

HOUSE...No. 196.

Commonwealth of Massachusetts.

HOUSE OF REPRESENTATIVES, May 19, 1853.

The Committee appointed under an order of the House of the 15th inst., to inquire and report "whether or not the Rev. Martin J. Steere, representative from Blackstone, is any longer entitled to a seat upon this floor, under the provisions of the third article of the third section of the first chapter of the Constitution of this Commonwealth," having considered the subject matter referred to them, beg leave to submit the following

REPORT:

The article of the Constitution referred to in the order under which your committee was appointed, reads as follows:

"III. Every member of the house of representatives shall be chosen by written votes; and for one year at least next preceding his election shall have been an inhabitant of the town he shall be chosen to represent; and he shall cease to represent the said town immediately on his ceasing to be qualified as aforesaid; and no possession of a freehold or of any other estate shall be required as a qualification for holding a seat in the house of representatives."

Thus it appears that but one single qualification only is requisite to render a person an eligible candidate for a seat in this house, to wit, that of being an inhabitant of the town he is to represent, for one year at least next preceding an election, and being thus *eligible* as a candidate, he must be elected by *written votes* to entitle him to a seat ; and the words in the constitution, "*and he shall cease to represent the said town immediately on his ceasing to be qualified as aforesaid,*" must be construed as referring to the single qualification of inhabitancy only, and therefore, whenever the representative ceases to possess this single qualification of inhabitancy, he must, under this provision of the constitution, vacate his seat ; and the question now to be determined is, whether Mr. Steere's case comes within this provision.

It is admitted that at the time of his election in November last, he was, and had been for one year at least previously, an inhabitant of Blackstone, and that he was elected as a representative from that town by the written votes of his constituents. But it appeared in evidence before the committee, and was admitted by Mr. Steere himself, that sometime in March last, being then the pastor of a Baptist Society in Blackstone, he received an invitation to change his pastoral relations and take the charge of a similar society in the village of Great Falls, at Somersworth, New Hampshire ; that he accepted this invitation, and entered into an agreement with the last named society to commence his services with them on the first of April, stipulating to preach himself, or to supply the pulpit, from that date, and actually preaching there himself on the first Sabbath in April, his stated salary commencing from that date. That in pursuance of this arrangement, he dissolved his pastoral relations with the society in Blackstone in March, taking leave of them at that time by a formal discourse, such as is usually denominated under such circumstances, "*a farewell sermon,*" leased the house he then occupied there to his successor in the ministry, or for his use ; hired a house in Somersworth, to which he subsequently removed all his household furniture and personal effects, where the same now are arranged in order for housekeeping. Since that time Mr. Steere himself has occupied temporary rooms in Boston, his wife and one of his

children being with him a portion of the time, and a portion of the time at Somersworth and elsewhere, and he has preached several Sabbaths at Great Falls since the first of April. That when he left Blackstone, he did so with the full intention of not again returning there to reside, but with a determination to make Somersworth his permanent residence, and to go there directly from Boston as soon as the legislature should adjourn.

It further appeared in evidence before the committee, that the selectmen and board of assessors at Blackstone had stricken the name of Mr. Steere from the list of resident tax-payers prior to the first of May, and that he was not assessed in that town for his poll tax and personal estate on the first day of May, and would not be so assessed.

Under these circumstances, your committee are of opinion that Mr. Steere, having left Blackstone on or about the first of April last, with the intention of taking up his residence in another State, which intention is made fully manifest by various other subsequent acts of his, then ceased to be an inhabitant of that town, within the true intent and meaning of the provisions of the constitution hereinbefore referred to.

Having thus lost his residence in Blackstone, the question arises, whether he has become an inhabitant of the city of Boston, where he now occupies temporary lodgings, or whether he has actually gained a residence in Somersworth. And in this connection your committee would remark, that Mr. Steere stated to them, that, in his stipulations with the committee of the society at Great Falls, it was verbally understood between that committee and himself, that he was not to enter upon his parochial duties, beyond that of supplying their pulpit, until after the adjournment of this legislature, and that he did not wish to do anything which would deprive him of the right to retain his seat in this house; and your committee with great pleasure accord to Mr. Steere the best of motives in regard to this matter, believing, as they do, that he fully believed the course he was taking as to his change of residence to be one which he could lawfully pursue, and still be entitled to a seat on this floor. But this desire on his part, and verbal understanding between him and his employers in New Hampshire, cannot be considered as destroying, or at all controlling the legal effect of

the many *acts* actually done by him, constituting in themselves a change of residence; nor do they afford sufficient ground upon which he may properly base a claim to be an inhabitant of the city of Boston, where he now has temporary lodgings. For if the declaration of a party alone were to be taken in such a case, without regard to his actions in the premises, it is obvious that the provisions of the constitution now under consideration would be wholly unnecessary and ineffectual, and no representative could ever be unseated on account of his "ceasing to be an inhabitant of the town he was chosen to represent;" for although he might perform all those acts which in themselves constitute a change of residence, he would only have to declare his intention to consider himself a citizen of Boston until the legislature rises, to secure his seat in the house, notwithstanding he may have actually removed from the State, or from the country even, and be thereby wholly beyond the reach of the laws he is assisting to enact.

To this doctrine your committee cannot assent; but they are of the opinion that Mr. Steere having by his own acts ceased to be an inhabitant of Blackstone, as before mentioned, has not acquired a residence in this city, but is merely here for a temporary purpose; and that having removed his furniture and personal effects to Somersworth, New Hampshire, and connected himself with a religious society there, as their pastor, and having already actually commenced his clerical duties by preaching there himself, or procuring others to preach for him, in pursuance of an agreement entered into between himself and the said society, he has thus acquired a legal residence in Somersworth, to all intents and purposes, and is therefore no longer a citizen of Massachusetts.

Your committee do not deem it necessary to go into any extended argument to substantiate the position they have taken in this case, but beg leave to refer the house to a case of similar character, in which precisely the same principles are involved and fully discussed, to wit, the case of Henry H. Baker, returned a member of the house of representatives in the year 1851 from Georgetown. *Reports of Election Cases in Massachusetts*, page 599, &c.

Taking the decision of that case as a precedent, the under-

signed have no hesitation in reporting that, in their judgment, the Reverend Martin J. Steere is no longer entitled to a seat on this floor as a representative from the town of Blackstone. They therefore, recommend the passage of the accompanying resolutions.

N. A. THOMPSON,
JAMES SMALL,
MOSES B. GREENE,
JAMES D. COLT, 2D,

Majority of the Committee.

Commonwealth of Massachusetts.

In the year One Thousand Eight Hundred and Fifty-Three.

RESOLVES:

Relating to the seat of Martin J. Steere, Representative from
Blackstone.

Resolved, That Martin J. Steere, representative from the town of Blackstone, having ceased to be an inhabitant of the town he was chosen to represent, has ceased to be qualified as a representative thereof, within the meaning of the third article of the third section of the first chapter of the Constitution of this Commonwealth, and is therefore no longer entitled to a seat on this floor, and the said seat is hereby declared vacant.

Resolved, That the committee on the pay roll be directed to make up the pay of Mr. Steere to present date.