

Our Rules follow the English Rules of 1866—and the form there given of an election petition.

The English practitioner, according to the forms given in Hardcastle, appeared to be in some doubt as to what to put after the words “holden on.”

One added “on the 3rd day of February, 1872, being the day of nomination, the 6th day of February, 1872, being the day of polling, and the 8th day of February, the day of the declaration of the poll.”

Another added only a single date, probably the polling day. Really the election is holden from the day the sheriff is ordered to open his Court “for the commencement of such election” until the day he makes declaration and return—as required by law—of the name of the candidate duly elected as assemblyman. In this election the writ now before me orders the sheriff to open his Court for such commencement on Wednesday the 30th day of June, 1909 (nomination day); and the 20th day of the July following was declaration day. The election was being holden between these two dates.

I suggested to counsel, supposing that the petition had read, “holden between the 30th day of June and the 20th day of July,” would such a use of the form be objectionable? It was not contended it would. Nor was it contended that if any of the ear-marked days, viz., nomination day, polling day, or declaration day had been used, that that would not have been a sufficient designation.

In this petition is set forth one of the days during which the election was being held, together with the full particulars of such election, viz., the electoral district in which it was held; the nature of the election, that for an assemblyman for that district; the names, residences and addresses of the candidates seeking election; the name of the returning officer thereat, and his return that the respondent had been duly elected as assemblyman for such district.

All these facts appear in section 2 of the petition before referred to by me.

The crux of this matter is, does the petitioner in this petition describe the election and return which he seeks to have declared null and void, with that particularity which repels the possibility of the respondent being misled thereby?

The petition appears to me to disclose with the fullest particularity such election and return; the candidates running; the electoral district to be represented; the legislature