

gentleman elected, an inhabitant of the Western Shore, declined to accept. The first day of April had not arrived, but the purpose of the Act of 1867 had been effected, and the Legislature which passed it gave it a contemporaneous exposition by disregarding the day as immaterial, and electing Hon. P. F. Thomas, then a Delegate from Talbot county, to be Senator for six years from the 4th March, 1867. Thus the Legislature which passed the Act, gave it the most emphatic practical exposition.

Another year rolled around, and another Legislature assembled, charged with the duty of electing another United States Senator from Maryland. An inhabitant of the Western Shore was elected. I am of opinion that that election was not in conflict, but in strict accordance with the true intent, meaning and purpose of the Act of 1867, as interpreted by those who passed it, and as tried by the well known rules of statutory construction. *Qui loquitur in litera, loquitur in cortice.* Was it the purpose of the Act to give both Senators to the Eastern Shore? The latter part of the second section enacts that "one of the Senators to be thereafter elected shall always be an inhabitant of the Eastern Shore, and the other of the Western Shore." Is it consistent with this declared purpose, that both Senators should at any time be taken from the Eastern Shore? The rule of construction is that "when statutes direct certain proceedings to be done in a certain way, or at a certain time, and a strict compliance with these provisions of time and form does not appear essential, the proceedings are held valid, though the command of the statute is disregarded or disobeyed."—Edgwick on Statutory and Constitutional Law, page 368. The real intent is to govern; "and the proposition that in construing a statute, the judges have a right to decide in some cases even in direct contravention of its language, has been repeatedly asserted and practiced upon by the highest authority.—Ibid, 207. "That which is within the letter of a statute is sometimes not within the statute, not being within the intention of the makers."—4 Gill and Johns, 152.

In this opinion, I have considered the Maryland law, in the light in which it seems to have been contemplated by its original framers, as not requiring an *additional* qualification in a Senator to those prescribed by the Constitution of the United States. The Maryland law which (before it was superseded by the Act of Congress,) provided for the election of United States Senators, declared that "the person qualified as the Constitution of the United States directs, having a majority, &c., shall be declared duly elected."

The qualifications prescribed by the Constitution of the United States for Senators and Representatives in Congress, as Judge Story remarks, "are few and simple." "They respect only age, citizenship and inhabitancy." It was con-