayor of that city?

Question. How long have you known me and where, as a resident?

Answer. Ten or fifteen years, and as a resident of Fairfax county, Virginia.

Question. Did I urge you some time early in May last, to let me announce you as a candidate for Congress?

Answer. You did, sir, in this city, and I declined.

LEWIS McKENZIE.

C. B. SHIRLEY, esq., called.

Question. (By Mr. Upton.) Where do you reside?

Answer. Alexandria, Virginia.

Question. Some time early last May did you ride with me to Alexandria?

Answer. I did.

Question. Did you point out to me the residence of George W. Brent, esq., and did you understand that I called upon him for the purpose of getting him to allow me to announce him as a candidate for Congress?

Answer. I did, and understood that was the purpose of your visit?

Question. Subsequently to this did you again ride with me to Alexandria, when I called upon Mr. Snowden, editor of the Gazette, to procure the publication of a card announcing myself as a candidate for Congress?

Answer. I did, and understood that to be the purpose of your visit.

Question. (By S. F. Beach.) What length of time transpired between these two rides with Mr. Upton?

Answer. A few days—within a week.

C. B. SHIRLEY.

H. W. THROCKMORTON, esq., called.

Question. (By Mr. Upton.) Where were you born, and where has been your residence?

Answer. I was born in Loudoun county, Virginia, and resided, until after the battle of Manassas, in Fairfax county, Virginia.

Question. How long, immediately before the election in May last, was I residing in Virginia?

Answer. Nearly seven months.

Question. What flag was flying over my house on the day of that election?

Answer. The stars and stripes, and had been for nearly a month.

Question. Were you residing with me at that time?

Answer. I was.

H. W. THROCKMORTON.

RICHARD SOUTHERN, esq., called.

Question. (By Mr. Upton.) Where is your residence?

Answer. Alexandria county, Virginia.

Question. How long have you known me as a resident of Virginia?

Answer. Twenty years.

Question. Is my residence near yours, and did I frequently pass your house, on my way to and from Washington, for some months prior to the election in May last?

Answer. Your residence is about a mile and a half from mine, and you frequently passed my house, for months before the election.

Question. Were you one of the commissioners for holding the election at Ball's X Roads on the 23d day of May last?

Answer. I was.

Question. Was the poll opened there for a member of Congress?

Answer. Not by the order of the governor of Virginia. There was a poll opened there for a member of Congress, by the conductor and four of the commissioners.

Question. Were there armed men present belonging to the army of Virginia, endeavoring to prevent the opening of the polls?

Answer. There were armed men, but they did not prevent the opening of the polls. There was one officer came into the room, and looked upon the poll-book, and saw your name upon the margin for member of Congress, and I heard him say that if he could get a sight of Upton "he be d——d if he should ever take a seat in Congress."

RICHARD SOUTHERN.

NOAH DRUMMOND, esq., called.

Question. (By Mr. Upton.) Where do you reside?

Answer. Alexandria county, Virginia.

Question. Were you the conductor of the election at Ball's + Roads in May last, and have you often acted in that capacity?

Answer. I was, and have acted as such for many years past.

Question. Did you open the polls on the 23d of May last for a member of Congress?

Answer. I opened the polls as regularly then as I always had before.

Question. Were there armed men present making any threats or disturbance?

Answer. In the afternoon armed men appeared and objected to my proceedings. I let them know that I was acting under oath, and felt bound to take the vote of every man who desired to vote, and they told me that I would have to abide the consequences hereafter.

Question. (By S. F. Beach.) What has been the average vote for several years past at Ball's X Roads?

Answer. From ninety to one hundred and forty-two. The latter was the heaviest vote I have known there.

Question. (By same.) Was there an election on the day mentioned for State senator and delegates?

Answer. There was.

Question. Was the usual and average vote cast for those candidates?

Answer. There were a little upward of a hundred votes cast. There were seventy-nine union votes and thirty-one secession votes.

Question. (By same.) Were the polls opened on that day on the question of ratifying the ordinance of secession?

Answer. Such polls were opened.

Question. (By Mr. Upton.) Who prepared the form of returns for your election.

Answer. It was sent to me from Alexandria, with the form written out.

Question. Why did you open the polls for a member of Congress on the fourth Thursday in May?

Answer. Because I understood that had always been the day, every other year, for such election.

NOAH DRUMMOND.

The foregoing witnesses appeared at my office in this city at the time herein named, and, having been duly sworn, gave their testimony and subscribed to the same in my presence in manner and form as set forth.

RICHARD WALLACH, *Mayor*.