

NEW HAMPSHIRE SUPREME COURT

Case No. 2023-0097

2023 TERM

FALL SESSION

DANIEL RICHARD

V.

CHRISTOPHER T. SUNUNU, et al.

RULE 7 APPEAL OF FINAL DECISION OF ROCKINGHAM COUNTY
SUPERIOR COURT

BRIEF OF APPELLANT

By: Daniel Richard
95 Rockingham Rd.
Auburn, N.H. 03032
Tel. 603-315-5755
1danielrichard@protonmail.com

TABLE OF CONTENTS

TABLE OF AUTHORITIES.....pg. 3

ISSUES PRESENTED FOR REVIEW.....pg. 5, 6

QUESTIONS FOR THE COURT.....pg. 6, 7

INTRODUCTION..... pg. 7, 8

BACKGROUND.....pg.9

SUMMARY..... pg. 11

STANDARD OF REVIEW..... pg. 13

ARGUMENTS..... pg. 17

CONCLUSION pg. 34

REQUEST FOR ORAL ARGUMENT..... pg. 34

REQUEST FOR RELEIF.....pg. 34

CETIFICATION OF COMPLIANCE WITH WORD LIMIT.....pg. 35

CERTIFICATION..... pg. 35

VERIFICATION.....pg. 35

APPENDIX.....pg. 36

TABLE OF AUTHORITIES

Cases

Baines v. N.H. Senate, [152 N.H. at 133](#).....pg. 21

Concrete Co. v. Rheaume Builders, [101 N.H. 59](#), [132 A.2d 133](#) (1957).....pg. 23

Fischer v. Governor, 145 N.H. 28, 37 (N.H. 2000) pg. 18, 19, 21, 24

Gerber v. King, [107 N.H. 495](#), [225 A.2d 620](#) (1967).....pg. 17, 23, 24

In re Justices, 157 N.H. 265, 270 (N.H. 2008)pg. 19

Merrill v Sherburne 1 N.H. 199.....pg. 13, 15, 26, 30

Miranda v. Arizona, 384 U.S. 436-pg. [491] (1966).....pg. 17

Opinion of the Justices, [115 N.H. 104](#), [333 A.2d 714](#) (1975);pg. 23

Opinion of the Justices, 117 N.H. 310 (N.H. 1977)..... pg. 23

Opinion of the Justices, [101 N.H. at 543](#), [133 A.2d at 792](#).....pg. 23

Opinion of the Justices, 83 N.H. 589, 592 (N.H. 1927).....pg. 19, 21

Saucedo v. Gardner, 335 F. Supp. 3d 202, 2018 DNH 160 (D.N.H. 2018).....pg. 31

Wooster v. Plymouth, 62 N.H. 193, 200 (1882)pg. 15, 16

APPENDIX

Constitution of N.H. containing Part I, the Bill of Rights

Art. 1 pg. 36

Art. 2..... pg. 36

Art. 7 pg. 36

Art. 8 pg. 36

Art. 11.....pg. 37

Art. 12 pg. 38

Art. 14 pg. 38

Art. 15 pg. 38

Art. 32 pg. 39

Art. 38..... pg. 39

Part II, Form of Government

Art. 4..... pg. 39

Art. 5..... pg. 39

Art. 13..... pg. 40

Art. 27.....pg. 40

Art. 28.....pg. 41

Art. 30.....pg. 41

Art. 31.....pg. 41

Art. 72a.....pg. 41

Art. 73a.....pg. 41

Art. 99..... pg. 42

Art. 100..... pg. 42

N.H. RSA's

RSA 21:6.....pg. 43

RSA 21:6-a.....pg. 43

RSA 638:12.....pg. 43

RSA 643:1.....pg. 43

RSA 659:30.....pg. 43

RSA 659:50(b).....pg. 44

RSA 659:50(c).....pg. 44

RSA 659:53.....pg. 44

RSA 666:2,pg. 44

RSA 666:3, pg. 45

The Constitution of the United States of America

Article I, Section 2..... pg. 46

The 14th Amendment..... pg. 46

The 17th Amendment..... pg. 46

Federal laws

18 U.S. Code § 242..... pg. 46

52 U.S. Code § 10101 (a)(2)(A)(b) pg. 47

52 U.S. Code § 20511 (1)(A), (2)(A)(B)pg. 47

Sources

- 1. Exhibit A: Original amended complaint**
- 2. Exhibit B: Objection to Motion to dismiss**
- 3. Exhibit C: Motion for expedited hearing**
- 4. Exhibit D: Motion for reconsideration**
- 5. Exhibit E: 2022 Remonstrance**
- 6. Exhibit F Copy of 1976 Voters Guide Question 8**
- 7. Exhibit G: Election results of voting age amendment in 1974.**

ISSUES PRESENTED FOR REVIEW

1. The trial court erred when it improperly denied me (Plaintiff) my substantive and procedural due process rights under the Bill of Rights (Part I) art. 14, art. 15, of the

Constitution of New Hampshire (Const. N.H.) and the due process clause of the 14th Amendment to the Federal Constitution for the United States of America (U.S. Constitution). The trial court denied me the right to a trial by jury, and it denied me a proper hearing on the merits of my complaint.

2. The trial court's order is substantive error in-fact and law. I offer the following evidence in support of my position.

PLAINTIFFS APPEAL AND QUESTIONS FOR THE COURT

1. The Defendants do not possess the authority to deny me the right to vote under color of law, which is protected by the Const. N.H. Part I, art. 11, Part II, art.13, art. 27, art. 28, art. 30, art. 31, art. 32, and as detailed throughout my pleadings, (exhibit A, amended complaint), (exhibit B objection to motion to dismiss), (exhibit C Motion for Expedited Hearing), (exhibit D Motion to Reconsider).
2. The Defendants do not possess the authority to deny me a lawful election process under color of law, which must be conducted pursuant to the Const. N.H. Part I, art.11 and Part II, art. 13, art. 27, art. 28, art. 30, art. 31, art. 32. Conducting the election process ultra vires also violates my substantive and procedural due process rights protected by the 14th Amendment to the U.S. Const. All the questions presented to the court were pleaded throughout exhibits A, B, C, D, as each question for the Court has the same fatal flaws, violations of due process, lack of jurisdiction of legislature to amend the Const. N.H.
3. The Defendants do not possess the authority to deprive me of my equal protection rights under color of law. I am entitled to be treated fairly by the equal application of the law. The Const. N.H, Part I, art. 1, and art. 11, secures my rights to an equal application of the election process, and it's also protected by equal protection clause of the 14th Amendment to the U.S. Const. and Federal voting laws.
4. The Defendants do not possess the authority to subject me to **illegitimate** changes to the voting provisions of the Const. N.H. **which are** repugnant or contrary to the

Constitution. We the people did not consent to such changes, required by Part I, art. 1, art. 7, art. 8, art 12, art. 15.

5. The Defendants do not possess the authority to suspend the **Moderators'** duties in Part II, art. 32, under color of law, nor can it delegate powers it does not possess, to the towns or cities (Part I, art. 1, art. 7, art. 8, art. 12, art. 15) as we are not a home rule State.
6. The under non-delegation doctrine, the Defendants do not possess the authority to delegate the powers detailed in Part II. art. 5. Nor can the legislature delegate such authority to an unelected Ballot law commission, to oversee unconstitutional voting machines, as such actions are prohibited by Part I, art. 1, art. 7, art. 8, art. 12, art. 15.

INTRODUCTION

7. When the people (Part I, art.7) created the laws of the land the fundamental laws of the State (the will of the people), they provided for redress of their grievances if their rights are trespassed upon by their agents (Part I, art. 8.) either through inadvertence of mistake, or by design, by the passage of unauthorized acts which are repugnant or contrary to the Const. N.H. The people have a right (Part I, art. 14, art. 15.) to obtain right and justice freely by petitioning the courts for declaratory and injunctive relief. Part I, art. 2, art. 14, art. 15, provides that I have this inherent right to defend and protect my life, my liberty and my property from encroachment by any (Part I, art. 8.) agent of the state, who at all times must be accountable to the people (Part I, art. 8, art. 38).
8. My complaint details the unconstitutional actions of public officials in New Hampshire who have systematically altered the election process by the use of the aforesaid statutes and amendments, thereby, depriving me of a fair and honest election process since my Remonstrance of 2019, which dilutes my vote today.

9. I claim that the Defendants have trespassed upon my State and Federal voting rights, my due process rights, and my equal protection rights, under color of law, by legislative actions that are repugnant and contrary to the mandatory voting provisions of both the State and Federal Constitutions, and the statutes written pursuant thereof.
10. I claim that when the Defendants denied me the right to vote (count I of my complaint) on March 8, 2022, the Defendants relied upon illegitimate ultra vires changes to specific and mandatory election law provisions of the Constitutions, State and Federal, as detailed in my complaint.
11. The trial court reversed the order and revised my complaint, and responded to my last complaint first, Count VI. So, in order to not confuse the court, I will present my six counts in the historical order of events in question, as each change to the election statues, relies upon the previous changes.
 - 1) Count VI; This is the oldest election law change in this appeal. The 1976 amendment Ballot Question 8 amended Part I, art. 11, and repealed 3 articles of the Const. of N.H. without the proper consent of the people.
 - 2) Count II; Part II, art. 32, was altered by RSA 656:40, 41, 42, in 1979, and change the responsibility of the moderator who “shall” ... “sort” and “count” the votes.
 - 3) Count III; Part II, art. 32, was altered by RSA 656:40, 41, 42, in 1979, by allowing for the discretionary use of electronic voting machines at the local level.
 - 4) Count V; Part I, art. 11, was amended by RSA Chapter 657 in 1979, 1981, 2019, and 2020, by granting absentee voting rights to persons not qualified to vote pursuant to Part I, art. 11.
 - 5) Count IV; Part I, art. 11, was altered by N.H. RSA 21:6, 21:6-a by granting resident aliens voting rights to person not qualified to vote pursuant to Part I, art. 11.
 - 6) Count I, 2022, I was denied the right to vote by the Defendants.
12. I claim that after the Defendants were served a Remonstrance (Part I, art. 32), and notice of trespass and notice of instruction not to violate my constitutional rights,

the Defendants failed to cure the trespass, or to conducted themselves according to the Constitutions.

13. I claim that on March 9, 2022, the Defendants knowing that they were not licensed to do so, chose instead, to act under color of law when they deprive me of my right to vote by trespassing upon my constitutionally protected rights to a fair and equal election process required by Part I, art. 11, and Part II, art. 32. And such trespass is prohibited by the **14th Amendment**, and **18 U.S. Code § 242**, and voting rights, **52 U.S. Code § 10101 (a)(2)(A)(b)**, **52 U.S. Code § 20511 (1)(A), (2)(A)(B)**.
14. I claim that on March 9, 2022, the Defendants knowing that they were not licensed to do so, chose instead to act under color of law, when they knowingly and willfully deprived me of a fair and equal election process, and intended to do so in future elections through the tabulation of ballots, that are known by the Defendants to be materially false, and fraudulent under N.H. RSA, 659:30, 659:50 I. (b), the **14th Amendment**, **18 U.S. Code § 242**, and voting rights, **52 U.S. Code § 10101 (a)(2)(A)(b)**, **52 U.S. Code § 20511 (1)(A), (2)(A)(B)**
15. I claim that on November 8, 2022, the Defendants knowing that they were not licensed to do so, chose instead to act under color of law, when they knowingly and willfully deprived me of a fair and equal election process, and intend to do so in future elections, by the tabulation of ballots, that are known by the Defendants to be materially false, under N.H. RSA, 659:30, 659:50 I. (b), the **14th Amendment**, **18 U.S. Code § 242**, and voting rights, **52 U.S. Code § 10101 (a)(2)(A)(b)**, **52 U.S. Code § 20511 (1)(A), (2)(A)(B)**.
16. The Defendants continue to trespass upon my State and Federal constitutional rights under color of law, and said trespasses are ongoing, since 2019.

BACKGROUND

17. The following facts are undisputed unless otherwise noted.

18. On May 19, 2019, I served a voting Remonstrance to the General Court, the Secretary of State, and the office of the Governor.
19. On February 24 2022, I served a Remonstrance (election law, exhibit E), notice of trespass, infringement upon my constitutional rights, and the unconstitutional use of voting machines, upon the Secretary of State David Scanlon, the Clerk of the House of Representatives, the Clerk of the Senate, the office of the Governor Christopher T. Sununu, and the Office of the Attorney General John Formella. Count I, of the complaint.
20. On March 5, 2022 I served the Town of Auburn, a copy of the aforesaid Remonstrance and Notice of Trespass. Count I of the complaint.
21. On March 9, 2022, I was denied the right to vote by the Town of Auburn unless I used an unsafe, and unconstitutional voting machine, in direct violation of Part I, art. 1, art. 7, art. 8, art. 11, art. 12, and Part II, art. 32. Count II and Count III, of the complaint.
22. On March 9, 2022, September 13th 2022, and November 8th 2022, the town of Auburn used a different standard, practice and procedure in the counting of the ballots in said election, not authorized by the Constitution of N.H. (Count III, Count IV, Count V, Count VI.) and **52 U.S. Code § 10101 (a)(2)(A)(b)**.
23. I filed a complaint with the Rockingham County Superior Court, which led to a limited emergency hearing on the safety of the voting machines. My expert witness was denied the ability to testify upon their safety, which was the purpose of the hearing. I was subsequently denied any hearing for my expert witness to testify, or a hearing on the merits of my case, subsequently the trial court granted the states motion to dismiss my case, and denied me any remedy protected by Part I, art. 14, art. 15. which has led to this appeal. Said denial of due process is also protected by the U.S. Const. 14th amendment.
24. My motion to amend my complaint on 11/09/2022 was also denied, the Court Order was issued without any due process of law pursuant to Part I, art. 14, art. 15, (Const. N.H.), and my due process rights under the U.S. Const. 14th amendment, to

present my case before a competent judicial body. The following challenges are presented de novo based on the evolution of said changes to the election laws. All six Counts pleaded in my complaint before the Superior Court are incorporated herein by reference.

SUMMARY

25. Each of the six complaints in my case have the same two State and Federal constitutional issues. First, the statutes in question and the N.H. constitutional amendment of 1976 (Ballot Question 8) are in conflict with other provisions of both State and Federal Constitutions, and this substantive error fatally taints both the State and Federal statutes written pursuant thereof.
26. I claim that said statutes detailed in my complaint are contrary and repugnant to the State and Federal Constitutions because they improperly alter by statute the meaning or definitions of existing specific, and mandatory election law provisions of the Constitutions of N.H. Part I, art. 11, and Part II, art. 32, plus alter the voter qualifications of Article 1, Section 2 of the U.S. const, and the 17th amendment. These changes to the Const. N.H. have been achieved by legislative fiat, prohibited by Part I, art. 1, art. 7, art. 8, art. 12, art. 15, and Part II, art. 100.
27. The Bill of Rights, art.12 (the private rights of the people); establishes that only the people may amend the Constitution,

*“But no part of a man’s property (**private rights**) shall be taken from him, or applied to public uses, **without his own consent**, or that of the representative **body of the people**. Nor are the **inhabitants** of this State controllable by any other laws (**laws of the land**) than those to which they, or their representative body (the inhabitants have consented to an **amendment**), have given **their consent**.” (Emphasis added)*

Part I, art. 12, protects my constitutional rights as an inhabitant of the State, and it is not the public right of the State in Part II. The following article is the duty of the State to protect Part I, article 12, which is Part II, art. 99, which prohibits any agent (Part I, art.8.) of government from amending the Constitution without the consent of the inhabitants.

28. Part II, art. 99, “; *Provides that no alteration shall be made in this constitution before the same shall be laid before the towns and unincorporated places and approved by two thirds of the qualified voters present, and voting upon the question.*” (Emphasis added) The common law cited in my pleadings, proves that the voters did not vote upon single question.
29. This was the last sentence of the Constitution of N.H. in 1784, which was repealed in 1980 by amendment when art. 99 and art. 100 were consolidated into art. 100. Although these articles have been combined, the original intent remains in the body of Part II, art. 100.
30. The Defendants (Part I, art. 8.) have the mistaken belief that they may alter or amend the fundamental laws created by the people without their consent. The agents (Part I, art. 8.) argue that *by their will*, the state can rewrite the existing and specific election laws provision of the Constitution without the amendment process and redefine by statute how they re-elect themselves.
31. These described statutory conflicts, and the amendments created by Ballot Question 8 in 1976 also violates the voter qualification clauses of Article 1. Section 2, of the U.S. Const. and the 17th Amendment as the voter qualification to elect the general court was established by the people of N.H. and detailed in their written Constitution in 1784. The aforesaid changes to the Constitution of N.H. also violates the due process, and the equal protection clauses of the 14th amendment of the U.S. Const.
32. Item 2, N.H. RSA 21:6, 21:6-a, RSA 656:40, 41, 42, RSA Chapter 657, RSA 659:30, and 659:50, changed the existing voting provision of the Const. N.H.

These changes were achieved by violating the procedural due process clauses of the Const. of N.H. (Part I, art. 1, art. 12, art. 15, Part II, art. 100.); Such statutory changes are prohibited by Part I, art. 1, art.7, art. 8, art. 12, art. 14, art. 15, and the due process clause of the U.S. Const. 14th amendment, **18 U.S. Code § 242**, and voting rights, **52 U.S. Code § 10101 (a)(2)(A)(b)**, **52 U.S. Code § 20511 (1)(A), (2)(A)(B)**.

STANDARD OF REVIEW

33. The issues before this court involves questions of no small magnitude. For my complaint contains a charge that encroachments have been made upon my constitutional rights by two branches of the government towards a single individual;

“yet in substance, those measures affect the interest of all, as the rule of construction adopted to-day, may become a precedent to-morrow, and be adduced to vindicate, or oppose, similar conduct towards every member of society. The alarm thus excited induces most people to listen to such charges with great readiness; and it would not be unnatural for courts in examining these charges, sometimes to fancy the existence of what is only feared.” Merrill v Sherburne 1 N.H. 199 (1818)

34. New Hampshire common law has been established,

“From these, and similar circumstances, therefore, it has happened, that questions of this nature have not always been examined with that coolness, and patience, which their importance deserved; and that since the adoption of our constitutions, courts of justice, as well as legislative bodies, have furnished [201] some complaints, that their jurisdiction has been violated, when those complaints were not founded upon sound principles or respectable precedents. Conscious of the force of these considerations, we

have in the present cause, experienced considerable embarrassment: but duty has compelled us to act, and it hardly need be repeated, that we have attempted to divest ourselves of every feeling, except an earnest desire to perform what duty dictated." It must be admitted that courts ought to decide, according "to the laws of the land," all cases, which are submitted to their examination. To do this, however, we must examine those laws.

(2) Federalist, No. 78; [Dash v. Van Kleeck,] 7 Johns. 494 [5 Am. Dec. 291]; 3 Cook 7; 6 Bac. Stat.H. The constitution is one of them, and "is in fact, and must be regarded by the judges as a fundamental law."

(3) Federalist, No. 78. It was created by the people, who in our republics, are "the supreme power," (4) Bill of Rights, art. 8, and, it being the expression of their will, their agents, as are all the branches of government, (5) Bill of Rights, art. 8, can perform no act which, if contrary to that will, should be deemed lawful. To deny this, would be to affirm that the deputy is greater than his principal; that the servant is above his master; that the representatives of the people are superior to the people themselves; that men acting by virtue of power may do, 'not only what their powers do not authorize, but what they forbid.' Their oaths of office too, prohibit, and the constitution itself, in express terms, prohibits the legislature from making "laws repugnant or contrary to the constitution." If then there should happen to be an irreconcilable variance between the constitution and a statute, that which has the superior obligation and validity ought of course to be preferred: in other words, "the intention of the people ought to be preferred to the intention of their agents." [55] "Nor does this conclusion by any means suppose a superiority of the judicial to the legislative power. It only supposes, that the power of the people is superior to both; and that where the will of the legislature, declared in its statutes, stands in opposition to that of the people, declared in the constitution, the judges [202] ought to be governed by the latter, rather than the former.

They ought to regulate their decision by the fundamental laws, rather than by those, which are not fundamental. Our Confidence, also, in the liberality of the legislature is such, that when, through inadvertence of mistake, they passed an unauthorized act, we believe that, should the unpleasant task of adjudging it void devolve upon us, they would think the task is performed only from a conviction that the act is in the clearest manner unconstitutional, and the right and duty so to pronounce it are both unquestionable... Merrill v Sherburne 1 N.H. 199 (1818).

35. Citing *Wooster v. Plymouth* (1882):

“The distinctive character of our bill of rights as the first chapter of constitutional law in which the people, as the original sovereigns, before delegating certain public powers in the second chapter, reserve for themselves, as subjects of their collective body politic, certain rights which they do not give to that body,...”

*“The clause of the fifteenth article of the bill in which it is reserved "is so manifestly conformable to the words of Magna Charta, that we are not to consider it as a newly invented phrase, first used, by the makers of our constitution; but we are to look at it as the adoption of one of the great securities of private right, handed down to us as among the liberties and privileges which our ancestors enjoyed at the time of their emigration, and claimed to hold and retain as their birthright. These terms, in this connection, cannot, we think, be used, in their most bald and literal sense, to mean the law of the land at the time of the trial; because the laws may be shaped and altered by the legislature, from time to time; and such a provision, intended to prohibit the making of any law impairing the ancient rights and liberties of the subject, would under such a construction be wholly nugatory and void. **The legislature might simply change the law by***

*statute, and thus remove the landmark and barrier intended to be set up by this provision in the bill of rights. It must therefore have intended the ancient established law and course of legal proceedings, by an adherence to which our ancestors in England, before the 197 settlement of this country, and the emigrants themselves and their descendants, had found *197 safety for their personal rights." Jones v. Robbins, 8 Gray 329, 342, 343, 344. "This provision of the bill of rights was unquestionably designed to restrain the legislature, as well as the other branches of government, from all arbitrary interference with private rights. (Emphasis added) It was adopted from Magna Charta, and was justly considered by our forefathers, long before the formation of our constitution, as constituting the most efficient security of their rights and liberties." Mason's argument for the plaintiff in Dartmouth College v. Woodward, Farrar's Report, 56. In the decision of that case, this court said, — "The object of the clause in our bill of rights seems always to have been understood in this state to be the protection of private rights."*

*"The division of the constitution into two parts was not made without a purpose, and the name of each part is not without significance. The first is a "bill of rights:" the second is a "form of government." The second is, in general, a grant of powers, made by the people to "magistrates and officers of government," who are declared (in Part I, art. 8) to be the grantors' "agents." The first contains a list of rights not surrendered by the people when they formed themselves into a state. **Part I, arts. 1, 2, 3; Part II, art. 1. By the reservation of these, they limited the powers they granted in the second part, and exempted themselves, to the stipulated extent, from the authority of the government they created.**" 1 N.H. 129. Wooster v. Plymouth (1882). (Emphasis added)*

36. Where rights secured by the Constitution are involved, there can be no rulemaking or legislation which would abrogate them. *Miranda v. Arizona*, 384 U.S. 436- at 491 (1966)

ARGUMENT

FIRST ISSUE; 1976 AMENDMENT, BALLOT QUESTION 8.

37. The trial court begins with my last complaint first, Count VI; **1976 Amendment, Ballot Question 8.** (Exhibit E) Contrary to the Trial Court's opinion, and the opinion of Defendants, the Const. N.H. is not silent on this matter but rather it is specific. I believe that the trial court's opinion in this issue is a substantive and judicial error of law, as it ignored all the evidence presented to it, despite the stare decisis citations incorporated into my pleadings.
38. *Gerber v. King* [*107 N.H. 495, 225 A.2d 620*](#) (1967) is controlling in this case, and it was settled by this court in 1967, and plead in my complaint. *Gerber v King* prohibited the commingling five separate and distinct questions to the voter, and only allowing 1 yes or no choice violates Part I, art. 1, Part II, art. 99, art. 100.
39. The Trial Court's opinion in the 1976 Amendment Ballot Question 8 is incorrect based on the evidence and on the historical facts presented in this case. The Trial Court's relied on its mistaken belief that Ballot Question 8 a) caused the change to the voting age in the State Constitution from 21 to 18. This is an error of law and factually incorrect, as N.H. voters passed the amendment to the voting age in 1974 by a vote of: **Yes** 147,484 vs. **No** 57,756. (Exhibit E, 1974 voting age amendment result)
40. On November 2, 1976, the general court presented Ballot Question 8 with 5 different, distinct and unrelated questions, ranging from a) age, b) domicile, c) voting in unincorporated places, d) duties of the secretary state, and e) absentee voting with only one yes or no choice, which disallowing the voters the ability to

approve of one question while disapproving of any of the others. Also, question a) and e) were moot at the time of the election.

41. Some of the undisclosed consequence of Questions b) and d) have subsequently been declared by this court to be unconstitutional. The voter's guide submitted to the inhabitants, incorrectly stated the effect of the proposed amendments, as it failed to give voters an accurate idea in the voters' guide, to the question or to the questions, being voted upon.
42. The 1976 Voters' Guide, (exhibit F), re-affirms the change to the voting age from 21 to 18 was already law, (see the bottom of the inside page of the Voters' Guide) stating: "*although the voting age is already eighteen*" ... proving my point, that 18year olds already had the constitutional right to vote in 1974, making question 8 a) moot.
43. Ballot Question 8 e) proposed to create absentee voting, which has been the law of the land since their amendments in 1941, and 1956, also making Question 8 e) moot. How can the voter say no to questions b), c), d), when question a) the voting age from 21 to 18 had just been made law two years earlier in 1974, and question 8 e) absentee voting had been constitutional since 1942? This violates Part II, art 99, art. 100.
44. Part II, art. 99, now incorporated into art. 100, requires that "**Each**" **proposed constitutional amendment**" ... "**Shall be submitted to voters by written ballot**" ... "**to be voted upon**". This did not happen, and is one of the issues raised in my complaint. (Emphasis added)
45. The 1976 Ballot Question 8 amended Part I, article 11, and unconstitutionally repealed the following language: "**having the proper qualifications**" as cited in *Fischer v. Governor*, 145 N.H. 28, 39 (N.H. 2000); with no disclosure to the voters.
46. The *Fischer* Court opined that the 1976 Amendment, ballot question 8, b) which amended Part I, article 11, was not lawfully ratified;

“...It is clear, however, that the removal of the "proper qualifications" language from the voting provision did not conform to the scope of the amendment intended by the constitutional convention. (Emphasis added). Fischer v. Governor, 145 N.H. 28, 37 (N.H. 2000) ...

*“To the extent that the amendments to Part I, Article 11 could be read to have removed this authority, we concluded that they were ineffective because **removing this authority was not one of the stated purposes of the amendments and because voters had no notice that they were removing it.**” *Id.* at 37-39. *In re Justices*, 157 N.H. 265, 270 (N.H. 2008). (Emphasis added)*

47. ...*It is clear, however, that the removal of the "proper qualifications" language from the voting provision did not conform to the scope of the amendment intended by the constitutional convention. **Specifically, it did not relate to the four intended substantive changes regarding age, domicile, duties of the secretary of state, and absentee voting, and far exceeded the convention's remaining intent to "simplify" the wording of Article 11.** (Emphasis added)*

48. The state’s argument in *Fischer v Governor 145 N.H. 28, 37 (N.H. 2000)* that the legislature retains the authority to determine voter qualifications is fatally flawed. In fact, upon a complete review of the 1976 Ballot Question 8 and its changes, it becomes obvious the true intention of question 8 was the undisclosed repeal of the constitutional voter qualifications established (by the people) in the Const. N.H. leaving the legislature with the ability to re-define voter qualifications beyond those defined by the Const. N.H. itself, which legislature cannot do (Part I, art. 1, art. 7, art. 8. art. 12, art. 15.). The *Fischer* Court adopted the states position in error, similar to the Defendants in the instant case, and due to the fact that the

court record was incomplete, as such court opinion is repugnant and contrary to other provisions of the Constitution not argued in the *Fischer*.

49. I offer the following points of law and previous precedents and opinions of this court. What the *Fischer* opinion did not address, was the repealing of the other existing articles of the Constitution containing the voter qualifications for inhabitants, which were not disclosed to voters.

50. A yes vote to Ballot Question 8 not only repealed the proper qualification language from Part I, art. 11, but it also unconstitutionally repealed the following Const. N.H. articles defining voter qualification, with no disclosure to the voters.

a) Part II, art. 13, [Qualifications of Electors] of the House of Representatives are same as those required for voting for Senators.

b) Part II, art. 28. [Senators, How and by Whom Chosen; Right of Suffrage].

c) Part II, art. 31, voting rights for [Inhabitants of Unincorporated Places; Their Rights, etc.] “*qualified as the constitution provides*”

51. Part I, art. 1, art. 7, art. 8, art.12, art. 15, prohibits Part II, the Form of Government from amending or altering the Constitution *without* the consent of the inhabitants. The word “inhabitant” was specifically established by the people and given a definition in Part II, art. 30, as those citizens of N.H. who possess political rights. The word inhabitant is currently used in 33 places in the Constitution to define those persons who are qualified to elect or be elected (political rights) in the State of New Hampshire. The word resident does not appear in the Bill of Rights and has no constitutional definition, but the word inhabitant does. (Part II, art. 30.) The Const. of N.H. uses the following specific language in 3 places that voter qualifications are in fact defined by the Const. N.H. and not by the legislature.

a) Part II, art. 27, Senate; “*There shall be annually elected by the freeholders and other inhabitants of this State, “qualified as in this constitution is provided.”*”

- b) Part II, art. 30, Senate “*And every person qualified as the constitution provides.*”
- c) Part II, art. 31, Senate “*And the inhabitants of plantations and places unincorporated, qualified as the constitution provides,*” (before its repeal in 1976 by question 8 c) with no disclosure to the voters). (Emphasis added)

52. This court reaffirmed the definition of the word inhabitant in the following, Opinion of the Justices 83 N.H. 589, 592 (N.H. 1927)

53. Part II, article 30: “*Every person, qualified as the constitution provides,* shall be considered an inhabitant for the purpose of electing and being elected into any office.” *Ib.*, art. 30. *Opinion of the Justices*, 83 N.H. 589, 592 (N.H. 1927).

54. “*The meaning of these provisions is entirely clear. The right of suffrage is made the general test of the right to hold elective office.*” *Opinion of the Justices*, 83.H. 589, 592 (N.H. 1927)

55. “*It being provided that the qualifications prescribed in the constitution should be the test for office-holding capacity,*” *Opinion of the Justices*, 83 N.H. 589, 592 (N.H. 1927)

56. “*By the bill of rights, art. 11, and the constitution of New Hampshire, pt. II, arts. 28, 30, the rights of electing to office and being elected being equal, save for certain specific constitutional limitations, whatever constitutional amendments limit or enlarge the right to vote have the same effect upon the eligibility to elective office.*” *Opinion of the Justices*, 83 N.H. 589 (N.H. 1927), “*rights to elect and be elected are equal; Fischer v. Governor*, 145 N.H. 28, 39 (N.H. 2000)”

57. The Const. of N.H. in 1784 provided the following constitutional qualifications for voters by using the word inhabitant, which must be read in light of *Baines v. N.H. Senate*, [152 N.H. at 133](#)

- 1) Part I, art. XI, every inhabitant of the State having the proper qualification.

- 2) Part I, art XII, every inhabitant, being a Tax payer, is “bound to contribute his share in the expense of such protection”
- 3) Part II, Must be a Male who possess town privileges.
- 4) Part II, must be 21 years of age.
- 5) Part II, must pay a poll tax.
- 6) Part II, must vote in the town or parish wherein he dwells
- 7) Part II, defines inhabitant and the fact that constitution defines every person qualified to vote
- 8) Part II, defines that, the inhabitants of plantations and places unincorporated, are qualified as this constitution provides.
- 9) Part II, Senators must be of the protestant religion,
- 10)Part II, Senators must be seized of a freehold estate in his own right, of the value of two hundred pounds, lying within this State
- 11)Part II, Senators must be thirty years old
- 12)Part II, Senators must have been an inhabitant for the past seven years.
- 13)Part II, persons qualified to vote in the election of senators, shall be entitled to vote with in the town district, parish, or place where they dwell, in the choice of representatives.
- 14)Part II, House Representatives shall have been an inhabitant of this State, shall have an estate within the town, parish or place which he may have chosen to represent, of the value of one hundred pounds, one half of which to be a free-hold whereof he is seized in his own right; shall be at the time of his election, an inhabitant of the town parish, or place he may be chosen to represent;
- 15)Part II, shall be of the protestant religion
- 16)Part II, Governor must be an inhabitant for 7 years.
- 17)Part II, Governor must be 30 years old.
- 18)Part II, Governor must have an estate of the value of five hundred pounds of which shall consist of a free-hold in his own right within the State;

19)Part II, Governor must be of the protestant religion.

58. This Court, has also declared that the 1976 Ballot Question 8 d) was unconstitutionally ratified also, as it failed to disclose to the voters that a yes vote would change the date from December to January, but since there is no notice to the voter the amendment:

"was not effective in changing month from December to January, notwithstanding fact that constitutional convention resolution which proposed amendment stated the month "January", since voters guide used to inform voters did not mention change of month. N.H Const. pt. II, art. 33." Opinion of the Justices, 117 N.H. 310 (N.H. 1977)

*"In our opinion, this resolution was concerned only with the transfer of responsibility and not with the date the legislature was to meet and the voters were not informed that the adoption would undo the change in dates which they had made by adoption of resolution in November 1974. Opinion of the Justices, 117 N.H. 310 (N.H. 1977) Opinion of the Justices, [115 N.H. 104, 333 A.2d 714](#) (1975); *Concrete Co. v. Rheaume Builders*, [101 N.H. 59, 132 A.2d 133](#) (1957); *Gerber v. King*, [107 N.H. 495, 225 A.2d 620](#) (1967)*

We conclude that the record manifests "inescapable grounds" that the voters were never given notice that the 1974 amendment changed or modified the legislature's authority to determine voter qualifications generally, much less completely eradicate it. See Opinion of the Justices, [101 N.H. at 543, 133 A.2d at 792.](#)

...Thus, Part I, Article 11 was not properly amended to cause the removal of "proper qualifications" from the voting clause. Because it is evident that this change was neither "dependent upon nor interwoven with" the other changes to Article 11 nor with the amendments to additional articles

simultaneously ratified by the electorate, all other changes to Article 11 and the remaining amendments are unaffected by our holding. Gerber v. King, [107 N.H. 495, 500](#), [225 A.2d 620, 623](#) (1967) (quotation omitted). *Fischer v. Governor*, 145 N.H. 28, 38-39 (N.H. 2000).

59. These changes negatively impacted me, by allowing unqualified votes to be counted, thereby diluting my vote, making my vote insignificant.
60. Regardless of whether the legislature believes it now has the power or authority to generally determine voter qualifications (or not), the fact still remains that the State confessed in *Fischer* to the fact that it failed to alert the voters to any substantive changes to Part I, art. 11, which, under stare decisis now negatively affects my voting rights. Therefore, for all the reasons stated in this case, all of Ballot Question 8 and its undisclosed changes should be declared void ab initio for the same reasons already cited by this court, for failure of the state to adequately inform the voters to changes to the Const. of N.H. prohibited by Part I, art. 1, art. 7, art. 8, art. 12, art. 15.

SECOND AND THIRD ISSUE: UNCONSTITUTIONAL USE OF VOTING MACHINES

61. I adopt all the proceeding paragraphs and relevant pleadings in Count II, and Count III, and are now incorporated into this appeal.
62. Contrary to the Trial Court’s opinion the Constitution is not silent on this matter but rather it is specific. The original intent of Part II, art. 32, the duty of moderator is clear and specific that “he” “shall,” ... “sort” and “count” the votes has remained unchanged since 1784.
63. It cannot be disputed that the passage of N.H. RSA 656:40, 41, 42 is a change to the 300-year-old custom-usage of sorting and counting votes by hand. Unlike the State of Massachusetts, which amended their constitution to allow for the use of

voting machines from their original voting procedure for sorting and counting by hand, paper ballots, and **NH has not**.

64. The current N.H. RSA 656:40, 41, 42, written in 1979, created a temporary use authorization for the towns and cities to use machines, thus allowing the moderator a method of counting votes by statute (via artificial intelligence) not provided for in Part II, art. 32, when written in 1784. A voting machine cannot sort votes and is not programmed to examine ballots or signatures. A voting machine cannot testify to a fact that the vote is fair and accurate. The moderator cannot swear to a fact that he sorted and counted the votes, when he did not in fact sort and count the votes. How can the moderator who is elected by people to sort and count the votes, can swear under pain and penalties of law that the election was fair and accurate, when in fact he did not sort, count, or validate the votes?
65. The following contradicts the Defendant's position that the Const. of N.H is silent on who and how the votes shall be counted and validated. The opposite is true.
66. Part II, art. 32, in 1784 established that 3 persons (witness) (Part I, art. 8.) are elected to conduct the elections pursuant to the Const. N.H. at the local level for the people (Part I, art. 7.)
67. The Moderator is to govern the local election; and that he "shall" receive the votes of all inhabitants; and He "shall" also, sort and count the said votes in the presence of said selectman, and of the town or city clerk. From 1784 until 1979 the moderator was to "sort" "count" and validate by hand, paper ballots as Part II, art. 32, and has remained unchanged for 239 years until the method of counting was changed by N.H. RSA 656:40, 41, 42, in 1979. The constitutional duties of a clerk of a town or city still remain unchanged also. The selectman whose duty it is to attend, and the clerk's duty is to act as witness to moderators' duty, to sort, count, and validate the votes, and that he shall make a fair record of the moderator's count.

68. Unlike Massachusetts, Part II, art. 32. has never been submitted to voters for amendment required by Part I, art. 1, art. 12, art.15, and Part II, art. 100 to change the moderator's duty to "sort", "count" and validate the votes.

69. N.H. RSA 656:40, 41, 42, does in fact change the manner in which votes are counted, that which Part II, art. 32. does not provide. There is no constitutional authority for the towns or cities to exercise the ability nor discretion to change the constitutional duties of the moderator to sort and count the votes pursuant to Part II, art. 32.

"That clause, which confers upon the "general court" the authority "to make laws," provides at the same time, that they must not be "repugnant or contrary to the constitution." Merrill v Sherburne 1 N.H. 199.

70. Nor can the legislature delegate its constitutional powers to make laws or rules incorporated into Part II, art. 5 to an unelected body, the Ballot law commission, in order to regulate voting machines by proxy. The legislature is void of any constitutional authority to authorize the use of voting machines without the consent of the inhabitants (Part I, art. 1, art. 7, art. 8, art. 12, art. 15.)

71. Also, the use of voting machines is being used to conceal, and count uncertified absentee ballots by inserting uncertified, and unqualified absentee ballots into voting machines.

72. Once an unqualified and uncertified absentee ballot is accepted and removed from its envelope (separating the ballot from the application envelope and inner affidavit envelope) and inserting it into a voting machine, it can never be challenged. Once the ballot is removed from its authenticating documents (said envelopes) and inserted into the voting machine, the ballot cannot be reconciled with its authenticating documents upon a legal challenge or recount, a practice that deprived me an inhabitant of N.H. of due process to challenge or appeal the results of the 2020, 2022 elections; this is also violated my Federal due process rights and

the equal protection clauses of the U.S. Const. **14th Amendment, 18 U.S. Code § 242**, and voting rights, **52 U.S. Code § 10101 (a)(2)(A)(b), 52 U.S. Code § 20511 (1)(A), (2)(A)(B)**.

FOURTH ISSUE: ILLEGAL EXPANSION BY STATUTE THE EXEMPTIONS FOR ABSENTEE VOTING.

73. I adopt all the proceeding paragraphs and relevant pleadings in Count V are now incorporated into my complaint. Contrary to the Trial Court’s opinion, and that of the Defendants, the Const. of N.H. is not silent on this matter, but rather it is articulate and specific.

74. The 1941 Constitutional Convention proposed an amendment to the Const. N.H. Part. I. art. 11.

75. Said 1941 Con Con voted and passed the statutory language to governed the absentee amendment. The 1942 legislature having adopted the language of the convention did then establish laws, rules, regulations used until 1979.

76. Part I, art. 11, has been amended 7 times by the people Part I, art. 7, and art. 8, who established for themselves a fundamental right to vote absentee:

“The general court shall provide by law for voting by qualified voters who at the time of the biennial or state elections, or of the primary elections therefor, or of city elections, or of town elections by official ballot, are “absent” from the city or town of which they are inhabitants, or who by reason of “physical disability” are unable to vote in person,” ... (Emphasis added)

77. The absentee amendments of 1942 and 1956 were specific as they create two constitutional rights to an absentee ballot. The original qualifications that a voter be “absent” or for “physical disability”, remained in effect for 37 years until 1979.

78. The 1942 absentee amendment of Part I, art. 11, was properly executed, and it reinforced my substantive and procedural due process rights, required to amend the Const. N.H. in order to create a constitutionally protected right, as provided for in Part II, art. 99, art. 100.

79. Also, the amendment once ratified established a duty upon the legislature to act pursuant to the Const. N.H. “*the general court shall provide by law for voting by qualified voters*”, defined by art. 11, as those who are “*absent*,” and those who have a “*physically disability*”. The authority for the general court to write absentee voting statutes is derived from this amendment, by the consent of the people Part I, art. 1, art.12, Part II, art. 100, and the statutes written pursuant thereof, remained until the voting laws were recodified in 1979.

80. The 1942 legislature adopted the statutory language of the convention which established the intent of the amendment to Part I, art.11. The amendment process (Part II, art. 99, art. 100) was properly executed again, by obtaining the consent of the inhabitants in 1956 to include primary voting. Part I, art. 1 and art. 7, art. 8, provides that all governmental power originates from the consent of the people.

81. The 1942 statutory procedure for absentee voting had Five requirements to perform before executing the absentee ballot affidavit:

- He shall mark said ballot in the presence of an official authorized by law to administer oath, and no other person.
- He shall deliver the official ballot to said official for examination, who shall satisfy himself that the ballot is unmarked and the voter shall not allow said official to see how he marks it.
- Said official shall hold no communication with the voter, nor he with said official, as to how he is to vote.
- After marking the ballot, the voter shall enclose and seal the same in the envelope provided for in this chapter.

- He shall then execute before said official the affidavit on said envelope as set forth in said paragraph, and shall enclose and seal the envelope containing the ballot in the envelope provided for in paragraph IV of section 2, ...

82. Regardless of the argument used by the Defendants currently, the general courts actions, either by inadvertence of mistake or by design, did also omit the aforesaid statutory duty (required since 1942) of the voter in order to mark his absentee ballot. N.H. RSA 659:30 requires that the voter must appear before a public official authorized by law to administer and oath, in order to properly execute the affidavit. Such a legal requirement must apply equally to all affiants as required by Part I, art. 1, art. 11, and the election statute NH RSA 659:30, and the equal protection clause of the U.S. Const. 14th Amendment, and federal law, **52 U.S. Code § 10101 (a)(2)(A)(b), 52 U.S. Code § 20511 (1)(A), (2)(A)(B).**

83. The 1979 N.H. legislature encroached upon the voting rights of the people under color of law by exercising undelegated powers when they created by statute a religious exemption to vote absentee, which is neither a person who is absent, nor a person disabled, without the procedural due process of obtaining the consent of the inhabitants. Such actions are prohibited by Part I, art. 1, art. 7, art. 8, art. 12, art. 15, and Part II, art. 100, and by simply amending the existing statute for “physically disability” to include a religious exemption into the election laws, they created by statute a mail-in voter who is not absent, nor qualified to vote absentee, pursuant to the Part I, art 11.

84. The 1979 N.H. legislature, simply amended the text to be printed upon the inner absentee ballot affidavit envelope to include the statutory right to claim a religious exemption, while removing by omission the previous affidavit certificate from the envelope of the witness of a public official, authorized by law to administer and oath, is contrary and repugnant to RSA 659:30.

85. The general court's omission of the previous notary certificate required by law and used since 1942, either through inadvertence of mistake, or by design, allows for the counting of uncertified, and unverified ballots to be counted, there-by diluting my vote.
86. The measures taken unconstitutional allowance by the Defendants to count uncertified and unqualified absentee ballots (affidavits not properly executed) which are then inserted into a voting machine to be counted as legal ballots is ballot box stuffing, and a violation of N.H. RSA 666:2, Official Malfeasance, RSA 666:3 Official Misconduct, RSA 638:12 Fraudulent Execution of Documents, RSA 643:1 Official Oppression, and Federal law, **52 U.S. Code § 20511 (1)(A), (2)(A)(B)**.
87. Any claim by the Defendants that the absentee ballot affidavit envelope certification is no longer necessary is a fraudulent claim and violation of the current affidavit statute RSA 659:30, which is still the law today, and which states that any affidavit required by the election statutes must be properly sworn.
88. I claim that such actions by the state has diluted my vote, as the Defendants acted under color of law when they ignored N.H. RSA 659:30 and exercised a different standard, practice or procedure to count the votes, by allowing unqualified and uncertified ballots to be counted, thereby denning me of a constitutional voting process, which is prohibited by Part I, art. 1, art. 11, art. 12, art. 15, and the equal protection clause of the 14th Amendment and Federal Voting laws U.S. Code 52, 10101 (a), (b), all of which prohibit the unequal application of the law. Compare *Merrill v Sherburne* 1 N.H. 199. *Supra*
89. The following are the current statutory encroachments complained of, created by the legislature under color of law, allowing persons not “**absent**” or “**physically disabled**” to vote, creating a “mail in voter”, not qualified pursuant to Part I, art. 11:
- a) I will be unable to vote in person because I will be working.

- b) I will be unable to vote because I will be caring for children or infirmed adults, with or without compensation.
- c) I am voting absentee on the Monday immediately before the election, the National Weather service has issued a winter storm warning, blizzard warning, or ice storm warning that applies to my town/ward, and I have concerns for traveling in the storm.
- d) I am unable to vote in person due to observance of a religious commitment, which prevents me from voting in person.
- e) I am confined to a penal institution for a misdemeanor or while awaiting trial.

90. Such colorable laws dilute my vote as they allow persons to vote who are not “absent” or physically “disabled” pursuant to Part I, art. 11. The state claims that it possesses the authority to establish voter qualifications beyond those defined by the constitution. If the legislature had such powers to create constitutionally protected rights by simply passing a statute if this were true, then all the previous amendments to the Constitution and especially, Part I, art. 11, would not have been necessary (see *Dobbs v. Jackson Women's Health Org.* - 142 S. Ct. 2228 (2022)) The legislature has no such authority to create constitutional protected rights or make alterations (such as the ones here complained about) which are contrary and repugnant to the Constitution.

91. The 1979 legislature either by inadvertence, mistake or design, did combine the use of electronic voting machines to count absentee votes, resulting in the counting of unqualified and uncertified absentee voters, by inserting uncertified, and unqualified absentee ballots into voting machines.

92. The 2014, 2016, 2018, elections averaged a 4% turnout according to the N.H. Secretary of State’s website. 2020 saw the passage of HB 1266 during Covid-19 further expanded by statute the aforesaid exemptions for absentee voting. These statutory changes complained of, diluted my vote by dramatically, by increasing

the absentee voter turn-out to **32% in 2020** without the due process required to amend the Const. N.H. Part I, art. 1, Part II, art. 100.

93. In *Saucedo v. Gardner*, 335 F. Supp. 3d 202, 2018 DNH 160 (D.N.H. 2018), a federal case in 2018, the Secretary of State, and Asst. Attorney General Matthew T. Broadhead of the NH Dept. of Justice, had knowledge of the affidavit issue going back to 2017, as statute NH RSA 659:30 requires that affidavits be properly executed, avoided and ignored the two step process of NH RSA 659:50(b) and (c) In order to examine the signatures in the next step detailed in N.H. RSA 659:50(c):

“shall compare the signature on the affidavit with the signature on the application for the ballot. If: (b) the affidavit appears to be properly executed: (Emphasis added).

This does not say the affidavit appears to be properly signed. It says the affidavit appears to be properly executed, which means it is sworn before a public official authorized by law to do so, N.H. RSA 659:30.

94. N.H. RSA 659:50(c) details the examination of the signature itself which the *Saucedo* Court declared N.H. RSA 659:50(c) is an insufficient method to verify the identity of an absentee voter. If the affidavit is not properly executed pursuant to N.H. RSA 659:30, the moderator cannot take the next step to examine the signature in N.H. RSA 659:50(c). The Defendants have known this since 2018.

95. How can the moderator whose duty under NH RSA 659:50 requires him to verify that affidavit was properly executed and witnessed by an official authorized by law to do so. I argue that Defendants have worked together to applied different standards, practices, or procedures to affidavit certification requirements. Now they are relying upon the omission of the previous statutes, and now they simply ignore N.H. RSA 659:30 and call an absentee voter envelope an affidavit, without being sworn before a public official, required by law to properly execute the affidavit.

96. The statutory language of N.H. RSA 659:50, (b), states, “The affidavit appears to be properly executed;” The definition of properly executed affidavit was defined by the 1942 legislature, and its original intent is still in effect. Therefore, the Defendants are violating RSA 659:50 by failing to ensure that the affidavit is properly executed.

97. N.H. RSA 659:50(b) instructs the moderator not to remove an absentee ballot from the absentee affidavit envelope if the affidavit is not properly executed.

98. RSA 659:53 *Forms Not in order*; requires that moderator upon examination of an absentee voter inner affidavit envelope and discovering that the “affidavit is improperly executed”, “**shall not**” open the envelope and “shall” mark across the face of the envelope the reason the ballot is rejected, such as “affidavit improperly executed”. The omission of a notary certificate and witness signature line of an official authorized by law to swear an oath or affirmation, is contrary to the common law and statutory requirement of N.H. RSA 659:30 today. Any Affidavit required by election statutes must be certified by an official authorized by law to swear an oath or affirmation.

FIFTH ISSUE: ALTERING BY STATUTE THE CONSTITUTIONAL DEFINITION OF A QUALIFIED VOTER.

99. I adopt all the proceeding paragraphs and relevant pleadings in Count IV, which are now incorporated into this appeal.

100. Contrary to the Trial Court opinion, and that of the Defendants, the const. N.H. is not silent on this matter, but rather it is specific. A qualified voter is defined as an inhabitant Part I, art. 11, Part II, art 30.

101. The following provision of the Const. N.H. Part I, art. 11, has always defined a qualified voter as an inhabitant and not as a resident. Art. 11 currently uses the word ‘inhabitant’ in 4 places in art. 11, which in part states: “*All elections are to be free, and every “inhabitant” of the state of 18 years of age and upwards*

*shall have an equal right to vote in any election. **Every person shall be considered an inhabitant for the purposes of voting** in the town, ward, or unincorporated place where he has his domicile.” (Emphasis added)*

102. The offending statute is N.H. RSA 21:6 Resident; Inhabitant. This statute is fatally flawed as it comingles the word “resident” with the word “inhabitant” defined in Part I, art. 11, and Part II, art. 30 as a qualified voter. The word inhabitant is specifically used in 33 places in the Const. N.H.; RSA 21:6 states:

A “resident” or “inhabitant” or both of this state and of any city, town, or other political subdivision of this state shall be a person who is domiciled”

...

103. An inhabitant is a citizen of this State because he was born in N.H, or he was naturalized, a resident (alien) is not. RSA 21:6 grants the right to vote to “resident” aliens (non-citizens of the State of N.H.), who are not qualified to vote pursuant to Part I, art. 11 as they are not inhabitants, defined by the aforesaid provisions of the Const. N.H. Therefore unconstitutional.

CONCLUSION

104. Count I; The Defendants, have denied me the right to vote under the aforesaid colorable laws, and said trespass is ongoing. Therefore, relief from this court is necessary.

REQUEST FOR ORAL ARGUMENTS

105. I respectfully request that this court hear oral arguments in this matter so that I may present my case before this Honorable Court.

REQUEST FOR RELIEF

Wherefore, I, respectfully request that this Honorable Court enter the following relief:

- A. Declare all of the effects of the 1976 Ballot Question 8 amendments a violation of Part I, art. 1, art 7, art. 8, art. 12, art. 15, and Part II, art. 100, therefore, unconstitutional, void ab initio.
- B. Declare the use of voting machines under N.H. RSA 656:40, 41, 42, a violation of Part I, art 1, art, 12, art. 15, and Part II, art. 32, therefore, unconstitutional, void ab initio.
- C. Declare absentee voting by Chapter 657, a violation of Part I, art. 1, art. 7, art. 8, art. 11, and art. 12, art. 15, therefore, unconstitutional, void ab initio.
- D. Declare the granting of voting rights to resident aliens, by RSA 21:6, 21:6-a, a violation of Part I, art. 1, art. 7, art. 8, art. 11, art. 12, art.15, Part II, art. 100, therefore, unconstitutional, void ab initio.
- E. Remand my civil complaint for damages to a Trial by Jury.
- F. Remand my criminal complaint to a court of competent jurisdiction.
- G. Any other relief this Court finds just and equitable.
- H. An order awarding all fees and cost to me.

CERTIFICATION OF COMPLIANCE WITH WORD LIMIT

The Plaintiff certifies that this brief complies with Supreme Court Rule 16(11). This brief contains 9,500 words.

CERTIFICATION

I, Daniel Richard, do hereby swear that on June 25, 2023, I did e-mail or hand deliver a copy of this to Christopher T. Sununu, et al.

Dated June 25, 2023

VERIFICATION

I, Daniel Richard, certify that the foregoing facts are true and correct to the best of my knowledge and belief.

/s/ Daniel Richard Daniel Richard

APPENDIX

CONSTITUTION OF NEW HAMPSHIRE, BILL OF RIGHTS

1. art. 1. [**Equality of Men; Origin and Object of Government.**] All men are born equally free and independent; Therefore, all government of right originates from the people, is founded in consent, and instituted for the general good.
June 2, 1784*

2. art. 2. [**Natural Rights.**] All men have certain natural, essential, and inherent rights among which are, the enjoying and defending life and liberty; acquiring, possessing, and protecting, property; and, in a word, of seeking and obtaining happiness. Equality of rights under the law shall not be denied or abridged by this state on account of race, creed, color, sex or national origin.
June 2, 1784,

3. art. 7. [**State Sovereignty.**] The people of this State have the sole and exclusive right of governing themselves as a free, sovereign, and independent State; and do, and forever hereafter shall, exercise and enjoy every power, jurisdiction, and right, pertaining thereto, which is not, or may not hereafter be, by them expressly delegated to the United States of America in Congress assembled.
June 2, 1784

4. art. 8. [**Accountability of Magistrates and Officers; Public's Right to Know.**] All power residing originally in, and being derived from, the people, all the magistrates and officers of government are their substitutes and agents, and at all times accountable to them. Government, therefore, should be open, accessible, accountable and responsive. To that end, the public's right of access to governmental proceedings and records shall not be unreasonably restricted. The public also has a right to an orderly, lawful, and accountable government. Therefore, any individual taxpayer eligible to vote in the State, shall have standing to petition the Superior Court to declare whether the State or

political subdivision in which the taxpayer resides has spent, or has approved spending, public funds in violation of a law, ordinance, or constitutional provision. In such a case, the taxpayer shall not have to demonstrate that his or her personal rights were impaired or prejudiced beyond his or her status as a taxpayer. However, this right shall not apply when the challenged governmental action is the subject of a judicial or administrative decision from which there is a right of appeal by statute or otherwise by the parties to that proceeding.

June 2, 1784

Amended 1976 by providing right of access to governmental proceedings and records.

Amended 2018 by providing that taxpayers have standing to bring actions against the government

5. art. 11. **[Elections and Elective Franchises.]** All elections are to be free, and every inhabitant of the state of 18 years of age and upwards shall have an equal right to vote in any election. Every person shall be considered an inhabitant for the purposes of voting in the town, ward, or unincorporated place where he has his domicile. No person shall have the right to vote under the constitution of this state who has been convicted of treason, bribery or any willful violation of the election laws of this state or of the United States; but the supreme court may, on notice to the attorney general, restore the privilege to vote to any person who may have forfeited it by conviction of such offenses. The general court shall provide by law for voting by qualified voters who at the time of the biennial or state elections, or of the primary elections therefor, or of city elections, or of town elections by official ballot, are absent from the city or town of which they are inhabitants, or who by reason of physical disability are unable to vote in person, in the choice of any officer or officers to be elected or upon any question submitted at such election. Voting registration and polling places shall be easily accessible to all persons including disabled and elderly persons who are otherwise qualified to vote in the choice of any officer or officers to be elected or upon any question submitted at such election. The right to vote shall not be denied to any person because of the non payment of any tax. Every inhabitant of the state, having the proper qualifications, has equal right to be elected into office.

June 2, 1784

Amended 1903 to provide that in order to vote or be eligible for office a person must be able to read the English language and to write.

Amended 1912 to prohibit those convicted of treason, bribery or willfull violation of the election laws from voting or holding elective office.

Amended 1942 to provide for absentee voting in general elections.

Amended 1956 to provide for absentee voting in primary elections.

Amended 1968 to provide right to vote not denied because of nonpayment of taxes. Also amended in 1968 to delete an obsolete phrase.

Amended 1976 to reduce voting age to 18.

Amended 1984 to provide accessibility to all registration and polling places.

6. art. 12. **[Protection and Taxation Reciprocal.]** Every member of the community has a right to be protected by it, in the enjoyment of his life, liberty, and property; he is therefore bound to contribute his share in the expense of such protection, and to yield his personal service when necessary. But no part of a man's property shall be taken from him, or applied to public uses, without his own consent, or that of the representative body of the people. Nor are the inhabitants of this State controllable by any other laws than those to which they, or their representative body, have given their consent.
June 2, 1784
Amended 1964 by striking out reference to buying one's way out of military service.
7. art. 14. **[Legal Remedies to be Free, Complete, and Prompt.]** Every subject of this State is entitled to a certain remedy, by having recourse to the laws, for all injuries he may receive in his person, property, or character; to obtain right and justice freely, without being obliged to purchase it; completely, and without any denial; promptly, and without delay; conformably to the laws.
June 2, 1784
8. art. 15. **[Right of Accused.]** No subject shall be held to answer for any crime, or offense, until the same is fully and plainly, substantially and formally, described to him; or be compelled to accuse or furnish evidence against himself. Every subject shall have a right to produce all proofs that may be favorable to himself; to meet the witnesses against him face to face, and to be fully heard in his defense, by himself, and counsel. No subject shall be arrested, imprisoned, despoiled, or deprived of his property, immunities, or privileges, put out of the protection of the law, exiled or deprived of his life, liberty, or estate, but by the judgment of his peers, or the law of the land; provided that, in any proceeding to commit a person acquitted of a criminal charge by reason of insanity, due process shall require that clear and convincing evidence that the person is potentially dangerous to himself or to others and that the person suffers from a mental disorder must be established. Every person held to answer in any crime or offense punishable by deprivation of liberty shall have the right to counsel at the expense of the state if need is shown; this right he is at liberty to waive, but only after the matter has been thoroughly explained by the court.
June 2, 1784
Amended 1966 to provide the right to counsel at state expense if the need is shown.
Amended 1984 reducing legal requirement proof beyond a reasonable doubt to clear and convincing evidence in insanity hearings.

9. art. 32. [**Rights of Assembly, Instruction, and Petition.**] The People have a right, in an orderly and peaceable manner, to assemble and consult upon the common good, give instructions to their Representatives, and to request of the legislative body, by way of petition or remonstrance, redress of the wrongs done them, and of the grievances they suffer.

June 2, 1784

10. art. 38. [**Social Virtues Inculcated.**] A frequent recurrence to the fundamental principles of the constitution, and a constant adherence to justice, moderation, temperance, industry, frugality, and all the social virtues, are indispensably necessary to preserve the blessings of liberty and good government; the people ought, therefore, to have a particular regard to all those principles in the choice of their officers and representatives, and they have a right to require of their lawgivers and magistrates, an exact and constant observance of them, in the formation and execution of the laws necessary for the good administration of government.

June 2, 1784

PART II, FORM OF GOVERNMENT

11. art. 4. [**Power of General Court to Establish Courts.**] The general court (except as otherwise provided by Article 72 a of Part 2) shall forever have full power and authority to erect and constitute judicatories and courts of record, or other courts, to beholden, in the name of the state, for the hearing, trying, and determining, all manner of crimes, offenses, pleas, processes, complaints, actions, causes, matters and things whatsoever arising or happening within this state, or between or concerning persons inhabiting or residing, or brought, within the same, whether the same be criminal or civil, or whether the crimes be capital, or not capital, and whether the said pleas be real, personal or mixed, and for the awarding and issuing execution thereon. To which courts and judicatories, are hereby given and granted, full power and authority, from time to time, to administer oaths or affirmations, for the better discovery of truth in any matter in controversy, or depending before them.

June 2, 1784

Amended 1966 to add exception relating to Art. 72 a, Part 2.

12. art. 5. [**Power to Make Laws, Elect Officers, Define Their Powers and Duties, Impose Fines and Assess Taxes; Prohibited from Authorizing Towns to Aid Certain Corporations.**] And farther, full power and authority are hereby given and granted to the said general court, from time to time, to make, ordain, and establish, all manner of wholesome and reasonable orders, laws, statutes, ordinances, directions, and instructions, either with penalties, or without, so as the

same be not repugnant or contrary to this constitution, as they may judge for the benefit and welfare of this state, and for the governing and ordering thereof, and of the subjects of the same, for the necessary support and defense of the government thereof, and to name and settle biennially, or provide by fixed laws for the naming and settling, all civil officers within this state, such officers excepted, the election and appointment of whom are hereafter in this form of government otherwise provided for; and to set forth the several duties, powers, and limits, of the several civil and military officers of this state, and the forms of such oaths or affirmations as shall be respectively administered unto them, for the execution of their several offices and places, so as the same be not repugnant or contrary to this constitution; and also to impose fines, mulcts, imprisonments, and other punishments, and to impose and levy proportional and reasonable assessments, rates, and taxes, upon all the inhabitants of, and residents within, the said state; and upon all estates within the same; to be issued and disposed of by warrant, under the hand of the governor of this state for the time being, with the advice and consent of the council, for the public service, in the necessary defense and support of the government of this state, and the protection and preservation of the subjects thereof, according to such acts as are, or shall be, in force within the same; provided that the general court shall not authorize any town to loan or give its money or credit directly or indirectly for the benefit of any corporation having for its object a dividend of profits or in any way aid the same by taking its stocks or bonds. For the purpose of encouraging conservation of the forest resources of the state, the general court may provide for special assessments, rates and taxes on growing wood and timber.

June 2, 1784

Amended 1792 changing "president" to "governor."

Amended 1877 changing "annually" to "biennially." Also amended to prohibit towns and cities from loaning money or credit to corporations.

Amended 1942 to permit a timber tax.

13. art. 13. [**Qualifications of Electors.**] (Repealed)

June 2, 1784. All persons qualified to vote in the election of senators shall be entitled to vote within the town, district, parish, or place where they dwell, in the choice of representatives. Note: The phrase "town, district, parish, or place"; was shortened to "district" in engrossed copy of 1792, apparently without authority. Repealed in 1976.

14. art. 27. [**Election of Senators.**] The freeholders and other inhabitants of each district, qualified as in this constitution is provided shall biennially give in their

votes for a senator, at some meeting holden in the month of November.
June 2, 1784. Annual election of senators at annual meeting in March.
Amended 1792 rewording phrases but not changing the meaning.
Amended 1877 twice substituting biennial election and sessions for annual elections and sessions and providing for elections in November instead of March.

15. art. 28. [**Senators, How and by Whom Chosen; Right of suffrage.**] (Repealed)
June 2, 1784. Senate, first branch of the legislature, elected by male inhabitants 21 years of age and older who pay their own poll tax.
Amended 1792 changing wording but not the meaning.
Amended 1877 twice, substituting "biennially" for "annually" and "November" for "March."
Amended 1958 removing obsolete reference to "male" inhabitants as being the only ones allowed to vote.
Repealed 1976. Provisions covered by Article 11.
16. art. 30. [**Inhabitant Defined.**] And every person, qualified as the constitution provides, shall be considered an inhabitant for the purpose of being elected into any office or place within this state, in the town, or ward, where he is domiciled.
June 2, 178
Amended 1958 substituting "ward" for "parish, and plantation."
Amended 1976 twice deleting reference to electing and substituting "is domiciled" for "dwelleth and hath his home."
17. art. 31. [**Inhabitants of Unincorporated Places; Their Rights, etc.**] (Repealed)
June 2, 1784. Procedure and qualifications for inhabitants of unincorporated places to vote.
Amended 1877 twice providing for biennial instead of annual elections in November instead of March.
Amended 1958 deleting reference to plantations and substituting "wards" for "parishes."
Repealed 1976. Provisions covered by Part I, Art. 11.
18. art. 72-a. [**Supreme and Superior Courts.**] The judicial power of the state shall be vested in the supreme court, a trial court of general jurisdiction known as the superior court, and such lower courts as the legislature may establish under Article 4th of Part 2.
November 16, 1966
19. art. 73-a. [**Supreme Court, Administration.**] The chief justice of the supreme court shall be the administrative head of all the courts. He shall, with the concurrence of a majority of the supreme court justices, make rules governing the

administration of all courts in the state and the practice and procedure to be followed in all such courts. The rules so promulgated shall have the force and effect of law.

November 22, 1978

20. art. 99. **[Revision of Constitution Provided For.]** (Repealed)

June 2, 1784. Question of calling a convention to be submitted to the people after seven years.

Delegates to be elected in the same manner as representatives. Questions to be approved by two thirds of qualified voters present and voting there on.

Amended 1792 detailing procedure for calling a convention.

Repealed 1980.

21. art. 100. **[Alternate Methods of Proposing Amendments.]** Amendments to this constitution may be proposed by the general court or by a constitutional convention selected as herein provided.

(a) The senate and house of representatives, voting separately, may propose amendments by a three fifths vote of the entire membership of each house at any session.

(b) The general court, by an affirmative vote of a majority of all members of both houses voting separately, may at any time submit the question "Shall there be a convention to amend or revise the constitution?" to the qualified voters of the state. If the question of holding a convention is not submitted to the people at some time during any period of ten years, it shall be submitted by the secretary of state at the general election in the tenth year following the last submission. If a majority of the qualified voters voting on the question of holding a convention approves it, delegates shall be chosen at the next regular general election, or at such earlier time as the legislature may provide, in the same manner and proportion as the representatives to the general court are chosen. The delegates so chosen shall convene at such time as the legislature may direct and may recess from time to time and make such rules for the conduct of their convention as they may determine.

(c) The constitutional convention may propose amendments by a three fifths vote of the entire membership of the convention.

Each constitutional amendment proposed by the general court or by a constitutional convention shall be submitted to the voters by written ballot at the next biennial November election and shall become a part of the Constitution only after approval by two thirds of the qualified voters present and voting on the subject in the towns, wards, and unincorporated places.

September 5, 1792. Question of calling a convention to be submitted every 7 years.

Amended 1964 twice changing submission of question on calling a convention to every 10 years rather than 7 and providing that the general court could propose

amendments.

Amended 1980 twice incorporating provisions of repealed Art. 99 and requiring all proposals be submitted at the next biennial November election.

N.H. RSA's

22. N.H. RSA 21:6 Resident; Inhabitant. – A resident or inhabitant or both of this state and of any city, town, or other political subdivision of this state shall be a person who is domiciled or has a place of abode or both in this state and in any city, town, or other political subdivision of this state, and who has, through all of his or her actions, demonstrated a current intent to designate that place of abode as his or her principal place of physical presence to the exclusion of all others.

Source. RS 1:5. CS 1:5. GS 1:6. GL 1:6. PS 2:6. PL 2:6. RL 7:6. RSA 21:6. 1981, 261:1, eff. June 16, 1981. 2018, 370:1, eff. July 1, 2019.

23. N.H. RSA 21:6-a Residence. – Residence or residency shall mean a person's place of abode or domicile. The place of abode or domicile is that designated by a person as his or her principal place of physical presence to the exclusion of all others. Such residence or residency shall not be interrupted or lost by a temporary absence from it, if there is an intent to return to such residence or residency as the principal place of physical presence.

Source. 1981, 261:1, eff. June 16, 1981. 2018, 370:1, eff. July 1, 2019.

24. N.H. RSA 638:12 Fraudulent Execution of Documents. – A person is guilty of a misdemeanor if, by deception or threat, he causes another to sign or execute any instrument which affects or is likely to affect the pecuniary interest of any person.
Source. 1971, 518:1, eff. Nov. 1, 1973.

25. N.H. RSA 643:1 Official Oppression. – A public servant, as defined in RSA 640:2, II, is guilty of a misdemeanor if, with a purpose to benefit himself or another or to harm another, he knowingly commits an unauthorized act which purports to be an act of his office; or knowingly refrains from performing a duty imposed on him by law or clearly inherent in the nature of his office.

Source. 1971, 518:1, eff. Nov. 1, 1973.

26. N.H. RSA 659:30 **Affidavit.** – The affidavit of a challenged voter, an asserting a challenge form, a qualified voter affidavit, or any other affidavit required by the election statutes may be sworn before any person authorized by law to administer oaths or before any election officer.

Source. 1979, 436:1. 2003, 289:58. 2006, 94:2. 2007, 212:5. 2009, 278:4. 2011, 73:4, eff. July 15, 2011. 2017, 205:11, eff. Sept. 8, 2017.

27. N.H. RSA 659:50 Announcement by Moderator. –

I. The moderator shall begin processing absentee ballots by clearly announcing that he or she is about to open the envelopes which were delivered to him or her. The moderator shall then remove the envelope containing the ballots of each absentee voter and, for those absentee ballots where the absentee voter has not been verified by the clerk as provided in RSA 657:17-a, shall compare the signature on the affidavit with the signature on the application for the ballot. If:

(a) The name of the voter is on the checklist; and
(b) The affidavit appears to be properly executed; and
(c) If the affidavit or application shows that the voter received assistance, the absentee voter shall be processed as verified. Otherwise, the signatures on the affidavit shall be examined to determine if it appears to be executed by the same person who signed the application.

II. For the absentee ballots processed in accordance with paragraph I and those where the clerk has previously verified the absentee voter in accordance with RSA 657:17-a, if the signatures appear to be the signatures of a duly qualified voter who has not voted at the election; then the moderator shall publicly announce the name of the absentee voter, except that with respect to any voter who has been included in the address confidentiality program under RSA 7:43 or who has been granted a protective order under RSA 173-B, the moderator shall identify such voters as "confidential voter number 1" and "confidential voter number 2," and so forth. If these conditions are not met, the moderator shall follow the procedure provided in RSA 659:53.

Source. 1979, 436:1. 2010, 317:41, eff. July 18, 2010. 2017, 216:9, eff. July 10, 2017. 2018, 329:3, eff. Jan. 1, 2019.

28. N.H. RSA 659:53 Forms Not in Order. – If the moderator finds that the absentee voter is not entitled to vote, the moderator shall not open the envelope and shall mark across the face of the envelope the reason the ballot is rejected, such as "rejected as not a voter" "voted in person," "affidavit improperly executed," "not signed by proper person," or whatever the reason is and shall record next to the name of the absentee voter on the clerk's list of absentee voter applicants prepared pursuant to RSA 657:15 the word "rejected" and the reason for the rejection. The clerk shall record this information in the statewide centralized voter registration database. The moderator shall save all the unopened envelopes and shall preserve the envelopes with the ballots cast at the election as provided in RSA 659:101.
Source. 1979, 436:1. 2010, 182:14, eff. June 21, 2010.

29. N.H. RSA 666:2 Official Malfeasance. –

A moderator, supervisor of the checklist, selectman or town clerk shall be guilty of a misdemeanor if at any election:

I. He shall knowingly receive and count any illegal vote; or
II. He shall knowingly omit to receive and count any legal vote; or

III. He shall knowingly remove any vote from the number of legal votes cast; or
IV. He shall knowingly add any illegal vote to the number of legal votes cast; or
V. He shall receive or count any vote given at such election by proxy, that is,
without the personal delivery of such vote by the person entitled to give the same;
or

VI. He shall fraudulently declare the state of the vote in the election of any officer.
Source. 1979, 436:1, eff. July 1, 1979.

30. N.H. RSA 666:3 Official Misconduct. –

I. (a) Any public officer upon whom a duty relating to elections is imposed who shall knowingly fail to perform such duty or who shall knowingly perform it in such a way as to hinder the objects thereof shall be guilty of a misdemeanor if no other penalty is provided by law.

(b) The attorney general shall investigate misconduct by an election official. If an election official is convicted, the attorney general shall remove the official's right to vote in accordance with part I, article 11 of the New Hampshire constitution.

II. (a) Any public officer upon whom a duty relating to elections is imposed who shall negligently fail to perform such duty or who shall negligently perform it in such a way as to hinder the objects thereof, as found pursuant to RSA 666:2, shall cause the county, city, town, school district, village district, or other political subdivision, where such conduct occurred to be subject to a civil penalty of not less than \$250 nor more than \$1000 for each act.

(b) Prior to the imposition of a civil penalty under subparagraph (a), the attorney general shall notify the county, city, town, school district, village district, or other political subdivision of the state's intention to seek such penalty. The notice of intent to seek a civil penalty shall include notice of the opportunity to respond, within 45 days, as to why the penalty shall not be imposed. The attorney general is authorized to negotiate and settle with such county, city, town, school district, village district, or other political subdivision without court action, provided that any civil penalty paid as settlement shall be paid to the attorney general for deposit into the general fund.

(c) If the county, city, town, school district, village district, or other political subdivision disputes the final determination of the attorney general, that political subdivision may appeal the attorney general's penalty assessment to the superior court.

III. The attorney general shall notify the county, city, town, school district, village district, or other political subdivision that is subject to this section of the state's intention to seek a civil penalty, and of the ability to negotiate with and to settle with such county, city, town, school district, village district, or other political subdivision without court action, provided that any civil penalty paid as settlement shall be paid to the attorney general for deposit into the general fund.

IV. If an entity is subject to a civil penalty under this section, the entity shall also be subject to the payment of restitution damages.

Source. 1979, 436:1, eff. July 1, 1979. 2022, 234:5, eff. Aug. 16, 2022; 327:1, eff. Sept. 6, 2022.

Constitution of the United States

31. Article 1. Section 2.

The House of Representatives shall be composed of members chosen every second year by the people of the several states, and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

32. 14th Amendment, Section 1.

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

33. 17th Amendment

The Senate of the United States shall be composed of two Senators from each state, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislatures.

Federal Statutes

34. 18 U.S. Code § 242 – Deprivation of rights Under color of law, Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such person being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined under this title or imprisoned not more than one year, or both; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire, shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this

title, or imprisoned for any term of years or for life, or both, or may be sentenced to death.

(June 25, 1948, ch. 645, [62 Stat. 696](#); [Pub. L. 90–284, title I, § 103\(b\)](#), Apr. 11, 1968, [82 Stat. 75](#); [Pub. L. 100–690, title VII, § 7019](#), Nov. 18, 1988, [102 Stat. 4396](#); [Pub. L. 103–322, title VI, § 60006\(b\)](#), title XXXII, §§ 320103(b), 320201(b), title XXXIII, § 330016(1)(H), Sept. 13, 1994, [108 Stat. 1970](#), 2109, 2113, 2147; [Pub. L. 104–294, title VI](#), §§ 604(b)(14)(B), 607(a), Oct. 11, 1996, [110 Stat. 3507](#), 3511.)

35. 52 U.S. Code § 10101 – Voting Rights;

(2) No person acting under color of law shall—

(A) in determining whether any individual is [qualified under State law](#) or laws to [vote](#) in any election, apply any standard, practice, or procedure different from the standards, practices, or procedures applied under such law or laws to other individuals within the same county, parish, or similar political subdivision who have been found by State officials to be qualified to [vote](#);

(B) deny the right of any individual to [vote](#) in any election because of an error or omission on any record or paper relating to any application, registration, or other act requisite to voting, if such error or omission is not material in determining whether such individual is [qualified under State law](#) to [vote](#) in such election; or

36. 52 U.S. Code § 20511 – Criminal penalties

A person, including an [election](#) official, who in any [election](#) for [Federal office](#)—

(2) knowingly and willfully deprives, defrauds, or attempts to deprive or defraud the residents of a [State](#) of a fair and impartially conducted [election](#) process, by—

(A) the procurement or submission of voter registration applications that are known by the person to be materially false, fictitious, or fraudulent under the laws of the [State](#) in which the [election](#) is held; or

(B) the procurement, casting, or tabulation of ballots that are known by the person to be materially false, fictitious, or fraudulent under the laws of the [State](#) in which the [election](#) is held,

shall be fined in accordance with title 18 (which fines shall be paid into the general fund of the Treasury, miscellaneous receipts (pursuant to [section 3302 of title 31](#)), notwithstanding any other law), or imprisoned not more than 5 years, or both. ([Pub. L. 103–31, § 12](#), May 20, 1993, [107 Stat. 88](#).)

