

# MAINE STATE LEGISLATURE

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Legislative Record

OF THE

Seventy-Sixth Legislature

OF THE

STATE OF MAINE

1913

**HOUSE.**

Tuesday, January 14, 1913.

The House met according to adjournment and was called to order by the Speaker.

Prayer by the Rev. Mr. Stanley of Hallowell.

Journal of previous session read and approved.

Mr. SCATES of Westbrook: Mr. Speaker, I would move that we pass over everything down to orders, and that we take up at this time orders. I do this because I am reliably informed that there are important matters which need the present consideration of this House.

The question being, shall the rules be suspended and the House pass over the regular order of business and take up orders.

The motion was agreed to.

Mr. AUSTIN of Phillips: Mr. Speaker, I doubt the vote and call for a division of the House.

The SPEAKER: The Chair rules that this motion requires that two-thirds of the members of the House vote in favor. All those in favor of this motion having a passage will rise and stand in their places until counted, and the monitors will return the count.

Mr. SCATES: Mr. Speaker, there seems to be some misunderstanding in regard to the statement of the question by the Chair and the ruling of the Chair.

The SPEAKER: The Chair understands the question is on the motion of the gentleman from Westbrook (Mr. Scates) that the rules be suspended and that the House pass over intervening matters of business and at this point take up the item of orders. Does the Chair correctly understand the motion of the gentleman from Westbrook?

Mr. SCATES: That is correct.

The SPEAKER: All those in favor of the motion will rise and stand in their places until counted, and the monitors will return the count.

A division of the House was had.

The SPEAKER: Seventy-four having voted in favor of the motion and

60 against the motion, the necessary two-thirds have not voted in the affirmative, and the motion is lost. The House will proceed under the regular order and take up Senate papers and first reading of accompanying bills and resolves.

Papers from the Senate disposed of in concurrence.

From the Senate: An Act to grant additional rights to married women.

In the Senate this bill was referred to the committee on judiciary, and in the House referred to the committee on judiciary in concurrence.

Subsequently on motion by Mr. Jones of China, the vote was reconsidered whereby the bill was referred to the committee of judiciary in concurrence with the Senate, and no further motion by the same gentleman the bill was tabled for printing pending its reference to the committee.

The following bills, petitions, etc., were presented and referred:

**Judiciary.**

By Mr. Plummer of Lisbon: An Act relating to the use of seals. (Tabled for printing pending reference to the committee on motion by Mr. Plummer.)

By Mr. Smith of Auburn: An Act to establish a board of State Park Commissioners and to define its powers and duties.

By Mr. Hutchins of Penobscot: Petition of Lillian M. Stevens and Isabel H. Stickney on behalf of the Maine W. C. T. U., in favor of an amendment to the constitution in such manner as will give the ballot to women.

By Mr. McBride of Mount Desert: Petition of S. G. Seaward and 15 others to open all roads in the town of Mount Desert which lie westerly of Somes' Sound to the travel of automobiles.

By same gentleman: Petition of William Gray and 13 others for same.

By same gentleman: Petition of Frank Lunt and 19 others of Tremont for same.

By same gentleman: Petition of Frank Runnill and 17 others for same.

**Legal Affairs.**

By Mr. Kehoe of Portland: An Act to amend Section 14 of Chapter 89 of the Revised Statutes, as amended by Section 1 of Chapter 186 of the Public Laws of 1907, relating to the limitation of actions against executors and administrators.

By same gentleman: An Act to amend Section 20 of Chapter 67 of the Revised Statutes, as amended by Chapter 134 of the Public Laws of 1911, relating to distribution of personal estates.

By Mr. Violette of Van Buren: An Act to incorporate the Van Buren Sewerage Co.

**Appropriations and Financial Affairs.**

By Mr. Reynolds of Lewiston: Resolve in favor of the Girls' Orphanage of Lewiston.

**Banks and Banking.**

By Mr. Plummer of Lisbon: An Act amending Chapter 96 of the Public Laws of 1907 relating to the organization and management of Trust Companies. (Tabled for printing pending reference to the committee on motion by Mr. Plummer.)

**Education.**

By Mr. Chick of Monmouth: Resolve in favor of Monmouth Academy.

**Agriculture.**

By Mr. Smith of Auburn: Resolve in favor of the Maine Pomological Society.

By the same gentleman: Resolve in favor of the New England Fruit Show.

**Interior Waters.**

By Mr. Metcalf of Greenville: Resolve in aid of navigation on Moosehead lake.

**Claims.**

By Mr. Eaton of Oxford: Resolve in favor of the town of Oxford, with accompanying papers and statement of facts.

**Inland Fisheries and Game.**

By Mr. Swift of Augusta: An Act relating to the sale of fish artificially propagated and maintained and game propagated and maintained in captivity.

By Mr. Metcalf of Greenville: Peti-

tion of C. A. Judkins and four others of Kineo, F. L. Gardner and 37 others of Auburn and Lewiston, H. E. Capen and 22 others of Augusta, and E. B. Parks and 44 others of Newport and vicinity, asking that so much of the fish and game laws as prohibits the shipment by one person of more than one box of fish once in 30 days, without accompanying the same, be repealed, and that the provisions of law previously in force relating to such shipments be re-enacted. (Tabled for printing pending reference to the committee on motion by Mr. Austin of Phillips.)

By Mr. Bowler of Bethel: Petition of A. W. Hart and 16 others, residents of Lincoln and Magalloway Plantations in the county of Oxford, asking that Black, Abbott, Beaver, Bog, Cold and Lincoln brooks in Lincoln Plantation in said county of Oxford, also Harmon, Aldridge, Meadow and Big brooks in Parkertown, so-called, be closed to all fishing.

**Penobscot County Delegation.**

By Mr. Mitchell of Newport: An Act to amend Section 1 of Chapter 151 of the Public Laws of 1905, relating to the salary and clerk hire of the register of probate of Penobscot county.

**Towns.**

By Mr. Cochran of Edgecomb: An Act to divide the town of Boothbay and establish the town of Waverly.

**Orders.**

On motion by Mr. Maybury of Saco, it was

Ordered, the Senate concurring, that a joint special committee be appointed consisting of three members of the Senate and seven members of the House to investigate the cost of producing electric energy in Maine, the opportunities existing for competition in the production and sale of such energy, and the prices charged by various electric companies for light, heat and power at the present time and during the past year, and report fully thereon to this Legislature. Said committee to summon witnesses, examine books and papers and employ counsel to act for it.

Mr. NEWBERT of Augusta: Mr. Speaker, I wish to present an order

and move its passage, and I beg the indulgence of the House for a few moments in the way of explanation.

Mr. Newbert then present the following order:

Whereas, William H. Farrar of Ripley, Otis H. Taylor of Topsfield and Horace Mitchell of Kittery, now holding office under the United States, being at the present time postmasters respectively at West Ripley, Topsfield and Kittery Point, and

Whereas, the holding of said offices disqualifies the said William H. Farrar, Otis H. Taylor and Horace Mitchell for membership in this House,

Therefore, ordered, that by virtue of the constitution of this State the aforesaid William H. Farrar, Otis H. Taylor and Horace Mitchell are ineligible to membership in this House and that their seats are hereby adjudged and declared vacant.

Mr. Newbert moved that the order receive a passage.

Mr. NEWBERT: Mr. Speaker and gentlemen of the House, I think you will agree with me that the order just introduced is perhaps sufficiently clear and definite and brief so that in and of itself it make a clear expression of the intent of its friends. The question it raises is a question of the eligibility of certain highly honorable gentlemen to membership in this House. This order was not framed, gentlemen, in any spirit of party passion, nor is it introduced, this morning, because of any political expediency. We take our stand upon the Constitution of this State, and in order that I may refresh the memories of the gentlemen of the House, I will read the section upon which this order is grounded. I will read Section 11 of Article 4 of the Constitution of Maine:

"No member of Congress, nor person holding any office under the United States (post officers excepted), nor office of profit under this State, justices of the peace, notaries public, coroners and officers of the militia excepted, shall have a seat in either House during his being such member of Congress, or his continuing in such office."

Now, Gentlemen, I am perhaps the plainest layman of you all I do not stand here this morning pretending to

be a lawyer I would not for a moment pretend to be able to interpret the Constitution of our State, nor do I believe it is the prerogative of this House today to interpret the constitution. I will read again the plain English language that a grammar-school boy ought to be taught to read and know, and I will read the portion of it again only which relates to the question which is now before this House:

"No member of Congress, no person holding any office under the United States (Post-officers excepted) shall have a seat in either House during his being such member of Congress, or his continuing in such office."

I would have no member of this House confused by this term "post-officer." It may be misleading—It is one of the terms that occasionally we run up against in our reading, and relates to the officers of military posts, whom our fathers, the makers of this constitution, were willing and glad to have in their councils. They were strong men, and they were not numerous because they were limited to the few military posts within our borders. But our fathers builded wisely when they did leave out from the councils of state the great horde of federal officers, such as are postmasters. These post-officers who are allowed to sit, I say, were few in number and the numbers diminished rather than increased until they are gone, and the posts they occupied are gone; but the postmasters in Maine have multiplied since 1820 until today they can make up two or three Legislatures such as today sits under the dome of this Capitol. I say, our fathers builded wisely when they thus wrote into the Constitution of this State this limitation as to representation in the Legislature.

Now, the question resolves itself, Gentlemen, to my mind into a practical and simple question, one which is easy for us here to discuss and settle. I do not raise the question of the disqualification of members on this floor. This House cannot today disqualify these gentlemen named in the order; but I do submit that the Con-

stitution of this state by express terms disqualifies any man who today sits here by virtue of the certified roll of the Secretary of State, if he holds any office under the United States. It is a matter of evidence. I hold in my hand a pretty reliable old book to which the most of us go many times during the year, the old Maine Register for the years 1912 and 1913. I turn to its pages and I find that on page 870 appears this entry under the head of "Ripley," "Postmasters: L. R. Ramsdell; West, W. H. Farrar."

Now, Mr. Speaker, I may be or may not be within my rights; I think, however, that I am when I say it may be the simplest way and the wisest way to discover as to whether men sitting here are postmasters today, to ask them through the Chair in open House. I take it that these honorable gentlemen, if they are postmasters, will say so; and if they are not postmasters, they will say so; and their word here will not be questioned.

Mr. AUSTIN of Phillips: Mr. Speaker, I would ask if the gentlemen will permit a question to be asked.

The SPEAKER: Will the gentlemen from Augusta permit the gentleman from Phillips to ask a question?

Mr. NEWBERT: Mr. Speaker, I certainly will permit the question.

Mr. AUSTIN: The question is, whether the gentleman from Augusta intends to include in this resolution all postmasters today sitting in this House?

Mr. NEWBERT: I will say to the gentleman that I do, as far as I know.

Mr. AUSTIN: Then I would say, Mr. Speaker, it might be well to turn to page 481 of this grand and great old book to which the gentleman has referred.

Mr. NEWBERT: I will say to the gentleman through the Chair that amendments later will be in order, and I think then if there are other postmasters their names may be entered in the form of an amendment, and I think there will be no controversy in regard to that.

Mr. AUSTIN: That is the point about which I wanted to ask.

Mr. NEWBERT: Mr. Speaker, with your permission and with the permission of the House, I will ask the direct question of the gentleman from Ripley, Mr. Farrar,—Are you at the present time holding office under the United States, and are you in fact postmaster at West Ripley?

The SPEAKER: The gentleman from Augusta, Mr. Newbert, asks the permission of the House to inquire of the gentleman from Ripley, Mr. Farrar, if he is willing to answer the question, whether or not he is at the present time holding office of postmaster of West Ripley. The Chair assumes the permission of the House that the gentleman from Ripley may answer the inquiry.

Mr. FARRAR of Ripley: I am.

Mr. NEWBERT: And Mr. Speaker, on page 961 of the same book to which I have referred I find this record under the head of "Topsfield," "Postmaster: O. H. Taylor," and I would ask the gentleman from Topsfield, Mr. Taylor, through the Chair, if he now is holding office under the United States, and if in fact he is at the present time postmaster of Topsfield?

The SPEAKER: The gentleman from Augusta, Mr. Newbert, asks the permission of the House to inquire through the Chair of the gentleman from Topsfield, Mr. Taylor, as to whether or not at the present time he is holding the office of postmaster at Topsfield. The Chair assumes the permission of the House is granted, and inquires whether the gentleman will answer the question.

Mr. TAYLOR of Topsfield: I am.

Mr. NEWBERT: And, Mr. Speaker, on page 991 of the same Register I find under the head of "Kittery" the following reference: "Postmaster: Thomas E. Wilson; Point, Horace Mitchell." And I will respectfully ask through the Chair of the gentleman from Kittery, Mr. Mitchell, "Are you now holding office under the United States, and are you in fact postmaster at Kittery Point?"

The SPEAKER: The gentleman

from Augusta, Mr. Newbert, makes the inquiry of the gentleman from Kittery, Mr. Mitchell.

Mr. MITCHELL of Kittery: Mr. Speaker, I am; my resignation is in the hands of certain parties on the way to the Post Office Department.

Mr. NEWBERT: Now, Gentlemen, it seems to me that we have sufficient evidence that these gentlemen named in the order are at the present time holding office under the United States and are in fact postmasters, holding office as the order sets forth. It might be argued in this House, and probably will, and I anticipate it, that this order should not be the ground of settlement of this question, today, but that this whole question should go to some committee, namely, to the elections committee on the part of the House. I submit, gentlemen, this is not a question for reference to any committee; this is not an ordinary election case; this is not a case where an election is contested; this is not a case in which ballots are to be counted; this is not a case in which law may be cited as to the conduct of elections, or the kind of ballot, whether it was a good ballot or a bad ballot. I say, the whole question comes down to this simple proposition, are these gentlemen disqualified, today, by the Constitution of this State, or are they not? It is not a question, as may be argued, as to their right to vote, today, for Senator; it is a question of their right to sit in this House as members of this House, and to participate in any and all of the proceedings of this House.

I submit, Mr. Speaker, and Gentlemen, that the Constitution does disqualify these gentlemen, and that in reality their seats are and should be vacant; but it may be argued that these men should have a hearing. We bring no charges against these gentlemen; they are highly honorable citizens of our State. And there is no cause for a hearing other than a hearing such as we are holding in this open House, with 151 members sitting here to take part as jurors, if you please. At 12 o'clock, today, gentlemen, this House will take up a high

duty, none higher to perform in our deliberations of this winter—the solemn duty of voting for a senator of the United States for the full term of six years; and I submit that this discussion is timely and it should proceed, and by our votes here we should determine once for all whether these three honorable gentlemen are entitled to seats here, or whether they are disqualified by the Constitution and have no right to participate in any of the proceedings of this House.

I take it that no gentleman from the State of Maine would be willing to go to Washington as Senator for six years were his election, today, determined by the vote of one man who on his own testimony is a postmaster, and, as we believe, disqualified because of holding that position for membership in this body. I repeat, Mr. Speaker, the words with which I began; I move the passage of the resolution which I believe and hope will appeal to the majority of the members of this House.

Mr. SMITH of Presque Isle: Mr. Speaker, I do not propose to make a speech at this time, but it strikes me as very singular in as much as we have been in session here something over two weeks, and this is the third week, and up to this time these three gentlemen, whom my friend from Augusta (Mr. Newbert) proposes to have disqualified, have been permitted to take part in the deliberations of this House; and it is certainly very singular that this great light from Heaven should on this day on which we are to elect a United States Senator so suddenly shine down upon the gentleman from Augusta. Now, Mr. Speaker, it seems to me that to act at this time on this motion is unfair to these gentlemen, and unfair to the House. There is no reason under Heavens that I can conceive of why, if the gentleman from Augusta was in possession of this information at the time of the organization of this House, that this order should not have been presented then; but instead of that, for some reason or other, he has waited until this day.

Now, Mr. Speaker, I move that the

order be laid upon the table, and on that motion I will ask for the yeas and nays.

The SPEAKER: The gentleman from Presque Isle, Mr. Smith, moves that the order presented by the gentleman from Augusta, Mr. Newbert, lie upon the table, and on that question he demands the yeas and nays. As many as are in favor of demanding the yeas and nays will rise in their places.

A sufficient number having risen, the yeas and nays were ordered.

The SPEAKER: All those in favor of the motion of the gentleman from Presque Isle to lay on the table the order presented by the gentleman from Augusta will say yes; all those opposed to the motion to lay the order upon the table will say no; the clerk will call the roll.

YEA:—Allen, Austin, Bass, Benn, Benton, Bither, Bowler, Bragdon of Sullivan, Bragdon of York, Butler, Chick, Cook, Durgin, Eastman, Emerson, Farrar, Folsom, Greenleaf of Otisfield, Haines, Harper, Higgins, Irving, Johnson, Jones, Kimball, Marston, McBride, McFadden, Merrill, Metcalf, Mitchell of Kittery, Mitchell of Newport, Mooers, Morrison, Morse, Nute, O'Connell, Peacock, Peaks, Pendleton, Peterson, Ramsay, Ricker, Roberts, Rousseau, Sanborn, Skelton, Skillin, Smith of Auburn, Smith of Patten, Smith of Pittsfield, Smith of Presque Isle, Spencer, Stevens, Stuart, Sturgis, Swift, Taylor, Thombs, Thompson, Tobey, Trimble, Tryon, Twombly, Umphrey, Viollette, Washburn, Waterhouse—68.

NAY:—Boland, Boman, Brennan, Brown, Bucklin, Chadbourne, Churchill, Clark of Portland, Clark of New Portland, Cochran, Connors, Crowell, Currier, Cyr, Davis, Descoteaux, Doherty, Donovan, Dresser, Dunbar, Dunton, Eaton, Eldridge, Elliott, Estes, Farnham, Franck, Gallagher, Gamache, Gardner, Goodwin, Gordon, Hancock, Harman, Harriman, Haskell, Hodsdon, Hogan, Hutchins, Jenkins, Jennings, Kehoe, Kelleher of Portland, Kelleher of Waterville, Lawry, Leader, Leary, LeBel, Leveille, Libby, Mason, Mathieson, Maxwell, Maybury, Mildon, Morgan, Morneau, Newbert, Packard, Piteher, Plummer, Putnam, Quinn, Reynolds, Richardson, Robinson, Rolfe, Sanderson, Sargent, Scates, Sherman, Snow, Sprague, Stanley, Stetson, Swett, Wheeler, Wisniewbaugh, Yeaton—80.

ABSENT:—Greenleaf of Auburn, Wise—2.

The SPEAKER: Sixty-eight having voted in the affirmative and 80 in the negative, the motion of the gentleman

from Presque Isle, Mr. Smith, is lost. (Applause.)

The question now before the House is on the passage of the order introduced by the gentleman from Augusta, Mr. Newbert.

Mr. AUSTIN: Mr. Speaker, if I understand the contention of the gentleman from Augusta correctly, the idea is to include all postmaster in this order; and if that is the idea I presume there will be no objection to my presenting an amendment to the order that it shall include James Mathieson who, according to the Maine Register, is now serving as postmaster at Indian Rock, Maine. And I move the adoption of the amendment, and ask for the yeas and nays on the question of the adoption of the amendment.

The SPEAKER: Will the gentleman submit his amendment in writing.

Mr. NEWBERT: Mr. Speaker, would it not be well to inquire from Mr. Mathieson, as we have of the others, as to whether he is a postmaster. Let him explain the situation before the amendment is put. I think, perhaps, the gentleman from Phillips, (Mr. Austin) will ask him through the Chair.

The SPEAKER: The gentleman from Augusta, Mr. Newbert, suggests that the gentleman from Phillips, Mr. Austin, make an inquiry through the Chair of the gentleman from Rangeley, concerning the fact, as to his being at the present time a postmaster.

Mr. AUSTIN: I will make such inquiry, Mr. Speaker, and I will ask the gentleman from Rangeley, Mr. Mathieson, if he is at the present time serving as postmaster at Indian Rock.

The SPEAKER: The gentleman from Phillips, Mr. Austin, makes inquiry through the Chair of the gentleman from Rangeley, Mr. Mathieson, as to whether or not at the present time he is holding the office of postmaster at Indian Rock.

Mr. MATHIESON of Rangeley: Mr. Speaker, I will inform the gentleman from Phillips, Mr. Austin, that my term of service as postmaster runs from the first day of May until the first of October of each year, and that post



office at which I am postmaster is a special office for the benefit of a sporting club, and they are the only patrons of the office, and at this time of year it is closed and I am under no compensation from the department. (Applause)

Mr. AUSTIN: Mr. Speaker, I would pursue the matter still further by asking through the Chair if the gentleman from Rangeley hold a commission from the post office department as postmaster at Indian Rock.

Mr. MATHIESON: Mr. Speaker, I will inform the gentleman that I have a commission from the department, but as to whether it reads from the first of May until the first of October, I don't know. If it reads otherwise, I presume I can do the same as the gentleman from Kittery has done. (Applause)

Mr. WHEELER of South Paris: Mr. Speaker, I am sure that we all want this thing to be fairly understood before it approaches a final vote; and I wish to inquire through the Chair, if it is proper, if there is any other member of this House who occupies a similar position to those whose names have been mentioned. Are there other postmasters occupying seats in this House, or are there assistant postmasters occupying such a position, and if there are I apprehend there will be no necessity for the yeas and nays to be called upon this question because everybody, if I understand the position correctly, wants this matter settled here and now and wants all the amendments presented that will put the whole question before this House at one time.

The SPEAKER: The gentleman from Paris, Mr. Wheeler, asks through the Chair whether or not there are in the House sitting as members any other gentlemen who hold commissions either as postmaster or assistant postmaster. The House hears the inquiry.

Mr. MATHIESON: Mr. Speaker, I would like to assure the members of this House that I am not quibbling over holding this seat; and if you find, or if any one finds that I have no right to hold this seat, I should gladly vacate it in order to do what is right and proper. (Applause)

cate it in order to do what is right and proper. (Applause)

The SPEAKER: The gentleman from Phillips moves to amend the order introduced by the gentleman from Augusta by adding thereto the name of James Mathieson to the list of names of those mentioned in the order; and the question before the House is upon the adoption of the amendment.

Mr. NEWBERT: Mr. Speaker, I am very sure that if the House could thoroughly understand the situation there will be no question about the passage of the amendment. The only doubt in the minds of some of us is as to whether this post office is simply a summer post office, and whether his commission covers this question. Now, for instance, I for one am not clear and I do not know, and I confess to the members of this House that I have considered it, and because I could not determine I left it out of the order, believing that some gentleman in the House would incorporate it if it was decided that he was a postmaster. If Mr. Mathieson is a postmaster now, in fact, at Indian Rock, I for one should vote for the amendment offered by the gentleman from Phillips. If we can have any enlightenment upon the matter we should have it.

The SPEAKER: The question before the House is on the passage of the amendment.

Mr. JONES of China: Mr. Speaker, Mr. Mathieson states here that he cannot tell whether his commission expires at the end of his term or not, but I think he can inform us whether he receives a commission year by year to run his office. I think that would determine the fact of whether he is commissioned for any length of time or not. If he is commissioned for any term of years he won't have to have a commission from year to year to open this summer post office.

Mr. MATHIESON: I will inform the gentleman that I do not have to have a commission to open up the office each summer, that is, I never have been requested for one; I presume the one I have covers it.

The SPEAKER: Is the House ready for the question?

Mr. SMITH of Patten: Mr. Speaker, I wish to make a point of order and that is that this whole proceeding is out of order under Rule 46 of this House, which I desire to read:

"All petitions, memorials and other papers addressed to the House, and all bills and resolves to be introduced in the House shall be endorsed with the same, together with the name of the person presenting them, with the subject matter of the same, together with the name of the committee to which the person presenting them desires the same to be referred, and shall be placed by the members presenting them in a box placed for that purpose in front of the clerk's desk. All such petitions, memorials, papers, bills and resolves which are deposited in said box before 5 o'clock in the afternoon of each day shall be removed therefrom by the clerk, and shall be introduced and received in the House on the following day, at which time they shall be presented to the House by the Speaker or such other persons as the Speaker may request, and referred to the proper committees, unless the House shall otherwise order."

My point is that this is not in order for consideration now, and nothing having come into the House under the provisions of this rule which specifies "all petitions, memorials and other papers addressed to the House," and that it should not be introduced and acted upon without a suspension of the rules.

Mr. SCATES of Westbrook: Mr. Speaker, I wish to say that I think the rule carries its own answer, "without being otherwise ordered," and this House has "otherwise ordered." (Applause.)

Mr. NEWBERT: Mr. Speaker, in reply to the gentleman from Patten (Mr. Smith) I would state that it is my opinion that this rule which he has read in no wise applies to the order under discussion. This order is a House order, introduced properly under "Orders," as is our custom here, and as has long been our custom, and that it needs no reference to a committee. It is not a joint paper in any

sense. It relates to the internal affairs of this House, and it is a matter which it is entirely proper to discuss here and to be voted upon here, to my mind, and is in order.

The SPEAKER: The Chair considers that this rule No. 46 only applies to messages, petitions and other papers requiring reference to a committee, and does not apply to a matter such as this which was introduced on motion from the floor. The Chair over-rules the point of order made by the gentleman from Patten, Mr. Smith.

The question recurs on the passage of the amendment introduced by the gentleman from Phillips, Mr. Austin.

Mr. COOK of Vassalboro: Mr. Speaker and gentlemen of the House, referring to the passage of this amendment, if the gentleman is not a postmaster when his office is temporarily closed I suppose the postmaster of Augusta is not postmaster nights. (Laughter.)

The SPEAKER: Is the House ready for the question, which is on the passage of the amendment offered by the gentleman from Phillips, Mr. Austin, which amendment adds to the list of names mentioned in the order offered by the gentleman from Augusta, Mr. Newbert, the name of James Mathieson of Rangeley.

Mr. NEWBERT: Mr. Speaker, in order to save a roll-call I think Mr. Mathieson will understand my motive and every friend of this measure will also understand my motive when I say that it is now my duty, he holding a commission from the government, to state that he is in fact postmaster at Indian Rock, and I favor the adoption of the amendment.

Mr. SMITH of Patten: Mr. Speaker, upon the vote being taken upon that question I demand the yeas and nays.

The SPEAKER: On the question of the adoption of the amendment, the gentleman from Patten, Mr. Smith, demands the yeas and nays; all those in favor of the demand for the yeas and nays will rise.

\* A sufficient number having arisen, the yeas and nays were ordered.

The SPEAKER: All those in favor of the adoption of the amendment offered by the gentleman from Phillips, Mr. Austin, when their names are called will say yes; those opposed will say no. The clerk will call the roll.

YEA:—Allen, Austin, Bass, Benn, Benton, Bither, Boland, Bowler, Bragdon of Sullivan, Bragdon of York, Butler, Chick, Churchill, Clark of Portland, Clark of New Portland, Cochran, Connors, Cook, Crowell, Cyr, Davis, Descoteaux, Donovan, Dresser, Dunbar, Dunton, Durgin, Eastman, Eldridge, Elliott, Emerson, Farnham, Farrar, Folsom, Franck, Gallagher, Gardner, Goodwin, Gordon, Greenleaf of Auburn, Greenleaf of Otisfield, Haines, Harper, Haskell, Higgins, Hodsdon, Hogan, Hutchins, Irving, Jenkins, Jennings, Johnson, Jones, Kehoe, Kelleher of Portland, Kelleher of Waterville, Kimball, Lawry, Leary, LeBel, Leveille, Libby, Marston, Mason, Maxwell, McBride, McFadden, Merrill, Metcalf, Mildon, Mitchell of Kittery, Mitchell of Newport, Mooers, Morgan, Morrison, Morse, Newbert, Nute, O'Connell, Packard, Peacock, Peaks, Pendleton, Peterson, Pitcher, Plummer, Putnam, Quinn, Ramsay, Reynolds, Ricker, Roberts, Robinson, Rolfe, Rousseau, Sanborn, Sanderson, Sargent, Scates, Sherman, Skelton, Skilkin, Smith of Auburn, Smith of Patten, Smith of Pittsfield, Smith of Presque Isle, Snow, Spencer, Sprague, Stanley, Stetson, Stevens, Stuart, Sturgis, Swett, Swift, Taylor, Thombs, Thompson, Tobey, Trimble, Tryon, Twombly, Umphrey, Violette, Washburn, Waterhouse, Wheeler, Winchenbaugh, Yeaton—130.

NAY:—Boman, Brennan, Brown, Bucklin, Chadbourne, Currier, Doherty, Eaton, Estes, Gamache, Hancock, Harman, Harman, Leader, Morneau, Price, Richardson—17.

ABSENT:—Maybury, Wise—2.  
NOT VOTING:—Mathieson—1.

During the call of the roll, when the name of Mr. Boman of Vinalhaven, was reached,

Mr. BOMAN of Vinalhaven: Mr. Speaker, I am not satisfied in my own mind whether the gentleman is postmaster or not, and for that reason I vote no.

The SPEAKER: 130 having voted in the affirmative and 17 in the negative, the amendment has received a passage.

The question now recurs upon the passage of the order offered by the gentleman from Augusta, Mr. Newbert, as amended.

Mr. IRVING of Caribou: Mr. Speaker, I rise to a point of inquiry.

The SPEAKER: The gentleman may state his inquiry.

Mr. IRVING: Would an amendment including the name of another or others holding offices of profit under the state be in order at this time?

The SPEAKER: The Chair asks if the gentleman means in addition to the amendment already introduced.

Mr. IRVING: Yes.

The SPEAKER: The Chair thinks it would be in order.

Mr. IRVING: Then I offer amendment B, that the name of William H. Sherman of Eden, one of the county Commissioners of Hancock County be included in the main order, and I move that the vote be taken by the yeas and nays.

The SPEAKER: The Chair will state that it misunderstood the inquiry of the gentleman from Caribou. The Chair supposed the inquiry related to postmaster. The Chair rules that any other office is not germane to the subject of the order and would not be in order.

Mr. SCATES: Mr. Speaker, I think we have carried this thing just about far enough to be perfectly fair with everybody. Now let us have the matter settled and out of the way, without any question about the sentiment of this House.

The SPEAKER: The question is upon the passage of the order as amended.

Mr. AUSTIN of Phillips: Mr. Speaker, I understand by Rule No. 32 of this House that it would be in order to request that the order be so divided that we vote upon the qualification or disqualification of each one of these members separately, and I make that request; that is, I request a division of the order.

Mr. SCATES: Mr. Speaker, I don't think the gentleman from Phillips is very consistent. He moved an amendment to that order just adopted, and now he wants to change the whole thing over and that they be considered separately. If he wants them to be taken separately, why did he move the amendment?

The SPEAKER: The gentleman from Phillips, Mr. Austin, requests that the question be divided. The rule referred to by him is Rule No 32, which reads as follows:

"Propositions to amend by striking out and inserting dates, numbers and sums, are not divisible; but all propositions, otherwise divisible, shall be divided at the request of any ten members. A motion to strike out being lost, shall neither preclude amendments, nor a motion to strike out and insert."

Mr. NEWBERT: Mr. Speaker and gentleman, I wish to say in regard to the rule just read by the Chair, that it says "all propositions otherwise divisible"; and I submit that there is no logical division of this order such as the gentleman from Phillips suggests; it is not divisible within the meaning of the rule, and I oppose the motion of the gentleman from Phillips. It is in the nature of a dilatory motion. We have just voted here at length upon a name submitted by himself as an amendment, and I think we have been entirely fair to the gentleman from Phillips. I oppose the motion and claim this is not within the rule.

The SPEAKER: The gentleman from Augusta, Mr. Newbert, as the Chair understands it, makes the point of order that the rule is not applicable to this question. The Chair rules however that this question embracing, as amended, four cases or four individuals, may be and is divisible so that it may be voted upon separately as to each one; and the Chair overrules the point of order made by the gentleman from Augusta.

Mr. NEWBERT: I understand the Chair has ruled, and, may it please the Chair, I take an appeal from the ruling of the Chair.

The SPEAKER: The gentleman from Augusta appeals from the ruling of the Chair. The Chair having ruled that this question is divisible and susceptible of being voted upon separately, the question now on the appeal is, shall the ruling of the Chair stand? Those in favor of the ruling of the Chair standing as the judgment of the House will say yes—

Mr. SANBORN of South Portland: Mr.

Speaker, I call for the yeas and nays.

The yeas and nays were ordered.

The SPEAKER: The question before the House is upon an appeal from the ruling of the Chair by the gentleman from Augusta, Mr. Newbert. The question is, shall the ruling of the Chair stand as the judgment of the House? Those in favor of the ruling of the Chair standing as the judgment of the House will say yes when their names are called; those opposed will say no. The clerk will call the roll.

YEA:—Allen, Austin, Bass, Benn, Benton, Bither, Bowler, Bragdon of Sullivan, Bragdon of York, Butler, Chick, Cochran, Cook, Durgin, Eastman, Emerson, Farrar, Folsom, Greenleaf of Auburn, Greenleaf of Otisfield, Haines, Harper, Higgins, Hutchins, Irving, Jenkins, Johnson, Jones, Kimball, Marston, Mathieson, McBride, McFadden, Merrill, Metcalf, Mitchell of Kittery, Mitchell of Newport, Mooers, Morrison, Morse, Nute, O'Connell, Peacock, Peaks, Pendleton, Peterson, Ramsay, Richardson, Ricker, Roberts, Rousseau, Sanborn, Sanderson, Skelton, Skillin, Smith of Auburn, Smith of Patten, Smith of Pittsfield, Smith of Presque Isle, Spencer, Stevens, Stuart, Sturgis, Swift, Taylor, Thombs, Thompson, Tobey, Trimble, Tryon, Twombly, Umphrey, Violette, Washburn, Waterhouse, Wheeler—76.

NAY:—Boland, Boman, Brennan, Brown, Bucklin, Chadbourne, Churchill, Clark of Portland, Clark of New Portland, Connors, Crowell, Currier, Cyr, Davis, Descoteaux, Doherty, Donovan, Dresser, Dunbar, Duntton, Eaton, Eldridge, Elliott, Estes, Farnham, Franck, Gallagher, Gamache, Gardner, Goodwin, Gordon, Hancock, Harman, Hariman, Haskell, Hodsdon, Hogan, Jennings, Kehoe, Kelleher of Portland, Kelleher of Waterville, Lawry, Leader, Leary, LeBel, Leveille, Libby, Mason, Maxwell, Maybury, Mildon, Morgan, Morneau, Newbert, Packard, Pitcher, Plumner, Price, Putnam, Quinn, Reynolds, Robinson, Rolfe, Sargent, Scates, Sherman, Snow, Sprague, Stanley, Stetson, Swett, Winchenbaugh, Yeaton—73.

ABSENT:—Wise—1.

The SPEAKER: 76 having voted in the affirmative and 73 in the negative, the ruling of the Chair is sustained. (Applause)

Mr MITCHELL of Kittery: Mr. Speaker, may I be allowed a few moments from this original question?

The SPEAKER: The Chair will state that the pending matter before the House is the request under Rule No. 32 of the House by the gentleman from Phillips, Mr Austin, that the question be divided. That request must be par-

anticipated in by ten members; and before any discussion of the main question can be had the Chair rules that the matter of whether or not this request is demanded by ten members should be settled; and the Chair will request those in favor of dividing the question to rise.

A sufficient number arose

The SPEAKER: It is evident that at least ten members join in the request, and the question will be divided.

Mr. SCATES of Westbrook: Mr. Speaker, I move the previous question. Of course we all understand what that means when it comes to a vote.

The SPEAKER: The gentleman from Westbrook moves the previous question. Is that demand seconded?

The motion was seconded.

The SPEAKER: Those in favor of demanding the previous question will rise in their places.

A sufficient number arose.

The SPEAKER: The Chair rules that 10 members, under Rule No. 32, having requested that the question be divided, that the question must be divided before a vote is taken; and if any gentleman favoring the passage of the order will indicate any order of division, or in the absence of any indication, the Chair will provide that the order in which the votes shall be taken shall take the names in the order in which they are written in the order which is presented for passage, the first being William H. Farrar. And the question having thus been divided, the question upon which the previous question shall operate is the passage of the order of the purport that has been presented with reference to William H. Farrar of Ripley. The gentleman from Westbrook, Mr. Scates, has demanded the previous question. The question is, shall the main question be now put?

Mr. AUSTIN: Mr. Speaker, is that question debatable?

The SPEAKER: For five minutes.

Mr. AUSTIN: Mr. Speaker, I don't think I will take the time of the House for five minutes, but I do want to speak a moment upon the main question, upon the previous question.

Mr. SCATES: I think he should con-

fine himself exclusively and entirely to the previous question.

Mr. AUSTIN: I should say that I would like to speak upon the previous question.

The SPEAKER: The gentleman will confine himself to that rule of course.

Mr. AUSTIN: Now the matter has come up here in the House, this morning, in a somewhat unexpected way and finds, I think, a great majority of the members of this House in a way un-informed as to the real merits of the question. There is no question in my mind, having attended one or two sessions of this House, but that when the different members of the House become informed and have a chance to get the correct information on a subject, that the intent of every one of us is to act honestly and according to his conscience. The question has come up to us, today, after a series of many years, almost a hundred years, that post officers mean military men, and that it does not mean postmasters. I will at this time submit to you that there is no authority that I know of or have been able to find, who have given a legal definition of the old term used in the Maine Constitution, "post-officers." The only light that I am able to find upon this matter, gentlemen, is this: Our Constitution was written in the year 1819 ———

Mr. NEWBERT: Mr. Speaker, I raise a point of order.

The SPEAKER: Will the gentleman state his point of order.

Mr. NEWBERT: I do not think the gentleman is discussing the question as to whether the previous question should be ordered.

The SPEAKER: The gentleman from Augusta, Mr. Newbert, makes the point of order that the gentleman from Phillips, Mr. Austin, is not discussing the question as to the previous question, but is discussing the main question. The Chair rules that the point of order is well taken; the gentleman appears to be discussing the main question.

Mr. AUSTIN: Mr. Speaker, I find it somewhat difficult under the tactics of the other side to get the information I would like to before the member of

this House; and I will say to them through the Chair that I think we have got to submit to the vote as it is proposed to be taken.

The SPEAKER: The Chair will inform the gentleman from Phillips that when the main question is put it may be argued if the gentleman desires to present any remarks on the issue involved, but not at this time any more than five minutes on the general proposition whether the question shall be put. The question is, shall the main question be now put? All those in favor will say aye; those opposed will say no.

The motion was agreed to.

The SPEAKER: The question is now upon the passage of the order introduced by the gentleman from Augusta, Mr. Newbert, divided so that the vote is taken first on the case of William H. Farrar of Ripley. Is the House ready for the question?

Mr. SMITH of Patten: Mr. Speaker, I have not intended to say a word on this main proposition before this Legislature, and I am not intending to say many words now. As I understand the matter —

Mr. NEWBERT: Mr. Speaker, I beg to interrupt the gentleman from Patten. I do not want to seem discourteous this morning. The previous question is futile unless it heads off discussion, I submit, sir, that the present stage of our parliamentary procedure here no discussion of the main question is possible. If it were, the previous question would be futile.

Mr. SMITH of Patten: I understand, Mr. Speaker, that the gentleman from Augusta is of the opinion that these gentlemen here, members of this House, are to be fired out without trial and without debate.

The SPEAKER: The gentleman from Augusta, Mr. Newbert, makes the point of order that the question is now to be put without debate. The Chair is inclined to rule and does rule, and is inclined to believe that the point is well taken. The suggestion a moment ago by the Chair to the gentleman from Phillips was erroneous. The question should now be

put, it having been ordered. The question before the House is as to the adoption of the order introduced by the gentleman from Augusta, so far as it relates to the case of William H. Farrar of Ripley. Is the House ready for the question?

Mr. SMITH of Presque Isle: Mr. Speaker, I would ask if the yeas and nays would be in order?

The SPEAKER: The Chair rules that they would.

Mr. SMITH of Presque Isle: I ask for the yeas and nays.

The yeas and nays were ordered.

The SPEAKER: All those in favor of the order disqualifying for membership in this House, William H. Farrar of Ripley, as stated in the order introduced by the gentleman from Augusta, Mr. Newbert, when their names are called, will answer yes; all those opposed will say no. The clerk will call the roll.

YEA:—Boland, Boman, Brennan, Brown, Bucklin, Chadbourne, Churchill, Clark of Portland, Clark of New Portland, Connors, Crowell, Currier, Cyr, Davis, Descoteaux, Doherty, Donovan, Dresser, Dunbar, Dunton, Eaton, Eldridge, Elliott, Estes, Farnham, Franck, Gallagher, Gamache, Gardner, Goodwin, Gordon, Hancock, Harman, Harriman, Haskell, Hodsdon, Hogan, Jenkins, Jennings, Kehoe, Kelleher of Portland, Kelleher of Waterville, Lawry, Leader, Leary, LeBel, Leveille, Libby, Mason, Mathieson, Maxwell, Maybury, Mildon, Morgan, Morneau, Newbert, Packard, Pitcher, Plummer, Price, Putnam, Quinn, Reynolds, Richardson, Robinson, Rolfe, Sargent, Scates, Sherman, Snow, Sprague, Stanley, Stetson, Swett, Wheeler, Winchenbaugh, Yeaton—77.

NAY:—Allen, Austin, Bass, Benn, Benton, Either, Bowler, Bragdon of Sullivan, Bragdon of York, Butler, Chick, Cochran, Cook, Durgin, Eastman, Emerson, Folsom, Greenleaf of Auburn, Greenleaf of Otisfield, Haines, Harper, Higgins, Hutchins, Irving, Johnson, Jones, Kimball, Marston, McBride, McFadden, Merrill, Metcalf, Mitchell of Kittery, Mitchell of Newport, Mooers, Morrison, Morse, Nute, O'Connell, Peacock, Peaks, Pendleton, Peters, Peterson, Ramsay, Ricker, Roberts, Rousseau, Sanborn, Sanderson, Skelton, Skillin, Smith of Auburn, Smith of Patten, Smith of Pittsfield, Smith of Presque Isle, Spencer, Stevens, Stuart, Sturgis, Swift, Taylor, Thombs, Thompson, Tobey, Trimble, Tryon, Twombly, Umphrey, Violette, Washburn, Waterhouse—72.

ABSENT:—Wise—1.

During the call of the roll when the name of Mr. Mathieson was reached.

Mr. MATHIESON of Rangeley: Mr. Speaker, I would like to know whether I have the right to vote upon this question.

The SPEAKER: The Chair thinks the gentleman from Rangeley has a right to vote upon this question. It relates to the gentleman from Ripley, Mr. Farrar.

Mr. MATHIESON: I mean, on any of them.

The SPEAKER: Not on his own case.

Mr. MATHIESON. I vote yes.

Mr. MORNEAU of Lewiston: Mr. Speaker, do I understand the Chair to say that the man whose case is being considered cannot vote on the question.

The SPEAKER: That is the opinion of the Chair.

After the calling of the roll,

Mr. SCATES of Westbrook: I would like to ask the clerk if he made a correction in regard to the vote of Mr. Farrar.

The SPEAKER: The Chair was about to suggest that in the opinion of the Chair it seems that in violation of the rule the gentleman did answer and the Chair will request the gentleman to withdraw his vote.

Mr. FARRAR of Ripley: Mr. Speaker, I will change my vote; I did not understand the situation.

The SPEAKER: The clerk will make the necessary correction.

Mr. SMITH of Patten: Mr. Speaker, I desire to change my vote from no to yes.

The SPEAKER: The change may be noted by the clerk.

Mr. PLUMMER of Lisbon: Mr. Speaker, I desire to change my vote from yes to no.

The SPEAKER: The clerk will make the change.

Seventy-seven having voted in the affirmative and 72 in the negative, the order so far as it relates to the case of William H. Farrar of Ripley, has received a passage.

Mr. Smith of Patten moved that the vote be reconsidered whereby the or-

der relating to William H. Farrar of Ripley, received a passage.

Mr. SCATES of Westbrook: Mr. Speaker, evidently the object of the motion of the gentleman from Patten, is of a dilatory nature. In the first place, the motion is out of order. We have divided that question and we are voting now upon the main question, simply the division, and no motion to reconsider is in order until we have finished voting on the other two cases. (Applause.)

Mr. SMITH of Patten: Mr. Speaker, this question having been divided, the action upon the man upon whom we voted is an independent proposition, and once the division has been made as it has been, it is an independent proposition and I insist that my motion is in order.

The SPEAKER: The action of the House is always determined by a vote. The action of the House just determined under the rules may be reconsidered if that should be the determination of the members. The Chair sees no reason why at the present time a motion to reconsider a completed action of the House is not in order, and rules that a motion to reconsider is in order.

Mr. NEWBERT: Mr. Speaker, a motion is made to this House, a purely dilatory motion, and the Speaker has it in his power not to have it considered. This vote cannot be changed; my friend from Patten (Mr. Smith) knows it; the Honorable Speaker of this House knows it, and we all know it. Objections are put in here only to take up the time of the House until it is past the hour of twelve. I give notice to this House that the votes of these gentlemen named in the order, when it comes to voting for Senator, will be formally protested, and I shall ask that the protest be made a matter of record. I see nothing to be gained by all these efforts to take up the time of the House.

Mr. SMITH of Patten: Mr. Speaker, just one word. I tried a few moments ago to address this House on the merits of this controversy. I was not permitted under the rules to do

so. Now the gentleman from Augusta says my purpose is to delay proceedings, that this motion is a dilatory motion. My purpose is to open this question to debate so that our brothers who are being tried here without notice, notwithstanding this Legislature has been in session about two weeks or more—not an intimation until this morning that this attack was to be made upon them. They are placed on trial here and you are being asked to oust them from their seats without any facts being presented to the House beyond the statement of the gentleman who stands as sponsor for this drastic order, I say, in view of that, my purpose is in moving to reconsider, that this matter may be discussed and that the claims of these gentlemen and the rights and privileges of these men may be made known to the members of this House, so that this House will not act blindly upon so grave a matter as excluding these members from their councils, and that they will act with a full understanding of all the facts. There has been made a statement on the other side that these men are sitting here in violation of the Constitution of this State. I think perhaps from the plausible way of my Brother Newbert some of the members of this House may have gotten that impression; but I do not believe, Mr. Speaker and gentlemen of the House, that the members of this House or the members who have been balloting for the expulsion of these gentlemen want to expel them unless they are illegally sitting in their seats upon this floor; and the only evidence that they have up to date of their illegal sitting is the statement of my friend Newbert from Augusta. It is too serious a matter, Mr. Speaker, to pass upon so lightly.

Now the Constitution has been invoked and a construction has been placed upon it by the gentleman from Augusta, a construction that for more than 90 years nobody ever before dreamed of placing upon it, a construction so absurd that to state it fairly carries with it all the ridicule that can be heaped upon such construction. Now, Mr. Speaker, the language of the Constitution is —

Mr. NEWBERT: Mr. Speaker, I

think I am within my rights again in asking that this discussion of the main question at this stage stop.

Mr. SMITH of Patten: I don't blame them. (Applause)

Mr. NEWBERT: We are within the order and within the law.

The SPEAKER: The gentleman from Augusta makes the point of order, as the Chair understands it, that the gentleman from Patten, Mr. Smith, has no right to debate the main question upon a motion to reconsider. Can the gentleman point out any authority for the proposition?

Mr. NEWBERT: It is only my opinion, Mr. Speaker. I don't care to raise the point of order. I think it is unusual to do it, to say nothing else, after the vote has been taken that the main question can be debated at length without action of the House.

The SPEAKER: The Chair cannot take into consideration the unusualness or otherwise of the proceedings. The Chair is bound, so far as it is able to rule, in accordance with the rules of the House; and the latter, as the Chair understands it, it is doing its best to do.

Mr. NEWBERT: I make no point of order.

The SPEAKER: And if the point is made the Chair will over-rule it. The Chair rules that the Gentleman from Patten is in order.

Mr. SMITH of Patten: Mr. Speaker, as I remarked while the gentleman from Augusta was on his feet, I am not surprised that he does not like to hear this thing discussed. I am not at all surprised, and neither am I surprised that in his frankness he says this is an unusual proceeding. It certainly is an unusual proceeding. Here are three gentlemen who have been sitting on the floor of this House with us for over two weeks, and they have been recognized as members of the House, and they have been serving or are serving on important committee of the House, and important matters have been referred to them and I have no doubt will or have been referred to them by the gentleman from Augusta. He did not deem it necessary to call the attention of the House to the fact that



on the various votes that have been taken in the House for the past two weeks that there were three members of the House who were stultifying themselves and voting in violation of law as well. He assures this House that this is not a partisan matter. Oh, no; of course not; he is not inspired by any political motive in the matter. Oh, no; of course not. His whole desire is to see what we proceed in an orderly manner, and that we no longer stultify ourselves by sitting with these awful men, my Brother Mitchell from Kittery and the other two gentlemen that he has been associating with. I am surprised at these extreme scruples of my Brother Newbert. I am very much surprised that his conscience has not troubled him; perhaps it has, and perhaps that is the reason he is asking here —

#### Vote for United States Senator.

The SPEAKER: The Chair will inform the gentleman from Patten and the House that the hour has arrived at which it is necessary to vote for United States Senator. Under the law the roll will be called, and each member as his name is called will rise in his place and name a person for whom he votes for Senator in Congress from the State of Maine for the term of six years beginning March 4th next. The clerk will call the roll.

Those voting for Edwin C. Burleigh were:

Allen, Austin, Bass, Benn, Benton, Bither, Bowler, Bragdon of Sullivan, Bragdon of York, Butler, Chick, Cochran, Cook, Durgin, Eastman, Emerson, Folsom, Greenleaf of Auburn, Greenleaf of Otisfield, Haines, Harper, Higgins, Hutchins, Irving, Jenkins, Johnson, Jones, Kimball, Marston, McBride, McFadden, Merrill, Metcalf, Mitchell of Kittery, Mitchell of Newport, Mooers, Morrison, Morse, Nute, O'Connell, Peacock, Peaks, Pendleton, Peters, Peterson, Ramsay, Ricker, Roberts, Rousseau, Sanborn, Skelton, Skillin, Smith of Auburn, Smith of Patten, Smith of Pittsfield, Smith of Presque Isle, Spencer, Stevens, Sturgis, Swift, Taylor, Thombs, Thompson, Tobey, Thimble, Tyron, Twombly, Umphrey, Violette, Washburn, Waterhouse, Wheeler,—72.

Those voting for Obadiah Gardner, were:

Boland, Boman, Brennan, Brown, Bucklin, Chadbourne, Churchill, Clark of Portland, Clark of New Portland, Connors, Crowell, Currier, Cyr, Davis, Descoteaux, Doherty, Donovan, Dresser, Dunbar, Dunton, Eaton, Eldridge, Elliott, Estes, Farnham, Franck, Gallagher, Gamache, Gardner, Goodwin, Gordon, Hancock, Harman, Harriman, Haskell, Hodsdon, Hogan, Jennings, Kehoe, Kelleher of Portland, Kelleher of Waterbury, Mildon, Morgan, Morneau, New-Leveille, Libby, Mason, Maxwell, Maybury, Mildon Morgan Morneau, Newbert, Packard, Pitcher, Plummer, Price, Putnam, Quinn, Reynolds, Robinson, Rolfe, Sargent, Scates, Sherman, Snow, Sprague, Stetson, Swett, Winchenbaugh, Yeaton,—72.

Those voting for E. M. Thompson of Augusta, were:

Mathieson, Richardson, Sanderson and Stuart,—4.

Paired: Stanley for Obadiah Gardner; Wise for Edwin C. Burleigh.

During the course of the roll-call, when the name of Mr. Farrar of Ripley was reached,

Mr. FARRAR of Ripley: Mr. Speaker, have I the right to vote?

The SPEAKER: The Chair rules that he has.

Mr. SCATES of Westbrook: Isn't that the gentleman upon whom the House has voted?

The SPEAKER: In the confusion of the numerous motions the Chair for a moment thought that the pending question was still upon the seating of the gentleman. The pending question, the Chair now sees, is upon the question of reconsideration, and the gentleman from Ripley by vote of the House had previously lost his vote.

Mr. SCATES: So he cannot vote.

The SPEAKER: The Chair thinks he cannot vote. (Applause.)

During the call of the roll when the name of Mr. Wheeler was reached,

Mr. WHEELER of South Paris: Mr. Speaker, I desire to state as a Progressive, elected in the Republican column, I feel it my duty out of

respect for the primary on this ballot alone to vote for Edwin C. Burleigh. (Applause.)

The SPEAKER: The result of the ballot is as follows:

Edwin C. Burleigh has received 72 votes.

Obadiah Gardner has received 72 votes.

E. M. Thompson has received 4 votes.

The clerk will make a record accordingly in the Journal of the House.

On motion by Mr. Auston of Phillips, Adjourning until tomorrow morning at ten o'clock.