

office-holders in Washington, whether they took their families with them or not, to return to the portions of the State from which they were appointed to exercise the right of voting. No Court ever denied this right, or ever intimated that it did not exist, until the case of Southerland vs. Norris, in 74 Maryland, after the passage of what was called the "Poe Affidavit Law," first passed in 1890, under which, in addition to making the affidavit of intention to return, the party had to remain physically in the county six months before the election, or otherwise be deprived of his right to vote.

The purpose of this Act, as declared in the Legislature and elsewhere at the time, was, in large measure, to prevent what was then termed the "army of office-holders" in Washington city, from returning to the State of Maryland to vote.

Theretofore they could return and vote; thereafter they could not. No such act has ever been passed with reference to residence, even for the purpose of voting, and certainly not in relation to office-holding, so far as to affect persons who have "not" left the State, but who are still in the State of Maryland.

In practically every State of the Union residence, as applied to office-holders, has been so construed as to permit the retention of the residence from which the office-holder was appointed, unless by clear manifestation or declaration he showed a purpose to adopt another place as his legal domicile or residence.

No one can contend that there has been any such manifestation in the case of Smoot.

In some of the States—mostly in the Northern States—there is a constitutional provision to the effect that office holders can vote in the State from which they have been appointed.

In the others—and notably is that the case in the Southern States—without any constitutional provision, the Courts have, so far as we have been able to learn, invariably held that persons in the service of the Government, whether in or out of the State, retained their original domicile.