

MAINE STATE LEGISLATURE

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DOCUMENTS

PRINTED BY ORDER OF

THE LEGISLATURE

OF THE

STATE OF MAINE,

DURING THE

EXTRA SESSION OF 1853, AND SESSION OF 1854.



Augusta:

WILLIAM T. JOHNSON, PRINTER TO THE STATE.

1854.

THIRTY-THIRD LEGISLATURE.

HOUSE.]

[No. 2.

MINORITY REPORT

OF THE

COMMITTEE ON ELECTIONS.

HOUSE OF REPRESENTATIVES, }
FEB. 1, 1854. }

The undersigned, a minority of the Committee on Elections, to whom was referred the remonstrance of Jeremiah Foster, protesting against the right of Stephen T. Harris to a seat in this House, have had the same under consideration, and being unable to agree with the majority of your committee, ask leave to

REPORT :

Stephen T. Harris, the sitting member, on the first Wednesday of January, presented his credentials in due form, was qualified, and took his seat in this House, as Representative from the district composed of East Machias, Machiasport, Whiting, and Plantation number eighteen.

The only controversy in this case, respects the votes of

Machiasport. Remonstant objects to the allowing these votes. If the votes of Machiasport are allowed, Mr. Harris is elected ; if the votes are rejected, Mr. Foster is elected. Machiasport threw ninety-three votes for Mr. Harris, and thirty votes for Mr. Foster, giving Mr. Harris a plurality of sixty-three votes in that town.

Now it is clear that a party for whom votes have been actually given, has a legal and constitutional right to have them counted and returned for him, unless those who dispute the right can show a valid and sufficient reason in law or fact, for rejecting them.

Mr. Harris takes his seat with the usual evidence of title, and is entitled to it *prima facie*.

Mr. Foster presents no credentials whatever, but objects to the votes of Machiasport on the ground of illegality of the town meeting at which the votes were cast.

It appeared in evidence before the committee that the meeting, in pursuance of previous legal notice, was held in a school-house in or near the village of Machiasport ; that it was the usual place of holding such meetings ; and was opened and organized according to law. About six o'clock in the afternoon, and while the polls were still open, by a unanimous vote of the voters present, the meeting was adjourned to the Post Office in Machias village, about a fourth of a mile from the school-house, the first place of meeting. The Post Office was a convenient place for the meeting, and a similar adjournment had been made by the town, on two former similar occasions. A written notice of the adjournment was posted on the school-house door, where it was remaining the next morning. The reason of the adjournment was, that the window-glass of the house was much broken, and that the house was uncomfortable and inconvenient for lights. The Town Clerk took the box containing the votes, and in company with Selectmen, proceeded to the Post Office, when the polls were continued open, and votes received ; and the poll closed about eleven o'clock at night.

One witness testified that a voter, Capt. Crocker, came in

during the evening and took a vote from a pile of votes that had been thrown, and put it into the box. This testimony was directly contradicted by another witness, who was equally credible, and in the opinion of the undersigned, as gathered from the evidence, had means of information superior to that of the former witness; the latter witness being one of the Selectmen. We allude to the testimony of Arthur Moore, who says that he “attended the polls on the day of the September election in the evening, at the Post Office in Machiasport. Capt. Crocker, Foster, nor no other person, that evening, took a vote from the pile that had been thrown, and threw it again. No man had access to the votes but the Selectmen and Town Clerk, that evening. Each of the Selectmen had votes to supply voters, when called for.”

It is not alleged by remonstrant that there was any fraud in the conduct of the town officers in the management of the meeting, or that any illegal votes were thrown, or that any one was deprived of a right to vote; and so far from there being any evidence produced by remonstrant, the witnesses offered by remonstrant distinctly depose that no fraud or bad faith was practised by the presiding officers, and that the votes were fairly and honestly given.

In view of these facts, the undersigned regard the objection to the votes of Machiasport, as resting entirely on the doings of the meeting in adjourning from the school-house to the post office, and this is where they understand remonstrant places it.

The undersigned have been unable to find any Legislative precedent, either countenancing or discountenancing such an adjournment, nor can they find any constitutional or statute provision forbidding such an adjournment.

Inasmuch as towns have the inherent right of conducting their meetings in such way as the majority may choose, unless when restrained or limited by the constitution and laws, and the principles of natural justice, the undersigned regard it indispensably necessary for a remonstrant to show some constitutional or statute inhibition, ere they can unseat Mr. Harris, and disfranchise the town of Machiasport.

MINORITY REPORT.

They therefore recommend for adoption the subjoined resolve. All which is respectfully submitted,

J. H. HILLIARD,
 FREDERIC G. BUTLER,
 GEORGE BOWDEN.

STATE OF MAINE.

Resolved, That Stephen T. Harris is entitled to a seat in this House, as Representative of the District composed of the towns of East Machias, Machias-port, Whiting and Plantation No. Eighteen.

STATE OF MAINE.

HOUSE OF REPRESENTATIVES, }
 FEB. 6, 1854. }

ORDERED, That these Reports be laid upon the table, and 350 copies be printed for the use of the House.

JOHN J. PERRY, CLERK.