

MAXINE REED V. W. R. WHITEHEAD

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430 S.W. 2d 858

Opinion delivered September 3, 1968

Elections—Determination by Courts—Jurisdiction.—Equity does not have jurisdiction of suit filed for purpose of trying title to office of “third member of county Board of Election commissioners”.

Appeal from Dallas Chancery Court; *Jim Rowan*, Judge; reversed and dismissed.

Wright, Lindsey & Jennings for appellant.

L. Weems Trussell for appellee.

CONLEY BYRD, Justice. Appellant Maxine Reed filed a complaint in the Chancery Court seeking to en-

join appellee W. R. Whitehead from acting in the capacity of "third member" of the Dallas County Board of Election Commissioners, claiming at the same time that she was the proper person to hold such office. Appellee filed an answer and counterclaim seeking to enjoin appellant from usurping the office to which appellee claimed to have been appointed.

The complaint and counterclaim, considered in all their respects, must be held to be a suit for the purpose of trying title to the office of "third member" of the County Board of Election Commissioners. We have consistently held that a court of equity does not have jurisdiction to determine questions concerning the appointment or election of public officers or their title to office. *Davis v. Wilson*, 183 Ark. 271, 35 S.W. 2d 1020 (1931).

The judgment entered below in favor of appellee Whitehead is reversed and the cause remanded to the Chancery Court with directions to dismiss same for lack of jurisdiction, any remaining issues which might warrant a transfer to law docket having become moot by virtue of our decision of this date in *Ellis v. Rockefeller*.

Reversed and dismissed.
