

defect as to the person administering the oath, which certificate the law requires to be annexed to the returns.

Fourth. That the law expressly declares that either one of the defects is sufficient to make any election in the City of Baltimore void.

If it be contended that these non-conformities with law, in respect to the official oath of Judges, are all embraced in the words "want of qualification of any Judge or Judges of Election, and are therefore expressly declared, (by Section 228 above cited), not to be fatal non-conformities if the election be otherwise valid."

We reply :

First. That Sections 205 and 206 of the Local Law shows very clearly what are the qualifications of a Judge of Election, and that the word "qualification" in Section 228 was never intended to apply to the oath of Judges, and thus to override Section 9, Article 35, Public General Laws, (above cited,) which expressly declares that every Judge of Election "before he proceeds to act as such, shall take the following oath, &c. Thus the taking of such oath is made a condition precedent to authority to act as Judge, and until he has taken such oath, the appointee of the Police Board has no more power to act as Judge than has any by-stander ; and any three by-standers might set up an opposition polls and hold just as valid an election as could be held by the appointees of the Police Board, unless the latter shall first have taken the oath required by the law.

Second. That if we are wrong in the position above assumed, and if in fact the word "qualification" does include official oath, our objection is equally fatal, for the exception of Section 228 is only as to the want of qualification of Judges, not of Clerks. The defects as to the Clerks of Elections, therefore, remains among the number of fatal non-conformities with law, under the provision of Section 227. It moreover renders the exceptions of Section 228, as to the qualification of Judges of no effect whatever, since the election is not, (in the words of the law,) "otherwise valid."

In addition to these fatal defects which apply to every precinct in the city, there are other requirements of law equally imperative, which have all been disregarded in one or more precincts, but none in all the precincts.

For instance, we find in many precincts :

First That judges were not discreet persons, and legal voters of the precinct :

Second. That the polls were held at illegal places.