

gravity and responsibility should be no objection to its exercise when the right and justice of a contest is clearly ascertained and demands it.

The entire vote of the State for Comptroller was eighty-seven thousand one hundred and thirteen. The vote of the city of Baltimore was twenty-three thousand four hundred and fifty-three, which is more than one fourth and less than one third of the whole number of votes which were cast at the election. It will therefore be observed that we declare the right of the contestant to the office, upon a fair count of nearly three-fourths of the entire vote cast.

The law of the case is plain. Although fully laid down in two previous reports, we again repeat it:

As early as the reign of Edward I, (A. D. 1275,) it was ordained "Because elections ought to be free, the King commandeth, upon great forfeiture that no man by force of arms, nor by malice or menacing, shall disturb any to make free election;" and from that early day to the present, "*When the freedom of election has been violated* by riots, the election has been uniformly set aside, notwithstanding the returning officer has been able to continue and finish the poll, and to comply with the exigency of the writ by the return of members." (Heywood, Law of County Elections, 582; Male on Elections, 125.)

It matters not, under the rule, whether the votes effected by the riot and violence be many or few, if there be "actual force or violence, or a display of numerical strength, accompanied with threats, and the conduct of the parties engaged is of such a character as to strike terror into the minds of a man of ordinary firmness, the election will be held absolutely void, without reference to the number of voters thereby affected." (Cushing, secs. 181; 183, 185.) The reason of this is two-fold; in the first place, it is an utter impossibility to define the limits of the fear which a riot has engendered. No man "*speaking of his own conduct*, can tell how far fear may have influenced it," and much less can the extent of the influence of the contagion of a public panic be ascertained. But in the next place, the violation of the freedom of choice vitiates every election, and the "*freedom of election is as much violated by the intimidation and coercion of the minority as of the majority.*" (Rogers on Elections, 240.)

The very word *election* implies choice, preference, and where those who have the right to choose, and the will to exercise that right, are prevented or deterred from its exercise there can be no election "The causes of avoiding an election