

*must be presumed to know the disability, and in all cases where there is no such actual or presumed knowledge to hold the whole proceedings merely void."*

In this State the decisions have gone to the full extent of these authorities. In the case of Mr. Holton contesting the seat of Mr. Maclin, at the last Session, the Senate unseated Maclin and admitted Holton, upon the ground that the voters must be presumed to have known of Maclin's ineligibility, on the ground of disloyalty; although many persons testified that Maclin, from the beginning of the rebellion, had expressed sentiments of a character directly opposed to those charged against him; but the committee found from the whole evidence, that Mr. Holton's charges were proved, and they held that the voters must be presumed to have known of their truth.

In the present case the ineligibility of Mr. Harwood must be presumed to have been known by every voter; no man is allowed to proclaim himself ignorant of the law. Every one knew Mr. Harwood was Senator, and every one knew or must be presumed to know, that a Senator was ineligible under the constitution, to an office, the profits of which had been increased during his term of service; and no one if he were really ignorant, can be allowed to plead ignorance of the public laws of the State, which had increased the profits of the office of clerk. In fact, for the first time the laws of 1865 were extensively published; the papers were full of notices of the efforts of the clerks to have their incomes increased. No men of intelligence in the county were ignorant of what every Member of the General Assembly well knew, that the effect of the Legislation of 1865 was to increase the value of this particular office to a considerable extent; there was certainly enough known by every one to put him on inquiry; and if, despite of this knowledge, the voter preferred to run the risk of losing his vote for the sake of voting for his favorite candidate, in the language of the authority already quoted, "he took upon himself the risk of losing his vote, if his construction of the law should turn out to be wrong;" Cushing, section 177. And we think in a case like this, it would be highly inexpedient to submit this matter to another election. The result of the election of an ineligible person is, that he enjoys the office until the Legislature meets, then, if he is declared out of office, he may again offer himself and hold until the Legislature may again assemble, receiving the emoluments until again unseated, and perhaps again offer himself as a candidate, with the same thing to go over again.

We are of the opinion that this House, which is the absolute judge of the election and qualification of the contestants of this office, should pass the following resolutions: