

# HOUSE....No. 86.

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## Commonwealth of Massachusetts.

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HOUSE OF REPRESENTATIVES, March 10th, 1852.

The Committee on Elections, to which was referred the remonstrance of Charles A. Gardner and others, inhabitants of the town of Danvers, against the right of Alfred A. Abbott to hold a seat in this House, have considered the same, and

### REPORT:

That it appeared in evidence, that at the election in Danvers on the 10th of November, 1851, the votes for Representatives were received, sorted, and counted, and declaration thereof made as follows:

Whole number of votes,	-	-	-	-	-	1317
Necessary to a choice,	-	-	-	-	-	659
John Hines had	-	-	-	-	-	663
Philemon Putnam had	-	-	-	-	-	660
Alfred A. Abbott had	-	-	-	-	-	658

And Messrs. Hines and Putnam were declared elected.

As to the third Representative, there was no choice, and the record of the Town Meeting and the certificate of election were made accordingly.

It further appeared, that in counting the votes at said election, two envelopes with their contents were rejected, because the names of the candidates voted for were not all upon one piece of paper. In one envelope, the vote for Gov-

ernor, Lieutenant Governor, and Senators, and *two* Representatives, was upon one piece of paper, and the vote for one Representative upon another; and in the other envelope, the vote for *three* Representatives was on a separate piece of paper; but in each case, and in regard to every name, the office voted for was indicated, and all the names of persons voted for in each envelope made the exact number necessary to constitute an entire ticket.

The name of Alfred A. Abbott was upon the separate piece of paper in each of the envelopes thus rejected.

Had these votes been counted, the ballot would have stood:

Whole number of votes,	-	-	-	-	-	1319
Necessary to a choice,	-	-	-	-	-	660
Alfred A. Abbott had	-	-	-	-	-	660

And would have been elected.

In the warrant calling the Town Meeting the Selectmen gave notice that all votes for Governor, Lieutenant Governor, Senators, and Representatives to the General Court, must be brought in on one ballot; and they rejected the two votes for Mr. Abbott, because borne on separate pieces of paper.

It further appeared, that several days subsequent to the Town Meeting, the Selectmen inserted the name of Mr. Abbott in the certificate containing the names of the Representatives first declared elected, although the record of the Town Meeting showed that he was not elected.

Your Committee are of the opinion that the article in the warrant, directing the names of all persons voted for to be on one ballot, was merely directory, and as a matter of convenience,—and as there could be no doubt as to the intent of the voter, and no uncertainty as to the whole number of ballots cast, the two votes rejected should be counted for Mr. Abbott, thus making the number necessary for a choice.

The Committee therefore recommend that the remonstrants have leave to withdraw.

For the Committee,

PEREZ SIMMONS.