

MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE

OF THE

STATE OF MAINE,

DURING ITS SESSION

A. D. 1856.

PART SECOND.

Augusta:

FULLER & FULLER, PRINTERS TO THE STATE.

1856.

THIRTY-FIFTH LEGISLATURE.

HOUSE.

No. 12.

STATE OF MAINE.

HOUSE OF REPRESENTATIVES, }
February 12, 1856. }

The Committee on Elections, to whom was referred the remonstrance of Samuel S. Brown against the right of James M. Leach to a seat in this House, have had the same under consideration, and ask leave to

REPORT A STATEMENT OF FACTS:

By the returns from Raymond and New Gloucester, it appears that the votes as declared and recorded give to said Leach a plurality of ONE VOTE. The returns are:

For James M. Leach,	.	.	.	293
Samuel S. Brown,	.	.	.	292

The remonstrant alleged that one *Clark P. Burgess*, a legal voter in New Gloucester, was illegally denied the right to vote, though claiming to exercise the same at the polls. Also, that one *John Y. Shaw*, voted in Raymond, for said Leach, Shaw not being a legal voter in said town.

On the other hand, the said Leach contended that one Sewall Thurlow, a pauper, and one Silas May, a minor, illegally voted for said Brown, in said town of Raymond, and that one Henry C. Allen, a legal voter in New Gloucester, was refused the privilege of voting, though tendering a vote for said Leach at the polls.

The committee were unanimously of the opinion, that both the said Burgess and the said Allen were legal voters, and that their votes should have been received. The result, however, would not have been varied thereby. The committee were also of the unanimous opinion that the vote of said Thurlow was properly received.

Such being the case, the question turns upon the evidence introduced as to said Shaw and said May.

In relation to JOHN Y. SHAW, one *James Meserve* deposed, that said Shaw came to board at his house in March last, and left a fortnight before the election, and that he has had no home at his house since he then left; that when he so boarded at his house, he was at work in Casco; that for a year or two past, said Shaw has made his home at his father's house in Standish; and that when he left his (witness) house, he left, as he said, to return to his father's; that he settled his board with him (witness) up to the time he left, a fortnight before election.

Arthur Cash deposed that he knew of John Shaw of Standish being at work shoemaking in Casco during a portion of the last summer; he hired his shop of him; settled his shop rent up to the 23d of August 1855; after he gave up the shop he did not to his knowledge work in either Casco or Raymond; when he hired the shop it was not understood that said Shaw would locate permanently in Casco; he boarded with James Meserve; after quitting work, he returned home to Standish—and subsequently came back and stopped part of a day and returned again, carrying away part of his effects. Since he left, about August 23d, said Shaw has not been a member of said Meserve's family to my knowledge; he may have visited them; I am well acquainted with said family. (To Mr. Leach.) I know that he went to Standish when he left Meserve's, because he came there with his father's or brother's horse and wagon; and further, he told me so.

[Taken February 2.]

Samuel S. Brown testified, that he was one of the selectmen of Raymond; that said Shaw voted for James M. Leach at the last September election; that his vote was challenged; that he was examined and stated that he was then living at James Meserve's house and had been so for six months; some one stated that he had quit work. He said he had left work, but had not gone away from Meserve's house and was still boarding there, and made his home there. On this statement he was permitted to vote. Benjamin Spiller, one of the selectmen, (since deceased) was present; the other was not; he had no family that I know of. I saw his vote at the time and before he put it in the box. Shaw had not lived in Raymond before; within two hours after he voted I ascertained that he had misstated the facts.

The deposition of said *John Y. Shaw* was introduced by Mr. Leach, and was as follows:

I commenced work at shoemaking in Casco March 1, 1855, and at the same time commenced boarding with James Meserve in Raymond; kept my clothes there till about the 20th of last September; had my washing and mending done there during the time; about the 23d day of August I moved my tools to said Meserve's in Raymond with the intention of letting them remain there till I should look out a place to work; moved my tools and clothes from Meserve's about the 20th of September last; considered James Meserve's my residence till I moved my clothes and tools away; from the time that I removed my tools to Meserve's, till I took them away, was absent perhaps one-half or two-thirds of the time looking out a place to work; had no other place of residence at that time. Meserve's wife is my sister; was not at my father's over four or five days from the time I moved my tools to Meserve's till 10th of September; I work at pegged work, and contemplated working at sewed work in that neighborhood; had a talk with Andrew Libby about building a shop for me to work in; should have continued to work if I could have got a shop to work in.

(On cross examination.) I left that shop because it was a cold shop to work at sewed work in; I boarded and made my home at Meserve's after quitting work at Casco; did not pack my clothes; should think I boarded half of the time at Meserve's after quitting work before election; I settled for my board before election.

(To Mr. Leach.) I settled because I thought he needed the pay, as he was in want of money at that time; I understood from him that he wanted money; he did not call on me for any money; I have paid him some since then.

[Taken February 4.]

Hugh M. Plummer's affidavit was put in, in which he states that he said Meserve during the week following election told him that Shaw's home at the time of election was at his house; that his clothes were there, and had not then (at the time of the conversation) been taken away; said he told Brown he considered Shaw a voter, because he lived at his house; and he (Brown) could not get over it.

[Taken February 4.]

As to SILAS MAY, it appeared by a copy of the records of Raymond that said May was born on the 7th of November, 1834.

The deposition of *William Small*, put into the case by Mr. Leach, was as follows:

I saw Silas May at the polls on election day; objected to his voting; he voted; I saw his ballot with Samuel S. Brown's name on it; could read it; he held it between his thumb and finger, with the printed side up, entirely open; I was in the desk; John Sawyer had charge of the ballot box at the time; I stood in a position to read the ballot distinctly; about ten minutes were occupied in deciding his case; Samuel S. Brown called the check list; should say he called the name of Silas May; it was between one and two o'clock P. M., that he voted. (In a subsequent part of the deposition witness states)—Upon

reflection I am not satisfied that it was Mr. Sawyer who had charge of the box, but think it was Samuel S. Brown, and Mr. Sawyer called the list.

On the other hand, *Samuel S. Brown* testified that said May voted at about 11 o'clock; that himself and Mr. Spiller were acting; Mr. Sawyer was chosen to act in place of Mr. Spiller who left on account of illness, about one o'clock, and was not there when May voted; his right was contested, but he had no vote in his hand at the time; he stated he was born September 7th, and his father so stated; when he voted he took a vote from his vest pocket; doubled up; printed side in, and immediately put it into the box; he (witness) endeavored to prevent the vote going into the box in that shape, but it was so quickly put in he did not succeed in so doing; the printing could not be seen; one Thomas J. Brown's right was contested; he held his vote as described in Small's deposition; Mr. Sawyer was then present; Mr. Small describes all the particulars of Brown's case, but not those of May's; Small and Plummer objected to May's right; Small stood four or five feet from the box.

John Sawyer testified that he acted as selectman *pro tem.*, during the latter part of the day; was chosen about 1 o'clock on account of Spiller's absence, and assisted during the rest of the day; was sworn. No man by the name of Silas May voted after he went into the desk upon being chosen. Latham lives about four miles from town house.

Bela Latham deposed that he was present when Silas May voted; that he went home from town meeting in company with him; arrived at home between 11 and 12 o'clock, with May; stood by May's side when he voted; he took the ballot out of his pocket and put it into the box; had no opportunity to see the names on his ballot; believe it was partly doubled; do not recollect looking to see what time it was when we arrived at home.

Hannah Latham deposed that her husband got home from town meeting on the 10th of September last, at twenty minutes before 12 o'clock; that John May, Silas May, Nathaniel Verrill and others, were with him; that Silas May was in a wagon with his father and Nathaniel Verrill.

In the foregoing statement of facts the Committee concur; but in the result arrived at therefrom, a majority only agree.

The conclusion to which a majority of the Committee, upon careful consideration of the testimony, are brought, is, that no person can be regarded as legally elected from said representative district to a seat in this House, and they thereupon report the accompanying resolve.

Per order.

BENJ. A. G. FULLER, *Chairman.*

STATE OF MAINE.

Resolved, That James M. Leach not having been
2 legally and constitutionally elected thereto, is not
3 entitled to a seat in this house.

STATE OF MAINE.



HOUSE OF REPRESENTATIVES, }
February 13, 1856. }

ORDERED, That 350 copies of this Report be printed.

DAVID DUNN, *Clerk.*