

MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE,
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OF THE

STATE OF MAINE,

DURING ITS SESSION

A. D. 1841.

Augusta:
SEVERANCE AND DORR, PRINTERS TO THE STATE.

1841.

TWENTY-FIRST LEGISLATURE.

NO. 2.

HOUSE.

R E P O R T

OF THE

COMMITTEE ON ELECTIONS.

SEVERANCE & DORR,.....Printers to the State.



REPORT.

STATE OF MAINE.

HOUSE OF REPRESENTATIVES, }
January 19, 1841. }

The Committee on Elections, to which was referred the Remonstrance of Stephen Saunderson against the right of Franklin Hosmer to a seat in this House, from the District composed of the towns of Waterford, Sweden and Albany in the County of Oxford, have had that subject under consideration, and ask leave to

REPORT,

That at the annual election on the 14th of September last, no choice was effected of a Representative from said District. That two subsequent meetings were holden by adjournment, one on the fifth, and the other on the twenty-sixth of October last. Stephen Saunderson, the remonstrant, claims to have been elected at the meeting holden on the fifth; and Franklin Hosmer, the sitting member, at that holden on the twenty-sixth, at which, it appears by the certificates from the several towns composing the District, he received a majority of twenty-eight votes.

The investigations of your Committee were therefore limited to the meeting holden on the fifth of October.

The votes on that day, as certified by the Clerks of the several towns, stood as follows:—

	Hosmer.	Saunderson.	Scattering.
Waterford,	126	161	
Sweden,	60	83	3
Albany,	94	33	
		3 scattering.	
	<hr/> 280	<hr/> 280	

Being a tie vote. But the remonstrant claims to have been elected at this time, and to be legally entitled to a seat in this House, because, as he says, votes, bearing upon them distinguishing marks, were received and counted by the Selectmen of Sweden, for said Franklin Hosmer, contrary to law; and that if said votes had been rejected, and not counted, the remonstrant would have been declared elected, as of right he ought to have been. To substantiate this allegation, the depositions of several individuals were read to your Committee, by which the following facts were established.

That votes to the number of sixteen and more, were cast for Franklin Hosmer, marked across the back with a "blue stripe;" that said marks were apparent and distinguishable in the hands of the voters, and that the attention of the Selectmen was called to the subject, and the votes objected to, by some of the electors present. That upon objections being made to these votes, the Selectmen had a consultation, and then allowed the balloting to proceed, remarking that the votes were upon "ruled paper."

That, upon the "turning of the poll," objections were made to the *counting* of said votes; but the Selectmen did allow and count said votes. There was no evidence before your Committee of any fraudulent intent, either on the part of the voters who cast these votes, or the Selectmen who received them. If the above described votes were legally allowed and counted by the Selectmen, then is Franklin Hosmer entitled to retain the seat he now occupies. But on the other hand, if said votes

were illegally received and counted against the remonstrant, then is *he* entitled to his seat.

It will be seen by the foregoing statement, that the decision of this case depends entirely upon its application to Statute, Chap. 518, Sec. 3, which provides that :

“ The ballots shall be written in the mode usually called
“ writing, or in that denominated printing, on clean white pa-
“ per ; and no ballot which shall be on colored paper of any
“ description, or which shall bear any distinguishing mark or
“ figures besides the names of the persons voted for and of the
“ offices aforesaid, shall be received by any Selectmen or
“ Assessors, on pain of forfeiting, for each offence, the sum of
“ fifty dollars.”

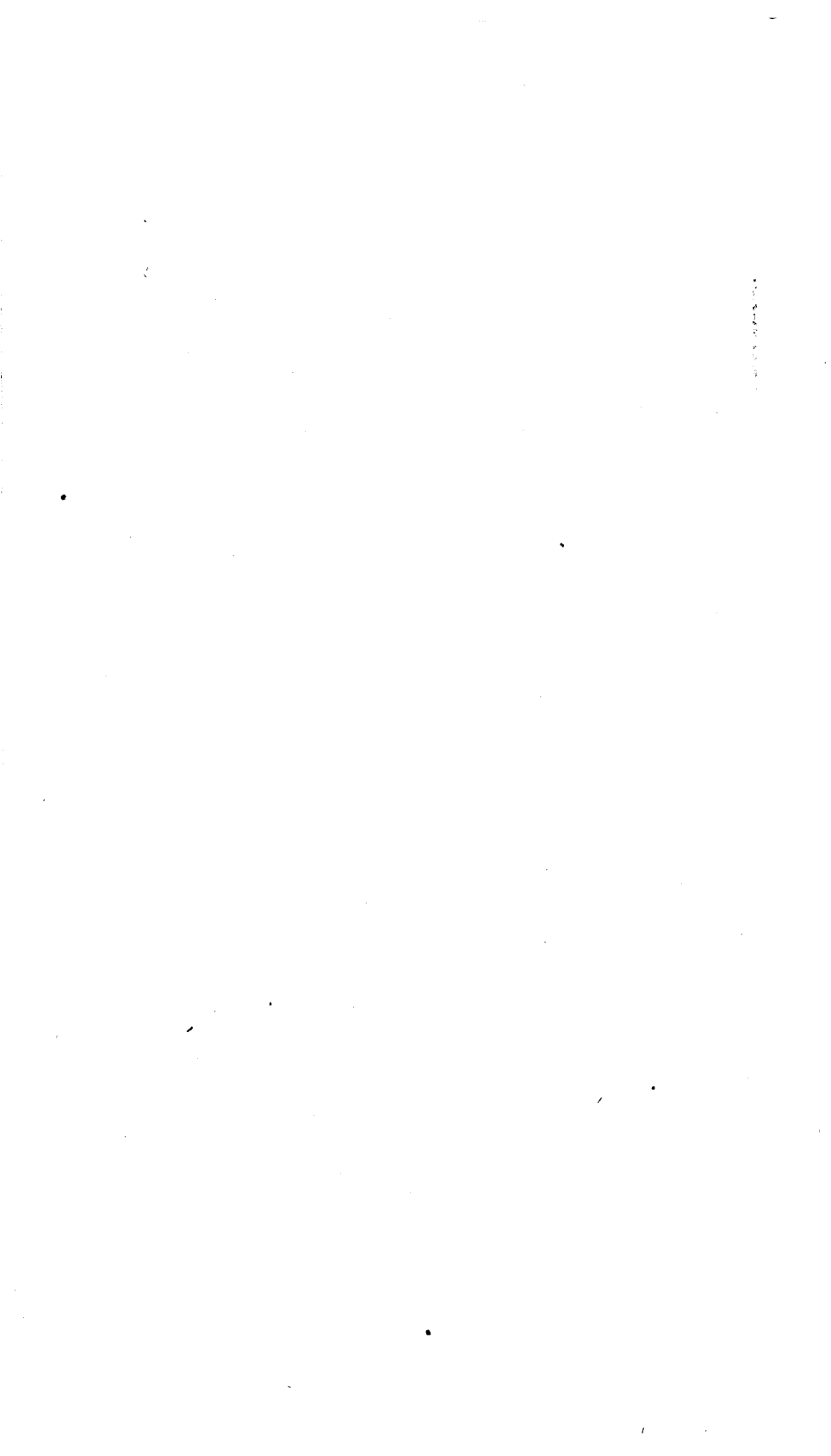
The object of this Statute was, undoubtedly, to secure and maintain the purity of elections—to guard them against the excitements which might be created by the use of party badges and emblems, and to protect the ballot box from the espionage of those who might desire to infringe upon the free right of suffrage.

The only construction, given to this Statute, that your Committee are aware of, by the House of Representatives, was in 1836, in the case of Noyes and Haynes. To the majority and minority report of the Committee upon that subject, your Committee would respectfully refer.

But how far the construction then given may be binding upon this House, as a precedent, and upon the application of the case now in question to this Statute, your Committee forbear to express an opinion, but submit the following Resolve, leaving the blank to be filled by the House.

All which is respectfully submitted.

E. F. DEANE, *Chairman.*



STATE OF MAINE.

RESOLVED, That
having been duly elected a Representative from the District
composed of the towns of Waterford, Sweden and Albany, is
entitled to a seat in this House.

STATE OF MAINE.

HOUSE OF REPRESENTATIVES, }
January 19, 1841. }

ORDERED, That the Report be laid on the table, and 300
copies printed for the use of the House.

[Extract from the Journal.]

Attest : GEO. C. GETCHELL, *Clerk.*