

# 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.**

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*AUGUSTA:*

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



1843.

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TWENTY-THIRD LEGISLATURE.

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No. 10.]

[HOUSE.

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REPORT

OF THE

COMMITTEE ON ELECTIONS.

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



# STATE OF MAINE.

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HOUSE OF REPRESENTATIVES, }  
January 23, 1843. }

THE Committee on Elections, to whom were referred the credentials of Joseph S. Nichols and Wadsworth Bolter, both claimants to a seat in this House, as the Representative of the class composed of the towns of Bingham, Brighton, Moscow and Mayfield, and Spaulding and Forks plantations, ask leave to

## REPORT:

That the said Nichols and Bolter have both appeared, been duly qualified, and taken seats in this House.

Nichols claims a seat by virtue of an election held on the fourteenth day of November last. Bolter claims to have been elected at the meetings in said district, holden on the second Monday of September last, at which time the whole number of ballots for Representative, received and counted by the selectmen and assessors of the several towns and plantations, was 427, making 214 necessary for a choice, and of which Bolter received 213.

But Bolter alleges that the assessors of Forks plantation received and counted against him at said balloting, the vote of John Kimball, and the assessors of Spaulding plantation those of Calvin B. Goodrich, Joseph Russel, 2d, Darius Goodrich and Jonathan Emery, who were not legal voters in said plantations.

At the hearing of this case before your committee, depositions of the several persons alleged to have cast illegal votes, were read.

John Kimball deposed that he went from Skowhegan into Forks plantation about the tenth of May last, having taken a farm there, but that his family did not remove there till the twenty seventh of June following, and that his family kept boarders at Skowhegan till within a few days before removing to Forks plantation. He further deposed that at the said election, he voted for William Baker at Forks plantation.

Calvin B. Goodrich deposed that he has no family, that his parents live in Bingham, and that he makes it his home at his father's;—that about the twenty fourth of May last, he engaged to work four or five months with Edward Webster, State Agent for building the Canada road, that he worked at Joseph Spaulding's two or three weeks, then on the said road in various towns and plantations till the last day of July, when he came to Spaulding's and remained there till the day after the September election, at which time he again went to work on the road in Forks plantation for a few weeks before returning to his father's;—that he took only such clothes with him as he wanted to use, leaving his trunk and the remainder at his father's;—and that at the said September election, he voted for William Baker for Representative, and that he refused to vote in Bingham at the third trial, because he called it his home at Webster's, three months before the September election.

By the deposition of Joseph Russel, 2d, it appears that he was employed by Webster on the twenty fifth of May last, and worked for Spaulding till the twenty second of June, in township No. 1, in the third range east of Ken-

nebec river, now called Spaulding plantation;—that he then worked on the road, without the plantation, till the September election, when he came down and voted there for William Baker for Representative; and that he makes it his home at his father's, in the town of Moscow, did not carry any but his every day clothes on the road, and did not consider Spaulding his home when to work on the road.

Darius Goodrich deposed that he commenced work for Edward Webster, between the 20th and 30th of May last, and worked on his farm in Spaulding plantation, about eighteen days. He then worked on the State road, not within the limits of said plantation, till about five weeks before the September election, when he returned to Spaulding plantation, and there voted for William Baker. He carried only a part of his clothes from Bingham when he first engaged with Webster, but in August he brought his trunk and most of his clothes to Webster's. He considered Bingham his home when there, but thought he had a right to vote in Spaulding plantation.

Jonathan Emery deposed that he went to work for Horace Cate, in Spaulding plantation, about the first of April, 1841, and remained there till about the last of February, 1842, when he went to Concord. He returned to Spaulding plantation about the middle of June following, and is not certain that it was not on or before the twelfth; and worked with William Cate, whose wife is the mother of said deponent. Emery voted at Spaulding plantation for William Baker, on the twelfth of September, and considered himself a voter there. He considered Concord his home while residing there, as he also did Spaulding, but did not consider either his regular home.

Your Committee, before going into an examination of

the testimony, adopted certain rules by which they were to be guided in their ultimate decision.

1st. In every case in which an alleged illegal vote was cast, it is incumbent on the party making the allegation, to prove its truth beyond a reasonable doubt.

2d. That in no case can a person be a legal voter in more than one town or plantation at the same time.

3d. That an uninterrupted residence of three months is not required of a person who has his home in any particular town ; and that an occasional absence for business or pleasure does not operate as an estoppel to his right of suffrage.

The last rule is sustained by the decision of the House of Representatives of Maine, January 24, 1842, in the case of the remonstrance of John Hilferty against the right of Jonathan Burr, of Brewer, to hold a seat in the House.

From the want of clearness in most of the depositions presented, your Committee have not that full confidence in the correctness of their conclusions which is desirable ; but in every case where a doubt has arisen, they have allowed the decisions of the selectmen and assessors to be correct.

Your Committee are of the opinion that the vote of John Kimball ought not to have been counted, inasmuch as his family resided in Skowhegan within three months prior to the said twelfth of September, although he himself removed to Forks plantation, where he voted, in May previous.

The vote of Joseph Russel, 2d, in the opinion of your Committee, ought also to have been rejected, as he only left Moscow, where his father resided and which he considered his home, for temporary employment, intending to return.



In the case of Calvin B. Goodrich, and also in that of Darius Goodrich, your Committee are not fully satisfied that their votes were improperly received by the assessors of Spaulding plantation, and they have therefore decided that they were properly counted for William Baker.

As Jonathan Emery was not certain that he did not reside in Spaulding plantation three months before the September election, and as there is no other testimony on that point, your Committee believe his vote was properly received and counted.

On the other hand, Nichols alleges that there were illegal votes thrown for Bolter as representative at the election held in the district on the said second Monday of September last; and he read to your Committee the depositions of Elam Benjamin, Thomas Smith, Abiel D. Dean and Joseph B. Noble, in proof of his allegation.

Elam Benjamin deposed that he voted for Wadsworth Bolter for representative, at Moscow, at the election held on the twelfth of September last; that his place of residence since the fall of 1841, has been at Moscow, although he was employed at the time of the election by Edward Webster, of Spaulding plantation. In this case, your Committee in accordance with their third rule, counted the vote of Benjamin.

Thomas Smith deposed that he came to the Forks plantation from Moscow, May 5, 1842, and continued to reside there up to the time of taking his deposition, Dec. 23, 1842; and that in September he voted for Wadsworth Bolter. When he came to the Forks, he hired out for six months, intending to return to Moscow, where he left a portion of his clothing. Your Committee in allowing Smith's vote, were guided by his intentions as shown by his acts, rather than by his words.

Abiel D. Dean deposed that he went from Madison to Mayfield, the second day of May, 1842, and remained there till the twentieth of June, following, at which time he returned to Madison, but on the twenty-first of July, he moved his family into Mayfield, and there voted for Bolter at the September meeting. This case being similar to that of John Kimball, your Committee had no hesitancy in rejecting Dean's vote.

By the deposition of Joseph B. Noble, it appears that he voted at the September election, at Forks plantation, for Bolter. He had usually resided there, and he intends to reside there hereafter, but about ten days before said election, he moved into Bow township, where he still resided about the first of December with his family. Your Committee therefore rejected this vote.

The result at which your Committee have arrived by rejecting the votes of John Kimball, Joseph Russel, 2d, Abiel D. Dean, and Joseph B. Noble, is, that the whole number of legal votes cast in this district, was 423; making 212 necessary for a choice. Bolter having 211, and no one having the required majority, there was no choice of representative at the election held in this district on the second Monday of September last.

If there was no choice at this time, there is no evidence before your Committee, and they believe there is no pretence that the election held on the fourteenth of November, at which time Nichols claims to have been elected, was illegal; and they therefore report a Resolve.

CHARLES BRADBURY, Per order.

## STATE OF MAINE.

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RESOLVED, That Joseph S. Nichols having been  
2 constitutionally and legally elected as the Representa-  
3 tive of the district, composed of the towns of Bingham,  
4 Brighton, Moscow and Mayfield, and the plantations  
5 of Forks and Spaulding, is entitled to a seat in this  
6 House.

# STATE OF MAINE.

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HOUSE OF REPRESENTATIVES, }  
January 23, 1843. }

Laid upon the table, and 150 copies ordered to be printed for  
the use of the House.

WM. T. JOHNSON, *Clerk.*