

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:

WM. R. SMITH & Co., PRINTERS TO THE STATE.



1843.

TWENTY-THIRD LEGISLATURE.

No. 4.]

[HOUSE.

REPORT

OF THE

COMMITTEE ON ELECTIONS.

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

STATE OF MAINE.

HOUSE OF REPRESENTATIVES, }
January 12, 1843. }

The Committee on Elections, to whom were referred the credentials of Joseph Herrick, 2d, and Stephen Allen, both claimants to a seat in this House, as the Representative of the class, composed of the towns of Sedgwick, Brooksville, and the plantations of Swan's Island, Hog Island and Long Island, ask leave to

REPORT:

That the said Herrick and Allen have both appeared, been duly qualified and respectively taken a seat in this House. Herrick claims a seat by virtue of an alleged election made on the third day of October last—and Allen, protesting that no choice of a representative was effected in the class, on that day, says that he was chosen at a third meeting, held on the 24th of the same month, and is entitled to a seat.

In support of their pretensions, the parties present two sets of credentials—Herrick producing certified copies of the lists of votes, cast in the towns of Sedgwick and Brooksville, on the said third of October; and Allen producing a copy of the list of votes, thrown at a plantation meeting, held on Swan's Island, on the 24th of October.

It appeared in evidence that no choice of a Representative was made in this district, in September—that

no meetings were held on Hog and Long Islands—and that, at the meeting of the selectmen of Sedgwick and Brooksville, and the assessors of Swan's Island to compare votes, after the first meeting, it was agreed that their next meeting, to compare votes, should be held at the dwelling-house of John C. Tibbetts, at a place called Centre-Harbor, in Sedgwick, the day following the 2d meeting, at one o'clock, P. M., with the provisional agreement, that the assessors of the Island plantations were to have up to and during Thursday of the same week to appear at Tibbett's, in case a northwest wind, on Tuesday and Wednesday, should render a passage from the Islands to the main land inconvenient and hazardous.

Meetings were held in Sedgwick and Brooksville and on Swan's Island on the 3d of October; and the selectmen of those towns met on Tuesday, at Tibbett's, to compare votes. But the assessors of Swan's Island did not appear, in consequence of the roughness of the weather.

After comparing the votes of Sedgwick and Brooksville, a majority of which were found to be in favor of Herrick, the selectmen of Brooksville put the copy of the votes of that town into the hands of the selectmen of Sedgwick, for the purpose of their being present at the comparison of votes, when the assessors of Swan's Island should appear.

The wind continuing to blow during Wednesday, the assessors of Swan's Island did not attempt a passage to the main land, until Thursday. On that day, Benjamin Stinson, one of the assessors, appeared at Tibbett's, between 12 and 2 o'clock in the day, with a copy of the list of votes of Swan's Island, thrown on the Monday preceding. He found neither the selectmen of Sedg-

wick or Brooksville there, and had no message delivered to him, as coming from them, indicating the result of the ballotings in those towns, nor their wishes as to the course to be taken by the assessors, in case of their appearance, within the time agreed upon. He, however, became satisfied from the information he then received, that no election had been made in the district; and then and there wrote a letter to the selectmen of Sedgwick, (they living some 4 or 5 miles distant from Tibbett's,) informing them of the number of votes cast on Swan's Island, and for whom they were given. This letter he gave to a Mr. Watson, to be sent to the selectmen, by private conveyance, the same afternoon, if possible; but if no opportunity presented itself, then it was to be deposited in the Sedgwick Bay Post Office, to be forwarded by mail to the Sedgwick Post Office. It was not forwarded by private conveyance, and did not reach the Sedgwick Post Office until Friday of the next week, Oct. 14th. One of the selectmen saw it in the office, on the day of its arrival there, but did not take it out until the day after, Oct. 15th.

Some two or three days prior to the receipt of this letter, one of the selectmen of Sedgwick delivered the certified copies of the list of votes of that town and of Brooksville to Herrick, but without the knowledge or direction of the selectmen of Brooksville.

The assessors of Swan's Island, considering that no election had been made at the second trial, warned and held a third meeting on the 24th of October, at which the whole number of votes given was 10—all of which were for Allen;—a certified copy of which he produces in evidence of his right to a seat in this House. But no meeting was held in any other place within the district.

These are the material facts in the case, as developed before your Committee. And your Committee have come to the conclusion that the Swan's Island votes, cast on the 3d of October, ought to be counted, and not rejected; they having been produced at the place appointed, within the time previously agreed upon, and the exigency, provided for, having happened. It would be hard indeed to superadd to the duty of the assessors of Swan's Island to appear at Tibbetts', within the prescribed time, the further duty of seeking out some one or more of the selectmen of the towns, at some unknown place, and at an unknown distance.

It would then result that Herrick is not entitled to a seat in this House, unless the delivery to him by the selectmen of Sedgwick, of the certified copies of the lists of votes cast in Sedgwick and Brooksville, within the ten days from the day of the meeting, as prescribed by law, ought to be considered as *conclusive* of his right. But the Committee feel no hesitancy in saying, that such is not the intention and meaning of the law.

And your Committee, from a consideration of the great injustice which would be done to the electors of that class generally, if Allen should be permitted to retain his seat, have come to the conclusion that his claim ought not to be entertained by this House.

Your Committee herewith report a Resolve.

WM. FRYE, Chairman.

STATE OF MAINE.

RESOLVED, That Joseph Herrick, 2d, and Stephen
2 Allen, neither of them having been duly elected as
3 the Representative of the class, composed of the
4 towns of Sedgwick and Brooksville, and the plan-
5 tations of Swan's Island, Hog Island and Long Is-
6 land, are not entitled to seats in this House.

STATE OF MAINE.

HOUSE OF REPRESENTATIVES, }
January 12, 1843. }

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

WM. T. JOHNSON, *Clerk.*