STATE OF MAINE

BEFORE THE JUSTICES OF THE
SUPREME JUDICIAL COURT DOCKET NO. OJ-17-1

IN THE MATTER OF REQUEST FOR OPINION OF THE JUSTICES

BRIEF OF ATTORNEY GENERAL SUBMITTED IN CONJUNCTION WITH QUESTIONS PROPOUNDED TO THE JUSTICES OF THE SUPREME JUDICIAL COURT BY THE MAINE STATE SENATE ON FEBRUARY 7, 2017

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The Attorney General respectfully submits the following brief pursuant to the Court's Procedural Order of February 7, 2017, to assist the Justices in resolving the questions presented by the Senate relating to the constitutionality of "An Act to Establish Ranked-choice Voting" ("the Act"). The Act was initiated by the citizens, pursuant to Article IV, Part Third, Section 18, and approved by the voters on November 8, 2016. Addendum (Add.) at 1.

Questions Presented

The Senate has presented the following questions:

> **Question 1.** Does the Act's requirement that the Secretary of State count the votes centrally in multiple rounds conflict with the provisions of the Constitution of Maine which require that the city and town officials sort, count, declare, and record the votes in elections for Representative, Senator, and Governor as provided in Article IV, Part First, Section 5, Article IV, Part Second, Section 3, and, Article V, Part First, Section 3 of the Constitution of Maine?
>
> **Question 2.** Does the method of ranked-choice voting established by the Act in elections for Governor, State Senate and State Representative violate the provisions of the Constitution of Maine, Article IV, Part 1, Section 5, and Part 2, Sections 3 and 4, and Article V, Part 1, Section 3, respectively, which declare that the person elected shall be the candidate who receives a plurality of all the votes counted and declared by city and town officials as recorded on lists returned to the Secretary of State?
>
> **Question 3.** Does the requirement in the Act that a tie between candidates for Governor in the final round of counting shall be decided by lot conflict with the provisions of Article V, Part First, Section 3 of the Constitution of Maine relating to resolution of a tie vote for Governor by the House and Senate?

SUMMARY

The citizen-initiated law to establish ranked-choice voting creates a fundamentally different system of casting ballots, counting votes, and determining the outcome of elections for the offices of Governor, State Senator, and State Representative than the one designed by the framers of Maine's Constitution. Whatever the policy arguments for ranked-choice voting, they simply do not resolve the legal issues presented here. The ranked-choice voting statute violates the plain meaning of the relevant Constitutional provisions and ignores their history. Moreover, the core conflicts discussed here cannot be resolved by amending the Act. The Constitution must be amended before such fundamental changes in Maine's electoral process can occur.[1]

Although the Act took effect on January 7, 2017, it does not apply to elections until <u>after</u> January 1, 2018 – approximately ten months from now. I.B. 2015, c. 3, § 6. The 128th Legislature is currently in session, with a statutory adjournment date of June 21, 2017. There is still time for the Legislature to propose amendments to the Constitution that would authorize

[1] It is worth noting that every time Maine has made a major change in the election process, it has been done by constitutional amendment. *See, e.g.,* Me. Const. art. II, § 4 (authorizing absentee voting), and art. II, § 5 (authorizing use of mechanical voting machines as a new way to cast ballots).

ranked-choice voting, if it chooses to do so, and for those amendments to be presented to the voters for approval at a referendum election in November 2017, in accordance with Article X, Section 4 of the Maine Constitution.

The constitutional issues presented here involve important questions of law that have never been addressed by a Maine court. An Opinion of the Justices would provide much needed guidance to the Senate as it considers what steps may be necessary to implement ranked-choice voting. Not answering the questions now will cast doubt over the validity of elections in 2018 for Governor, State Senate, and the House of Representatives, to the extent those elections involve more than two candidates. Any litigation initiated at that late date would be extremely difficult to resolve before winners are required to take office.

BACKGROUND

Constitutional Framework:

The process for electing Representatives to the Maine House of Representatives is set forth in the Maine Constitution as follows:

> The meetings within this State for the choice of Representatives shall be warned in due course of law by qualified officials of the several towns and cities 7 days at least before the election, and the <u>election officials of the various towns and cities shall</u> preside impartially at such meetings, <u>receive the votes of all the qualified electors, sort, count and declare them in open meeting</u>; and <u>a list of the persons voted for shall be formed</u>, with

> the number of votes for each person against that person's name. Cities and towns belonging to any Representative District shall hold their meetings at the same time in the respective cities and towns; and such meetings shall be notified, held and regulated, the votes received, sorted, counted and declared in the same manner. Fair copies of the lists of votes shall be attested by the municipal officers and the clerks of the cities and towns and the city and town clerks respectively shall cause the same to be delivered into the office of the Secretary of State forthwith. The Governor shall examine the returned copies of such lists and 7 days before the first Wednesday of December biennially, shall issue a summons to such persons as shall appear to have been elected by a **plurality** of all votes returned, to attend and take their seats. All such lists shall be laid before the House of Representatives on the first Wednesday of December biennially, and they shall finally determine who are elected.

Me. Const. art. IV, pt. 1, § 5 (emphasis added). The two constitutional provisions relating to elections for the State Senate are similar, *id.* art. IV, pt. 2, §§ 3 & 4, and there is a parallel provision in the Constitution for determining the outcome of elections for Governor. *Id.* art. V, pt. 1, § 3.

Four essential elements are common to these constitutional provisions: 1) the votes for candidates for these three offices must be received, sorted, counted, and declared in open meeting by local election officials; 2) local officials in each municipality must create "a list of the persons voted for… with the number of votes for each person against that person's name" (*id.* art. IV, pt. 1, § 5) and transmit those lists to the Secretary of State; 3) the Secretary of State must receive and transmit the "lists of votes" to the appropriate body or

official (to the Governor for election results in House and Senate races, and to the House and Senate for results of a gubernatorial race); and 4) the winners of the election for each office are determined by plurality. The first three elements have been in place since 1820. *Id.* art. IV, pt. 1, § 5, pt. 2, § 3 & art. V, pt. 1, § 3 (1820).

Finally, article V, part 1, section 3 concludes with the following directive for how a tie vote shall be resolved in an election for Governor:

> <u>If there shall be a tie between the 2 persons having the largest number of votes for Governor</u>, the House of Representatives and the Senate meeting in joint session, and each member of said bodies having a single vote, shall elect one of said 2 persons having so received an equal number of votes and <u>the person so elected by the Senate and the House of Representatives shall be declared the Governor</u>.

(emphasis added).

An Act to Establish Ranked-choice Voting:

The Act defines "ranked-choice voting" as "the method of casting and tabulating votes in which the voters rank candidates in order of preference, tabulation proceeds in sequential rounds in which the last-place candidates are defeated and the candidate with the most votes in the final round is elected." I.B. 2015, c. 3, § 2, enacting 21-A M.R.S.A. § 1(35-A). It specifies that ballots for the offices to be elected by ranked-choice voting must allow a voter to "rank candidates for an office in order of preference" and adds that the

voter may include no more than one write-in candidate among their ranked choices for a particular office. *Id.* § 3, enacting 21-A M.R.S.A. § 601(2)(J).

The Act does not amend the provisions of Title 21-A that specify how local election officials sort, count, declare, and record the votes cast in their respective municipalities, or how they must prepare the election returns to submit to the Secretary of State. *See* 21-A M.R.S.A. §§ 695-712. Instead, the Act amends Title 21-A section 722, which describes the "tabulation" of municipal election returns by the Secretary of State.[2] The "election return" referenced in section 722 is a "list of votes" cast and counted by municipal officials on election night, as described in the Constitutional provisions quoted above. *See Opinion of the Justices*, 2002 ME 169, ¶ 16 n. 1, 815 A.2d 791; 21-A M.R.S.A. § 711.

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[2] The relevant text of section 722 is underscored here to show language added by the Act:

> **§ 722. Secretary of State to tabulate and print results.**
>
> Within 20 days after an election, the Secretary of State shall tabulate the election returns and submit the tabulation to the Governor.
>
> **1. How tabulated.** The Secretary of State shall tabulate all votes that appear by an election return to have been cast for each question or candidate whose name appeared on the ballot. <u>For offices elected by ranked-choice voting, the Secretary of State shall tabulate the votes according to the ranked-choice voting method described in section 723-A.</u> The Secretary of State shall tabulate the votes that appear by an election return to have been cast for a declared write-in candidate and shall tabulate the votes that appear to have been cast for an undeclared write-in candidate based on a recount requested and conducted pursuant to section 737-A, subsection 2-A.

The newly enacted Section 723-A describes a complicated process in which "tabulation" proceeds in rounds. Voters' first choices are tallied in round one. If one candidate receives over 50% (a majority) of the voters' first-choice rankings in round one, that candidate wins because it is "mathematically impossible" for any other candidate to surpass his or her vote total in a subsequent round.[3]

If no candidate receives a majority in round one, then the "last-place candidate" (defined as the "candidate with the fewest votes") at the end of round one is "defeated," and the remaining candidates (defined as "continuing candidates") continue to round two.[4] *Id.* §§ 723-A(1)(C) & (E).

In round two, the ballots cast by voters whose first-choice candidate was defeated in round one are re-examined, and those voters' second choices for any of the continuing candidates are added to the first-choice totals that

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[3] The drafters of the Act appear to have scrupulously avoided use of the word "majority." The phrase "mathematically impossible to be elected" is defined in §723-A(1)(G) to mean:

> (1) The candidate cannot be elected because the candidate's vote total in a round of the ranked-choice voting tabulation plus all votes that could possibly be transferred to the candidate in future rounds from candidates with fewer votes or an equal number of votes would not be enough to surpass the candidate with the next-higher vote total in the round; or
>
> (2) The candidate has a lower vote total than a candidate described in subparagraph (1).

[4] If there are two or more candidates for whom it is "mathematically impossible" to be elected, based on the tally of first-choice votes, then all those candidates are eliminated after round one by a process called "batch elimination" under 21-A M.R.S.A. § 723-A(1)(A).

the continuing candidates received in round one. If a voter fails to mark a second choice but marks a third choice for a continuing candidate, that will be counted in round two. If the voter skips two or more sequential rankings, however, that voter's ballot is deemed "exhausted."[5]

Subsequent rounds continue in the same manner. As soon as "there are 2 or fewer continuing candidates, the candidate with the most votes is declared the winner of the election." *Id.* § 723-A(2)(A).

Below is a chart to illustrate the process, assuming an election with 1,000 ballots cast in a single jurisdiction. An explanation follows the chart:

Candidates	**Round 1** (tally of 1st choice votes		**Round 2**		**Round 3**
Allen	50 votes	defeated as "last-place" candidate			
Bono	275 votes	+ 70 votes	**345** votes	+ 90 votes	435 votes
Clyde	**305** votes	+ 10 votes	315 votes	defeated as last-place candidate	
Donner	80 votes	defeated by "batch elimination"			
Everett	290 votes	+ 40 votes	330 votes	+ 200 votes	**530** votes
		-10 votes(exhausted ballots)		-25 votes (exhausted ballots)	
Total Votes	1,000		990		965

In this example, candidate Clyde has a plurality but not a majority of first-choice votes, so the counting must go to a second round. Allen has the

[5] *See* 21-A M.R.S.A. §§ 723-A(1)(D)&(K) (definitions of "exhausted ballot" and "skipped ranking") and § 723-A(2) (exhausted ballots are not counted for any continuing candidate).

fewest votes (50) and is eliminated as the last-place candidate. § 723-A(1)(F). Donner, with 80 votes, is also defeated at the end of round one because it is "mathematically impossible" for him to be elected, since even if all 50 voters who preferred Allen listed Donner as their second choice, Donner would still have fewer votes than any of the other candidates. § 723-A (1)(A), (G).

The ballots showing a first-choice vote for either of these two defeated candidates must now be re-examined, and the second-choice votes redistributed to the other three "continuing candidates" in round two. Of the 130 voters who preferred Allen or Donner in round one, 70 ranked Bono as their second choice, 10 picked Clyde, and 40 listed Everett as a second choice. Another 10 voters did not mark a second or third ranking, so those 10 ballots are deemed "exhausted" and do not count for any continuing candidate. § 723-A(2).

Candidate Clyde is the last-place candidate at the end of round two and is thus defeated. The ballots containing his 315 votes must be re-examined. The lower-ranked choices of 290 Clyde voters are now redistributed to the other two continuing candidates: 90 for Bono and 200 for Everett. The ballots of 25 other Clyde voters contain no lower rankings and are thus exhausted. Everett receives "the most votes" (also a majority of votes) in the third and final round and is thus declared the winner.

SOLEMN OCCASION

The Maine Constitution obligates the Justices of the Supreme Judicial Court "to give their opinion upon important questions of law, and upon solemn occasions, when required by the Governor, Senate or House of Representatives." Me. Const. art. VI, § 3.[6] The "first issue that must be addressed," therefore, is whether the questions submitted by the Senate present "a solemn occasion involving important questions of law." *Opinion of the Justices*, 2002 ME 169, ¶ 3.

For a solemn occasion to exist, the matter at issue must be one "of 'live gravity,' referring to the immediacy and seriousness of the question," such as "'when the body making the inquiry, having some action in view, has serious doubts as to its power and authority to take such action under the Constitution or under existing statutes.'" *Id.* ¶ 6, quoting *Opinion of the Justices*, 709 A.2d 1183, 1185 (Me. 1997). The Justices may issue an advisory opinion only on a pure question of law, where the facts and circumstances are "clear and compelling," not "tentative, hypothetical and abstract." *Opinion of the Justices*, 2012 ME 49, ¶ 9, 40 A.3d 930; *Opinion of the Justices*, 2002 ME 169, ¶ 6. The important question presented must be sufficiently precise for

[6] Article VI, § 3 thus creates a narrow exception to the fundamental principle of separation of powers, articulated in Article III of the Maine Constitution, which would preclude the Justices from answering questions presented by the executive or legislative branch regarding their respective authority. *Opinion of the Justices*, 2002 ME 169, ¶ 5.

the Justices to determine "the exact nature of the inquiry," 2004 ME 54, ¶ 40, 850 A.2d 1145 (quoting *Opinion of the Justices*, 155 Me. 125, 141, 152 A.2d 494, 501 (1959)), and the important question of law must be one that remains unresolved. *See, e.g., Opinion of the Justices*, 340 A.2d 25, 28 (Me. 1975).

The circumstances surrounding the Senate's request fit all of these criteria. The constitutional questions presented have never been resolved by a Maine court, and since the questions are specific to Maine's Constitution, there exists no relevant guidance from the federal courts or other jurisdictions.[7] The Senate has posed pure questions of law, which are apparent from the face of the Act and the provisions of Maine's Constitution. There can be no doubt that the concerns raised by the Senate are important; indeed, they go to a core governmental and civic function – the conduct of elections for the Legislature and the Chief Executive.

The answers do not require development of any facts beyond the basic description of how elections are conducted in Maine offered by the Secretary of State. Moreover, the questions are not hypothetical or speculative. Maine has a long history of electoral contests with three or more candidates, in both

[7] Indeed, it appears that no other state has adopted this system of ranked-choice voting for statewide elections, although the system has been adopted in approximately 10 cities in the United States. The reported decisions relate only to municipal elections. *See* http://www.ncsl.org/research/elections-and-campaigns/alternative-voting-systems.aspx ; http://www.fairvote.org/rankedchoicevoting#research_rcvamericanexperience.

gubernatorial and legislative races. *See* Affidavit of Julie L. Flynn attached to the Secretary of State's Brief at ¶¶ 33-34. A review of gubernatorial election results over the past 40 years reveals a number of elections in which the plurality winner might not have ultimately won the election had ranked-choice voting been in effect. *See* Add. at 4. There is a strong possibility that a gubernatorial and/or legislative candidate in 2018 could win a plurality of first-choice votes and yet lose to another candidate in a subsequent round of ranked-choice voting, as shown in the example with candidate Clyde discussed above.

Waiting for a losing candidate under that scenario to file a lawsuit *after* the November 2018 election could create havoc in the electoral process and delay the swearing-in of a Chief Executive and of any number of members of the House and Senate.

The fact that the ranked-choice voting initiative has already been enacted into law does not preclude finding a solemn occasion to address these important questions. The Act does not apply to any elections until after January 1, 2018, I.B. 2015, c. 3, § 6. The Legislature still has the opportunity, though a short window, to resolve any conflicts with the Constitution by proposing amendments during the current legislative session and sending them to the voters for approval next fall – before the Act is implemented.

In analogous circumstances, the Justices found a solemn occasion and advised Governor Brennan on several questions concerning an enacted citizen initiative to index income tax rates to inflation. *Opinion of the Justices*, 460 A.2d 1341 (Me. 1982). The Governor had requested guidance to assist him in developing the state budget, due to concerns that there were insufficient unappropriated funds to implement the initiative. Similarly, in 1998, the Justices found a solemn occasion to advise Governor King on interpreting a newly enacted statute that required him to reduce the sales tax when certain economic benchmarks were achieved. *Opinion of the Justices*, OJ-98-1 (July 31, 1998). In both instances, serious and immediate questions arose about implementing a new law, and another branch of government needed advice in order to determine its authority to proceed.

Additionally, implementation of ranked-choice voting is projected to require appropriations of at least $1.5 million over the biennium. *See* Flynn Affidavit, ¶ 32. It is only prudent for the Legislature to know whether the Act is constitutional before committing significant public resources to change a statewide electoral process.

The Justices have been willing in the past to address constitutional issues that were crucial to implementing a new law, while avoiding questions that focused only on interpreting existing statutes. *See Opinion of the Justices*,

437 A.2d 597 (Me. 1981) (Justices answered questions regarding Legislature's constitutional authority to enact bill releasing state's ownership in submerged lands but declined to answer questions regarding prospective effect of legislation); *cf. Opinion of the Justices*, 339 A.2d 483 (Me. 1975) (no solemn occasion where Justices were, in effect, being asked to resolve a difference of views among legislators about interpretation of an existing statute).

The important questions presented here urgently need resolution while this Legislature is still in session and able to act before January 2018.

DISCUSSION OF QUESTIONS PRESENTED

Standard of Review: When the people of Maine exercise their sovereign power to legislate through the citizen initiative process, they are exercising the same plenary power that the Legislature has to "make and establish all reasonable laws and regulations for the defense and benefit of the people of this State, not repugnant to the [Maine] Constitution, nor to that of the United States." *League of Women Voters v. Secretary of State*, 683 A.2d 769, 771 (Me. 1996), quoting Me. Const. art. IV, pt. 3, § 1. As with any statute enacted by the Legislature, an initiated law is presumed constitutional and must be evaluated under the ordinary rules of statutory construction. *Id.* Nonetheless, the present provisions of the Constitution bind the people as well as the Legislature. *Common Cause v. State*, 455 A.2d 1, 16 (Me. 1983); *see also*

Opinion of the Justices, 2004 ME 54, ¶19, 850 A.2d 1145 (finding citizen initiative unconstitutional). If this citizen-initiated Act is prohibited by the Constitution, "either in express terms or by necessary implication," then it cannot be implemented without first amending the Constitution. [8]

Question 1. Does the Act's requirement that the Secretary of State count the votes centrally in multiple rounds conflict with the provisions of the Constitution of Maine which require that the city and town officials sort, count, declare, and record the votes in elections for Representative, Senator, and Governor as provided in the Constitution of Maine?

The Constitution carefully prescribes how elections for State Representative, State Senator, and Governor are to be conducted and defines the respective roles of state and local officials in such elections. It directs the municipal officers in each town or city to "receive the votes of all the qualified electors" and to "sort, count and declare them in open meeting." Art. IV, pt. 1, § 5. Local officials are required to record the votes on lists, attest to them, and deliver "fair copies" to the Secretary of State. *Id.* The winners "by plurality" are to be determined from those lists. Art. IV, pt. 1, § 5, pt. 2, § 3, and Art. V, pt. 1, § 3.

The language describing the receiving and counting of votes, and the announcement of results in open meeting dates to 1820, as does the recording

[8] *League of Women Voters*, 683 A.2d at 771 (citing other cases).

of the votes on a list to be sent to the Secretary. The duty of local officials to publicly count and declare election results and send lists recording the results to a state official has ancient origins. It is recognizable in the 1780 Massachusetts Constitution:

> [T]he town clerk, in the presence and with the assistance of the selectmen, shall, in open town meeting, sort and count the votes, and form a list of the persons voted for, with the number of votes for each person against his name ; … and a public declaration thereof in the said meeting; and shall, in the presence of the inhabitants, seal up copies of the said list, attested by him and the selectmen, and transmit the same to the sheriff … and the sheriff shall transmit the same to the secretary's office.

1780 Mass. Const., pt. 2, c. 2. § 1, art. 3 (Governor). Certain "key features" of article IV, part 1, section 5 "have remained constant since 1820":

> that election officials preside impartially; that they receive the votes of all qualified electors; that they sort, count, and declare the votes in open meeting; and that a fair record of the election returns be made and attested by the municipal officers. The object of these provisions is to safeguard against a failure, through either fraud or mistake, correctly to ascertain and declare the will of the people in the choice of their legislators.

Tinkle, *The Maine Constitution: A Reference Guide* (1992) at 67.

The Act implies, without saying expressly, that the Secretary of State should begin the process under section 723-A by aggregating the first-choice votes reported by the municipalities within each electoral district. Such a tabulation is necessary to determine, for a statewide office such as Governor,

or a Senate or House district comprised of several municipalities: (a) whether any candidate has received a majority of first-choice votes, and, if not, then (b) who is defeated as the last-place candidate, (c) whether more than one candidate has been defeated by "batch elimination" at the end of round one, and (d) which candidates will continue to round two. Tabulation of first-choice votes in round one may be constitutional because the counting all happens at the local level and the Secretary is simply aggregating those lists or returns.

The Act exceeds the bounds of the Constitution, however, when it requires the Secretary of State to "tabulate" votes in subsequent rounds of counting in which second, third, or lower ranked preferences expressed by voters are redistributed to produce a different result than was determined from the lists returned by local election officials. By its plain language, as well as by necessary implication, the Constitution directs that there be *one round of counting votes* and that it be conducted by local officials. The Constitution authorizes the Secretary of State to compile lists, attested to by the municipal officers, not to count votes. [9]

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[9] The Justices have advised that the Governor's duty to "examine" the lists presented to him by the Secretary for purposes of determining who to summon to the Legislature conveys no authority to decide which ballots to count or reject *Opinion of the Justices*, 2002 ME 169, ¶22-23. The Secretary of State likewise has no such authority under the Constitution.

Question #2: Does the method of ranked-choice voting established by the Act in elections for Governor, State Senate and State Representative violate the provisions of the Constitution of Maine which declare that the person elected shall be the candidate who receives a plurality of all the votes counted and declared by city and town officials as recorded on lists returned to the Secretary of State?

Interpretation of any constitutional provision must begin with examination of its plain language. *See Opinion of the Justices*, 2015 ME 107, ¶ 35, 123 A.3d 494. The exact phrasing of the constitutional provisions at issue here varies slightly for the three different offices, but the term "plurality" is used consistently. And this term is easily defined.

"Plurality" means "a number greater than another" and, in the election context, "an excess of votes over those cast for an opposing candidate." https://www.merriam-webster.com/dictionary/plurality. Thus, in a contest involving three or more candidates, the one who receives *one vote more* than the candidate with the next highest vote total wins by a plurality.

"Plurality" is often defined in juxtaposition to majority – as in "a number of votes cast for a candidate in a contest of more than two candidates that is greater than the number cast for any other candidate but not more than half the total votes cast." *Id.* (emphasis added). In elections, "plurality" represents a different measure for determining the winner of an election than "majority"

which means "a number … more than half of a total" – i.e., more than 50%. https://www.merriam-webster.com/dictionary/majority.

History reveals that, on three different occasions in the 19th century, Maine deliberately chose plurality over majority as the mode of determining elections for all three offices under discussion here. The original Constitution adopted in 1820 called for election of Representatives, Senators and Governor by majority. For each office, however, it prescribed a separate procedure for filling a vacancy in the event no candidate received a majority of the votes cast and counted at the local level.

For the House of Representatives, the municipal officers had to hold repeated elections until someone achieved a majority. Me. Const., art. IV, pt. 1, § 5 (1820) ("in case no person shall have a majority of votes, the selectmen and assessors shall, as soon as may be, notify another meeting, and the same proceedings shall be had at every future meeting until an election shall have been effected.") Historical records reveal that this was not an uncommon occurrence. In 1830, voters in Waterboro had to vote seven different times in order to elect a Representative.[10] In 1837, the voters of Camden went through five rounds of balloting to select a Representative. Reuel Robinson, *History of*

[10] *See Report of the Committee of Elections and Statement of the Minority of Said Committee in the Case of Andrew Roberts* (1830), Add. at 6.

Camden and Rockport Maine (1907) at 245-246.[11] Eleven candidates vied for Representative from Camden in 1839, "result[ing] in the necessity of an adjournment and another ballot." *Id.* at 252. Three years later, in 1842, "it was again impossible, on account of the multitude of candidates, to elect a Representative, on the regular day of the election. It took two adjournments and four ballots before anybody had a majority of votes cast." *Id.* at 262.

Maine's original Constitution required that, in the event no senatorial candidate attained a majority of the votes cast in a state Senate district, the elected members of the House and Senate would have to meet and elect senators by joint ballot, choosing from among those "with the highest" number of votes shown on the lists from the cities and towns.[12] This clause apparently was invoked quite frequently as well. *See, e.g., Opinions of the Justices*, 6 Me. 514 (1830), 7 Me. 489 (1830) and 35 Me. 568 (1854) (discussing issues relating to the filling of vacancies in the Senate).

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[11] "Three ballots were taken for a Representative without any choice resulting, and the meeting adjourned for two weeks when two more ballots were taken, the second resulting in the election of Ebenezer Thorndike. Ezra Cobb had persistently led on all the other ballots, but Mr. Thorndike made a final rally on the fifth ballot and received 245 votes to 213 for Mr. Cobb." Robinson, *History of Camden and Rockport Maine*, at 245-246.

[12] Me. Const. Art. IV, pt. 2, § 5 (1820) provided, in pertinent part: [I]n case the full number of senators to be elected from each district shall not have been so elected, the members of the house of representatives and such senators, as shall have been elected, shall, from the highest numbers of the persons voted for, on said lists, equal to twice the number of senators deficient, in every district, if there be so many voted for, elect by joint ballot the number of senators required.

If no gubernatorial candidate received a majority of votes, the 1820 Constitution directed the House to select two candidates from those having the four highest numbers of votes, and provide those names to the Senate. The Senate would then vote by ballot to choose which one would be Governor.[13] Gubernatorial candidates failed to achieve a majority in nine different elections between 1820 and 1880, triggering this alternative method of selecting a Governor.[14]

In 1847, the Legislature passed a constitutional resolve to change the word "majority" to "the highest number of" in each of the above articles of the Constitution relating to the election of Representatives, Senators and Governor. Resolves 1847, ch. 45 (eff. July 29, 1848). The voters adopted the amendment only with respect to Representatives, however, narrowly defeating it for the other two offices. Judiciary Committee Report, July 17, 1848, Legislative Documents, Senate No. 24, (28th Legis., 1848) at pp. 2-3. A later amendment substituted the word "plurality" for "the highest number of."

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[13] Me. Const. Art. V, pt. 1, § 3 (1820) provided:

> But, if no person shall have a majority of votes, the House of Representatives shall, by ballot, from the persons having the four highest numbers of votes on the lists, if so many there be, elect two persons, and make return of their names to the Senate, of whom the Senate shall, by ballot, elect one, who shall be declared the Governor.

[14] *See Maine Register State Year-book and Legislative Manual* (1900) at pp. 118-123 (Add. at 16), listing gubernatorial votes from 1820-1898. No candidate attained a majority in the elections of 1840, 1846, 1848, 1852, 1853, 1854, 1855, 1878, and 1879.

Resolves 1869, ch. 344. It was not until 1875 that the constitutional provision relating to Senators was changed from "majority" to "plurality." Resolves 1875, ch. 98 (eff. Jan. 5, 1876). The same change was made for Governor just four years later. Resolves 1880, ch. 159 (eff. Nov. 9, 1880). The relevant language of all three provisions has remained constant since the 19th century.

At the time these constitutional amendments were adopted, the word "plurality" meant essentially what it means today. The 1865 edition of Webster's Dictionary – published shortly before the word was first introduced into Maine's Constitution – defines "plurality" to mean "a greater number; a state of being or having a greater number." It defines the phrase "plurality of votes" to mean "the excess of votes cast for one individual over those cast for any one of several competing candidates." https://archive.org/stream/americandictiona00websuoft at p. 1002(emphasis added).

Substituting the word "plurality" for "majority" in the Constitution eliminated the need for multiple rounds of voting for Representatives, as occurred often in the early decades of Maine's experience as a State. It avoided the complicated procedure of convening the Senate and House to fill vacancies in Senate seats when no candidate won a majority. And it avoided a controversial process of having the House and Senate select the Governor.

The net effect of these amendments was that once municipal officials sent in returns of the votes cast to the Secretary of State, and the Secretary compiled those results, the candidate with *one more vote* than the next highest vote-getter won the election to that office. This method of determining election outcomes for all three offices has remained constant since 1880.

Defenders of the Act may argue that a majority is a plurality, and that there is no conflict between the Act and the Constitution. Indeed, the drafters of the Act used language in section 723-A(2)(A) that sounds similar to a plurality: "[i]f there are 2 or fewer continuing candidates, the candidate *with the most votes* is declared the winner of the election." Since this provision applies only to a round with two or fewer "continuing candidates," however, section 723-A(2)(A) describes a majority in that round of counting.

The central constitutional problem with ranked-choice voting under the Act is that it does not permit a candidate such as Clyde (see p. 9), who receives a plurality (but not a majority) of first-choice votes to win. Instead, it requires further rounds of counting until there are only two candidates left, at which point the one who receives "the most votes" will necessarily have won a majority of votes in that round. Rather than preserve the concept of deciding

elections by plurality, the Act changes the threshold required to win an election from plurality to majority in violation of the Constitution.[15]

Question 3. Does the requirement in the Act that a tie between candidates for Governor in the final round of counting shall be decided by lot conflict with the provisions of the Constitution of Maine relating to resolution of a tie vote for Governor by the House and Senate?

Article V, part 1, section 3 of the Constitution expressly provides that if there is a tie between the two candidates with the largest number of votes for Governor, the House and Senate must meet in joint session to elect one of those two candidates, and each Representative and each Senator shall have a single vote in that election. Under the Act, however, if two candidates for Governor were tied based on a tally of first-choice votes, then no candidate would have a majority, and a second round of counting would be required in which the last-place candidate would be eliminated and the second-choices of the voters who chose that last-place candidate would be redistributed. A second round of counting under the Act would likely resolve the tie, but in a manner inconsistent with the Constitution.

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[15] In discussing the benefits of ranked-choice voting, the Committee for Ranked Choice Voting asserts that it "Restores Majority Rule." *See* www.rcvmaine.com/faq at p. 2.

If the last two "continuing candidates" are tied in a final round of ranked-choice voting, the Act provides that lots are chosen and "the candidate chosen by lot is defeated." § 723-A(3).

In both the opening and closing rounds of ranked-choice voting, therefore, the Act deals with tie votes for Governor in a manner that conflicts with the plain language of the Constitution.[16]

CONCLUSION

The Attorney General respectfully urges the Justices to address the questions presented by the Senate, and suggests that each question should be answered in the affirmative for the reasons outlined above.

Dated: March 3, 2017

Respectfully submitted,

JANET T. MILLS
ATTORNEY GENERAL

_____

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[16] Unlike the constitutional conflicts presented in Questions 1 and 2, this one could be resolved by amending Act and does not appear to be a core element of the ranked-choice voting process.

CERTIFICATE OF SERVICE

I, Phyllis Gardiner, Assistant Attorney General, do hereby certify that I caused to be served the Brief of Attorney General Submitted in Conjunction with Questions Propounded to the Justices of the Supreme Judicial Court by the Maine State Senate on February 7, 2017 on the following by first class may prepaid to:

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_____
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PUBLIC APPROVAL
NOVEMBER 8, 2016

EFFECTIVE DATE
JANUARY 7, 2017

CHAPTER

3

INITIATED BILL

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND AND SIXTEEN

I.B. 2 - L.D. 1557

An Act To Establish Ranked-choice Voting

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 21-A MRSA §1, sub-§27-C is enacted to read:

27-C. Office elected by ranked-choice voting. "Office elected by ranked-choice voting" means any of the following offices: United States Senator, United States Representative to Congress, Governor, State Senator and State Representative, and includes any nominations by primary election to such offices.

Sec. 2. 21-A MRSA §1, sub-§35-A is enacted to read:

35-A. Ranked-choice voting. "Ranked-choice voting" means the method of casting and tabulating votes in which voters rank candidates in order of preference, tabulation proceeds in sequential rounds in which last-place candidates are defeated and the candidate with the most votes in the final round is elected.

Sec. 3. 21-A MRSA §601, sub-§2, ¶J is enacted to read:

J. For offices elected by ranked-choice voting, the ballot must be simple and easy to understand and allow a voter to rank candidates for an office in order of preference. A voter may include no more than one write-in candidate among that voter's ranked choices for each office.

Sec. 4. 21-A MRSA §722, sub-§1, as amended by PL 2009, c. 253, §36, is further amended to read:

1. How tabulated. The Secretary of State shall tabulate all votes that appear by an election return to have been cast for each question or candidate whose name appeared on the ballot. For offices elected by ranked-choice voting, the Secretary of State shall tabulate the votes according to the ranked-choice voting method described in section 723-A. The Secretary of State shall tabulate the votes that appear by an election return to have been cast for a declared write-in candidate and shall tabulate the votes that appear to

have been cast for an undeclared write-in candidate based on a recount requested and conducted pursuant to section 737-A, subsection 2-A.

Sec. 5. 21-A MRSA §723-A is enacted to read:

§723-A. Determination of winner in election for an office elected by ranked-choice voting

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Batch elimination" means the simultaneous defeat of multiple candidates for whom it is mathematically impossible to be elected.

B. "Continuing ballot" means a ballot that is not an exhausted ballot.

C. "Continuing candidate" means a candidate who has not been defeated.

D. "Exhausted ballot" means a ballot that does not rank any continuing candidate, contains an overvote at the highest continuing ranking or contains 2 or more sequential skipped rankings before its highest continuing ranking.

E. "Highest continuing ranking" means the highest ranking on a voter's ballot for a continuing candidate.

F. "Last-place candidate" means the candidate with the fewest votes in a round of the ranked-choice voting tabulation.

G. "Mathematically impossible to be elected," with respect to a candidate, means either:

(1) The candidate cannot be elected because the candidate's vote total in a round of the ranked-choice voting tabulation plus all votes that could possibly be transferred to the candidate in future rounds from candidates with fewer votes or an equal number of votes would not be enough to surpass the candidate with the next-higher vote total in the round; or

(2) The candidate has a lower vote total than a candidate described in subparagraph (1).

H. "Overvote" means a circumstance in which a voter has ranked more than one candidate at the same ranking.

I. "Ranking" means the number assigned on a ballot by a voter to a candidate to express the voter's preference for that candidate. Ranking number one is the highest ranking, ranking number 2 is the next-highest ranking and so on.

J. "Round" means an instance of the sequence of voting tabulation steps established in subsection 2.

K. "Skipped ranking" means a circumstance in which a voter has left a ranking blank and ranks a candidate at a subsequent ranking.

2. Procedures. Except as provided in subsections 3 and 4, the following procedures are used to determine the winner in an election for an office elected by ranked-choice

voting. Tabulation must proceed in rounds. In each round, the number of votes for each continuing candidate must be counted. Each continuing ballot counts as one vote for its highest-ranked continuing candidate for that round. Exhausted ballots are not counted for any continuing candidate. The round then ends with one of the following 2 potential outcomes.

A. If there are 2 or fewer continuing candidates, the candidate with the most votes is declared the winner of the election.

B. If there are more than 2 continuing candidates, the last-place candidate is defeated and a new round begins.

3. Ties. A tie under this section between candidates for the most votes in the final round or a tie between last-place candidates in any round must be decided by lot, and the candidate chosen by lot is defeated. The result of the tie resolution must be recorded and reused in the event of a recount. Election officials may resolve prospective ties between candidates before the election.

4. Modification of ranked-choice voting ballot and tabulation. Modification of a ranked-choice voting ballot and tabulation is permitted in accordance with the following.

A. The number of allowable rankings may be limited to no fewer than 6.

B. Two or more candidates may be defeated simultaneously by batch elimination in any round of tabulation.

5. Effect on rights of political parties. For all statutory and constitutional provisions in the State pertaining to the rights of political parties, the number of votes cast for a party's candidate for an office elected by ranked-choice voting is the number of votes credited to that candidate after the initial counting in the first round described in subsection 2.

6. Application. This section applies to elections held on or after January 1, 2018.

Sec. 6. Application. This Act applies to elections held on or after January 1, 2018.

Gubernatorial Elections (1974-2014)

Year	Candidates	Votes	% of total vote
2014	Paul LePage	294,519	47.7%
	Michael Michaud	265,114	42.9%
	Eliot Cutler	51,515	8.3%
2010	Paul LePage	218,065	37.6%
	Eliot Cutler	208,270	35.9%
	Libby Mitchell	109,387	18.8%
	Shawn Moody	28,756	5.0%
	Kevin Scott	5,664	1.0%
2006	John Baldacci	209,927	38.11%
	Chandler Woodcock	166,425	30.21%
	Barbara Merrill	118,715	21.55%
	Pat LaMarche	52,690	9.56%
	Philip Morris Napier	3,108	0.56%
2002	John Baldacci	238,179	47.15%
	Peter Cianchette	209,496	41.47%
	Jonathan Carter	46,903	9.28%
	John Michael	10,612	2.10%
1998	Angus King	246,772	58.61%
	James Longley, Jr.	79,716	18.93%
	Thomas Connolly	50,506	12.00%
	Pat Lamarche	28,722	6.82%
	William Clarke	15,293	3.63%
1994	Angus King	180,829	35.37%
	Joseph Brennan	172,951	33.83%
	Susan Collins	117,990	23.08%
	Jonathan Carter	32,695	6.39%
	Mark Finks	6,576	1.29%
1990	John McKernan	243,766	46.7%
	Joseph Brennan	230,038	44.0%
	Andrew Adam	48,377	9.3%

1986	John McKernan	170,312	39.90%
	James Tierney	128,744	30.16%
	Sherry Huber	64,317	15.07%
	John Menario	63,474	14.87%
1982	Joseph Brennan	281,066	61.06%
	Charles Cragin	172,949	37.57%
	J. Martin Vachon	2,573	.56%
	Vern Warren	3,650	.79%
1978	Joseph Brennan	176,493	47.67%
	Linwood Palmer	126,862	34.26%
	Herman Frankland	65,889	17.80%
	James Longley (write-in)	628	.17%
1974	James Longley	142,464	39.14%
	George Mitchell	132,219	36.33%
	James Erwin	84,176	23.13%
	William Brown Hughes	1,314	.36%
	Stanley Leen, Jr.	2,883	.79%
	Leigh Hartman	889	.24%

10th Leg.] [LEGISLATURE OF MAINE.] 1830.

REPORT

OF THE

COMMITTEE OF ELECTIONS,

AND

STATEMENT OF THE MINORITY OF SAID COMMITTEE,

IN THE CASE OF

ANDREW ROBERTS,

CLAIMING TO HOLD A SEAT IN THE

HOUSE OF REPRESENTATIVES,

AS A MEMBER FROM THE

TOWN OF WATERBOROUGH.

Portland:
DAY & FRASER....Printers to the State.
1830.

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HARVARD COLLEGE LIBRARY

1852 Feb 13
Gift of
Prof H W Longfellow
of
Harvard College

Mr. SWAN, of Portland, moved the following Order :

STATE OF MAINE.

HOUSE OF REPRESENTATIVES, FEB. 3, 1830.

The Committee on Contested Elections having made a Report on the case of Andrew Roberts, claiming to have a right to a seat in this House—and the minority of said Committee having also made a written statement of their views in the case of said Roberts,

ORDERED, That 500 copies of the Report of said Committee be printed for the use of the members—and that the statement of the minority be also printed.

Extract from the Journal.

Attest, JAMES LORING CHILD, *Clerk.*

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STATE OF MAINE.

HOUSE OF REPRESENTATIVES, FEB. 3, 1830.

THE Committee of this House on Contested Elections, to whom has been referred by order of the House, the Memorial of Andrew Roberts, claiming his right to sit and vote as a member of this House, and that he has been duly elected by the town of Waterborough to represent the same in this House the present year, and to whom has likewise been referred the remonstrance of William Thing and twenty eight others, legal voters of said town of Waterborough against the election of said Roberts as a Representative of said town, have had the same under consideration, and after a full examination by your Committee of all the evidence in the case adduced by said Roberts, and by said Remonstrants--they now

REPORT,

That on the fourteenth day of September last, being the second Monday in said September, the electors of the town of Waterborough were duly assembled to elect a Representative in the meeting-house in said town, a convenient and commodious place for holding, regulating, ordering and conducting the proceedings thereof—that the said Andrew Roberts, and John Hill jr. and Orlando Bagley were the selectmen of said town, and that said Orlando Bagley was town clerk ; that said selectmen and clerk were present at said meeting, and occupied and held an elevated and convenient station in said house in the pulpit, or desk of the same, and opened the meeting and directed the order of proceedings—and after voting for Governor and Senators, five separate ballots were taken for the choice of a Representative, which were sorted, counted and declared and recorded, but no choice was made by a majority of the votes given. On the first ballot there were given 290 votes ; on the second 274 votes ; on the third 264 votes ; on the fourth 254 votes, and on the fifth 244 votes—at each of said ballots, said Roberts was a prominent candidate, and had at each ballot, a larger number of votes than any other candidate. Said Hill received some votes at the first and second ballot ; and the said Bagley received some votes at every ballot, but the last, when he did not consider himself a candidate and was not voted for.

At the first two or three ballotings, Mr. Hill acted as chairman of the selectmen, and in the presence of the others, directed the proceedings. At the last ballot Mr. Bagley acted as

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chairman, and directed the business of the meeting, and continued afterwards to direct the proceedings. Soon after the result of this last ballot was declared, it being between the time of sunset and of its becoming dark, Col. Bradeen, an elector of the meeting made a motion to adjourn the meeting without day, which was seconded, and afterwards stated and put to the meeting by Mr. Bagley, who was still directing the proceedings. Col. Bradeen was requested by several to vary his motion so as to adjourn the meeting to the next, or some future day, and it was refused by the mover to vary his motion—some discussion took place, and several objected to the motion, and there was some bustle and noise in the house, but not of a violent or tumultuous character. Mr. Bagley, in the presence of the other selectmen, and without objection from them as to puting the motion—stated and put the same to the meeting—whereupon the meeting voted by holding up the hand—and immediately after the contrary, or those opposed were called to vote, and hands were raised against the motion; and the question on said motion was put more than once by said Bagley in the same manner, and a decided majority of the electors voted for said motion—and said Bagley and the selectmen were called upon to declare the result of the vote, but they declined or neglected to do it, publickly assigning no reason at the time for the neglect. It coming on dusk, a lighted candle was set near the selectmen—much confusion and noise ensued, and indecent, improper and irritating language was used to the electors by said Roberts in his place. Whereupon the meeting became tumultuous and disorderly; although no personal violence appears to have been used by any person to another—and while some were upbraiding Mr. Bagley for notdeclaring the former vote to adjourn without day, Mr. Roberts called for "order," "order," and enquired for a constable, but order was not restored. A motion was made about this time to adjourn to the next day at nine of the clock in the forenoon. Whereupon increased clamour and dispute arose, some denying the power to adjourn to a future day, and some alledging that the meeting was adjourned without day—and the said Roberts was claiming the right of the Selectmen to adjourn to a future day without any vote of the Town for the purpose, and desired Bagley to adjourn the meeting to the next day at nine of the clock in the forenoon, or to some future day; but Bagley declined, denying the power of the Selectmen so to do without a vote of the town. The said Roberts in the midst of confusion, noise, disorder and tumult in the meeting, put the question to vote so to adjourn, and several persons near to him and friendly to the motion, voted by raising the hand. The said Roberts immediately after, and while the disorder and tumult continued, proclaimed that the meeting was adjourned to the next day at 9 of the clock in the forenoon, at his own risk, which was understood by the electors generally to mean,

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that the said Roberts assumed to adjourn the meeting by virtue of his power as Selectman; without any vote of the Town, which power he had just before claimed and which had been objected to. The said Roberts immediately, or very soon after, put out the candle, and the electors and Selectmen retired and left the house. The said Roberts acquiesced at the time as well as afterwards, in the aforesaid understanding of the electors, that he adjourned the meeting by virtue of his power as selectman and at his own risk. He did not request the clerk to take notice of the vote by him last put, nor did he, nor the other selectman, or any one else intimate or state the passage of such a vote to him, or request him to record the same, and said clerk testifies that he had no knowledge of such a vote. Whereupon said Bagley, as town clerk, made a record of said proceeding according to his own understanding, and according to that of the electors generally in these words—" This meeting is adjourned by Andrew Roberts until nine o'clock to-morrow ;" which record was shortly afterwards known to said Roberts, and was not called in question, or objected to by him or by any other person.

During the above proceedings, which took place after Col. Bradeen's motion was made to adjourn without day, the meeting was as full, and the electors present, as numerous as at the ballotings before had. The motion to adjourn to the next day, and its being put by Roberts was, as appears to your committee, unknown to most of the electors present, and the meeting as such had no opportunity to vote on that question.

Your Committee further Report, that at nine of the clock on the next day in the forenoon, it being the day fixed by a public law for military duty by company musters for a review and inspection of arms, the said selectmen and town clerk met at said meeting-house, and there received the votes for a Representative of such electors as attended, which were 91 in number on the first ballot, without effecting a choice—and on the second ballot eighty nine votes were given, whereof fifty-one were for Andrew Roberts.

On these facts, your Committee are of opinion, and it appears to them, that the motion to adjourn the meeting without day was carried in the affirmative, and that it was within the power of the selectmen presiding, to have made the vote on that motion certain, and to have declared the same ; and that the decision on that motion was in the affirmative. That this motion was regularly before the meeting, and that it was the duty of the selectmen to have made the same certain before any other question could be properly put or taken, which they neglected, or refused to do, though requested.

Your Committee are further of opinion, that the supposed proceedings on a motion to adjourn said meeting to the next day were colourable and fraudulent in their character upon the electors

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who composed the greater part of the meeting, and that the adjournment proclaimed by said Roberts, and which was entered of record by the Clerk, was by him ordered and directed in the exercise and assumption of a power independent of any vote, act, or valid expression of the voice of the electors composing the meeting. Your committee are further of opinion, that it was not beyond the power of the selectmen presiding in said meeting by taking reasonable and proper means to have made the vote certain on the question to adjourn without day, and to have declared the same in the affirmative according to the fact ; and that the neglect and refusal of the selectmen to make this question certain, and to declare the same, was the principal cause of the increased disorder and confusion in the meeting. And your committee are further of opinion that it was at any period of said meeting within the power and ability of said selectmen to have reduced said meeting to order ; and their just duty required them, whenever disorder arose, to have taken time in the first instance to restore order, before any further proceedings were had. The committee further report that the character of the proceedings as to an adjournment of said meeting to the next day, was such as to destroy all power and ability of the electors rightfully to act on the business before them, thereby subverting their rights of suffrage and the freedom of elections.

Your Committee therefore finally report that said meeting of the town of Waterborough was not rightfully adjourned to the next day, but was dissolved, and that the meeting on the fifteenth day of September last at which said Andrew Roberts was declared elected, was not in conformity, but in violation, and by subversion of that degree of freedom essential to the exercise of the elective franchise, to protect the right of suffrage, and to the support of a free government, and that said Roberts is not entitled to sit and vote in this House as a Representative from the town of Waterborough.

WILLIAM CLARK,
EDWARD E. BOURNE,
MILFORD P. NORTON.

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STATE OF MAINE.

HOUSE OF REPRESENTATIVES, FEB. 1850.

The minority of the Committee of this House on contested elections to whom was referred the Memorial of Andrew Roberts claiming to have been duly elected as a Representative for the present year from the town of Waterborough, and the remonstrance against the right of said Roberts to be admitted to a seat in this House having had the same under consideration and fully heard all the evidence adduced by both parties now

REPORT,

That on the day of the annual election to wit the second Monday of September last a meeting of the inhabitants of said town of Waterborough was duly notified and held for the purpose of electing a Representative and other officers.—That the selectlectmen, said Andrew Roberts being one of them presided at said meeting, which was holden at the usual place in said town; —that after the votes of the inhabitants had been given in for Governor and Senators, they proceeded to ballot for a Representative, and that five several ballotings were had, and no choice effected. The whole number of votes given at the first ballot was 290, which number decreased at each successive balloting, and at the fifth ballot the whole number of votes was 244. At each of said ballots, Mr. Roberts had a larger number of votes than any other candidate. The other two selectmen were also candidates, and both received votes at the first and second ballot, and one of them until the last. It appears that during the first part of the meeting Mr. Hill, one of the selectmen, presided and continued to do so until the fifth ballot, when Mr. Bagley, another of the selectmen, acted as chairman and directed the business of the meeting. While the votes given at the last ballot were being counted, Samuel Bradeen, a legal voter in said town, agreed in presence of a witness who testifies to the fact, "that if Andrew Roberts should be the highest candidate, to make a motion to dissolve the meeting, and if they could not get a vote to dissolve, then to make a motion to adjourn without day, and keep a contention if possible until after twelve o'clock at night, stating that it would not be legal to choose a Representative after that hour."

The correctness of this statement is denied by Bradeen on oath. We find however that soon after the result of the last ballot was declared, a motion was made by said Bradeen to adjourn the meeting without day, which motion was seconded and afterwards duly put to the meeting by Bagley, then presiding. Bradeen war

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requested to vary his motion so as to propose an adjournment until the next or some future day, which he refused to do. This motion appears to have given rise to some discussion, and to have produced some disturbance and confusion in the house,—some being anxious that there should be an adjournment to some future day, others that the meeting should be dissolved. Mr. Bagley as presiding officer, then put the motion and some voted for it by holding up their hands; immediately those opposed to the motion were called on for their votes, and they voted against the motion in the same manner. Mr. Bagley testified that he believed he put the motion more than once, for the purpose of ascertaining the result correctly, but was unable to decide whether a majority voted in favor of it or not. Bagley was then called on to declare the vote, but declined; as he says because he was unable to ascertain whether there was a majority for, or against the motion. Several witnesses have testified that they thought there was a majority in favor of the motion, they voting for it themselves. While these transactions were going on, it being now dark, a candle was brought in and placed before the selectmen. Much noise and confusion prevailed at this time. A question appears to have been raised and discussed with some zeal, whether the town had a right to adjourn the meeting to another day, and whether a Representative chosen at such adjournment, would be legally chosen. It is testified by many that that Mr. Roberts claimed it as the right of the selectmen, to adjourn the meeting without a vote of the town. During the disorder and noise that prevailed, Mr. Roberts repeatedly called the meeting to order, but not being able to quell the confusion, he called upon a constable to assist him, who could not, or certainly did not succeed in restoring order. A motion was then made and regularly seconded, to adjourn until nine o'clock the next day, which motion was put to the meeting by Mr. Roberts, and carried in the affirmative, no one disputing the vote. The affidavits of seventeen individuals, purporting to be legal voters in the town of Waterborough, were laid before your committee, all of whom state that the motion to adjourn until the next day, was agreeably made, seconded, and put to the meeting by Mr. Roberts, who then presided, and they each of them state that they voted for said adjournment, and that the vote was declared by said Roberts, and disputed by no one present; and thereupon said Roberts declared the meeting to be adjourned until the next day at nine o'clock. It is further testified by witnesses produced on the part of the remonstrants, that Mr. Roberts in adjourning the meeting, stated that he did it at his own risk. From the fact that there was much dispute about the right of the town to adjourn, so as legally to choose a Representative at a future day, and from the evidence before them, the minority of your committee believe, that the risk intended to be assumed by Mr. Rob-

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erts, was of the legality of an adjournment to a future day by a vote of the meeting, and if he was understood by any in adjourning the meeting, to exercise his individual power as one of the selectmen, distinct from, and independent of the vote that had been passed, it must have been because they had not attended to the doings of the meeting. The town clerk, Mr. Bagley, states that he heard a motion made by several to adjourn until the next day, but did not hear the motion put or the vote declared, though he admits that it might have been done without his hearing it.—He only heard the adjournment declared by Mr. Roberts, and made his record accordingly. By the depositions of thirteen of the voters, it appears that they did not hear the motion put to the meeting to adjourn until the next day, or the vote declared, all of which might well have been without the presumption of fraud, or illegality. With respect to a large majority of the meeting, your committee have no means of ascertaining whether they did or did not hear the motion put to adjourn until the next day. As it is fully proved that such a motion was made, seconded, put, and declared to be a vote; it is to be presumed that all heard it who were present, except those who have testified to the contrary.

The minority of your committee further report, that on the next day, the same being the day appointed by law for military duty, and the annual inspection of the militia, a meeting was held at nine o'clock in the forenoon, according to adjournment—that the selectmen presided, received, sorted, counted, and declared the votes then and there given for a Representative, that at the first ballot, the number of votes given was 91, and no choice was effected, that on the second ballot, the number of votes given was 89, fifty-one of which were for Andrew Roberts, who was thereupon declared to be elected.

From the foregoing facts, the minority of your committee are of opinion, that there was no vote or decision of the meeting on Monday, to dissolve said meeting or to adjourn without day. In the remonstrance against said Roberts' right to a seat in this House, it is not even intimated that the meeting on the first day was dissolved or adjourned without day, the only objection there urged, is as to the legality of the adjournment, which the record states to have been made by Andrew Roberts. There has been no evidence before your Committee, that at the time it was contended by any one, that the meeting on the first day was dissolved, nor did the inhabitants disperse until after the adjournment to the next day was declared by Mr. Roberts. There has been no evidence before your committee, to satisfy the minority that had the vote been declared or decided on this question, such would have been the result. On the contrary, Mr. Bagley who presided at the time, declares under oath, that he was unable to decide whether the majority was for or against the motion, and

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when we take into consideration the lateness of the hour, the consequent darkness, and the numbers present, together with the confused state of the meeting, we are led to believe that the result could not have been ascertained without a division of the house, and that those who thought there was a majority in favor of adjourning, may have been honest and yet mistaken.

The minority of your committee are further of opinion, that the motion to adjourn until the next day was fairly made, seconded, put, and carried, in the affirmative, without any fraud, or attempt to deceive those present. They are led to this conclusion, by a reference to the number who heard the motion, and voted in favor of it, and are of opinion that if there was noise, disorder, and confusion, so that many did not hear or understand the said motion, it was produced if not made by those who were anxious to dissolve the meeting, and prevent the election of a Representative.

The minority of your committee are further of opinion, that if this House should sanction the proceedings of those whose avowed object was to prevent any election of Representative, by dissolving the meeting, which attempted dissolution, does not appear to have been urged until recently, as affecting the legality of the adjournment, not being mentioned in the remonstrance nor acted upon at the time as a dissolution, it would lead to consequences deeply and dangerously affecting the elective franchise of our citizens, by encouraging disorderly conduct, and unwarrantable infringements of the rights of peaceable citizens.

We are also of opinion, that the disorder in said meeting, was produced by the motion to dissolve said meeting, and by those who were in favor of said motion, and that they ought not to be allowed to take advantage of their own wrong.

We are further of opinion, that if the fact, that some were present who did not know of the motion, and vote to adjourn, were sufficient to make the adjournment illegal, it would be almost impossible ever to transact any public business legally.

The minority of your committee are therefore of opinion that the meeting in Waterborough, holden on the second Monday in September last, was not dissolved by any vote or act of said meeting, but was legally adjourned until the next day, and they do report that the said Andrew Roberts was duly elected as Representative from said town of Waterborough and is entitled to a seat in this House, and that a contrary decision, would be a violation, not of his right alone, but of that of the citizens of the town which he claims to represent, and establish a precedent dangerous to the purity of our elections and subversive of our dearest rights as freemen.

JOSEPH G. COLE,
NATHANIEL CLARK.

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MAINE REGISTER,

STATE YEAR-BOOK

AND

LEGISLATIVE MANUAL

NO. 31—JUNE 1900.

PUBLISHED ANNUALLY.

Standard Time adopted for Calendar Pages.

PREPARED PURSUANT TO ORDERS OF THE LEGISLATURE.

COMPILED AND PUBLISHED BY

GRENVILLE M. DONHAM

390 CONGRESS ST., OPP. CITY BUILDING,

PORTLAND, MAINE.

1900.

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45th, 1877.	Thomas B. Reed,	Rep.	Portland,	Lawyer.
	William P. Frye,	Rep.	Lewiston,	Lawyer.
	Stephen D. Lindsey,	Rep.	Norridgewock,	Lawyer.
	Llewellyn Powers,	Rep.	Houlton,	Lawyer.
	Eugene Hale,	Rep.	Ellsworth,	Lawyer.
46th, 1879.	Thomas B. Reed,	Rep.	Portland,	Lawyer.
	William P. Frye,	Rep.	Lewiston,	Lawyer.
	Stephen D. Lindsey,	Rep.	Norridgewock,	Lawyer.
	George W. Ladd,	Dem. & Nat. G. B.	Bangor,	Merchant.
	Thompson H. Murch,	Nat. G. B.	Rockland,	Stonecutter.
47th, 1881.	Thomas B. Reed,	Rep.	Portland,	Lawyer.
	Nelson Dingley jr.,	Rep.	Lewiston,	Editor.
	Stephen D. Lindsey,	Rep.	Norridgewock,	Lawyer.
	George W. Ladd,	Nat. G. B.	Bangor,	Merchant.
	Thompson H. Murch,	Nat. G. B.	Rockland,	Stonecutter
48th, '83. to 55th, '97	Thomas B. Reed,	Rep.	Portland,	Lawyer.
	N. Dingley jr.,	Rep.	Lewiston,	Editor.
	Chas. A. Boutelle,	Rep.	Bangor,	Editor.
	Seth L. Milliken,	Rep.	Belfast,	Lawyer.
55th, 97,	Edwin C. Burleigh (f.v.),	Rep.	Augusta,	Publisher.
56th, '99,	Thomas B. Reed,	Rep.	Portland,	Lawyer.
	N. Dingley,	Rep.	Lewiston,	Editor.
	Chas. A. Boutelle,	Rep.	Bangor,	Editor.
	Edwin C. Burleigh,	Rep.	Augusta,	Publisher.
56th 1899	Amos L. Allen (f.v.),	Rep.	Alfred,	Lawyer.
	Chas. E. Littlefield (f.v.),	Rep.	Rockland,	Lawyer.

GUBERNATORIAL VOTE.

1820.

Election for this year only, first Monday in April.

Whole vote.....22,014
William King, *Rep*.....21,083
Scattering.....1,081

1821.

Whole vote.....24,388
Albion K. Parris, *Rep*.....12,887
Joshua Wingate, jr., *Rep*.....8,879
Ezekiel Whitman, *Fed*.....6,811
Scattering.....811

1822.

Whole vote.....22,180
Albion K. Parris, *Rep*.....15,476
Ezekiel Whitman, *Fed*.....5,795
Joshua Wingate, jr., *Rep*.....755
Scattering.....154

1823.

Whole vote.....19,400
Albion K. Parris, *Rep*.....18,550
Scattering.....850

1824.

Whole vote.....20,439
Albion K. Parris, *Rep*.....19,779
Scattering.....660

1825.

Whole vote.....15,252
Albion K. Parris, *Rep*.....14,206
Scattering.....1,406

1826.

Whole vote.....21,063
Enoch Lincoln, *Rep*.....20,689
Scattering.....374

Mr. Lincoln, at the time of the election, was the popular representative in Congress from the Oxford District, and was but thirty-seven years old. His administration was very acceptable, and he was twice reëlected without opposition. He died while holding the office, in 1829.

1827.

Whole vote.....20,458
Enoch Lincoln, *Rep*.....19,969
Scattering.....489

*1828.

Whole vote.....28,109
Enoch Lincoln, *Rep*.....25,745
Scattering.....245

*Full details of vote not accounted for in Senate Record.

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1829.

Whole vote.....46,551
Jona. G. Hunton, *Nat. Rep.*..23,315
Samuel E. Smith, *Dem. Rep.*..22,991
Scattering..... 245

Mr. Hunton was at the time of his nomination a member of the Executive Council. He was a National Republican, and came into office during the political excitement growing out of the previous campaign on the presidential election, when Gen. Jackson was elected over J. Q. Adams. Gov. Hunton died in 1851, aged 70.

1830.

Whole vote.....58,092
Samuel E. Smith, *Dem. Rep.*..30,215
Jona. G. Hunton, *Nat. Rep.*..28,639
Scattering..... 238

Judge Smith was the Democratic candidate. He was a man of ability and popular manners. The Democratic party now acquired a decided ascendency, which it maintained until 1853, except '37 and '40.

1831.

Whole vote..... 50,219
Samuel E. Smith, *Dem. Rep.*..28.292
Daniel Goodenow, *Nat. Rep.*..21,821
Scattering..... 106

1832.

Whole vote.....60,597
Samuel E. Smith, *Dem. Rep.*..31,987
Daniel Goodenow, *Nat. Rep.*..27,651
Moses Carleton..... 869
Scattering..... 90

1833.

Whole vote.....49,352
Robert P. Dunlap, *Dem.*.....25,731
Daniel Goodenow, *Whig*.....18,112
Samuel E. Smith, *Dis. Dem.*... 3,024
Thomas A. Hill, *Anti-Mason*.. 2,384
Scattering..... 101

1834.

Whole vote.....73,031
Robert P. Dunlap, *Dem.*.....38,133
Peleg Sprague, *Whig*.....33,782
Thomas A. Hill, *Anti-Mason*.. 1,076
Scattering..... 90

1835.

Whole vote.....62,683
Robert P. Dunlap, *Dem.*.....45,208
William King, *Whig* 16,860
Scattering..... 615

1836.

Whole vote.....54,633
Robert P. Dunlap, *Dem.*.....31,837
Edward Kent, *Whig*.....22,703
Scattering..... 143

1837.

Whole vote.....68,523
Edward Kent, *Whig*.....34,358
Gorham Parks, *Dem.*.....33,879
Scattering..... 286

1838.

Whole vote.....89,599
John Fairfield, *Dem* 46,216
Edward Kent, *Whig*.....42,897
Scattering..... 486

1839.

Whole vote... 75,995
John Fairfield, *Dem.*.....41,038
Edward Kent, *Whig*.....34,749
Scattering..... 208

1840.

Whole vote.....91,179
Edward Kent, *Whig*.....45,574
John Fairfield, *Dem.*.....45,507
Scattering..... 98

1841.

Whole vote.....86,153
John Fairfield, *Dem.*.....47,354
Edward Kent, *Whig*.....36,790
Jeremiah Curtis, *Liberty*..... 1,662
Scattering..... 347

After the Presidential election of 1840, the *Abolition*, or *Liberty* party, began to develop in opposition to the old parties.

1842.

Whole vote.....71,780
John Fairfield, *Dem.*.....40,855
Edward Robinson, *Whig*.....26,745
James Appleton, *Liberty*..... 4,080
Scattering..... 100

John Fairfield resigned March 7, 1843, to accept the position of U. S. Senator, made vacant by resignation of Reuel Williams; whereupon Edward Kavanagh, President of Senate, was acting Governor for remainder of term.

1843.

Whole vote.....63,189
H. J. Anderson, *Dem.*.....32,029
Edward Robinson, *Whig*.....20.973
James Appleton, *Liberty*..... 6,746
Edward Kavanagh, *Dem.*..... 3,221
Scattering..... 170

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1844.

Whole vote.....93,858
H. J. Anderson, *Dem*.....48,942
Edward Robinson, *Whig*.....38,501
James Appleton, *Liberty*..... 6,245
Scattering..... 165

By order of Legislature, approved March 19, '44, and ratified in the following September by the people, the political year was made to begin on the 2d Wednesday of May, instead of the 1st Wednesday of Jan., as heretofore, and the State officers elected in '44 were to hold their offices from 1st Wed. in Jan., '45, to 2d Wed. of May, '46.

1845.

Whole vote.....67,405
H. J. Anderson, *Dem*.....34,711
Freeman H. Morse, *Whig*....26,341
Samuel Fessenden, *Liberty*... 5,867
Scattering..... 486

1846.

Whole vote.....75,664
John W. Dana, *Dem*.....36,031
David Bronson, *Whig*.....29,557
Samuel Fessenden, *Liberty*... 9,898
Scattering..... 678

1847.

Whole vote.....65,302
John W. Dana, *Dem*.....33,429
David Bronson, *Whig*.....24,246
Samuel Fessenden, *Liberty*.... 7,352
Scattering..... 275

1848.

Whole vote.....82,277
John W. Dana, *Dem*.....39,760
Elijah L. Hamlin, *Whig*.....29,927
Samuel Fessenden, *Liberty*...12,037
Scattering..... 553

At this time the Free Soil party was formed.

1849.

Whole vote.....78,781
John Hubbard, *Dem*..... .37,686
Elijah L. Hamlin, *Whig*.....28,056
Geo. F. Talbot, *Free Soil*..... 7,987
Scattering..... 102

1850.

Whole vote 80,665
John Hubbard, *Dem*.....41,203
William G. Crosby, *Whig*....32 120
Geo. F. Talbot, *Free Soil*..... 7,267
Scattering..... 75

1851.

John Hubbard,—Gov.

By an amendment in the Constitution, the commencement of the political year was restored to it. original time of commencement, viz.—the 1st Wednesday of Jan., and the State government was by an act of the Legislature continued over without an election in 1851.

1852.

Whole vote.. 94,707
John Hubbard, *Dem*.....41,999
William G. Crosby, *Whig*....29,127
Anson G. Chandler, *Anti-Maine Law*.....21,774
Ezekiel Holmes, *Free Soil*.... 1,617
Scattering..... 190

1853.

Whole vote.....83,627
Albert Pillsbury, *Dem*.....36,386
William G. Crosby, *Whig*....27,061
Anson P. Morrill, *Me. Law*. .11,027
Ezekiel Holmes, *Free Soil*.... 8,996
Scattering..... 157

1854.

Whole vote.....90,683
Anson P. Morrill, *Maine Law and Know Nothing*.....44,565
Albion K. Parris, *Dem*.....28 462
Isaac Reed, *Whig*.....14,001
Shepard Cary, *opposition Dem*. 3,478
Scattering..... 127

At this time a party styled the *Know-Nothing*, or *American*, suddenly developed itself by secret organization, and existed two years.

1855.

Whole vote.....110,477
Anson P. Morrill, *Rep*..... 51,441
Samuel Wells, *Dem*..... 48,341
Isaac Reed, *Whig*..... 10,610
Scattering..... 81

1856.

Whole vote.....119,814
Hannibal Hamlin, *Rep*..... 69,574
Samuel Wells, *Dem*..... 48,628
George F. Patten, *Whig*..... 6,554
Scattering..... 58

In the Presidential election of 1856, the Whig, Free Soil, and American parties were largely abandoned, and a new party was formed of those abandoning their old party

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organizations, together with many from the Democratic party, called the Republican party, in opposition to the Democratic party. This party commenced somewhat earlier in this State.

Hannibal Hamlin resigned Feb. 25, '57, to accept Senatorship to which he had been elected, and Jos. H. Williams, President of Senate, acted for remainder of year.

1857.

Whole vote	97,378
Lot M. Morrill, *Rep.*	54,655
Manassah H. Smith, *Dem.*	42,968
Scattering	255

1858.

Whole vote	112,898
Lot M. Morrill, *Rep.*	60,380
Manassah H. Smith, *Dem.*	52,440
Scattering	78

1859.

Whole vote	102,652
Lot M. Morrill, *Rep.*	57,230
Manassah H. Smith, *Dem.*	45,387
Scattering	35

1860.

Whole vote	124,185
Israel Washburn, jr., *Rep.*	70,030
E. K. Smart, *Dem.*	52,350
Phineas Barnes, *Whig*	1,785
Scattering	20

1861.

Whole vote	100,503
Israel Washburn, jr., *Rep.*	58,689
C. D. Jameson, *War Dem.*	21,935
John W. Dana, *Dem.*	19,801
Scattering	78

1862.

Whole vote	81,718
Abner Coburn, *Rep.*	42,744
Bion Bradbury, *Dem.*	32,108
C. D. Jameson, *War Dem.*	6,764
Scattering	102

1863.

Whole vote	119,042
Samuel Cony, *Rep.*	68,339
Bion Bradbury, *Dem.*	50,676
Scattering	81

1864.

Whole vote	111,986
Samuel Cony, *Rep.*	65,583
Joseph Howard, *Dem.*	46,403

1865.

Whole vote	86,073
Samuel Cony, *Rep.*	54,430
Joseph Howard, *Dem.*	31,609
Scattering	34

1866.

Whole vote	111,892
Joshua L. Chamberlain, *Rep.*	69,637
Eben F. Pillsbury, *Dem.*	41,947
Scattering	308

1867.

Whole vote	103,753
Joshua L. Chamberlain, *Rep.*	57,332
Eben F. Pillsbury, *Dem.*	45,990
Scattering	431

1868.

Whole vote	131,782
Joshua L. Chamberlain, *Rep.*	75,523
Eben F. Pillsbury, *Dem.*	56,207
Scattering	52

1869.

Whole vote	95,082
Joshua L. Chamberlain, *Rep.*	51,314
Franklin Smith, *Dem.*	39,033
N. G. Hichborn, *Tem.*	4,735

1870.

Whole vote	99,801
Sidney Perham, *Rep.*	54,019
Charles W. Roberts, *Dem.*	45,733
Scattering	38

1871.

Whole vote	105,897
Sidney Perham, *Rep.*	58,285
Chas. P. Kimball, *Dem.*	47,578
Scattering	34

1872.

Whole vote	127,266
Sidney Perham, *Rep.*	71,888
Charles P. Kimball, *Dem.*	55,343
Scattering	35

1873.

Whole vote	80,953
Nelson Dingley, jr., *Rep.*	45,244
Joseph Titcomb, *Dem.*	32,924
Jos. H. Williams, *Lib. Rep.*	2,160
Scattering	625

1874.

Whole vote,	95,300
Nelson Dingley, jr., *Rep.*	50,865
Nelson Dingley	2,093
Joseph Titcomb, *Dem.*	41,898
Scattering	444

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1875.

Whole vote	111,665
Selden Connor, *Rep.*	57,812
Chas. W. Roberts, *Dem.*	53,807
Scattering	46

The Greenback party made its first appearance in American politics, with the nomination of Wm. Allen for governor of Ohio, by the Democratic State Convention of 1874, in opposition to Rutherford B. Hayes, upon a platform containing a soft money clause. This party made its first appearance in Maine, with the introduction into the Democratic State Convention of 1875, by Solon Chase of Turner, of a resolution containing this Ohio clause. This resolution was refused a passage. Before the next campaign, Solon Chase established a Greenback newspaper, and a party was formed, which nominated Almon Gage, of Lewiston, as Governor, who received 520 votes.

1876.

Whole vote	136,823
Selden Connor, *Rep.*	75,867
John C. Talbot, *Dem.*	60,423
Almon Gage, *G. B.*	520
Scattering	13

1877.

Whole vote		102,058
Selden Connor, *Rep.*		53,585
Joseph H. Williams,	*Dem.*	42,247
Joseph Williams,	*Dem.*	64
H. C. Munson,	*G. B.*	3,770
Henry C. Munson,	*G. B.*	1,521
John C. Talbot,	*Dem.*	736
J. C. Talbot,	*Dem.*	11
Scattering		124

1878.

Whole vote	126,169
Selden Connor, *Rep.*	56,554
Alonzo Garcelon, *Dem.*	28,208
Joseph L. Smith, *Nat. G. B.*	41,371
Scattering	36

1879.

Whole vote	138,806
Daniel F. Davis, *Rep.*	68,967
Joseph L. Smith, *Nat. G. B.*	47,643
Alonzo Garcelon, *Dem.*	21,851
Bion Bradbury, *Dem.* (not a candidate)	264
Scattering	81

Although, in the election of 1879, separate candidates for governor were nominated and supported by the Democratic and Greenback parties, yet these parties practically united in nominating and supporting "fusion" candidates for nearly all the subordinate offices in the state and in the various counties and towns. By the certification of the Governor and Council, the House of Representatives was understood to stand, Republican, 61, Fusion, 78, with 12 vacancies, and the Senate, Republican, 11, Fusion, 20. By the appearance in both branches of the legislature, of persons holding certificates of election from the Governor and Council who, according to the subsequent opinions of the Supreme Court, dated severally January 8, 1880, January 16, 1880, and January 27, 1880, were not duly elected, by the non-certification by the Governor and Council of persons who appeared by the returns to be duly elected, according to the above decisions, and by the remonstrance of the Republican members in both branches of the Legislature, no legal organization was effected until January 12, seven days after the constitutional day of meeting. There being no election of governor by the people, Daniel F. Davis of Corinth, Rep., was elected by the Legislature.

1880.

Whole vote	147,802
Harris M. Plaisted, *Fusion.*	73,713
Daniel F. Davis, *Rep.*	73,544
Joshua Nye, *Tem.*	809
William P. Joy, *Prohib.*	124
Harrison M. Plaisted	57
Scattering	55

The National Prohibition party was organized at Chicago, Sept. 1, 1869. A convention was held at Augusta, Sept. 1, 1876, and an effort made to organize in Maine, which was unsuccessful. June 1, 1880, a convention was held at Ellsworth and a permanent organization effected. Wm. P. Joy was nominated for governor. Other temperance men held a convention at Augusta July 23, adjourned to Portland Aug. 19, and there nominated J. K. Osgood for governor. Upon his dec-

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lination Joshua Nye was nominated. This organization was discontinued after the September election.

COUNTY OFFICERS. In all the counties except Knox, in which there were distinct Democratic nominations, and in Androscoggin, Cumberland, Hancock, and Sagadahoc, where nominations were made by Prohibitionists, Fusion candidates were nominated in opposition to the Republicans, but unsuccessfully. The entire Republican ticket was elected in Androscoggin, Franklin, Hancock, Oxford, Sagadahoc, Piscataquis, Washington and York, also in Cumberland, with the exception of a Fusion sheriff; in Kennebec, with the exception of a Fusion judge of probate. The entire Fusion ticket was elected in Aroostook, Lincoln, Penobscot, and Waldo. In Knox, a Republican senator, judge of probate, commissioner, and sheriff, a Democratic clerk of courts, and Greenback register of probate, treasurer and attorney were elected. In Somerset, a Republican senator and clerk of courts, and a Fusion senator, judge and register of probate, commissioners and treasurer were elected.

CONGRESSMEN. In the first, second and fifth Congressional Districts, Prohibitionist nominations were made, but unsuccessfully; in all, Fusion nominations were made, successfully in the fourth and fifth, in opposition to the Republicans.

1882.

Whole vote		138,478
Frederick Robie,	*Rep.*	72,481
Harris M. Plaisted,	*Fusion.*	63,921
Solon Chase,	*Greenback*	1,824
Warren H. Vinton,	*Ind. Rep.*	269
William T. Eustis,	*Prohib.*	381
Scattering		102

1884.

Whole vote		142,107
Frederick Robie,	*Rep.*	78,318
Votes incorrectly returned for Nelson Dingley jr.,	*Rep.*	381
John B. Redman,	*Dem.*	58,503
John D. Redman,	*Dem.*	451
Hosea B. Eaton,	*G. B.*	3,017
H. B. Eaton,	*G. B.*	119
William T. Eustis,	*Prohib.*	1,151
W. F. Eaton,	*G. B.*	103
Scattering		64

1886.

Whole vote		128,171
Joseph R. Bodwell,	*Rep.*	68,850
Joseph Bodwell,	*Rep.*	141
Clark S. Edwards,	*Dem.*	55,289
Aaron Clark,	*Prohib.*	3,851
Aaron B. Clark,	*Prohib.*	17
Scattering		23

1888.

Whole vote		145,384
Edwin C. Burleigh,	*Rep.*	79,401
William L. Putnam,	*Dem.*	61,348
Volney B. Cushing,	*Prohib.*	3,109
William H. Simmons,	*Labor*	1,526
Scattering		20

1890.

Whole vote		113,902
Edwin C. Burleigh,	*Rep.*	64,259
William P. Thompson,	*Dem.*	45,360
Aaron Clark,	*Prohib.*	2,981
Isaac C. Clark,	*Labor*	1,296
Scattering		6

1892.

Whole vote		130,262
Henry B. Cleaves,	*Rep.*	67,900
Charles F. Johnson,	*Dem.*	55,397
Timothy B. Hussey,	*Prohib.*	3,864
Luther C. Bateman,	*People's*	2,888
E. F. Knowlton,	*Un. Labor.*	201
Scattering		12

1894.

Whole vote		107,776
Henry B. Cleaves,	*Rep.*	69,322
Charles F. Johnson,	*Dem.*	30,405
Ira G. Hersey,	*Prohib.*	2,721
Luther C. Bateman,	*People's*	5,328

1896.

Whole vote		123,516
Llewellyn Powers,	*Rep.*	82,596
Melvin P. Frank,	*Dem.*	34,350
Ammi S. Ladd,	*Prohib.*	2,669
Luther C. Bateman,	*People's*	3,292
Wm. H. Clifford,	*Nat. Dem.*	609
Scattering		31

1898.

Whole Vote		85,720
Llewellyn Powers,	*Rep.*	58,900
Samuel L. Lord,	*Dem.*	28,485
Ammi S. Ladd,	*Prohib.*	2,326
Robert Gerry,	*People's*	649
Erastus Lermond,	*Nat. Dem.*	312
Scattering		48

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