

me the opinion that when his term was out he would not desire to regain command of the army as it would be unjust to me. I have never since heard him say a word to indicate a change in that opinion, and I do not believe he or his friends suggested the President's idea of the Captain Generalcy or of regaining a place on the army retired list. There is no reason why Presidents may not be retired the same as the members of the Supreme Court. Gen. Hancock, when a candidate for President in June last, used this language in a private letter to me: "To surrender the position of senior major general is not a light thing to do. I could not even retire in such a contingency with the benefit ordinarily attached to such action, for the commander-in-chief of the army and navy could be on the retired list of any service." As to my retiring, you know I will not be 62 years of age until 1882, and the rumor of my intending voluntarily to retire grew out of an expressed desire to manage so as to bring Lieut. General Sheridan to Washington, and thus to leave the three military divisions for the three major generals now on the army register. But as the President has indicated a new fourth commission for Major General Schofield, that pressure has passed, and I am in no measure committed as to my future action. The service is embarrassed already with too much rank for our small army. I don't know what a captain general will find to do. There never was such an officer in the United States, and it will need legislation to create and define such an office. I will take my own time and course of action when the emergency comes.

The *World's* London special says: It was stated in town last night that here was a painful scene between the Queen and Mr. Gladstone at Windsor over the Irish question, Her Majesty urging the Premier very decidedly to resort at once to force and crush the disorder in Ireland. The Liberals who circulate this story ascribe the Queen's interference to the personal influence of Lord Beaconsfield, in whom she has no doubt confidence, and who recently made her a visit.

The condition of affairs in Ireland formed the principal topic of discussion to-day in the cabinet council, but the decision arrived at, if any, has not yet been made public. No more councils will be held, I am informed, until after the holidays. When the council adjourned to-day, Mr. Forster hurried back to Dublin, and the other ministers left London for their respective homes in the country. Those persons who profess to be well informed as to the court of justice in Ireland, express a belief that he acquitted at the Cork Assizes, yesterday, of Messrs. Healy and Walsh, of the charge of intimidating Farmer Manning, will have a bad effect on the coming trials of the indicted land leaguers. Parnell has issued a circular altering the date of the meeting of the home rule party from January 4th to December 27th, the day before the State trials begin.

The *Herald's* Dublin says: About a thousand persons assembled in Kilmore, County Mayo and rebuilt a house from which a woman named McNicholas had been evicted. The rebuilding occupied four hours. They then reinstated Mrs. McNicholas and left her three months' provisions. There was a large number of police at the scene, but they did not interfere. When all was over, the people quietly dispersed and in marching order, each section of Land League, headed by its own band.

Counsel for the crown and counsel for the traversers in the Irish state prosecutions each struck off 12 names from the 48 previously balloted for, leaving 24 from which the jury will be selected at the opening of the trial. The crown solicitor struck off the names of 12 Catholics and the Traversers' solicitor three Catholics and nine Protestants, each side alternating in striking them off, name by name. At each name struck off by the crown, Dillon, Traversers' counsel and cousin of John Dillon, cried, "another Papist" or otherwise called attention to the fact, though the master of the crown severely reprimanded him. Some Catholics are included in the remaining 24 persons in the panel, but the probability is that the great majority of the jury will be Protestants. Opinions differ regarding the probable inclinations of the jury, but it is not generally considered favorable thus far for the traversers. Of the panel 14 are liberals.

The *Tribune's* Washington special says: A letter was recently sent both to Judge Taft and Senator Matthews by members of the Ohio legislature asking them individually if they would accept the nomination to the Senate if tendered by a fusion of the democrats and republicans. Taft made no reply but Matthews replied he would not accept such a nomination but would accept one from the republicans.

PHILADELPHIA, 16. — To-night, the sophomore class of the University of Pennsylvania, had a cremation of the old text books used by them during the past term. The cremation exercises occurred on the campus on the college grounds, and the students arrived about half-past 9, accompanied by an escort of 30 policemen, as it had been hinted during the day that the medical students would break up the exercises for the alleged affront given at their commencement last summer. When the sophomores, to the number of 50 arrived, they found 700 medical students gathered, who shouted and hooted at the sophomores, several breaks in the rope which surrounded the cremationists were made, and then a policeman discharged his pistol. This was the cause of a general rush of students and the policemen were nearly overpowered. They then made an arrest, and this led to the throwing of bricks, rotten eggs, etc. Several policemen were injured, one seriously, by being struck on the head with a brick. Another claims to have been cut across the head with a knife by a student. Ten of the medical students were arrested and three policemen were sent to the hospital. The affair caused intense excitement in west Philadelphia, and the people in the neighborhood were fearful that the riot would become general and lead to the destruction of property.

BRIEF TELEGRAMS.

Clearing house reports for the week still show gains.

The Senate has unanimously confirmed Hazen and Miles.

At Albany to-day, Chas. E. Burt killed Sarah Traver and himself in the presence of his wife, making the woman kneel while he shot her.

The Turkish delegate has referred the claim of the Montenegrins to the two villages near Dulcigno to the European delineation commission.

The land committee has published the charges of Judges Dowse and Fitzgerald on the state of the country, and they will be widely distributed.

The committee of the S. F. board of trade to consider the inter-oceanic canal affairs, telegraphed congratulations to Admiral Ammen on the favorable outlook for the Nicaraguan canal.

The military authorities have collected camp requisites at convenient stations all over Ireland, and the commissioners have accumulated a reserve of portable provisions in every town.

The Porte with a view to the fulfillment of its engagements has stationed 17 battalions of troops on the Montenegrin frontier, with instructions to prevent Albanians from interfering with Dulcigno.

The Pope has issued an encyclical letter exhorting the patriarchs, archbishops and bishops of the Catholic world to stimulate their flocks to pray, work and contribute in the work of a post for the propagation of the faith and schools in the east.

ALLEN G. CAMPBELL'S PROTEST.

HE "DEMANDS" A CERTIFICATE OF ELECTION AS DELEGATE.

To His Excellency, Eli H. Murray, Governor of the Territory of Utah.

The time will soon arrive for the final canvass, under your supervision, of the return of votes given at the late election, for Delegate to Congress from this Territory.

I am not ignorant of what the public generally know in respect to the voting at this election, and its supposed result. On the surface the returns will not show, probably, that a majority of the votes actually cast were given for me. But if it be true, as I insist it is, that all the votes not polled in my favor are legally blank, then I owe it to those who placed me in nomination, and by a still higher obligation to the whole community, in the interest of

good government to protest, and I do protest against the counting of any votes for George Q. Cannon.

The performance of the duty, however, would be productive of no result except to mortify and disgust legal voters whose choice is nullified, unless there is a power conferred on you to so conduct this canvass that legal voters shall only be included.

If it were a matter of indifference whether the names voted for as candidates represented actual persons or mere mythical characters—persons qualified or persons ineligible—if it were immaterial to discriminate between the votes given by those entitled to exercise the elective franchise and those given by persons whom the law excluded on the ground of sex, minority or alienage from the privilege of voting than a mere count of votes and comparison of aggregates would decide to whom your certificate of election should be given. It is not, however, consonant to the American theory of popular elections to office, to ignore such disqualifications nor to confer such limited powers upon those charged with the duty to ascertain the result; then there can be no elimination of votes illegally received.

It cannot be said that the laws have so imperfectly guarded the ballot box and provided for pure and regular elections; that if illegal votes are once received by some error of judgment or failure in duty, by officers registering voters or having the immediate control of elections, the wrong is for ever incapable of rectification.

No remedy is adequate or effective in respect to offices for short terms, which does not administer the corrective during the canvass, for before any other remedy can be sought and applied, the motive to pursue it ceases by the expiration of the term, the wrong prospers and the authors are thereby encouraged to repeat it and generally do.

This subject has such local importance that I venture some suggestions in support of your powers in the premises, at the risk of incurring your criticism for assuming to defend the executive jurisdiction.

Section 25 of the Utah Compiled Laws provides: "That so soon as all the returns are received, the Secretary, in the presence of the Governor, shall unseal and examine them, and furnish to each person having the highest number of votes for any territorial office a certificate of his election." The returns here spoken of are: A brief abstract of the offices and names voted for, and the number of votes each person received.

Secs. 23 and 24: It will be observed that the duty imposed by Sec. 25, is to give the certificate to the person having the highest number of votes, and that it is not required by the terms of that section that the highest number of votes shall be determined from the returns. The duty to examine the returns, and that to give a certificate, are successive and distinct duties. The returns from certain counties, or the vote of certain precincts may have to be rejected, for causes apparent on the face of the returns, or other evidence may afford grounds for such rejection.

The direction to you and the Secretary as final canvassers, is to issue the certificate to the person having the highest number of votes, not to him appearing by the returns to have the highest number of votes; therefore, since the mode of ascertaining the important fact is not described, and since on general principles, when a general duty is required to be performed, there is conferred by necessary implication the incidental power to adopt any suitable means necessary to the doing of that duty, evidence may be received in connection with the returns, to assist in coming to a correct conclusion. This construction of the Statute harmonizes your functions in respect to this office with those of similar offices generally.

In Cushing's Law and Practice of Legislative Assemblies, page 52, the author quotes from another: "There can be no doubt that in those branches wherein the law has marked out a definite line, it is ministerial; but as regards the two material branches of deciding upon the capacity or incapacity of candidates, or upon the qualifications or disqualifications of electors, the subject requires some investigation; but if the returning officer (you are clearly one) be fully apprised of some notorious disqualification, whether of a candidate or of an elector, such as their being minors, or claiming in the right of property,

which clearly does not entitle them to the privilege, he is so far a judicial officer, as to prevent their voting or being returned," and the author adds: "In judicial decisions of this country, when the point is adverted to, it seems to be considered, that the functions of returning officers are chiefly judicial in their character."

If so it follows of course, in the absence of a legislative rule to the contrary, that you are to act upon evidence, and on any evidence which applies to the subject, and would be competent before any other judicial tribunal having the same question to decide.

I shall, in accordance with these views, address this, my protest to you, as a quasi judicial officer, protest against the issue of any certificate of election to George Q. Cannon, and I demand the issue of one to myself, because he has not, and I have, the highest number of votes for the office of Delegate to Congress of the United States, on the following grounds:

First—It will appear by the returns to the Secretary that 1,357 votes were given for me for said office, and there is no evidence tending to gainsay my qualifications for the office, or those of the electors voting for me.

Second—George Q. Cannon is an unnaturalized alien. Being such, he is not eligible to the office; all the votes given for him are void. I quote from the author before referred to: "If an election is made of a person who is ineligible, that is incapable of being elected, the election of such person is absolutely void; even though he is voted for at the same time with others who are ineligible, and who are accordingly elected, and this is equally true, whether the disability is known to the elector or not; whether a majority of all the votes, or a plurality only, is necessary to the election, and whether the votes are given orally or by ballot." (Id. p. 66.) According to this authority and the authority which he cites, it is the law in this country, and also in England that not only will the election of a disqualified person be held as void, but if such election takes place after notice of the disqualification is given to the electors, the candidate having the next highest number of votes will be elected. (Id. pp. 66, 67.)

Notice of Mr. Cannon's disqualification had been very thoroughly published in this Territory before the election.

The legal objection of alienage derives great force from the political and moral aspect of his life and conduct. George Q. Cannon is a polygamist, having lived for many years, and is still living with four women as wives, in violation of the law. He openly advocates polygamy in his public addresses in Utah, and thus incites others to break the law enacted by Congress on that subject in harmony with the moral sentiments of the civilized world. Not only is he not naturalized, but he is not qualified to be naturalized; without thorough reconstruction he could not be proven to be a man of good moral character, nor could he, while in his present criminal contumacy, sincerely make oath that he is: "Attached to the Constitution of the United States and well disposed to the good order and happiness of the same."

Third—Under void legislation of this Territory, females have voted in large numbers; they are partisans of said Cannon, and it must be taken for granted that they voted for him at the late election. Calculating the present number of votes in this Territory by adding to the vote given six years ago, (about 27,000), according to the ratio of popular increase from 1870 to 1880, as shown by the census returns, there were at least 40,000 defacto voters in the Territory when the late election took place. The entire vote polled at this election, including the vote of females, was less than 20,000; therefore, at least 20,000 voters stayed at home, and less than half the total vote was actually polled and returned.

The females in this Territory claiming the right to vote, outnumber the males having that right; the poll lists show also that they outnumber the males in voting. Thus it will be seen that there are more females in this Territory claiming the right to vote than the whole number of votes polled at the late election. As these votes are illegal how can you avoid the conclusion that they have vitiated the election, by rendering it impossible to determine without proof that the pretended majority reported for Mr. Cannon does not consist of such

votes. The fact that there was such an enormous illegal vote, known as certain to be polled, will account for the absence of so many legal voters from the polls.

That the act of the Territorial Legislature purporting to establish female suffrage is void, is now generally conceded. It is so because it attempts to confer the privilege by a special act on different and easier terms of qualification than those required by existing general law applicable to the other sex; thus violating the rule of uniformity.

In conclusion, be it understood that I protest against the issuance of any certificate to George Q. Cannon as the substantive matter and purpose of this paper; and it seems clear beyond all controversy, that if he is not qualified to hold the office, that no majority of legal votes can be said to have been given for him, and that it is within your power for these causes, to withhold the certificate of election.

On reaching this conclusion as a secondary matter, I trust you will find it consistent with your views, and in the line of duty to hold that the votes given for me entitle me to the certificate.

With great respect, I have the honor to be your most obedient servant.

ALLEN G. CAMPBELL.
Frisco, Dec. 12, 1880.

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