

election is valid unless it conflicts with section 10 of article of the Constitution. This provision for an election will be considered with respect to said section 10, further on. But the power to appoint a person to hold the office is conferred upon the Governor by section 10 of the constitution mentioned, and the invalidity of the provision for such appointment, because it is not embraced in the title of the act is immaterial.

It also appears in section 48 of the act under discussion that "all appointive officers in said cities and towns shall hold their respective offices until their successors shall be appointed and qualified." This section does not relate to elections, nor does it consider elections, therefore the title does not embrace it.

The other provisions of the act appear to relate to elections, and are therefore valid so far as they depend on the title, and they are affected by those held to be void.

If the act is broader than the title, the rule is, that the provisions indicated by the title may stand, while those not indicated must fall, unless they are so dependent on each other that they cannot be executed separately.

Cooley on Constitutional Limitation, p. 277, (6 ed.)

As we have seen this in the first term of office of district judges under the Constitution, and that the term extends to the first Monday in January, 1901, and that plaintiff was appointed in June last to succeed Judge Young, who had resigned, and further question in this case is, can he hold until the end of the term on the first Monday in January, 1901, or until the qualification of the person who was elected in pursuance of section 5, supra, on the 3rd day of November last? If that section governs his successor was duly elected as provided by law, and upon his qualification, the defendant's right to the office will be at once terminated.

Whether it shall govern depends upon the meaning of section 10, of article 7, of the Constitution. That section reads as follows:

"The Governor shall nominate and, by and with the consent of the Senate, appoint all State and district officers, whose offices are established by this Constitution, or which may be created by law, and whose appointment or election is not otherwise provided for. If, during the recess of the Senate, a vacancy occur in any state or district office, the Governor shall appoint some fit person to discharge the duties thereof until the next meeting of the Senate, when he shall nominate some person to fill such office. If the office of justice of the Supreme or district court, secretary of state, state auditor, state treasurer, attorney general or superintendent of public instruction be vacated by death, resignation or otherwise, it shall be the duty of the Governor to fill the same by appointment, and the appointee shall hold his office until his successor has been appointed and qualified as by law provided."

This action is composed of three distinct clauses or provisions. The first makes it the duty of the Governor to nominate, and with the consent of the Senate, appoint all State and district officers whose offices are es-

tablished by the Constitution, or which may be created by law, and whose appointment or election is not otherwise provided for. If a vacancy occurs in any State or district office during the recess of the Senate, the second clause requires the Governor to appoint a fit person to discharge the duties of the office until the next meeting of the Senate, and then it requires him to nominate a person to fill the office. If the office of justice of the Supreme or district court, secretary of State, State auditor, State treasurer, attorney general, or superintendent of public instruction become vacant, the third and last clause of the section makes it the duty of the Governor to fill the same by appointment, and provides that such appointees shall hold the office until his successor shall be elected and qualified, as provided by law; doubtless a legislative enactment was contemplated.

In the absence of such a law there would be great force in the claim that such appointee would hold until the general election to fill the office in 1901, and until the qualification of such person, or a successor after that time. But so much of section 5 of the act of April 5th, above quoted, as relates to elections, we hold to be valid, it must be held to govern.

The plaintiff also insists that ballots prepared and printed according to the act of March 28, above mentioned, and exclusively used at the November election, do not afford equal facilities to vote to all voters; that a ballot may be cast for party candidates with less difficulty than for those candidates who have no emblem on the ballot to represent them; that a partisan can vote easier than an independent, and that the law does not operate equally and uniformly on all voters.

It is true that party organizations may by the observance of certain requirements have the names of their candidates, and their emblem printed on the ticket, while other candidates are required to obtain the signatures of a specified number of voters to a certificate before their name can be printed on the ballot. And by simply placing a cross opposite a party emblem, a vote may be cast for all the candidates of a party, while a vote for any number of candidate of a party less than all can only be given by a cross opposite the name of each candidate, and if a voter wishes to cast a vote for a candidate whose name is not on it, he is obliged to write the name on the ballot, and place a cross opposite to it.

Of course the voter should be allowed to perform this duty with the least difficulty and inconvenience, consistent with an honest and fair election—no unnecessary impediments or inconvenience should be thrown in his way.

The system tends to encourage the voting of straight tickets, and to discourage independent voting, which some think is an objection. The system has its merits as well as demerits, and the legislative department of the State government has seen fit, in its wisdom, to enact the law, and we do not feel authorized to overturn the people's will, as expressed through that body, in the law.

The court holds that none of the various objections urged by the plaintiff is well founded.

We therefore deny the application for the writ.

I concur in the result and will file separate opinion.

BARTCH, J.

MINER, J.,

Concurs in the result.

Following is the opinion in the Stanton habeas corpus relating to the refusal of Mr. Stanton to issue election certificates:

Sheriff:

Zane, C. J.:

Charles E. Stanton vs Harvey Hardy.

This is a habeas corpus proceeding instituted in this court for the purpose of obtaining the release of the plaintiff from imprisonment by the defendant in pursuance of a writ in his hands as sheriff.

All the material points relied upon by the plaintiff for his discharge were decided in the case of Morris L. Ritchie vs Morgan Richards et al, as will appear from an examination of the opinion on this day filed. The application for the writ is denied and the plaintiff is remanded to the custody of the sheriff until discharged according to law.

We concur in the result.

BARTCH, J.

MINER, J.

## RELIEF SOCIETY CONFERENCE.

Minutes of the quarterly conference of the Salt Lake Stake Relief Society, held in the Fourteenth ward assembly hall, Dec. 19, 1896.

Morning session convened at 10 o'clock. President M. I. Horne presiding; present, her counselors Annie T. Hyde, Clara O. Cannon, with her aids, B. Smith, E. L. Taylor, M. W. Wilcox and L. Alder.

Opened by singing. Lord we come before Thee now. Prayer by M. W. Wilcox; continued by singing. We thank Thee, O God, for a Prophet.

The resignation of Margaret A. Cairne as secretary of the Stake conference was accepted and Margaret V. Taylor was sustained as her successor. A good representation of the wards was present.

Sister M. I. Horne and her counselors gave good instructions to the sisters of the Relief societies on their duties in looking after the wants of the poor, and a more earnest work among the sisters. They spoke on the kindergarten work, which they said should receive hearty support from the societies.

Afternoon session—Convened at 2 o'clock, with Counselor Joseph E. Taylor of the Stake Presidency and Brother G. Goddard, Bishop G. H. Taylor and counselor of the Fourteenth ward present, together with the Relief Society Stake officers.

Brother Joseph E. Taylor spoke on the growing evils of the day, and made an earnest appeal to the mothers of children on their duties as parents. He gave his support to the Relief societies and the Kindergarten associations.

Brother G. Goddard enforced all that had been said. A good spirit prevailed in the meeting and conference was adjourned for three months. Dismissed by Bishop G. H. Taylor.

The ladies' semi-monthly meeting will be held on January 9, 1897, in the Fourteenth ward hall.

M. I. HORNE, Pres.

M. Y. Taylor, Sec'y.