

# MAINE STATE LEGISLATURE

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DOCUMENTS

PRINTED BY ORDER OF

THE LEGISLATURE

OF THE

STATE OF MAINE,

DURING ITS SESSION

A. D. 1853.

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**Augusta:**  
WILLIAM T. JOHNSON, PRINTER TO THE STATE.

1853.

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# THIRTY - SECOND LEGISLATURE.

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HOUSE.]

[No. 14.

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## MINORITY REPORT

OF THE

## COMMITTEE ON ELECTIONS.

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THE Committee on Elections, to whom was referred the credentials of Barker Duley, claiming to hold a seat as a member of this House, from the district composed of the towns of Phipsburg, Georgetown, Arrowsic, and West Bath, together with the remonstrance of Joseph Lombard against the said Duley's right to hold a seat, and claiming to have been himself elected as the Representative from said district, have had the same under consideration, and have not been able to agree upon a report. The undersigned, three of said committee, beg leave to present this Report, setting forth their views of the facts and of the law of the case. No objection is made to the credentials from Phipsburg, West Bath and Arrowsic. The votes of these towns are as follows :

	Lombard.	Duley.
Phipsburg,	142	147
West Bath,	75	32
Arrowsic,	22	41
	<hr/>	<hr/>
	239	220
	<hr/>	
Lombard is elected by	19 votes.	

As before stated, the votes of Phipsburg, Georgetown and Arrowsic are as follows :

	Lombard.	Duly.
	239	220
The votes of Georgetown added,	23	79
	<hr/>	<hr/>
	262	299
		<hr/>
		262
		<hr/>
Majority for Duley,		37 votes.

If the votes of Georgetown are admitted Duley is elected. If they are rejected Lombard is elected.

The objection to the votes of Georgetown is that the meeting was not as the constitution requires, warned seven days at least, before the day of meeting. And the facts shown before the committee are that the warrant was issued on the 9th of September, and posted in some of the usual places for posting such notices, on the 10th of September; but that at one of the usual places for posting such notices, it was not posted at all, but the copy for that place was left on the desk in the store. It further appeared that two of the Selectmen of Georgetown were absent at sea. It did not appear on what day they left home, but it did appear that one or both of them returned on the 9th of September; that finding no warrant for a meeting had been issued, one of them united with the Selectman, Mr. McFadden, who had not been absent, in issuing the warrant aforesaid, dated on the 9th of September. It further appeared that McFadden, after the warrant was so issued, supposing that the proceedings would be illegal, publicly declared that there would be no meeting, and employed and directed one Riggs, to give such notice generally, and extensive notice was given to that effect. It also appeared that several individuals interested themselves to give notice to the contrary, and to circulate in various parts of the town the information that there would be a meeting, and that such notice was extensively circulated. But on inquiry of the witnesses, no one could state that notice was given at Watson's

store, or the near neighborhood of it, or that notice was given at a certain locality in the western part of the town, or to the inhabitants of the Island of Seguin.

It further appeared, that at the meeting after the warrant was read, objection on the part of one or more of the voters was made to proceeding to act under the warrant, on the ground that the notice required by the constitution had not been given, and that the meeting was therefore illegal; that the selectmen presiding admitted the fact to be so, and declared that they should make their return accordingly, and should strike out the word "legal" in the return; that thereupon the voting was proceeded with; that McFadden, the selectman above referred to, did not attend the meeting; and one witness mentioned the names of nearly twenty voters whom he knew did not attend for the reason that they considered the meeting illegal, and said there were others whose names he did not then recollect. On the other hand, it was shown by witnesses and by a comparison of the records of votes thrown at this meeting with those of former meetings, that the number of votes was nearly the same as was usual at such meetings in that town. It appears further, that the selectmen did not make the return according to the facts as they promised in town meeting to do, but certified in the usual form that the votes were given in legal town meeting. The undersigned are of opinion that the town meeting in Georgetown was not holden in accordance with the requirements of the constitution; that the selectmen of Georgetown nor the inhabitants or voters of Georgetown have no authority to set aside or disregard those provisions; and that it is not rightfully or lawfully in the power of this house to make this proceeding, unlawful and unconstitutional in itself, legal and binding. We are therefore of opinion that Barker Duley is not, and that Joseph Lombard is, legally elected as a representative in this house from the said district, and they present the accompanying resolution and ask that it may be adopted.

J. B. HILL,  
N. C. HARRIS,  
H. G. BERRY.

FEBRUARY 3, 1853.

STATE OF MAINE.

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HOUSE OF REPRESENTATIVES, }  
Feb. 21, 1853. }

ORDERED, That 350 copies of the Minority Report of the  
Committee on Elections be printed for the use of the House.

A. B. FARWELL, *Clerk.*