

## HOUSE.....No. 17.

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### Commonwealth of Massachusetts.

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HOUSE OF REPRESENTATIVES, Jan. 29, 1846.

The Committee on the Judiciary, to whom was referred the order of the House to inquire into the expediency of so altering the law relative to elections, that a plurality instead of a majority of votes shall be sufficient to elect in all cases, and that they be instructed to report whether any, and if any, what alterations of the Constitution may be necessary to effect such change;—also the petition of Harvy Danks and others on the same subject, and also that all Sheriffs, Coroners, Judges of Probate, Clerks of Courts, and County or District Attorneys be elected by the people;—also the order relative to election of Register of Deeds, now ask leave to

### REPORT :

That the Committee are unanimously of opinion that no change should be made in the Constitution or laws relative to the office of Sheriffs, Coroners, Judges of Probate, Clerks of Courts, and District Attorneys.

*That* the Constitution requires that, in order to constitute an election of Governor, Lieut. Governor, and the members of the Senate by the people, the persons voted for must receive a majority of all the votes given, and that it does not require a ma-

majority of all the votes given for any other civil officer in order to constitute such election.

A statute of the Commonwealth, Chap. 4, Sect. 13, provides that, in any election, no person shall be deemed or declared to be elected, who shall not have received a majority of the whole number of votes.

Upon the question of the expediency of altering the law so that persons, who shall receive the highest number of votes shall be declared duly elected, the Committee are not required by the order to report a bill should they be of opinion that any change is required.

It is believed by the Committee that the House will expect them to report their opinion upon the subject, and also a bill should they recommend any change.

The opinion of a majority of the Committee is, that should there be a failure to elect a Representative in Congress in any district at the second meeting held therefor, the person receiving the highest number of votes at the third meeting shall be deemed and declared to be elected, and that no other changes be made either in the Constitution or laws relative to elections, and report the accompanying Bill.

By order of the Committee,

H. BYINGTON.

## Commonwealth of Massachusetts.

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In the Year One Thousand Eight Hundred and Forty-  
Six.

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### AN ACT

Concerning the Election of Representatives in Congress.

*BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :*

1   SECT. 1. Whenever there shall be a failure to  
2 elect a representative in Congress, in any district,  
3 at the second meeting held therefor, agreeably to the  
4 sixth chapter of the Revised Statutes, the same pro-  
5 ceedings shall be had for further meetings therefor,  
6 as are required by said sixth chapter ; and the per-  
7 son receiving the highest number of votes at any  
8 such meeting after the second, shall be declared  
9 elected, and shall receive a certificate thereof in the  
10 manner provided in said chapter.

1   SECT. 2. All acts and parts of acts inconsistent  
2 with the provisions of this act are hereby repealed.

Mr. Byington, of Stockbridge, moves to recommit the bill concerning the election of Representatives in Congress to the Committee on the Judiciary, with instructions to report a bill providing,

1st. That upon the last election of representatives in the General Court, which is by the Constitution required to be held on the fourth Monday of November in each year, the number of persons, which the cities and towns of the Commonwealth vote to elect, and are entitled to elect, shall be declared elected, who shall have received the highest number of votes.

2d. That upon a second trial for the election of members of Congress, County Commissioners, County Treasurers, and Registers of Deeds, the persons receiving the highest number of votes shall be deemed to be duly elected.

That said Committee be also instructed to report a resolve proposing an amendment of the Constitution, so that, upon a second trial for the election of Senators, the number of persons which a district is entitled to elect, shall be declared elected, who shall have received the highest number of votes on such second trial.