

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

DOCUMENTS

PRINTED BY ORDER OF

THE LEGISLATURE,

OF THE

STATE OF MAINE,

DURING ITS SESSION

**A. D. 1838.**

---

---

# EIGHTEENTH LEGISLATURE.

---

**No. 9.**

**HOUSE.**

---

The Committee on Elections, to whom were referred the certificates of Peter T. Harris and Gowin Wilson, each claiming to have a seat in this House as Representative from the district composed of the towns of East Machias, Wesley, Whiting and Marion, and the Townships No. 18 and No. 24—and also the remonstrance of Gowin Wilson aforesaid against the right of the said Harris—together with certain depositions—have had the same under consideration, and now offer the following

## R E P O R T :

The whole number of votes given in said district, for Representative, on the day of the annual election, as appears by the certificates, was three hundred and fifteen, of which one hundred and fifty-seven were for Peter T. Harris, one hundred and fifty-seven for Gowin Wilson, and one for Josiah H. Talbot. But said Wilson contends that three of the votes returned for said Harris should be rejected, because, as he alleges in his remonstrance, two of them were given in by individuals who were not qualified electors, and the third by a person who had not at the time an established residence of three months in the town where he voted. To support this allegation, he introduced and read the depositions of James Campbell Jr., Hiram H. Hill and Adrian Huntley. Said Huntley deposes, in substance, that he attended the meeting in Marion on the second Monday of September, and cast into the ballot box a vote for Peter T. Harris; that said vote was received and counted; that he removed with his family from Marion to

Whiting on the said second Monday of September, in the forenoon of said day; that he had previously resided in said Marion about one week. Your Committee had no hesitation in deciding that this vote should be rejected.

Hill deposes that he voted for Peter T. Harris on the second Monday of September; that he arrived at the age of twenty-one years the thirteenth day of October last; that at the time he thought he was twenty-one, but had since ascertained that he was not. Campbell deposes that he shall be twenty-one years of age on the thirtieth day of next August; that his father was born in the Province of New Brunswick, and has not been naturalized; and that he (the deponent) voted, on the second Monday of September, for Peter T. Harris. It was objected by Harris that these two depositions were inadmissible, and though introduced and read, should not be regarded as evidence by the Committee. Hill swears that at the time he voted he thought he was one and twenty, and it is also to be presumed that Campbell did. They have since ascertained, however, that they were minors; but how they have ascertained this fact—from what sources they have derived their information—they do not state. They may have obtained it from their parents, from their neighbors, or even from one of the parties. At any rate, the evidence is of a hearsay character, and in a court of law would not be permitted to go to the jury. But in the view of the case taken by your Committee, it is, perhaps, unimportant to determine the precise amount of credibility to which said depositions are entitled.

On the part of Harris, it was contended that two votes returned for Wilson, from East Machias, should be rejected. It appears by the certificate "that there were given by citizens of the State residing in Township No. 18, being an unincorporated and unorganized place adjoining said town, two votes for Gowin Wilson for Representative to the Legislature."

The right of residents on unincorporated places, otherwise qualified, to vote in a town adjoining, for State officers, depends entirely on the third Section, part second, Article 4th

of the Constitution, and on the statute passed March 2d, 1833. The language of the Constitution is as follows:—"All other qualified electors living in places unincorporated, who shall be assessed to the support of government by the assessors of any adjacent town, shall have the privilege of voting for Senators, Representatives and Governor in such town; and shall be notified by the Selectmen thereof for that purpose accordingly." And the statute referred to provides "that whenever any unincorporated place is classed in any representative district with any town or towns adjacent thereto, it shall be lawful for any person resident in said unincorporated place, between the first and twentieth day of May in any year, to present a list of his rateable poll and estate, as it existed on said first day of May, to the Assessors of either of said towns, who may require the same to be verified in the same manner as if presented by an inhabitant of said town." And the Assessors are authorized to assess said person to the amount of his proportion of the State or County tax. Section second of the same statute provides that the person assessed as aforesaid shall be entitled to give in his vote in said town in all the State elections of said year, and that his name shall be placed by the Selectmen on the list of voters, in the same manner as if he were a resident of said town.

M. J. Talbot deposes that he was chosen one of the Assessors of the town of East Machias, at the annual meeting in April; that he assisted in taking an inventory of the property of the inhabitants of said town, and in valuing the same and in making the taxes; that the inhabitants of No. 18 were not taxed in said town; that he had never seen any schedule of property presented by any of said inhabitants to the Assessors of East Machias, nor had he ever heard of any being presented. Your Committee were therefore of opinion that the two votes given for Wilson by the inhabitants of No. 18 should be rejected.

It was also contended by Harris that a vote given by one Jephthah Benson should be rejected. Said Benson deposes

that he has a family residing in Buckfield, in the County of Oxford; that he had been coasting from Thomaston and from Gouldsbrough, and had worked there cutting wood and carrying it to Thomaston, in all about four years; that he then came to Machias three years ago last May, and remained there three weeks and then went to Wesley; that he had been hired out most of the time since he came to Wesley, but last spring, not being rugged enough to hire out, he worked for himself; that he has all the time considered Buckfield his home; that he should have returned to that town a year ago last fall if he could have collected what was due him in Wesley and Machias; that he now calculates to return, unless he shall be taken away by death; that he never considered Wesley his place of residence; that he voted for Gowin Wilson, but should not have voted, had not the Selectmen told him he had a right to vote, in consequence of his having lived in Wesley three months. This vote was rejected by your Committee.

There was also introduced the deposition of John West, who swears that he attended the meeting in East Machias on the second Monday of September—that when called upon he deposited in the box a ballot on which he had written with a black lead pencil the words, Gorham Parks for Governor, Stephen C. Foster for Senator, George S. Smith, for Treasurer, Jabez W. Foster ———; that he was in a hurry when he wrote the vote and is pretty confident nothing was added to the name of Jabez W. Foster; that he supposed it would be understood that the vote was for him for Representative. This vote is not returned; for what reason does not appear. As it was written in pencil it might have been illegible, or perhaps the name was mistaken for the name of some other candidate returned.

The whole number of votes thrown in said district for Representative on the first Monday of October, was three hundred and sixty-six, of which one hundred and eighty-four were for Peter T. Harris, one hundred and eighty-one for Gowin Wilson, and one for M. Jones Talbot.

It was contended by the remonstrant that no choice was ef-

fect at this, the second trial, because one vote for Harris was received which ought to have been rejected, and one vote for Wilson was rejected, which ought to have been received and counted: and he introduced the depositions of Solomon W. Blakely, Pratt Daws, and Reuben Huntley. Blakely deposes that he was born in the Province of New Brunswick in the year 1803—that he come from said Province to the State of Maine, when in his twentieth year—has never been naturalised—that his father was a native of South Carolina, moved to New Brunswick when quite young and there married—that he (the deponent) attended the town meeting in Marion on the second day of October and voted, but for whom he did not know; was confident he put in the ballot which one Pratt Daws gave him, but did not look at it and could not tell whether it was a written, printed or blank ballot. Pratt Daws deposes that he gave Blakely a ballot for Harris—and afterwards went into the Town House and saw him put a piece of paper into the box; but whether it was the ballot he gave him he could not say. Now regarding it as proved that Blakely did vote for Harris, the question arises whether he were a qualified elector, or in other words a citizen of the United States. By section fourth of the Act of Congress passed April 14th, 1802, it is provided that children of persons who now are or have been citizens of the United States, shall, though born out of the limits and jurisdiction of the United States, be considered citizens of the United States: provided that the right of citizenship shall not descend to persons whose fathers have never resided within the United States. This provision, says Chancellor Kent, leaves us in doubt whether the Act intended by the words “children of persons” both the father and mother, or the father only. And the deposition does not inform us whether the mother of Blakely was a native of New Brunswick or not, though perhaps it is fairly to be presumed that she was.

Reuben Huntley deposes that he moved from the town of Cutler to the town of Whiting for the purpose of taking up his residence in the latter place, on the tenth of May last. On that

day he commenced planting potatoes, sowing oats and other kinds of grain, for his own use—has resided in Whiting ever since—did not remove his family till the fourteenth or fifteenth of July, because his wife was sick—he attended the Town meeting in Whiting on the second of October—that his name at his request was inserted in the list of voters—that he put into the box a vote for Gowin Wilson, but was directed by a Mr Bell, one of the Selectmen, to take it out—that he replied he could not distinguish it from the other ballots—that he told Bell whom he had voted for, and thereupon, he (Bell) took out a ballot which bore the name of Gowin Wilson. He further deposes that while his family remained in Cutler, they kept house where he visited them every Saturday night. But in the view taken of this case by the Committee, the two questions above raised are not material to the issue, and therefore they do not undertake to decide them.

By the certificate from East Machias it appears that three of the votes counted for Wilson, and one of the votes counted for Harris, were received from persons who resided in the unincorporated and unorganised place called No. 18. These votes your committee were constrained to reject, as also nine votes for Peter T. Harris, which, according to the deposition of Henry M. Robinson, Town Clerk of Wesley, were received by one of the the Selectmen of said Town from residents on the unincorporated place called No. 24.

There was also introduced the deposition of Ambrose Cutts who testifies that his family resided in Cutler—that he boarded in East Machias and once in three weeks visited his family—that he voted in said East Machias on the second of October, for Gowin Wilson.

Your Committee in view of all the evidence before them report the resolve which is herewith submitted.

H. W. PAINE, *Chairman.*



## RESOLUTION.

RESOLVED, That Peter T. Harris, having been legally and constitutionally elected a Representative from the District composed of the towns of East Machias, Wesley, Whiting and Marion, and the Townships No. 18 and No. 24, is entitled to a seat in this House.

STATE OF MAINE.

---

HOUSE OF REPRESENTATIVES, }  
FEB. 7, 1838. }

ORDERED, That five hundred copies of this Report be  
printed for the use of the House.

(Extract from the Journal.)

Attest.

GEO. C. GETCHELL, Clerk.