

U. S. Senate Election

1838-1839

No election

To fully understand the failure of the Pennsylvania Legislature to hold an election for the Senate session beginning 4 March 1839, it is necessary to examine the political events in late 1838 - events bizarre even by Pennsylvania standards - culminating in the "Buckshot War."

The most lucid brief description of these events is to be found in: John Joseph Lalor, editor, *Cyclopaedia of Political Science*. Maynard, Merrill, and Co. 1899. Ed. Library of Economics and Liberty. Accessed 23 July 2005. <<http://www.econlib.org/library/YPDBooks/Lalor/11Cy162.html>> and quoted below:

"BUCKSHOT WAR, The. In 1838 the control of the Pennsylvania house of representatives, on which depended the choice of a United States senator, turned upon the election in Philadelphia, Oct 9. Here the democratic candidates for senators and representatives were elected by average majorities of about 350; but the democratic candidate for congress was defeated. Ascribing his defeat to whig frauds in the Northern Liberties district, he induced the ten democratic return judges to cast out the entire 5,000 votes of that polling place, and thus obtained a certificate of election. Hereupon the seven whig judges met separately and gave certificates not only to their party candidate for congress, but also to the whig candidates for the state legislature, though these had no claim to a majority with or without the Northern Liberties vote. [*The Journal of the House of Representatives, 1838-1839 shows only nine Democratic judges and six Whig judges. The return of the Democratic judges - which did not include the Northern Liberties district - shows an average of 3,000 more votes for the Democratic candidates than did the Whig returns which presumably included the votes of all of Philadelphia County.*] The whig certificates, sent by rail, came first to the secretary of state, who was also chairman of the whig state committee. He at once accepted them as the true ones and issued an address to his party, calling on them, until investigation could be made, "to treat the election as if they had not been defeated, and abide the result." This was a signal for both parties to muster strong bodies of armed partisans at Harrisburg before the meeting of the legislature, "to see fair play."

The legislature met Dec. 4, 1838, in the presence of riotous crowds. In both houses the secretary of state handed in the whig returns from Philadelphia, ignoring those of their opponents. The whig senate was organized without great difficulty, but adjourned because of the mob. In the house two organizations were formed in the same room, one (whig) recognizing the secretary's returns, the other (democratic) recognizing the election judges' returns. As speaker the former chose Thomas S. Cunningham, and the latter William Hopkins. The Hopkins house remained in session after the adjournment of the Cunningham house, and, having thus got possession of the hall, guarded it securely and compelled their opponents to meet elsewhere.

The whig governor, Ritner, issued a proclamation during the day, declaring the capital to be in the hands of a lawless mob, and calling on the militia throughout the state to prepare for action. Dec. 5, he called on the commandant at Carlisle barracks, Capt Sumner, for United States dragoons, but was refused. He then, Dec. 7, called on president Van Buren for troops to protect the state from domestic violence. This request was also refused, Dec. 11, on the ground that the trouble arose from no opposition to the laws, but from a political con-

test for the organization of the house; and that it was indelicate and improper for the federal government to interfere for the support of either party. In the meantime about 1,000 militia had been brought to Harrisburg, but, after a two weeks' stay, departed, as the mob violence had ceased, and the senate and the dual house were holding regular and quiet sessions.

The Senate contained 22 whigs and 11 democrats; but, when the excitement fell, it was found that many whigs disapproved the secretary's assumption of power to decide disputed returns. The feeling spread, and Dec. 17 three Cunningham members took seats in the Hopkins house, thus giving that body a majority of all the representatives. On motion of a whig senator, Dec. 23, the senate recognized the Hopkins house, and this ended the "Buckshot War." The other Cunningham members, during the next three weeks, took seats in the Hopkins house, with the single exception of their leader, Thaddeus Stevens, who absented himself during the rest of the session. May 7, 1839, at an extra session, he presented himself to take the oath, but the democratic majority, to punish him for his part in the struggle and for his strong and repeated expressions of contempt for the Hopkins house, declared his seat vacant. At the consequent special election he was again chosen, and took his seat in June. The popular name for the whole conflict was given from a reported threat of a whig member that the mob 'should feel ball and buckshot before the day was over.'"

When the Legislature convened, there were 22 Whigs and AntiMasonics and 11 Democrats, giving the Whigs and their allies a clear majority even though two seats were in dispute. In the House, there were 48 Democrats, 44 Whigs, and eight seats in Philadelphia County in dispute. The Hopkins (Democratic) House, once they had seized control of the meeting hall, quickly turned to the election of a U. S. Senator. On 8 December, it nominated candidates for the U. S. Senate and announced that the election would be held on 12 December. A teller was appointed and the House clerk was directed to inform the Senate of the forthcoming election.

The Senate would have none of this. Since the House Democrats had already seated their Philadelphia delegation, the Democrats now had a 12-seat margin. The inevitable result in any joint election would have been 67 Democrats against 66 Whigs. The Senate Whigs thus decided that no election was preferable. With a two-thirds majority in the Senate they had the power to block, if not to win. Since the Senate had not yet recognized the Hopkins House, the House announcement was not recognized and no election was held.

With the collapse of the Cunningham House, the Senate recognized the Hopkins House on 23 December and a joint resolution was issued concerning the Senatorial election. The outgoing Anti-Masonic Governor, Joseph Ritner, returned the resolution unsigned. The House bided their time and on 15 January 1839, the day on which the new Democratic Governor David Porter was inaugurated, passed the resolution again by a 61 to 23 vote. A small number of Whigs voted with the Democrats to provide a constitutional majority for the resolution.

The battle continued. On 25 January, the House passed yet another election bill, this time providing for the election of a U. S. Senator on 12 February. Once again the Whig Senate refused to participate. Subsequently the House became engaged in an investigation of the Ritner administration's role in the Buckshot War and as nearly as can be determined no further efforts to elect a Senator were made.