

MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE

OF THE

STATE OF MAINE.

1865.

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1865.

FORTY-FOURTH LEGISLATURE.

HOUSE.

No. 7.

REPORT OF COMMITTEE ON ELECTIONS.

The Committee on Elections, to whom was referred the remonstrance of William F. Lord against the right of Ichabod G. Jordan to a seat in this House, have had the same under consideration, have heard the evidence and arguments of parties, and the Committee not being able to come to a unanimous conclusion, and the question arising being important, ask leave to report the facts of the case, so far as the respective rights of the parties may require.

The vote in the district of Berwick and North Berwick stood for Ichabod G. Jordan, 382 ; for William F. Lord, 341. No question was raised as to sufficiency of notice.

From the testimony it appears that Jordan was born at Saco, A. D. 1806. That he resided there with his father until 1830, except while absent at college, a student at law, and teaching school. That June 3, 1833, he moved out of Maine into New Hampshire, where he has since resided, up to the ninth day of May, A. D. 1864, when he returned to reside in this State. That while in New Hampshire, he always held a commission as a justice of the peace from the Governor of that State, and in the years 1853 and 1854

was elected to and held a seat in the Senate of that State. That while so residing in New Hampshire, he regularly attended upon the courts of this State holden at Alfred, in York county.

All of which is respectfully submitted.

Per Order.

THOMAS H. GARNSEY, *Chairman.*

And the undersigned, a majority of the Committee, further report that Ichabod G. Jordan, at the time of his election, was not eligible to a seat in this House; and that the remonstrant, William F. Lord, is entitled to his seat, and they ask leave to report the accompanying resolves.

THOMAS H. GARNSEY,	} <i>Committee</i>
EDWARD Y. LITTLE,	
JAMES F. MILLER,	
RUFUS PATTEN,	
ASA HEATH,	
ISAAC HOBART,	} <i>on</i>
	} <i>Elections.</i>

STATE OF MAINE.

Resolved, That Ichabod G. Jordan at the time of his
2 election, not being eligible to a seat in this house is
3 not entitled to hold the same.

Resolved, That William F. Lord having received all
2 the votes in the district of Berwick and North Berwick
3 thrown for any eligible candidate is entitled to a seat
4 in this house.

MINORITY REPORT.

The minority of the Committee on Elections to whom was referred the remonstrance of Wm. F. Lord against the right of Ichabod G. Jordan to a seat in this House as Representative for the district composed of Berwick and North Berwick, ask leave to submit a minority Report.

It was admitted that Mr. Jordan, the sitting member, received a majority of the legal votes of the district, he having had 390 votes, and Mr. Lord 341, and that he is duly elected, unless it shall be found that he is constitutionally ineligible.

The facts in the case may be consisely stated as follows : Mr. Jordan was born in the county of York, in this State, in 1806, and continued to reside there until 1833, having, after completing his collegiate and legal studies, engaged for some time in the practice of law in that county. In 1833 he removed across the State line into Somersworth, N. H., and continued there practising law in both States until the 9th day of June last, when he removed into Berwick, more than three months prior to the day of election, where he now continues to reside.

The Remonstrant objects to Mr. Jordan's right to a seat solely because he did not reside in the State during the whole of the year *next preceding* the commencement of the period for which he was elected.

The provision relating to the qualification of members is found, article 4, section 4, and is as follows :

“ No person shall be a member of the house of representatives, unless he shall, at the commencement of the period for which he is elected, have been five years a citizen of the United States, have arrived at the age of twenty-one years, have been a resident in this State one year, or from the adoption of this constitution ; and for the three months next preceding the time of his election shall have been, and during the period for which he is elected shall continue to be a resident in the town or district which he represents.”

This provision of the Constitution is our only guide. It is believed the true test may be applied by asking the questions in their order.

Had Mr. Jordan, at the commencement of the period for which he was elected, been five years a citizen of the United States?

He had.

Had he arrived at the age of twenty-one?

He had.

Had he been a resident of the State one year?

He had—twenty-seven years.

Had he resided for the three months next preceding the time of his election in the district?

He had.

Does he continue to reside there?

He does.

It does not appear by the wording of the instrument that the framers intended the year's residence should be "*next preceding*" the period for which he is elected. Whenever they required the limitation contained in these words, they have been careful to insert them, not only in this section, but in other parts of the instrument. The omission to do so in this instance is an incontestible argument that they did not intend it.

The constitutions of several other States contain in express terms a similar restriction. These were before our constitutional convention. The studied omission to employ like terms, in relation to the year's residence, is a pregnant proof that it was done so designedly.

That convention felt that some residence in the State next preceding the term of service was needed. Accordingly, it required in express terms a residence of three months next preceding the election, and four months after the September election and before the first Wednesday of January following in the town or district, and, of course, in the State. It is suggestive that no language is used, defining these seven months as a part of the year; and it is asking too much to *presume it intended* the seven months and the one year to cover the same period.

We, therefore, report that Ichabod G. Jordan, at the time of his election, was eligible, and is entitled to a seat in this House.

JOSEPH CHASE.

STATE OF MAINE.

HOUSE OF REPRESENTATIVES, }
January 20, 1865. }

On motion of Mr. CHASE of Dover, laid on the table and 350
copies ordered to be printed for the use of the Legislature.

HORACE STILSON, *Clerk.*