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#### HIGH COURT DECIDES (Continued from Page 1)

clare that the mandamus proceed-

not Mr. Olcott was entitled to re-

iags before the court were for the hold that under the litigation be- opinion any binding force. He might purpose of determining whether or fore the court, they have no right



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to settle outside issues.

'However important the public questions involved may be, I do not think we have any authority to go beyoad the case presented to us. reads the opinion of Justice Bennett. "If we did and should decide questions not presented, our accision would be more re dictum, and not binding upon our successors, or even upon us individually if we should change our individual opinions at some future date.

"I do not wish to quibble or to shirk my share of responsibility in deciding any question that is properly before the court. Neither am I willing to be stampeded into a decision I have no right to make, nor to rush headlong to the exercise of powers I do not possess in orde: that I may have the satisfaction or the notoriety of helping to decide some important question.

"If I should don my official robe and attempt to give my half-baked street opinions judicial utterance, would agree with Mr. Chief Justice McBrice as to the result, but not as to the reasoning or analogies by which he has reached that result. On the other hand, I should agree with Mr. Justice Harris as to his reasoning up to a cetrain point. but not as to the result reached by ceive the salary of governor. The him. But if I should attempt to do concur with Justice Johns that he is so, some other judge succeeding me entitled to this salary, but they both might properly refuse to give my well conclude that it takes more than a judge and a gown to make a judicial decision.'

Chief Justice McBride, who alone of the seven jurists, attempts to settle all questions sought to be decided-all of them favorable to Governo" Olcott-remarks aptly that the court has before it a question which must be settled one time or another.

"We might as well chop off the dog's tail all at once as to chop it off an inch at a time." is the way he analyzes the situation.

"To accept and amplify Mr. Chief Justice McBride's homely illustration, this is not a case where anyone has suggested to 'cut the deg's tail off by inches" asserts Justice Bennett. "It is a case where, because one dog has a broken tail which needs amputation, we are asked to drag in other dogs in the community and mutilate them be cause their tails might be broke at some time in the future."

Chief Justice McBride believes all the questions :aised in the mandamus proceedings should be determined by the court for the purpose of settling legal issues which are certain to arise within the next two

"There can be little question that Mr. Olcott is entitled to hold both the office of governor and secretary of state and to draw the salaries of both," reads the opinion of the chief justice. "It is creditable to him that he does not wish to do the first and will not do the second. In the infancy of the state, when its business was insignificant and its devenues small, one person could well perform the duties of both goveraor and secretary of state, but with the enormous expansion of state business each of the three constitutional officers finds in his own department all the business which

he can attend to and more. "If it is possible for Mr. Olcott to give up his office of secretary of state and retain the office of gover-'no: he should be permitted to do so,



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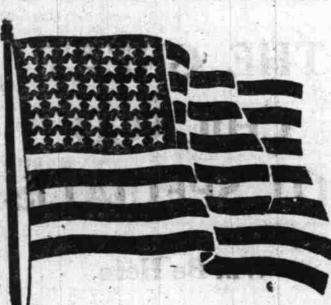
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public also has an interest in having signs or not, he serves as governor the duration of his term of office for two years only. settled. It a new governor is to be chosen at the next general election. the voters of the state abould be apprised of the fact, so they may look about and weigh the qualifications of the various candidates, or prospective candidates, with a view to enabling themselves to choose intelligently. With the question undeciedd and perhaps a large majority of the voters under the impression that Mr. Olcott's term will not expire at the next general election, the primary election for that office will be clouded with uncertainties not coaducive to intelligent

Some new law points which hereduring the Olcott-Hoff mandamus litigation are raised by Justice Harris, in his opinion that Mr. Olcott

serves as governor for two years "Ben W. Olcott was elected secreelection and his term as such will expire on the first Monday of aJuuary, 1921," reads the opinion of Justice Harris. "James Withycombe was elected governor at the Nevem-combe was elected for a term of four years ending in January, 1923; but he died on March 3, 1919, and heace two regular elections will be held between the date of his death and the end of the four-year period for which he was elected. In this respect the facts in Olcott vs. Hoff essentially different from the fact in Chadwick vs. Ea:hart; for in the latter case Grover resigned on February 1, 1877 and a governor was elected as the very first opportuaity which was in June, 1878, and New Subscriber's Coupon the elected governor assumed the duties of the office at the very first opportunity which did not occur until the speaker of the house published the vote cast for gove:nor.

"The conclusion that the office of governor can be filled by the people at the next election harmonizes every part of the constitution with every other part, gives full meaning to every word and every section and is in perfect accord with the spirit of our constitution and

A summary of the various opinions show that three of the seven justices hold that Mr. Olcott can resign as secretary of state and ap-Address ..... Brooklyn ..... 6 10 4
This view is taken by Chief Justice
Pittsburgh ..... 10 14 4
McBride, and Justices Benson and
Pfeffer, Cheney, Mammaux and point his successor to that office. Brooklyn ..... 6 10

in the public interest, and we ought Harris. Justices Beason and Harris Krueger, Miller; Mayer, Hamilton not to quibble in so declaring. The however, say that whether he re- and Schmidt, Justices Johns and Bean and Chief

Justice McBride say that Mr. Olcott serves for four years. Five of the justices say that Mr. Olcott is governor in fact. The opinions holding to this view are by Chies Justice McBride, Justice Harris, with Justice Benson concurring, and Justice Johns, with Justice Bean con-

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mahiner and Pennock. PHILADELPHIA, June 10 .tary of state at the November, 1916. Philadelphia ...... 5 6 2 Davenport and Mayer: Johnson, Kinney and Perkins, BOSTON, June 10 .-

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