

from Charles county and the second question is up for determination—to wit: “Are either of the minority candidates entitled to the seat when declared vacant?” in other words, if Mr. Smoot, who received the greatest number of votes is ineligible is the election entirely null and void, or is Mr. Edelen, who received the most votes of the minority candidates elected?

This has been a difficult point to determine.

The English rule is that where the majority candidate is ineligible and sufficient notice of his ineligibility has been given, or if the fact was notorious, then the person receiving the next highest number of votes being eligible must be declared elected.

The reason for the rule being founded upon the ground that “it is willful obstinacy and misconduct for a voter to give his vote for a person known to be ineligible and in doing so, he intentionally throws his vote away, and it should therefore be declared null and void.” Great stress is therefore laid upon the fact of notice being given. The House of Representatives of the United States has refused to adopt it.

In the case of *Smith vs. Brown*, Mr. Dawes, Chairman of the Committee, in an able opinion, says that the law of the British Parliament has never been adopted in this country and is wholly inapplicable in our system of Government—in *Commonwealth vs. Cluney*, the Supreme Court of Pennsylvania held that where an election for Sheriff, the majority voted for a disqualified person, the next returned is not to be elected—in California in *Saunders vs. Haynes*, the same rule has been adopted and the same in Wisconsin. Thus it will be seen that the weight of authorities in this country is against it, and says McCrary on elections—we think that sound policy as well as reason and authority forbids the adoption of that doctrine in this country—It is a fundamental principle with us that the majority shall rule and that a majority or at least, a plurality, shall be required to elect a person to office by popular vote. any doctrine which opens the way for minority rule in any case is anti-republican and anti-American. The English rule, if adhered to, would in many cases, result in compelling