

cases, where the contest is made upon the grounds of fraudulent and illegal votes alone, the burden is upon the contestant of proving the extent of the illegal voting, and of showing that when the ballot box is purged of the fraud, he has a majority of the remaining good and legal votes.

4. The law is stern in repressing fraud, and robbing it of its purposed fruit, but it is far more stern and inexorable in its dealings with violence, and neither "the presence of a military force during an election, nor the interruption of the proceedings by riot and disturbance, can in any degree be endured by the Constitution." (Male on Elections, p. 63.)

As early as the reign of Edward the First (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 twofold; 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 are all but corollaries flowing from one great principle 'That elections should be free.'" Upon the preservation of this vital principle, not only the prosperity, but the very existence, of the State as a free State depends. The violation