

A Contested Election

The first unofficial returns from the Congressional election in the fifth district of Iowa in November, 1882, were discouraging to the Republicans. Benjamin T. Frederick, a Democrat, had apparently been elected to Congress by the very narrow margin of sixteen votes. A more astonishing feature of the election was the defeat of the Republican candidate, James Wilson. "Tama Jim", as he was commonly called, was almost universally respected and admired, while his Democratic opponent was unpopular even among members of that party. "So near and yet so far", sighed a Republican editor, and then proceeded to upbraid the rank and file of his party for their apparent indifference and neglect.

A few days later the clouds of Republican gloom were dispelled by corrected election returns which gave James Wilson a plurality of twenty-five votes. The original count, it was reported, had not included the votes cast in Taylor Township of Marshall County, which had been disregarded by the county board of supervisors because one of the judges had not signed the poll books. Afterward, however, a law was discovered which authorized a majority of the judges of election to act for the entire body. Thereupon the supervisors certified the Taylor Township votes to the State Board of Canvassers,

and the Republican candidate was accordingly declared elected.

But Mr. Frederick was not to be disposed of so readily. He decided to spare no pains in an effort to prevent the certificate of election being issued to Mr. Wilson. Failing in that he would carry his contest to the House of Representatives. Since a majority of the Representatives in the Forty-eighth Congress were Democrats he anticipated that his claim to a seat would be approved.

Early in December, 1882, a hearing was held before the State Executive Council. Both Mr. Wilson and Mr. Frederick were present: the former was represented by J. H. Bradley of Marshalltown, while Timothy O. Brown and B. F. Kaufman served as counsel for the latter. On behalf of Mr. Frederick it was urged that the State Board of Canvassers had no judicial power over election returns, but merely the administrative function of making official acceptance. The second certificate sent by the Marshall County board of supervisors, Mr. Brown maintained, was not an election return, but simply a statement of what the board had done, and therefore the State canvassers had no right to consider it. To support this position a Supreme Court decision was cited which held that if an election board had once completed its count and signed the returns it could not make a recount — though it was admitted that this decision applied only to township or precinct canvassers.

Mr. Bradley, on the other hand, pointed out that according to law the county board of supervisors of Marshall County had erred in throwing out the votes from Taylor Township. He claimed that the supervisors, acting as the board of canvassers, were engaged in the performance of a ministerial duty and should not have judged upon the validity of the poll books. The names of the election judges appeared thereon and the fact that a clerk had signed for one of the judges did not alter the case. Moreover, the law plainly stated that the action of a majority of the election judges was sufficient. He too supported his contentions with citations from decisions which had been rendered by State and Federal courts, and requested that the certificate of election be issued on the basis of the corrected returns from Marshall County.

The Executive Council appears to have taken no decisive action immediately after the hearing and Mr. Frederick's next move was to apply to the district court of Polk County for a writ of injunction forbidding a count of the votes from Taylor Township. The writ was issued by Judge William H. McHenry but in spite of this action a certificate of election was given to Mr. Wilson. "It remains for Mr. Frederick", said a Democratic editor, "to carry his case to a higher tribunal where justice and non-partisanship will obtain in determining the legal right."

Accordingly the dispute was carried to the Forty-

eighth Congress in December of 1883. The papers relating to the contest were formally presented to the House of Representatives on January 10, 1884, and were referred to the committee on elections. No report concerning the contest appears to have been made during the first session of the Forty-eighth Congress, but on February 19, 1885, only thirteen days before the end of that Congress, Risdén Bennett, a Representative from North Carolina, reported on behalf of the Democratic majority of the committee on elections that in its opinion James Wilson had not been elected from the Fifth Congressional District of Iowa, that he was therefore not entitled to a seat in the House, and that Benjamin T. Frederick should be seated. Mr. Bennett also served notice that he would call up the report for consideration at an early date. Upon the request of Edward K. Valentine, a Representative from Nebraska, leave to file a report containing the views of the minority of the committee on elections was granted, and four days later, on February 23rd, this report was submitted by Samuel H. Miller, a Representative from Pennsylvania.

The reports of the committee on elections indicate that the issues of the contest were no longer based upon the returns from Taylor Township in Marshall County, but upon irregularities in many precincts throughout the district. Indeed, the majority of the committee graciously admitted the returns from Taylor Township in spite of the fact that, according

to their contentions, these votes had been irregularly certified to the State authorities and in spite of the contention that the counting of these votes had actually been commenced before the polls were closed.

Most of the circumstances in dispute related to the general recount of Congressional election votes which had been made. According to this second count, the supporters of Mr. Frederick claimed that their candidate had been elected by a plurality of twenty-three votes.

Mr. Wilson's proponents objected to giving the seat to the Democratic candidate on the results of "pretended recounts" because hired agents of Mr. Frederick had tampered with the ballots and had opened ballot boxes and counted votes without the knowledge of Mr. Wilson or his agents. One agent for Mr. Frederick admitted that he had been employed for about twenty-one days "laying the foundation" for the contest, and had visited about thirty precincts in which the ballot boxes had been opened. He insisted, however, that he did not change any of the ballots but merely "touched them with the rubber end of his pencil". A ballot box in Tama was alleged to have been forcibly opened with a hatchet by the chairman of the local Democratic party committee prior to the recount. In Marshalltown the ballots were said to have been dumped into a large paper box which was kept in the rear office room of some local business men, a room which was open to the public generally and especially to Frederick and

his friends who frequently met there to play cards.

The majority report dwelt upon irregularities claimed to have been practiced at the election by the supporters of Mr. Wilson. The election returns from Homer Township in Benton County showed that sixty-six votes had been cast for Wilson and only thirty-five for Frederick, while the vote for other candidates on party lines was almost exactly the reverse. Later, forty-two electors declared under oath that they had meant to vote for Mr. Frederick. It was claimed that a Republican had supplied some of the German voters with ballots labeled "Democratic" and bearing the name of James Wilson as a candidate for Congress, and had led them to believe that by casting these ballots they would be voting for the Democratic candidate, Frederick.

The contest was not brought before the House until the second day of March. Only two more days and the final session of the Forty-eighth Congress would come to an end. If Mr. Wilson's friends could prevent the resolution to seat his opponent from coming to a vote he would be able to complete his term without the stigma of the charge of having usurped the position. To attain this end the minority resorted to every parliamentary means at their disposal. The fact that the resolution was a privileged measure limited the resources for filibustering, so that the Wilson adherents were confined to the use of objections to consideration, roll calls, motions

for recesses with amendments thereto, calls of the House to determine the presence of a quorum, adjournments, and other motions of high privilege. These tactics were employed most effectively, however, and the resolution was submerged until in the closing hours of the session when some much desired legislation was tied up by the filibuster.

All through the night of March 3rd the House remained in session, striving frantically to finish the work before the hour of final adjournment. The inauguration of President Cleveland was only a few hours away. The city of Washington thronged with visitors. Early in the forenoon of March 4th spectators filled the House and Senate galleries to witness the closing scenes of the Forty-eighth Congress. Former soldiers were present in large numbers, attracted chiefly by their interest in a bill authorizing the President to place upon the retired list one person from among the former generals of the United States armies with the rank and pay of a general. The measure was designed for the relief of General Grant, then mortally ill and devoid of means of support.

On the floor of the House many Representatives sought to obtain favorable action on the bill, which had already passed the Senate. The idea had won popular approval, and was supported by a substantial majority in the House of Representatives, chiefly Republicans and Democrats from the North.

A serious obstacle stood in the way. Directly pre-

ceding the Grant bill in the order of business was the Frederick-Wilson election contest. The pension bill might have been acted upon under a suspension of the rules when it was called up, with the election contest still pending, but Mr. Bennett had objected and so long as the objection was maintained the Grant bill could not be acted upon until after the disposal of all other privileged motions. It was therefore imperative that the contested election be decided before the measure for the relief of General Grant could be passed.

Mr. Wilson's friends found themselves in a dilemma. They knew full well that if they allowed a vote upon the election contest Wilson would be deprived of his seat. Fully capable of continuing the filibuster to the end, they were in no mood to desert their colleague during the closing hours of the Congress. Even if they should allow the election contest to be decided their opponents might afterward refuse to act upon the Grant bill. Moreover, they had no positive assurance that the Grant bill would pass if it was permitted to come to a vote. Yet to continue the filibuster would be absolutely fatal to the measure providing comfort for a former President and expressing a nation's gratitude to one who had contributed largely to the preservation of the Union — a measure which they earnestly desired to have enacted into law. What should they do?

The position of Wilson's opponents was much less difficult. While many of them were willing to vote

relief to General Grant they felt no particular obligation in the matter. For the most part they would have been quite satisfied to let the measure die. There were even a few bitter Southern Democrats who seized upon the election contest as a weapon to defeat the cherished plan of Northern men to pension their most successful leader in the Civil War.

The forenoon of March 4th slipped away. As Joshua commanded the sun and moon to stand still in order that the victory of God's people over their enemies might be more complete, so now the clocks of Congress were turned back that this battle of parliamentary wits might continue. In the Vice President's room Grover Cleveland awaited the inaugural ceremony, while President Arthur was busy in his office at the Capitol signing the last acts of the Congress.

In the House of Representatives members were clamoring for recognition. Their eagerness to be heard only lessened the possibilities of concluding the business. In the midst of this tumult was James Wilson — vitally interested in the outcome and technically disqualified from participating in the contest, yet he alone was in a position to make the decision.

It was not the first time that the balance of power in Congress had rested in the hands of an Iowan. Only a few years before Senator James W. Grimes, though he was seriously ill at the time, had gone to the Senate chamber and cast the vote that prevented Andrew Johnson from being removed from the office

of President of the United States. Though he sacrificed his political future, time has vindicated that vote. Would James Wilson exhibit similar unselfishness in order that the United States might render a token of gratitude to General Grant?

A few more minutes of filibustering and the Forty-eighth Congress would end. If the records were to show that James Wilson had represented the Fifth Congressional District of Iowa from 1883 to 1885, it would be at the sacrifice of the pension for the sick and needy ex-President and commander of the Union armies. If the pension was to be granted, it would mean that the election contest would first be decided against Wilson and the records would seem to indicate that James Wilson had fraudulently held his seat until the closing hours of the last session. Mr. Wilson could not have been unmindful of these considerations, as he decided upon his course of action.

Confusion in the House had reached its highest pitch. Time and again the Speaker had reminded the Representatives of the impossibility of conducting business unless quiet and decorum prevailed. The sergeant-at-arms had been directed to maintain order and to cause the members to resume their seats. It had even become necessary for the deputy sergeant-at-arms to proceed through the hall bearing the mace.

During these attempts to restore order Mr. Bennett demanded a vote upon the resolution ousting Mr. Wilson from membership in the House of Repre-

sentatives. As for himself he promised to withdraw his objection to the pension bill if the minority would permit a decision of the contested election. "I do not say more", he added. "I do not keep the consciences of members. God Almighty has made the human mind free, and gentlemen can vote as they please." These remarks elicited laughter and during the tumult that followed Mr. Wilson sought to address the House. His efforts to attract the attention of the Speaker proved to be of no avail, however. At length Thomas A. Robertson from Kentucky, a Democratic member of the committee on elections, informed the Speaker that the gentleman from Iowa desired to make a statement and requested that he be recognized.

At once the chamber became strangely quiet, and every ear was strained to hear the words of the man in whose hands lay the balance of power. "Mr. Speaker," he said, "if the House will vote to put General Grant on the retired list I am willing to be sacrificed after that."

Loud applause greeted this announcement, but Mr. Bennett was uncompromising. He persisted in demanding a vote on the contested election resolution before any other business should be transacted. Samuel H. Miller, a Republican member of the committee on elections, who had led the filibuster to keep the contested election case from coming to a vote, stated that if a vote on the Grant bill were taken immediately he would withdraw all objection to de-

ciding the contested election afterward. When his proposal was met with cries of "Oh no!" he finally offered to allow a vote upon the contested election resolution first. He hoped that the House would act fairly upon both measures.

Again Mr. Bennett reiterated his demand that the Speaker put the previous question, and after one more short parliamentary skirmish the House proceeded to vote upon the resolution, "That James Wilson was not elected as a Representative in Congress from the fifth district of Iowa, and is not entitled to a seat on the floor of this House", and further, "That Benjamin T. Frederick was duly elected as a Representative in Congress from the fifth district of Iowa, and is entitled to be sworn in as a member of this House." The result was true to expectations: James Wilson lost his seat, and Benjamin T. Frederick, presenting himself at the bar of the House, took the oath of office.

A few minutes later, when the Grant bill passed the House, Mr. Frederick voted "Yea", as James Wilson would have done. And thus it happened that General Grant's last days were filled with contentment because an Iowa Congressman surrendered his seat in the House of Representatives.

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