

MAINE STATE LEGISLATURE

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FIFTY-THIRD LEGISLATURE.

HOUSE.

No. 16.

STATE OF MAINE.

HOUSE OF REPRESENTATIVES, }
January 28, 1874. }

Minority Report of Committee on Elections, in the case of George W. Drisko of Machias, contestant for the seat of Joseph W. Coffin of Columbia.

The undersigned, feeling compelled, on account of the facts presented in the case, to differ from the majority, ask leave to submit the following report.

A statement of the vote of the district for Governor and Representatives is as follows :

Machias,	Dingley, 182	Titecomb, 49	Williams, 19	Coffin, 182	Drisko, 68
Columbia,	“ 43	“ 27	“ 7	“ 19	“ 54
Columbia Falls,	“ 44	“ 49	“ 4	“ 39	“ 56
Northfield,	“ 11	“ 11	“ 5	“ 11	“ 16
	<u>280</u>	<u>136</u>	<u>35</u>	<u>251</u>	<u>194</u>

The only question submitted for the consideration of the committee was, whether the vote of Machias should be counted and allowed?

Upon the evidence presented, the Committee were unanimously of the opinion that the meeting held in the town of Machias was illegal, the warrant having been posted but six days prior to the second Monday of September, the day of election.

The first clause of Art. 4, Sect. 5, Part First, of the Constitution, provides that the “meetings within this State for the choice of Representatives, shall be warned in due course of law by the Selectmen of the several towns, seven days at least before the election.”

Sect. 17, chap. 4, of the Revised Statutes, provides that "The Selectmen of every town, by their warrant, shall cause the inhabitants thereof, qualified according to the Constitution, to be notified and warned seven days at least before the second Monday of September annually, to meet at some suitable place designated in said warrant, to give in their votes for Governor, Senators, and Representatives, as the Constitution requires, and such meeting shall be in the manner legally established for warning other town meetings therein."

In support of our opinion, we cite the case of Wm. I. Farley et als., remonstrants vs. Jonathan Cilley, in the year 1833, (and reaffirmed in the Senatorial Contest in 1872,) in which the Committee say: "But it may be asked if the electors of a town shall be deprived of their rights by the wrongful acts of Selectmen? We believe they may. The Constitution is not responsible for the acts of officers made by these very electors. It prescribes the mode of effecting an election, by following which, all dispute and uncertainty will be avoided. Individuals will have no cause to complain. The right of suffrage will be clear because it will be certain. On the other hand, if we disregard the provisions of the Constitution, upon this subject, and permit towns to come in upon an equitable claim, but through a violation of the authority that gives them any claim, the Legislature will be able to do but little more than sit as a tribunal to settle cases of contested elections, and our Constitution will have nothing left but a local habitation and a name.

We also cite the case of Chase vs. Cunningham in 1838, in which the Hon. Henry W. Paine, Chairman of the Committee on Elections, made use of the following language: "Inasmuch as the Constitution evidently contemplates and requires that meetings for the choice of Representatives shall be warned seven days at least before the election, your Committee are of the opinion that the meeting held in Westport was not a legal meeting, and that the votes should not be counted."

After a careful examination of the provisions of the Constitution and the law, and the several precedents above cited, your Committee do not feel authorized to act in violation of that Constitution and the Statutes, regulating the manner of notifying meetings for the election of Representatives; and therefore feel justified in declaring that, in our judgment, the meeting held in Machias, on the eighth day of September, 1873, was illegal; that

CONTESTED ELECTION.

3

the vote of that town should be counted out and rejected ; and that George W. Drisko was legally elected Representative from the Machias class ; and therefore entitled to the seat now held by Joseph W. Coffin.

Respectfully submitted.

A. S. KIMBALL,
B. K. KELLOCH,
M. S. MOULTON.

STATE OF MAINE.

IN HOUSE OF REPRESENTATIVES, }
January 29, 1874. }

Reported from the Committee on Elections, by Mr. KIMBALL
of Waterford, and on his motion, ordered printed.

S. J. CHADBOURNE, *Clerk.*