

MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE

OF THE

STATE OF MAINE,

DURING ITS SESSION

A. D. 1843.

AUGUSTA:

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1843.

TWENTY-THIRD LEGISLATURE.

No. 1.]

[HOUSE.

REPORT

OF THE

COMMITTEE ON ELECTIONS.

[WM. R. SMITH & Co.....Printers to the State.]

STATE OF MAINE.

*House of Representatives, }
Jan. 11, 1843. }*

The Committee on Elections, to whom was referred the remonstrance of **Hiram C. Warren**, against the right of **David Richardson** to hold a seat in this House, as the Representative of the district, composed of the towns of **Skowhegan**, **Canaan** and **Pittsfield**, ask leave to

REPORT :

That the parties appeared and agreed, before your Committee, to the following statement of facts, viz :

1st.—That the said **Richardson** and **Warren** have each appeared, been duly qualified and taken a seat in this House, as the Representative of the said district. The said **Richardson** claiming to have been elected at a fifth meeting in said district, held on the 5th day of **December** last ; and the said **Warren** asserting his election to have taken place at a second meeting, held on the 3d day of **October** last. Neither party relied upon the third or fourth meetings to support his own claim, nor to weaken that of his antagonist.

2d.—That the meetings, in all the towns in this district, held on the second **Monday** of **September** last, were warned and held at one o'clock in the afternoon ; and that, at this time, no choice of a Representative was made.

3d.—That for a second trial, all the towns called meetings to be held on the 3d day of **October** :—the **Selectmen** of **Canaan** and **Pittsfield** warning their meetings at two, and the **Selectmen** of **Skowhegan** notifying theirs at one of the clock, **P. M.**

4th.—That five successive meetings were warned and held throughout the district, before an election was declared to have been effected—and that, at the fifth trial, **David Richardson** received **138** votes more than all other candidates voted for, was declared elected, and received the regular certified copies of the lists of votes, thrown in each and all of the towns in the district.

5th.—That both **Richardson** and **Warren** were **Selectmen** of **Canaan**, and personally discharged the duties of their office, in issuing warrants for, and presiding at, the said several meetings held in their town ; and have both signed the copy of the list of votes, thrown by the voters thereof, at their fifth meeting ; which copy was delivered to the said **Richardson**, and has been, by him, put into the possession of this **House**, as a part of his credentials.

6th.—That the said **Warren** received a majority of the votes given in by the inhabitants of **Skowhegan**, on the 3d of **October**, and was then duly elected, if the votes cast on that day, in the towns of **Canaan** and **Pittsfield**, ought to be rejected.

From the foregoing statement of facts, it will readily be perceived, that the question at issue between the parties, is the legality or illegality of the meetings held in the towns of **Canaan** and **Pittsfield**, on the 3d day of **October**.

The **Revised Statutes**, Chap. 6, Sec. 47, providing for future proceedings, when no election of a represent-

ative in classed towns has been made at the first trial, reads thus: "The selectmen of the several towns shall issue their warrant, in legal form, for another meeting, to be held three weeks after such first meeting, in their respective towns, at the same hour, and at the same place." Now if the requirement, that the said subsequent meetings in classed towns shall be warned to be held "at the same hour," means at the same hour of the day, at which the first meeting was warned, and the requirement is to be considered imperative and not directory merely, then the allegation, that the second meetings in the towns of Canaan and Pittsfield were illegal, is not without foundation. And the remonstrant, having received a majority of the votes thrown in Skowhegan, on that day, would present a strong prima facie claim to a right to a seat in this House. But, on the contrary, if the requirement be merely directory, then the difference, in the hour of the day, at which the subsequent meetings were warned, can in no wise affect their legality, and the right of Richardson to a seat is left without a doubt.

Of the meaning and correct practical construction of this provision of law, a somewhat diversity of opinion was entertained by your Committee, and none were without some doubt.

It was therefore agreed, that your Committee report to the House, a statement of the facts in the case, to be accompanied with a blank resolve—the blank to filled by the House with the name of one of the claimants.

All which is respectfully submitted.

WM. FRYE, Chairman.

STATE OF MAINE.

RESOLVED, That having
2 been constitutionally and legally elected as the **Repre-**
3 **sentative** of the district, composed of the towns of
4 **Skowhegan, Canaan and Pittsfield**, is entitled to a
5 seat in this **House**.



STATE OF MAINE.

HOUSE OF REPRESENTATIVES, }
January 11, 1843. }

Laid on the table, and 300 copies ordered to be printed for the
use of the House.

WM. T. JOHNSON, *Clerk.*