

George's county, and of others not residents of said county, the returns of the election have been made to designate the said Frederick Sasscer as having received the larger number of votes.

2d. That the return of the judges is substantially defective in this, that it does not designate the said Frederick Sasscer as duly chosen to said office of Clerk.

In support of the first point no evidence whatever has been submitted to your committee, and no application has been made for the examination of witnesses, or proofs of any kind touching the allegations therein made; although, your committee have delayed acting upon the case as long as they could consistently with their sense of duty, in order to give either of the parties who might so desire an opportunity to be heard. Your committee, therefore, pass to the consideration of the second point, which requires an examination as to the sufficiency of the return of the judges of election.

As to the duties of returning officers, the leading principle sanctioned both by law and common sense, undoubtedly is this, that where the provisions of law, whatever they may be, are imperative or peremptory. Any neglect of returning officers to observe them will render their proceedings void; but that where the law is merely directory, no neglect, or mistake, or even improper conduct, or irregularity on their part, will be fatal, though frequently made punishable by law, if in other respects there has been a substantial and good election.—Cushing's Law of Legislative Assemblies, Section 201. *Colden vs. Sharpe, Clarke & Hall*, page 369.

It is true that the form of return prescribed by the 31st section, of article 35, of the Code of Public General Laws, concludes as follows: "whereupon we do determine, declare and return that the said _____ is duly elected;" but it must be remembered that the same section declares that the certificate, shall be in the form therein prescribed, "or to the like effect." Without any such statutory provision, however, as that last referred to, your committee are of opinion, that where a statute prescribes the form of a certificate of the votes given to be executed by a returning officer, he is not confined to the precise wording of the statutory form, but he will be deemed to have acted legally, if he conform to its spirit. *Mallery vs. Merrill, Clarke & Hall*, page 330.

Now your committee believe that the return in this case is a substantial compliance with the form as prescribed by the statute. The judges distinctly state that, "having this day assembled at the usual place of the sitting of the Circuit Court for said county, with the books of the polls, on which are endorsed the several certificates agreeably to law, and having cast up the whole number of votes given in said districts ac-