# DOCUMENTS

PRINTED BY ORDER OF

# 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. 21.**

## MINORITY REPORT AND RESOLVE

IN RELATION TO

## AMENDMENTS TO THE CONSTITUTION.

# REPORT.

THE undersigned, a minority of the committee, to which was referred the report of the executive council, upon the votes given upon the questions of the amendments of the constitution, submitted to the people by the last legislature, and the return made thereof to this legislature, and the returns of the votes upon said amendments, communicated to the legislature pursuant to a joint order of both houses, requesting the governor to lay them before that body, differing from the majority of the committee in the conclusions at which they have arrived, ask leave in this report to present their views upon the questions in controversy.

Eight amendments of the constitution have at different times been adopted, and have taken effect and gone into operation without controversy. It would therefore seem, that safe precedents to be followed in the present case, would be afforded by

Fuller & Fuller, Printers to the State.

the recorded action of our predecessors. To these precedents we directed our attention, and we have looked in vain for any satisfactory reasoning, or substantial argument, on the part of the majority, in the discussions in the committee room, or in their report, to show the necessity or propriety of departing in the present case from former precedents, and adopting a mode of proceeding new and untried, founded on reasonings which we hold to be unsound, such as were never in any former instance suggested, and tending to results subsersive of the constitutional rights of the people; introducing into the constitution an element which the people have carefully excluded therefrom, that is, the power of the legislature to defeat for a longer or shorter time, the operation of a constitutional amendment.

The position endeavored to be maintained by the majority report, is that an amendment of the constitution has no effect, until it is declared to be such by a resolve of the legislature; nothing short of this doctrine will sustain and justify the action of the legislature upon this subject. To support this doctrine, the majority is compelled to resort to the fiction that there are two parties to an amendment of the constitution. If there are two parties, it necessarily follows that they may disagree, and one may defeat the will of the other. It is incident to the nature of the case, of two parties, that their views may be discordant and irreconcilable, and thus there may be a fatal disagreement between them, and so what is proposed and determined by one, may be defeated by the other. This idea that there are two parties to a constitutional amendment, the one the majority of the people, voting for it, the other the legislature holding them in check, and defeating their will expressed by their votes, is an entirely new invention, and we must regard it as one of the most remarkable political axioms brought to light in this age of progress.

What is the proper office and power of the legislature in regard to an amendment of the constitution adopted by a vote of a majority of the people?

This is the practical question to be solved in the present case. As a matter of convenience it is suitable and proper that the legislature should make a record of the doings of the people, in adopting an amendment. Their action can have no greater or more efficient power than that of a record of a fact that is passed, made by a recording officer in any other case. It is not a part or parcel of the transaction. The recording officer does not aid or contribute to the doings of what he records. He can in no proper sense be considered a party to the transaction which is the subject of his record. It is the office of a record to make known what has been done, to declare what has taken place, but the fact recorded, would still remain a fact, although the record had never been made; so the amendment of the constitution adopted by the people would be valid and the constitution amended, although the legislature should neglect or refuse to make any record or declaration of the fact. If one legislature should so refuse to recognize an amendment of the constitution and to conform its action thereto, can there be any doubt that a succeeding legislature may right the wrong and give the amendment its full force and effect? That the legislature is in no sense a party to a constitutional amendment, and has no such power in the premises as is claimed by the majority of the committee in these respects, we think is abundantly manifested by the precedents of the former action of legislatures, in times when no exciting questions had arisen, which might have a tendency to arouse the prejudices and warp the judgment of legislators, however honest and fair-minded in ordinary cases they might be. By these precedents it will appear, that never heretofore has the legislature claimed to be a party in any sense of the term, to a question of constitutional amendments, which could for a single hour postpone or defeat their operation. It will appear further that in some cases the legislature has not deemed even a declaration on their part necessary in case of an amendment adopted. It will also appear that in all cases in which the legislature has seen fit to adopt a declaratory resolve, the language used in each

instance distinctly recognizes that the amendment *has been* adopted, as a transaction passed without any concurrent or consenting action of the legislature.

We proceed now to exhibit from the records, the action of the legislature in every instance, prior to the present case, of an amendment of the constitution adopted by the people; in each of which it will be manifest that the idea that the legislature is a party whose action or consent is necessary to the adoption of an amendment of the constitution is most distinctly negatived, and that the only office the legislature has in any of these instances assumed, has been that of making a record of what the people have done; sometimes in the form of a declaratory resolve, sometimes of a report entered on the journal, and sometimes of a report accepted and not entered on the journal.

The first was submitted by the resolves of March 7, 1834. The votes were to be returned to the secretary of state, and by him laid before the legislature. This was done; the returns were referred to a joint committee of the senate and house, who made a report of the state of the votes, by which it appeared that a majority of the votes was in favor of the amendment. The report was accepted, but no resolve declaratory of the fact, or proclamation or even publication was made thereof by the legislature. The amendment, notwithstanding the want of any action or consent by the legislature as a party to the transaction, went into effect; and all the elections by wards in our cities from that time to the present have been held by virtue of that amendment.

The second amendment was submitted by the resolves of March 30, 1837. The returns were to be made to the secretary of state, by him to be laid before the legislature. This was done, and the returns were referred to a committee as in a former instance, who reported the state of the votes, and also a declaratory resolve, which was adopted. It was in these words:

"*Resolved*, The Senate and House of Representatives concurring, that whereas, it appears upon examination of the list

of votes laid before the legislature in pursuance to a resolve passed March 30, 1837, entitled," &c., that a majority of the inhabitants voting upon the question is in favor of said amendment:—It is therefore, declared, that the tenth section of the first article of the constitution is so far altered or amended, as to read thus: "No person, before conviction, shall be bailable for any crimes which now are, or have been denominated capital offenses, since the adoption of the constitution, where the proof is evident, or the presumption great, whatever the punishment of the crimes may be, and that said amendment *has become* a part of the constitution."

The resolves proposing the third amendment, were approved March 14, 1839. They require the secretary "to lay all such returns before said legislature, with an abstract thereof, showing the number and state of the votes." The return of the votes was on the 2d day of January, 1840, referred to a joint committee, consisting of five on the part of the senate, viz: William M. Reed, Philip Eastman, Samuel H. Blake, Elijah Barrell, and James Erskine; and seven on the part of the house, viz: Messrs. Deering, Buxton, Cary, Fuller, Nickerson, Blake and Ela. The report was made in the senate January 9' 1840. It was as follows:

| | |
|---|---|
| That the whole number of votes was . | 43,535 |
| In favor of the amendment, . . . | 25,747 |
| Against amendment, . . . . | 17,788 |

South Berwick did not return in season and there were informalities in the returns from Kennebunk, Scarborough and Nobleborough and the votes from these four towns were rejected. In the senate the report was accepted and entered on the journal. In the house it was accepted but was not entered on the journal. There was no other action in either branch. This was the most important ammendment of the constitution ever made, changing the tenure of the judicial office, yet here was no declaratory resolve. The constitution was left to mend itself in the best way it could. The resolves proposing the fourth amendment were passed april 16, 1841. The return of

votes was to be made to the secretary, and the governor and council were "to count the same, and make return thereof to the legislature, and if a majority of the votes are in favor of the amendments they shall become a part of the constitution." The votes were counted Dec. 10, 1841, and return made to the legislature, and committed to the judiciary committee consisting of Philip Eastman, John Otis and J. A. Barnard of the senate, and Moses McDonald, Edwin Smith, William Paine, M. Weeks, H. B. Osgood, Isaac Reed and Benjamin White of the house. Their report made Jan. 15, 1842, was adopted—the concluding paragraph was in these words, "Thus it appears *by said report of the council* that a majority of the inhabitants voting on the question, last made as aforesaid, are in favor of the amendment proposed by said question, and that it became a part of the constitution of the State."

The committee reported a resolve in accordance with that conclusion. The closing paragraph of which is in these words, "The number of representatives shall on said first apportionment be not less than one hundred and fifty, and that said amendment *has become a part* of the constitution."

The resolves proposing the fifth amendment were adopted march 19, 1844. They required the returns to be counted by the governor and council, and return thereof to be made to the next legislature. The votes were counted Nov. 17, 1844, and the *report* of the council being laid before the legislature was referred to the judiciary committee consisting of Wm. Frye, Henry Tallman, Moses Sherburne on the part of the senate and Wm. C. Allen, Wm. P. Fessenden, Wm. Paine, Elbridge Gerry, Aaron Hayden, Isaac Tyler and Peter S. J. Talbot on the part of the house. The following extract will show the views taken of this question by this committee and by the legislature which accepted and adopted the report; the committee &c., report that it *appears by said report of the council,* that the whole number of ballots legally and constitutionally returned &c. was 42,044 and the number having the word yes written thereon was 32,029 and the number having the word no writ-

ten thereon was, 10,015. It thereby appearing that a majority of all the votes given in and legally and constitutionally returned were in favor of the proposed amendment; and the proposed amendment *having thereby become* a part of the constitution of the state, your committee ask leave to submit the following accompanying resolve:

*Resolved*, The Senate and House of Representatives concurring, that whereas, it appears upon the examination of the report of the executive council in relation to the resolves passed March 19, 1844, &c., that a majority of the people voting on the question is in favor of adopting said amendment: It is therefore declared that the fifth section, &c., setting forth what by the amendment was to be struck out and what inserted and concluding thus: "and that said amendment *has become a part* of the constitution of this state."

The sixth amendment related to the state credit; was submitted by a resolve passed July 26, 1847, and the seventh providing for an election by plurality in certain cases, by a resolve passed August 2, 1847. Both resolves provided that the votes should be returned to the secretary, and counted by the governor and council, "and a return thereof be made to the next legislature." The return of the state of the votes was made to the legislature, and a declaratory resolve under date of July 29, 1848, was passed, including both amendments, in which is set forth that "*it appears from an examination of the report of the executive council* in relation to the resolves, &c., that a majority of the people is in favor of adopting the amendment proposed in the first resolve. Also in favor of adopting a part of the amendment proposed in the second resolve." Then follows a recital of the amendment as introduced into the constitution, and the conclusion is as in the case of every other declaratory resolve adopted by the legislature, "that the said amendment *has become* a part of the constitution."

The eighth provides for a return from summer to winter sessions. It was proposed by the resolve of August 21, 1850.

It provided for a return to the secretary, a *counting* by the governor and council, and a return of the counting to the next legislature, all which was done, and on the 30th of May, 1851, a declaratory resolve was passed, in which is set forth: "that whereas, it *appears upon examination* of the report of the governor and council, in relation to the returns of votes," &c.: then follows the amendment as made, by striking out and inserting the words required, and the conclusion is—"and that said amendment *has become* a part of the constitution of the state."

This exhibit of the action of the legislature in every antecedent instance of an amendment of the constitution, makes it manifest, that in the judgment of preceding legislatures, the following propositions may be considered as established:

1st. That in amending the constitution no action on the part of the legislature, to which the returns are made, is necessary except to record the fact that a majority of the people have voted to adopt the amendment. No other legislative action was had in the case of the first and third amendments, and we may well ask whether any one will be bold enongh to assert that these amendments have not become a part of the constitution. If so he must maintain that there has been no legal election in any city since 1834, and no constitutional judiciary since 1840, and he must be prepared to treat the present incumbents upon the supreme bench as usurpers.

2d. That in all cases when the resolves submitting the amendments required the votes to be returned to the secretary a counting by the governor and council and return to be made thereof to the legislature; our predecessors have been content to confine themselves within the sphere of their duties as pointed out in the resolves. We have seen no reason that should induce a departure from that practice in the present instance, nor have the labored investigations of the committee bestowed upon the votes produced and laid before them in pursuance of orders for that purpose passed, resulted in the discovery of

any wrongs in the votes, the returns, or in the action of the governor and council that furnishes any pretext to demand such an extraordinary proceeding.

3d. That in no instance prior to the present year has the legislature in the declaratory resolve, when the amendment consisted in part in striking out and inserting certain words of clauses, omitted all reference to, or compliance with that requisition. On the contrary the resolves have always presented the amended clauses, or sections of the constitution as they should read when the amendment is inserted therein.

4th. That in all former instances the legislature has done no more in the resolve than to declare that the constitution has been amended, without attempting by the use of the present tense to give countenance to the idea that the efficient cause in adopting the amendment, was the action of the legislature in passing the declaratory resolve.

5th. That the closing sentence of the last paragraph of the declaratory resolve, if intended to be a part of the constitution, is introduced without authority. No such proposition was submitted to the people, but if it is no part of the constitution we may well ask what is it, and why introduced into an amendment of the constitution ? If it be said that it is explanatory of the amendment, then we object to it as clearly an usurpation by the legislature of judicial power, and it is, as we apprehend, the first instance in this free country of a construction of the constitution put forth and established by a legislative enactment. Under our system of government it is for the people to make the constitution, for the legislature to make the laws, and the province of the judiciary is to declare what is the meaning and construction of both the constitution and the laws ; when either of these departments of power leaves its province and invades that of the other, confusion and wrong are sure to result. The words used are these, "and until said offices shall be filled by election under and by virtue of said amendments, the power of the governor and council in relation thereto will remain unchanged." It is clearly a construction of the constitu-

tion settling by legislative authority, a question which by our constitution and laws the supreme court only is competent to settle. We protest against it as an innovation dangerous to constitutional liberty.

The committee report that the second, third, fourth and fifth amendments proposed were adopted; but as to the first, they leave it a matter of doubt what their opinion is; and as in the resolve by them reported, that part of the constitution to which the first amendment applied, and which was amended by striking out and inserting certain words, is not included; and as the third section of the seventh article which was also to be amended by striking out and inserting certain words is, in the said resolve, inserted with the amendments, in due form, we should infer that in the opinion of the committee, the first amendment is not adopted, were it not for the inconsistency, that would appear in the constitution as the amendments, as reported, would leave this instrument, in one part providing that certain officers shall be appointed by the governor with advice of council, and in another part providing that the same officers shall be elected by the people. As both of these provisions cannot stand together, and it is manifest that the last is the true reading that should be preserved, it seems to us that the resolve reported by the committee should be corrected by inserting the eighth section of the first part of the fifth article, amended as the votes of the people require it to be amended.

In the majority report, much comment is made upon what is there styled "a declaration made by the council," and it is insisted with great apparent gravity, that no power to make such a declaration was delegated to the council. We regard it as a matter of no consequence whether such powers were or were not delegated, inasmuch as no such declaration is required to make an amendment valid. The majority in their report declare, and truly declare, that "the constitution is the only guide to its own interpretation." Where is the clause in that instrument which makes a "declaration" necessary to an amendment? No provision is made for it in the constitution, and

practice in at least two instances—those providing for voting in wards and for the change in the judicial tenure—shows that amendments may be valid without a declaration. The objection then, that the legislature has not delegated the power to make a declaration, amounts to nothing, because they had not the power to delegate. This being the only objection to the action of the council insisted on and set forth by the majority, it may be assumed that in all other respects the action of the governor and council was found to be in accordance with the provisions of law and of the constitution. The mode in which the resolves provided that it should "appear that a majority, &c., was in favor of the amendments," has been pursued. The proper authority appointed to count the votes has done so; and it appears by these reports that the amendments have been adopted. They were to make return to the legislature. They have done so, and it only remained for the legislature to make a record of the fact.

But it is said and insisted that the resolves providing that the election of certain officers shall take place at the times, &c., next after the amendments are by the legislature declared to be adopted, make it necessary that the legislature shall declare the amendments to be adopted before they can be in force, as a part of the constitution. This language was undoubtedly used with the expectation that this legislature, in obedience to the will of the people, if the amendments should be adopted, would at an early day, in accordance with former usage, examine the report of the council laid before them, and if the amendments were found to be adopted, would introduce and pass the usual resolves, declaratory thereof. This has not been done, though as we judge no sufficient reason existed for the delay. And now it is insisted that until such declaration is made the constitution is not amended. Is this so? Where is the clause or provision requiring it to be done? It is not in the constitution. It is found only in the resolves of the last legislature. No such requirement was ever before made. They had no constitutional right to require it. The acts of the last

legislature have been severely scrutinized by the present; and we are now not a little surprised to learn, that an unconstitutional requirement of the last legislature is gravely pleaded by a committee of this legislature as a reason why an amendment of the constitution, voted for by a large majority of the people, depends wholly for its effect upon the action and the pleasure of this legislature.

We come now to the great, and in point of importance the principal question, which is: When do these amendments go into effect? The answer is; when all that the constitution requires to be done has been accomplished. The constitution requires that the amendments be properly submitted to the people, voted on, and adopted by a majority; and that the fact of a majority having so voted should be made to appear. The majority of the committee, after a careful scrutiny, have been compelled to admit that the amendments were properly submitted, have been voted on, and adopted by the required majority. The provision, "if it shall appear," is their last hope. How is it to appear?—to whom is it to appear? The constitution is silent on these questions. The majority say it must appear to the legislature, but for this conclusion they fail to produce any authority in the constitution or laws. In other cases when the constitution requires a thing to be done, but is silent as to the manner in which it is to be done, the custom has been for the legislature to provide the manner, or as the majority express it, "the *how*." Has that been done in the present case? We think it has. The resolves provide that the votes shall be returned and counted by the governor and council and report thereof made to the legislature. This is the mode provided by law for it to appear how the majority of the people voted. May not the people know how the votes were given as well from a report of the council as of the legislature? But it is said the council have no authority to inquire whether the provisions of law in sending out the resolves and blanks, and in the returns of the votes have been complied with. We do not see why they may not have as much authority in these

matters as the legislature would have if the returns had been made to that body.

It is the duty of the governor and council to ascertain how the votes have been given, and as a necessary incident they have the power to do all that is necessary for that purpose.

It seems to us then, that according to the legitimate conclusion from the principles adopted by the majority of the committee, all that was needed to make a valid amendment of the constitution, was done and accomplished before the present executive was qualified and entered upon his duties. The resolves were properly submitted and voted on, and it appears that a majority are in favor of the amendment. The council were appointed to ascertain that fact. They had done so, and communicated it to the legislature at the earliest practicable moment. It then appeared in due form of law that "a majority of the inhabitants voting on the question was in favor of the amendment," and the necessary conclusion follows that "it had become a part of the constitution."

What effect had the amendment upon the appointing power? It is admitted by the majority report, that when the constitution is amended the appointing power is gone, but they hope to preserve it for a time by inserting as we insist without authority, a saving clause, retaining it till after the elections take place. If it was continued without this clause why is it inserted? If this clause is inserted without authority, as we insist it is, it can have no effect to prolong the power of the executive over the appointment, and that power was at an end before the present executive was qualified. We are pleased to learn by their report that the majority agree with us in the opinion that this is a matter for judicial decision. Since the power of the court to decide the question is fully admitted, its duty to do so when presented follows as a matter of course, and we trust that no more will be heard of the charge of judicial usurpation on the part of judges, who when called upon in the exercise of their judicial functions to settle this question, have discharged their duty.

Believing that the constitution has been amended in the manner required by its provisions, and that it is suitable, in accordance with former precedents, that the legislature should pass a declaratory resolve to that effect, we offer for adoption, the following preamble and resolves:

*Whereas*, it appears by the report of the council, of the state of the votes, and the return made thereof to the legislature, that,

On the question, shall the constitution be amended as proposed by a resolve of the legislature, providing that the judges of probate shall be chosen by the people, the number of ballots having the word "yes" expressed thereon, is 17,436; and the number of ballots having the word "no" expressed thereon, is 12,417.

On the question, shall the constitution be amended as proposed by a resolve of the legislature, providing that the registers of probate shall be chosen by the people, the number of ballots having the word "yes" expressed thereon, is 16,903; and the number of ballots having the word "no" expressed thereon, is 11,753.

On the question, shall the constitution be amended as proposed in a resolve of the legislature, providing that municipal and police judges shall be chosen by the people, the number of ballots having the word "yes" expressed thereon, is 16,797; and the number of ballots having the word "no" expressed thereon, is 11,792.

On the question, shall the constitution be amended as proposed by a resolve of the legislature, providing that the sheriffs shall be chosen by the people, the number of ballots having the word "yes" expressed thereon, is 17,308; and the number of ballots having the word "no" expressed thereon, is 11,771.

On the question, shall the constitution be amended as proposed by a resolve of the legislature, providing that the land agent shall be chosen by the legislature, as the secretary of state, state treasurer and councilors now are, the number of ballots having the word "yes" expressed thereon, is 16,199; and

the number of ballots having the word "no" expressed thereon, is 11,514.

On the question, shall the constitution be amended as proposed by a resolve of the legislature, providing that the adjutant and quarter master general shall be chosen by the legislature, as the secretary of state, state treasurer and councilors, now are, the number of ballots having the word "yes" expressed thereon, is 15,623; and the number of ballots having the word "no" expressed thereon, is 11,471.

On the question, shall the constitution be amended as proposed by a resolve of the legislature, providing that the attorney general shall be chosen by the legislature, as the secretary of state, state treasurer and councilors now are, the number of ballots having the word "yes" expressed thereon, is 15,876; and the number of ballots having the word "no" expressed thereon, is 11,610.

It thereby appearing, that a majority of all the votes given in and legally returned, is in favor of adopting all of the proposed amendments, and the proposed amendments having thereby become a part of the constitution, we, the minority of the committee, ask leave to submit the accompanying resolve.

AARON P. EMERSON,
WM. GREGG,
RICHARD TAYLOR,
JOHN H. GILMAN.

# STATE OF MAINE.

RESOLVE declaratory of amendments to the Constitution.

*Resolved*, As it appears upon an examination of the report of the executive council in relation to certain amendments proposed to be made to the constitution, by resolves passed by the legislature on the seventeenth day of March, in the year of our Lord one thousand eight hundred and fifty-five, that a majority of the inhabitants voting on the questions submitted by said resolves, was in favor of the several amendments therein proposed, and of amending the constitution accordingly; and that said amendments have become a part of the constitution of this state.

It is, therefore, declared, that the eighth section of the first part of the fifth article has been amended by inserting after the words "judicial officers," in the second line of said section, the words "except judges

of probate, and municipal and police courts," and by striking out the words "attorney general, the sheriffs, registers of probate," in the second and third lines thereof, and by inserting after the words "provided for," in the seventh line of said section, the words "except the land agent," and that said section now reads as follows:

SECT. 8. He shall nominate, and with the advice and consent of the council, appoint all judicial officers, (except judges of probate, and municipal and police courts,) the coroners, and notaries public; and he shall also nominate, and with the advice and consent of the council, appoint all other civil and military officers, whose appointment is not by this constitution, or shall not by law be otherwise provided for, except land agent; and every such nomination shall be made seven days, at least, prior to such appointment.

*Resolved*, That it is declared, that the constitution of this state has been further amended as follows: In article sixth it has been amended by adding the following sections to the end thereof:

SECT. 7. Judges and registers of probate shall be elected by the people of their respective counties, by a plurality of the votes given in at the annual elec-

tion, on the second Monday of September, and shall hold their offices for four years commencing on the first day of January next after their election. Vacancies occurring in said offices by death, resignation or otherwise, shall be filled by election in manner aforesaid, at the September election next after their occurrence; and in the meantime the governor, with the advice and consent of the council, may fill said vacancies by appointment, and the persons so appointed shall hold their offices until the first day of January thereafter.

SECT. 8. Judges of municipal and police courts shall be elected by the people of their respective cities and towns, by a plurality of the votes given in at the annual meeting in March or April, and shall hold their offices for four years from the Monday following the day of their election. Vacancies in said offices shall be filled by elections at the next annual meeting in March or April; and in the meantime the governor, with the advice and consent of the council, may fill said vacancies by appointment, until the Monday following said annual meeting.

The third section of the seventh article has been amended by striking out the words "appointed by the

governor and council," and inserting instead thereof, the words "chosen annually by joint ballot of the senators and representatives in convention," and said section now reads as follows:

SECT. 3. The major generals shall be elected by the senate and house of representatives, each having a negative on the other. The adjutant general and quartermaster general shall be chosen annually by joint ballot of the senators and representatives in convention; but the adjutant general shall perform the duties of quartermaster general until otherwise directed by law. The major generals and brigadier generals, and the commanding officers of regiments and battalions, shall appoint their respective staff officers; and all military officers shall be commissioned by the governor.

The ninth article has been amended by inserting the following sections at the end thereof:

SECT. 9. Sheriffs shall be elected by the people of their respective counties, by a plurality of the votes given in on the second Monday of September, and shall hold their offices for two years from the first day of January next after their election. Vacancies shall be filled in the same manner as is provided in the case of judges and registers of probate.

SECT. 10. The land agent and attorney general shall be chosen annually by joint ballot of the senators and representatives in convention. Vacancies occurring when the legislature is not in session, may be filled by appointment by the governor, with the advice and consent of the council.

STATE OF MAINE.

HOUSE OF REPRESENTATIVES,
February 18, 1856.

ORDERED, That 2000 copies of the Report and Resolves be printed.

DAVID DUNN, *Clerk.*