

# MAINE STATE LEGISLATURE

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Legislative Record

OF THE

Seventy-Sixth Legislature

OF THE

STATE OF MAINE

1913

**HOUSE.**

Thursday, January 16, 1913.

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

Prayer by the Rev. Father Nelligan of Augusta.

Journal of previous session read and approved.

Papers from the Senate disposed of in concurrence.

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

**Judiciary.**

By Mr. Butler of Farmington: An Act to create the Strong Water district.

By Mr. Higgins of Brewer: An Act to extend the charter of the Jonesport Central Railroad Company.

**Appropriations and Financial Affairs.**

By Mr. Dunton of Belfast: Resolve in favor of the Children's Aid Society of Maine.

By same gentleman: Resolve in favor of the Waldo County General hospital.

By Mr. Kehoe of Portland: Resolve in favor of Maine Children's committee, with statement of facts.

By Mr. Farnham of Bath: Resolve in favor of the Bath City hospital, with statement of facts.

**Education.**

By Mr. Cyr of Fort Kent: Resolve in favor of the Madawaska Training school in Fort Kent.

**Railroads and Expresses.**

By Mr. Franck of St. Agatha: Petition of Louis A. Cyr and 21 others, requesting the Legislature to grant a charter for a railroad bridge between Van Buren and St. Leonard's, New Brunswick.

**Mercantile Affairs and Insurance.**

By Mr. Plummer of Lisbon: An Act amending Section 37 of Chapter 28 of the Revised Statutes, relating to the protection of life in buildings used for public purposes.

**Agriculture.**

By Mr. Skelton of Bowdoin: An Act to amend Chapter 119 of the Public Laws of 1911, regulating the sale of agricultural seeds and commercial

stuffs, commercial fertilizer, drugs, foods, fungicides and insecticides. (Tabled for printing pending its reference to the committee on motion by Mr. Skelton.)

By same gentleman: An Act regulating the sale of paint, paint oil and turpentine. (Tabled for printing pending its reference to the committee on motion by Mr. Skelton.)

**State Lands and Forest Preservation.**

By Mr. Cyr of Fort Kent: Resolve authorizing the land agent to sell the interests of the State in lot No. 1, east of Fish river, in Wallagrass Plantation, Aroostook county.

**Ways and Bridges.**

By Mr. O'Connell of Milford: Resolve in favor of the reconstruction of the easterly span of the Old Town-Milford bridge.

**Inland Fisheries and Game.**

By Mr. Waterhouse of Kennebunk: An Act to prohibit ice fishing in Alewife pond in Kennebunk, in the county of York.

**Sea and Shore Fisheries.**

By Mr. Swett of Bath: An Act relating to the protection of smelts in Sasanoa river.

By same gentleman: Petition of Nelson Rise and 29 others, to prohibit net fishing in the Sasanoa river from Sasanoa Bluffs to Hell Gates.

**Claims.**

By Mr. Clark of New Portland: Resolve in favor of Frank Savage of Bigelow Plantation.

**State School for Boys and Industrial School for Girls.**

By Mr. Dresser of South Portland: Resolve in favor of the State School for Boys at South Portland for general maintenance.

By same gentleman: Resolve in favor of the State School for Boys in South Portland for permanent improvements, insurance and salary of parole officer.

**Labor.**

By Mr. Descoteaux of Biddeford: An Act to repeal Section 51, Chapter 40, of the Revised Statutes, relating

to the employment of adults and minors.

#### **School for Feeble Minded.**

By Mr. Tryon of Pownal: Resolve in favor of the School for Feeble Minded. (Tabled for printing pending its reference to the committee on motion by Mr. Tryon.)

#### **Aroostook County Delegation.**

By Mr. Putnam of Houlton: An Act to amend Section 15 of Chapter 154 of the Private and Special Laws of 1911, relating to the Houlton Municipal Court.

#### **Placed on File.**

The credentials of Peter J. Newell of the Passamaquoddy tribe of Indians. (Placed on file on motion by Mr. Davis of Old Town.)

#### **Orders.**

On motion by Mr. Rolfe of Portland, it was

Ordered, the Senate concurring, that the joint standing committee on library be directed to receive proposals from the publishers of the Maine Official and Classified Business Directory for furnishing the State the necessary number of copies for 1913 and 1914, and report by bill or otherwise.

On motion by Mr. Sherman of Eden, it was

Ordered, That the superintendent of public buildings be instructed to have attached to the desk of every member of the House of Representatives a metal name-plate holder similar to those in use in the Senate Chamber, and that the names of members be printed and inserted in said holders

On motion by Mr. Scates of Westbrook, it was

Ordered, the Senate concurring, that when the Senate and House adjourn, it be until Tuesday next at 10 o'clock in the forenoon.

#### **Under Suspension of the Rules.**

On motion by Mr. Morneau of Lewiston, House Document No. 10, bill, An Act to amend the charter of the city of Lewiston, was taken from the table, and on further motion by the same gentleman the bill was referred to the committee on judiciary.

On motion by Mr. Rolfe of Portland, House Document No. 7, order,

the Senate concurring, that the joint standing committee on library be directed to receive proposals from the publishers of the Maine State Year Book for furnishing the State with a sufficient number of copies for the years 1913 and 1914, was taken from the table, and on further motion by the same gentleman the order was referred to the committee on library.

On motion by Mr. Boman of Vinalhaven, House Document No. 1, bill, An Act to amend Chapter 2 of the Public Laws of 1911, relating to scallops, was taken from the table, and on further motion by the same gentleman the bill was referred to the committee on sea and shore fisheries.

On motion by Mr. Jones of China, House Document No. 13, bill, An Act to grant additional rights to married women, was taken from the table, and on further motion by the same gentleman the bill was referred to the committee on judiciary.

On motion by Mr. Plummer of Lisbon, House Document No. 12, bill, An Act relating to the use of seals, was taken from the table, and on further motion by the same gentleman the bill was referred to the committee on judiciary.

On motion by Mr. Plummer of Lisbon, House Document No. 14, bill, An Act amending Chapter 96 of the Public Laws of 1907, relating to the organization and management of trust companies, was taken from the table, and on further motion by the same gentleman, the bill was referred to the committee on banks and banking.

#### **Reports of Committees.**

Mr. Dunton from the committee on judiciary, on bill, An Act to prohibit foreign corporations from engaging in the business of generating electricity by water power within the State of Maine, reported that the same ought not to pass.

Mr. McBride from the committee on appropriations and financial affairs, on resolve in favor of the town of Trescott, reported that the same be referred to the committee on ways and bridges.

Mr. Maybury from the same committee, on resolve in favor of the

town of Norridgewock, reported that the same be referred to the committee on ways and bridges.

The reports were accepted.

#### Orders of the Day.

The SPEAKER: The Chair will state that the first business under orders of the day is unfinished business from yesterday, which is the consideration of the motion to reconsider the vote whereby the House passed so much of the order introduced by the gentleman from Westbrook (Mr. Scates) as related to the matter of Mr. Farrar of Ripley. At the time of the interruption of the business of yesterday the gentleman from Patten, Mr. Smith, had the floor, and he is now entitled to resume.

Mr. SMITH of Patten: Mr. Speaker, I beg the indulgence of the House in speaking for only a few moments more on the proposition before us in regard to the matter of the gentleman from Ripley, Mr. Farrar. When this matter closed, yesterday, I had called attention in my way to what I believed was some convincing authorities and statistics showing that these gentlemen here who have been attacked were legally elected and constitutionally holding their seats in this House of Representatives. I had called your attention to the doings of the constitutional convention of this State and also that of the state of Massachusetts, placing a construction upon that provision exempting from the incompatibility clause of the constitution the term "post-officers"; and I had shown you, gentlemen, that the constitutional convention of Massachusetts, in which the late Daniel Webster had taken a prominent part, had interpreted the meaning of that term. I had shown you that the Legislature immediately following the adoption of our Constitution, composed of members of the constitutional convention for year after year, from 1820 to 1825, when the matter was fresh in everybody's mind, and the intent and purpose of that word were well understood, elected members to the House of Representatives.

Further than that, I desire to call your attention to the fact that I did not run it down because I thought

it was more pertinent to use those cases immediately following the adoption of the Constitution; but from that time down to the present time, postmasters have been elected in probably every Legislature that ever sat in the State of Maine. And no voice was raised, although I assume that in the 92 years of our State government there have been seated in this body as able constitutional lawyers as the gentleman from Augusta (Mr. Newbert).

I desire now to add to what I have said and to the statistics which I have produced, some additional authorities. I am not asking you to keep men in this House of Representatives on my say-so. I do not suppose it is fair that you put men out on the constitutional construction and the say-so of the gentleman from Augusta. I have the pleasure of presenting to you, this morning, a letter voluntarily written by one of the most learned men in this branch of knowledge that we have in the State of Maine, Professor Little of Bowdoin College and a member of the Maine Library Commission, and without further preliminary I will read it to the House:

Hon. John A. Peters,

Augusta, Maine.

Dear Mr. Peters: Permit me to call to your attention the following reasons for believing that by the word post-officers used in Section 11, Article IV of the Constitution the framers of that document meant the persons we now term postmasters and mail contractors.

I. The word post-officers, though it is now obsolete, was regularly used

In 1820, besides the postmasters there were many mail contractors who were regularly entered in the United States in the sense of "an officer or official of the post" from 1669 to 1843. See New English Dictionary, Vol. 7, Page 1175. Register as government officials. By using the one word post-officers this large body of citizens was allowed to be members of our Legislature.

II. If postmasters were not excepted by this word, how did it happen that in the Legislature of 1824, so soon after the adoption of the State Constitution, the following United

States postmasters were allowed to hold seats in that body?

Thomas Sands of Lyman, Willard H. Woodbury of Minot, Stephen Parsons of Edgcomb, John Burgin of Eastport, Joseph Howard of Brownfield, Daniel Brown of Waterford, Wentworth Tuttle of Canaan.

I have cited these men from the Legislature of 1824 simply because I have at hand the United States Register for that year. An examination of local records would show, I believe, that our grandfathers never intended to keep postmasters away from the Legislature.

Yours very truly,

GEO. T. LITTLE.

Brunswick, Maine, Jan. 15, 1913.

I submit, gentlemen, that letter as authority. Now, we have living in the State of Maine, today, one of the most learned jurists that this State can boast, one of the closest students of the Constitution that there is in the country, today, the honored ex-Chief Justice of the supreme court of Maine, the Hon. Lucilius A. Emery, whose judgment every man is glad to accept as almost the final word, if not the final word, on the construction of the Constitution of this State; and I beg leave to read to you the opinion of our ex-Chief Justice in the following language:

#### The Opinion of Former Chief Justice Emery on Right to Seat.

Very soon after adjournment of the Legislature, Tuesday morning, the question of the meaning of the phrase "post-officers excepted" employed in the Constitution, was submitted by telephone to Hon. Lucilius A. Emery, ex-Chief Justice of the supreme judicial court. Tuesday evening, Judge Emery telephoned the following statement, which we give in his exact language:

"I much doubt the advisability of your quoting me, since to do so would probably only inflame those of a different opinion, and make them more determined to adhere to their own. If you think best, however, you may say you inquired of me my opinion as to whether the phrase 'post-officers excepted' in the 11th Section refers to

military officers of a military post or to civil officers in the postal department, and I answer that I think it clear it refers to the latter class."

It seems to me, gentlemen of this House, that these opinions from these men of such eminence in their walk of life are entitled to consideration, and taken in connection with the records here presented are absolutely conclusive as to what are the rights of these gentlemen here to hold their seats.

Now one personal word about the case under direct consideration, that of the gentleman from Ripley. He is postmaster at West Ripley; he accepted that position for the purpose of accommodating a little hamlet there and not for the profit or emoluments of the office. He is a large and a successful business man, and he receives what compensation there is from the cancellation of stamps, and he probably furnishes half of his own salary in those cancellations. This question was talked about in the papers and nobody believed that anybody tried to spring this thing upon the Legislature, and they thought it was all newspaper talk, and Mr. Farrar thought if there was any question about it—and that was before the Legislature met—that he wanted to get it right, and he wanted to be exactly right about it; he consulted eminent legal authority, and was assured that there was nothing in it, and that he had the highest legal and the highest moral right to serve in this body; and therefore his resignation was not tendered as he contemplated tendering it if there was any doubt about his position.

Further than that, gentlemen, permit me to say that Mr. Farrar was one of the most active Progressives in Somerset county; he distributed all the Progressive literature that was distributed in his vicinity at his own expense; he was a worker believing in the principles of the Progressive party; and it was all well and good until it was discovered by these men who had this wicked purpose in mind; that he intended to do what he conceived to be his duty and vote for Edwin C. Burleigh, there was no trouble about that. Do you imagine, Mr. Speaker

and gentlemen of the House, if it had not been understood that Mr. Farrar was going to vote for Edwin C. Burleigh, the gentleman from Augusta (Mr. Newbert) and his associates would ever have discovered he was a postmaster, any more than they discovered it in the case of the gentleman from Rangeley (Mr. Mathieson).

Now I am going to leave that proposition there, because I promised to address you for only a moment or two, but I do want to say a few words. I want to say to my friend from Westbrook (Mr. Scates) whose friendship I have valued and whose friendship I still value, when he comes to consider this question as to whether under this flimsy pretext we shall remove these gentlemen from their seats, I say to my friend, "In God's name, don't do it." I say to the gentleman from Augusta (Mr. Newbert) before he stigmatizes all the honest people in Maine, "Repent and receive absolution." The gentleman from Augusta and myself I think agree in many of the views on religious subjects, but notwithstanding how liberal we may be away down in our boots, we have an opinion that we had better be watchful of our conduct. I am reminded of a story of an old parson down east by the name of Penney. It was in the old days when Universalists were known as Universalists, and parson Penney got to preaching very liberal sermons. He was met on the street one day by Mr. Swasey, his enemy, with the remark, "Parson, I understand you have become a Universalist." The parson replied, "What makes you think that, Mr. Swasey." "Why, I understand you are preaching liberal sermons; I understand you are preaching that there no longer is any Hell." "Mistaken, Mr. Swasey; you are entirely mistaken, sir; I still believe that there is a Hell for the Swaseys." (Laughter.)

I want to say to my Progressive friends, who, I see by the announcement of the gentleman from South Paris (Mr. Wheeler) have organized themselves into a little party on the floor of this House, and who are presumed to be "Standing at Armageddon

and battling for the Lord"—I say to those gentlemen, "Don't forget your battle cry and slogan 'Thou shalt not steal.'" And as a parting word from me to the members of this Legislature upon this subject, I say, when we determine this question let us determine it in such a manner that the people of the State of Maine will say that we are acting in accordance with the Constitution and the laws of the State of Maine, dealing out adequate justice to every man under the American doctrine that ought to be inbred in every American citizen, of fair play. (Applause.)

Mr. NEWBERT of Augusta: Mr. Speaker and gentlemen, a commercial traveller one day went into an old church in a country town where an old-time parson preached and he whispered to the janitor at the door, "How long has the old man been preaching?" The janitor was a little deaf, and he said "Forty-three years." Thereupon the commercial traveller said, "Then I think I will sit down, for the old cuss ought to be about done." (Laughter and applause.)

The gentleman from Patten, (Mr. Smith) has a record in this House second to none for he has spoken three days now upon the same subject. I had not thought, gentlemen, to speak again upon this question. I seem to have been made an issue here, although 75 or 80 members who voted on roll-call with me, and I am only one; nor do I deem that there is anything in me or in my feeble words that would carry 75 or 80 thinking men on this floor to follow my motion unless they intended that justice and right should go with it.

The other day, on Tuesday I think it was, and I think the House will bear me out in this, I put in this order and explained it on the floor of this House without appealing to party prejudice, without personality, without vilification, without abuse, without intent to ridicule any member sitting here. I believe, gentlemen, that the proponents of this order have put in their case with dignity and with soberness, and if the discussion upon this question has descended to lower levels, it is not

of our doing; if the discussion upon this constitutional question has involved personalities, involved villification, involved abuse of members, involved wicked ridicule of members sitting here, it is not the fault of the proponents of this order. It probably is a pity, so far as my family are concerned, that under the wise providence of God I was not made a lawyer like my able friend from Patten (Mr. Smith). I believe it has been said sometime and somewhere that while a fool may be a minister, yet there is no reason why a minister should be a damn fool. (Laughter.)

I think in justice to the party with which I am affiliated here, and in justice to myself, and in justice to my constituents in this city, that you should bear with me if I seem to take wide latitude in the few remarks that I wish to make. A good deal has been said here in regard to railroading this wicked measure through this House; and my good friend from Presque Isle, Judge Smith, for whom I have great regard, wondered, why it was that nobody before should have seen this light from Heaven. Now, gentlemen, light from Heaven may once in a while even flood the mind of a Democrat. He wondered why it was that we, knowing of this case, waited until Tuesday, the 14th of January. I say to you, gentlemen, and I want you to take my word when I say it, that I had no personal knowledge of this matter until half past six o'clock last Saturday night; and I was at that time told that two postmasters sat here, and for the first time it was called to my attention that postmasters could not sit here; and until 12 o'clock, Saturday night, with assistants, we searched the records such as we had and we found that three, if not four postmasters were sitting here. I will take all the responsibility, if you please, for this matter, because I wrote that order and not a letter was changed in it, and without the possibility or the chance of consulting many of my party associates; and without ever going to our Progressive friends, who sit here, it was decided to enter this order. It was put in, on Monday last, and I came here, on Monday, at 4 o'clock in the

afternoon, with my case prepared as well as I could prepare it; and when we looked the House over we were pretty sure we had our men here; and we conferred and agreed that it might appear unfair should the measure pass, on Monday afternoon, with many absentees, and because of that, gentlemen, the order went over until Tuesday, unfortunately, when there was not time for discussion, and we were obliged to resort to certain tactical methods which were entirely justified by the rules of this House and by the well-known laws of parliamentary procedure. Did we expect, gentlemen, and do you who sit here expect for a moment that we thought we would carry this order through this body? Our aim was simply to make a protest here, believing we were right, and believing that federal office holders could not legally sit here not only to vote for Senator but to participate at all in the deliberations of this House. We were in the minority party in this branch.

Now, it is well known that the Republican members had the control of this House, even down to the last assistant folder and door-keeper. It was a great assumption on our part, if you think that we thought we could railroad an order through your House, on Tuesday, with every man in his seat.

Gentlemen, I never expected to live to see that Tuesday in a Maine House of Representatives when the majority party was in control, and when the minority party was able to pass its measure through. The Republican party came back into power, in September; it came with flags flying; it came with trumpets blowing; it came with a grand acclaim, to redeem this State from the low level of Democratic control. You remember with me the returns of the September election; you remember with me that, on Jan. 1, we came here and sat in our seats and were called down before the throne where every man's ballot was under the scrutiny, for the first time in my experience in this House, under the scrutiny of a Republican chief, as chairman of the committee to receive, sort and count votes; and when we had elected our Speaker—and I have the utmost respect for our



Speaker—the votes were 71 to 78, and you elected all of your subordinate House officials; and in joint convention, on Wednesday, you finished it by electing every State official; and in 1 hour and 23 minutes after Governor Haines left this room he began to swing the axe made on purpose in northern Maine, and bloody heads began to fall. (Laughter.)

Now, gentlemen, I say that simply to show that Democrats were not in control of the House here; that we had not the power, if we had the motive, to railroad something through on Tuesday when every man here was in his seat, and a Republican Speaker in his chair. You remember the day, gentlemen. Here is a House organized by the Republican party returned to power in September, with a majority of at least five; and yet this order was introduced, and to the amazement of most of us, on the first roll-call received a vote of 80 to 68. What was happening? Why, your noble leaders, trained in the art of defense and offense, met the charge of my Brother Scates from Westbrook, and your chosen leader, the gentlemen from Phillips (Mr. Austin) went down quickly as I remember it under the onslaught, and lay bleeding and wounded upon the ground and has since been in the hospital. (Laughter.)

My good friend, Judge Smith, the gentleman from Presque Isle, whom I honor and whom I have known for many years, with all the courage of youth, bared his breast to the lances of his opponents, but he too was unhorsed and fell from the saddle, and he too has been in a hospital ever since. All the resources of the great old Republican party, lawyer and layman, men of commerce and all, from the upper chamber in this Legislature and from the Governor's Council, and from the corridors and the cloak rooms were here and they called on Smith of Patten, and they piled books around him and misled him, and he got into trouble. Hersey of Houlton, Parkhurst of Bangor, who used to be here, members of the Governor's Council and others began to gather around my friend Smith of Patten, and tried to

help him, and that man who sits there with those Madonna eyes and that Holy mien came to be a leader. Did he go down? I have this recollection, that twice he sat down any way. And we, a handful of Democrats, in the minority in this House, you charge with railroading a measure through this House and unhorsing the giants of your body and the Legislative leaders. Do you think I could do it. Why, gentlemen, I have had hurled against me this awful charge of once being a minister. I have tried, gentlemen, to live down my past. (Laughter.) For seven years I have tried to live down my past. Brother Hersey of Houlton used to hurl at me that great index finger of his, and say, "Newbert of Augusta takes refuge in his Holy orders." (Laughter.) Mr. Smith of Patten charged me on the floor of this House, Tuesday, with having the same sanctimonious manners as of yore. Now, gentlemen, that is the only thing he said about me that got under my skin. (Laughter.)

What is the question, gentlemen, from which I have wandered? As I approach it I want to say that I have the right to the latitude of this great constitutional lawyer from Northern Penobscot who assumes to stand today on the level with Webster. Isn't it true that something has come over the majority party in this House? Isn't it true that there is a change? Isn't it a peculiar situation that a Speaker presides today over this House in which he has not a majority? I apprehend no trouble from the Speaker's end of this matter, because he will be fair and will always be treated fairly by us.

As I say, I don't pretend to be a lawyer. I don't pretend to be able to intelligently discuss the Constitution of this State. We have before us here a simple proposition; it is a proposition upon which a layman has as much right to an opinion as a lawyer; it is the definition of a word, and the definition is in controversy. For 92 years no opinion has been given, and as I understand, the situation was never called in question. It is nothing strange that during all these years

postmasters have come here and it is not strange that for 60 years postmasters have sat here in this House because for 60 years one party practically has dominated this state, and the postmaster from Kittery and the postmaster from Rangeley, or Ripley, or Eastport, or from anywhere else, was the politician in his town, and men gathered around his little corner store and spat into the sawdust in the square box; there was no question raised upon their right to be here; and it seems to have been left for me, a humble layman in this House, to raise this question and to draw upon my head all the abuse that the gentleman from Patten can think of. But that is not argument, gentlemen; it is not argument on this question to vilify a member; it is not argument to ridicule a member; it is not argument to abuse a member; it is not argument to refer to me as only a minister of the Gospel; it is not argument to hurl at these six or seven Progressives here that they sing "Onward, Christian Soldiers"; all this is apart from the discussion of the question before this House, as to the construction of this phrase.

Now, gentlemen, in justification for my own act I want to say that I introduced this order backed by right motives; that I believed I was right then and I believe I am right now; and I believe the proponents of this order have behind them right and justice; and I believe we stand upon the Constitution of this State. (Applause)

I don't believe the framers of this Constitution ever intended to let in a horde of federal civil officeholders. I said, last Tuesday, in a brief way, and I repeat it now, that this term is a military term, and not a civil term; it related to military posts and not to the postal service. There were postmasters then, and there were post-officers, and there was a postal service then. Why didn't these men who were so clear about other things, make plain that they meant that postmasters should sit here? Why did they speak of post-officers? I defy my Brother Smith or any other man on

the floor of this House to find any satisfactory interpretation of the phrase in any encyclopaedia, or in any history, or in any dictionary, or in any book extant. I take the ground that the phrase is obsolete, and that it went out of existence when the army posts went out.

I have here a little volume by Rogers, entitled "Our System of Government." It does not go very far in treating about this section, but he says this:

"This section seeks to secure the Legislative Branch against any direct influence by the co-ordinate departments of our State government, or by the government of the United States. The exceptions to the general rule here laid down, are made as a matter of convenience, and the officers designated are not such as would, in all probabilities, ever have any reason or tendency to interfere with the attainment of the desired end."

These officers, these federal officers, were not numerous, and yet they must have been of a fair number, and in so far as they had a residence in this State they might be elected and sit in the State Legislature. In the same section a little later, in referring to State officials and in making exception of justices of the peace, coronors, etc., the makers of the Constitution also referred again to the military arm and excepted the officers of the State militia.

Now I have gone through this matter with considerable care and from the beginning I thought I might run something down, and I think with 35 years' experience you will allow me to say that I know how to refer to books; and in tracing down the postal service, down to this day in this country, you find no other phraseology ever used than the words "postal service" or the word "postmaster" or "assistant postmaster" or "postmaster general" or "assistant postmaster general." You don't find in all the phraseology of the postal service in the English-speaking world from the 15th century any reference to "post-officers," and there has been no change even until now from 1820. The makers of this

Constitution knew postmasters. If they wanted postmasters to come here, why did they not except postmasters, and why did they call them post-officers.

What about this post matter? I go to Togus. During the years of my extreme wickedness I was chaplain there—I go there now. It is not a live camp; it is a camp of invalids; the old brass cannon simply reflects a fading glory, and the cannon balls piled there simply call back the memories of the old men to the days when they were young and full of life and patriotism; it is a reflected glory out there; it is not a live camp; it is a dead camp; and yet inside are echos that mean much to me. I called up a high official of the Home, this morning, and talked with him. Out there they have a post fund. They used to have a post canteen before you Republicans took it away from them. They have a hotel and a store and the revenues obtained there contribute to swell the post fund; they have a superintendent of the post fund, and we fellows in the chapel used to be paid, and the singers used to be paid out of the post money which came from the post canteen.

The forts of our country are, today, no longer called forts, as I understand from good authority; they are all called army posts, and the head of the army post is the post commander; they have, today, their post commissaries, post quartermasters and other post officials. Collectively these would be post-officers. I simply leave these things for the gentlemen of the House to consider, but I claim there is an argument here on the side of the proponents of this measure. And when the makers of the Constitution got together, if they wanted people to sit here they would say in plain words a member of the postal service, or they might have used the term "post office"; they used the word "post-officers."

Now, gentlemen, I am done, and you are glad that I am done, with this simple further statement: Here is a motion to reconsider. I want to assure this House that no man sits here among the proponents of this order who would do any individual member of this House an

injustice. A great deal has been said here about members who have resigned, and good lawyers have told me within 24 hours that the resignation of these gentlemen was equivalent to a plea of guilty in court. If they have a right to sit here, why do they hasten to send telegrams of resignation to Washington? (Applause.) And if they have resigned, and if their resignations have been properly and duly accepted, and if they are out of the service, and if the thing is not all faked, then the issue falls as far as these men are concerned if they can satisfy this House, which is the only tribunal to try this case, that they are done and out. Then the order to refer the whole thing to the supreme court would simply be referring a moot question to the court, and the court would take no notice of it because if there are no postmasters here why put it up to the supreme court?

If it can be shown in committee of the whole here, or in any other easy and informal method, that these gentlemen have resigned, and that they are no longer officers under the United States, then, for one, I would not for a moment persist in keeping this gentleman, Mr. Farrar from Ripley, out of his seat. Nobody wants to do it. I don't know Mr. Farrar even by sight; there is no passion, no hatred, no wicked vindictiveness here, and I should be in favor of the motion to reconsider if it can be shown to us that these resignations were bona fide resignations and have been really and in fact accepted beyond the peradventure of doubt.

I know one thing, that no postmaster in Maine can at noon send a telegram to the great postal department, and start up those great wheels so that before 5 o'clock at night of the same day he can get a reply by telegram accepting his resignation. I ask these gentlemen where they hung their keys, who reads the postal cards, who runs the office, and who is responsible under their bonds to the government?

I apprehend there will be no further controversy here in this matter; I cannot settle this matter and I do not want to settle this matter; I do not care to have my opinion taken, for you gentlemen sit-

ting here have all an opinion; and under your oaths of office and under the constitution and laws of Maine you are made the sole and competent body to decide this question, and from our decision there is no appeal. I trust in this House and I believe in its good faith, and I am very sure that there is no man sitting here who desires in passion or party prejudice to remove from his seat a member of this House unjustly, simply because we have the power; and I am the last man under God's Heaven who would use power just because I have the power, unless justice and right go with that power. (Applause).

Mr. SANBORN of South Portland: Mr. Speaker and gentlemen of the House, if the ledger account of personalities is now balanced, I will endeavor to offer a word upon the merits of this question; and I assure you that in what limited observations I may have to make I will refrain from personalities or villification or anything of that sort. I may state that I will also undertake to speak within the rules of propriety and the laws of the State of Maine, by refraining from the use of profane language.

The gentleman has stated very frankly that if it could be shown that these postmasters have in fact resigned, and that their resignations have been accepted, that he for one will be indisposed to carry this question further. I admire his frankness and I trust that those who have acted with him hitherto are of the same mind at this point. It is a fact, as I think I have reliable information to show, that three of these postmasters have resigned, and that their resignations have been accepted. But I beg your indulgence for a moment while I offer a suggestion as to the attitude of these men in so resigning, and as to the effect of their resignations upon the present question.

I am personally inclined to the view that if I were in the position of one of these postmasters, and that if I were to consider the question solely with reference to its effect upon me and my defense, I would never have resigned; but these gentlemen, I apprehend, look at the question not wholly with reference to their own

position, but with reference to the possible position in which their constituencies might be placed; and I submit that in consideration of that matter they were wholly justified in taking any step which would seem to put them in a better position, if at all, with reference to their claims to a seat here.

It has been asked, who is running the office if they have resigned, who is responsible to the government, and so on? There are two questions asked, and I should say that they call for two answers. I am not informed, but I have no doubt that the same person is running the office in Kittery, and in Topsfield, and in Ripley, and so on, that was running it, last week, when these same gentlemen were here occupying their seats in this House. I have no doubt it is true that all these postmasters have yet to settle their accounts with the government, to produce proper vouchers, for the conduct of their respective offices up to the time when their resignations were accepted, and that their bonds are still in force; nay, those bonds will be in force years from now if it should ever develop that at any time during their incumbency of their offices there were any losses.

But they are, today, and from the moment of the acceptance of the resignations, free from obligations to conduct the office; they have not the privilege or the right to step inside of those offices in their official capacity. I care not what you say about the question of whether their act in so resigning is a plea of guilty on the original charge, or not. That is beside the question. They have treated the matter, as I have suggested, out of their sense of abundance of precaution and a willingness to sacrifice anything on their part, and I submit the fair-mindedness of this House will justify them in such an act.

It has been suggested that evidence might be required of the fact of the resignations. I have had handed to me three separate telegrams, with the assurances from those handing them to me that they were genuine. I apprehend that neither the word of these gentlemen in their statement to me nor my word in my statement to you

will be in any particular doubted or questioned. The telegram which I have in my hand is dated from the Government Post Office, Washington, D. C., January 14th, 1913, and is addressed to William H. Farrar, care of the House of Representatives, Augusta, Maine, and its says: "Order signed accepting your resignation as postmaster at West Ripley, Maine, effective, today." This is signed, "Grenfield, First Assistant."

I apprehend that no one on the floor of this House will ask for further or better evidence of the fact that the resignation of Mr. Farrar was filed in Washington by telegraph, on January 14th, and that this is the announcement that comes to him officially of that fact. So, gentlemen, that seems to me entirely to dispose of the matter, so far as his status as a postmaster is concerned; and I may also say that I have before me two other telegrams in the same phraseology, one addressed to Otis H. Taylor, and another addressed to Horace Mitchell; but we are at the present time discussing the immediate question in connection with Mr. Farrar.

It may be argued, but I judge by the attitude, and I consider it an entirely fair attitude, on the part of the gentleman from Augusta, Mr. Newbert, that he would have the disposition to put Mr. Farrar on the same plane with the other gentlemen, notwithstanding the fact that the vote had been taken on his case before the resignation had been accepted. So that while I am fully of the opinion, as I said at the outset, that the question of resignation should not and need not enter into the matter in any way, shape or manner, for it is perfectly evident from the discussion, the full and complete discussion we have had on both sides—it is certainly evident to every fair-minded man that on its merits that provision of the Constitution did explicitly refer to business in the postal service.

My brother from Augusta, Mr. Newbert, has spent much time here in talking about military posts, and post officials, but he has not suggested or offered any reason for the suggestion why those military men should be made the exception in that clause, should be

referred to as the exception in that clause instead of postmasters and officers in the postal service. I believe that that question is entirely settled in the minds of everyone. But one remark that was made by the gentleman seemed to my mind quite significant, a significance, perhaps, which was not intended by him when he made it. He made the remark that we stand here upon the old Constitution of Maine. Now, we understand that the constitutional right which this House has is set forth not in the clause which has been invoked, but in an entirely different clause of the Constitution. The reference I have not at hand, but you are all familiar with the clause, that which says that each House is the sole judge of the elections and qualifications of its members.

Now, gentlemen, that means, if it means anything, this: It means that this House is above the supreme court; this House is a law unto itself in determining who are entitled to seats. The supreme court may tell us that that does not refer to post-officers, or that it does; but we have it in our power as a House, today, a power which the makers of the Constitution thought it wise to confer, and had ample confidence, complete confidence in the wisdom and judiciousness of all Houses of Representatives in their use of that power. We have it in our power, today, gentlemen, to adjudge that my Brother Pendleton here before me is not 21 years of age, and therefore is disqualified; and we have it in our power to remove him from his seat on that judgment when we once pass it. The question is, shall we pass such a judgment as that in the face of what seems to be the evidence. The same principle applies to the case in hand. We may well judge that these three men are not eligible to seats in this House, in spite of the evidence, and remove them from their seats. The power is still in this House to do that; but the question is, what is our duty and what is our responsibility to this House, to the government of Maine and to the people of the State of Maine.

I am addressing these words to those in this House whom I believe—and I am loath to believe that that spirit of

fairness and that spirit of open-mindedness is at all confined to the members of the Republican party—I am addressing it to those of the opposition, and I believe there are many men here who are men of fairness, and men who are willing to judge and act on all questions on their merits. I thank you, gentlemen, for your indulgence. (Applause.)

Mr. WHEELER of South Paris: Mr. Speaker and members of this House, it is more than possible that at the present time my intentions may be misunderstood when I say that I take the floor and advocate the cause which I advocate with absolute sincerity and in the belief that my position is correct, and that when the supreme court hands back an answer to the proposed question of this House that certain gentlemen, in spite of the \$20,000 team of corporation lawyers behind them, have got a big surprise coming to them. (Applause.)

If I can read the Maine reports correctly, and I think I can, even though I am not a constitutional lawyer, the court of Maine in a divided case in which the Hon. Justice Emery was in the minority for once—the court of Maine have said that it was bound by the rules of the constitution, and that it could not interfere with the business of the House of Representatives, unless there existed a solemn occasion which required it; and they said that an opinion rendered upon a certain question, not quite parallel but very similar to this, would be an unwarranted interference with the business of this House. For that reason the argument advanced by my friend from South Portland (Mr. Sanborn) appeals to me as being very fair and well grounded; there exists in the mind of this gentleman, and I think in the minds of others who voted with him, that a mistake has been made in the conduct of this matter.

As business men, you all have formed the habit of turning to the supreme court of Maine with confidence that your questions will be answered and that they will be settled fairly, and with wisdom and sincerity to such an extent that the court of Maine stands at the head. But in this particular matter the supreme court of Maine is not the court of last resort. We forget occasionally that the

government and the constitution of Maine provide for three distinct and separate branches, and there is no question but that our ancestors wished to place around those three a safeguard, so that the executive department should never interfere with the legislative, and so that the legislative should never interfere with the judicial. And you know and I know that in this broad country of ours many of the burning questions that confront us and that are making divisions in our party have arisen because the judicial branch of the government has persisted in interfering with the business of the legislative, and I don't look for the court of Maine to make that mistake in the present crisis.

I agree with the proposition further advanced by my brother. These gentlemen have acted in sincerity and fairness by resigning. It is perfectly plain from the remarks that have been made here, and also from an article in one of our daily papers, that this matter was not a surprise to the gentlemen most deeply interested. It makes little difference to any member of this House what motive may be imputed by the press to him and toward him when casting his vote upon a solemn matter here, so long as the debate upon that question, and so long as the remarks upon that question are fair, above board and honest. And after the report has been spread in the corridors of this House that certain members hereof voted upon this question solely upon political grounds, an injustice has been done to the men toward whom those remarks were directed, and to the men who made them, when they are considered by the public.

I voted to unseat, and I shall continue to vote in similar circumstances until I am convinced by some higher authority that I am wrong. To show that I am sincere in the position that I took in my vote, and that I am sincere now, let me relate a personal incident. In my own county this question has arisen just as it has arisen here, as I will show, in other counties prior to the organization of this House. One of my neighboring towns is the town of Oxford, represented on the floor of this House by an honorable gentleman and a friend of mine. In the primaries another friend of mine, holding

a postoffice appointment under the United States government and in that same town, desired to be a candidate before his people. The question was raised then, gentlemen, as it has been raised a hundred times, as to whether or not a postmaster could sit in this body. The question was presented by this gentleman and by his friends to a large number of attorneys at various times. It happened that they had sufficient confidence in me to present that question to me at one time, and I spent a great deal of time and research upon the matter. I did not have the advantage of this magnificent State library at my command; I had no assistance in the matter either, but I reached a conclusion which governed me then and which has governed me this week, and which governs me now. I told my friend from Welchville, in the town of Oxford, that I believed he was disqualified from sitting in this body.

My neighbor here from the town of Otisfield (Mr. Taylor) knows that that controversy arose, and while he probably does not know that I was concerned in it, he well knows, as does every other citizen of those towns, what the result was to the gentleman who wished to be a candidate. I believe that disposes of the accusation at the hands of the press, and of the accusation at the hands of those who wish to do an injury to the Progressive movement in the State of Maine, and of any accusation that I pose as a leader of any movement, and that as a leader of any movement that I assume to dictate the action of any man therein. I take pleasure in making this explanation in absolute good spirit and in a good natured way; and when this discussion rolls by, as it soon will, let us take the attitude that what has been said has been said in the heat of a controversy, and forget it.

Now, gentlemen, I wish to address myself to the main proposition, because it is only fair to show that I occupy that ground. I am not a constitutional lawyer. I have sufficient experience in such matters, however, so that in a speech of three days duration, or fractions thereof, I think I would be able to recognize the fact if any gentleman

were able to submit any single authority in support of his contention that postmasters were entitled to be seated. The Constitution says that no person holding any office under the United States is entitled to hold a seat here. That is the main sentence. Can there be any question about it? It is not a question for lawyers; it is a question for you men who know the English language. No person holding an office under the United States may hold a seat in this body, unless he can bring himself within a certain exception, and that exception is post-officers.

I have been taught to believe, and I believe the lawyers in this body will substantiate this rule of law, that when you discuss an exception the law presumes against the exception. If you sell your neighbor a parcel of land and make an exception in the deed, you know very well that when the question arises upon the bounds of that parcel which you reserve, that the court will construe your deed against your exception. And you business men know very well that if you take a contract to build a large mill, for example, and to do and perform all the work required to put it in condition for occupation, excepting that you shall not do certain work upon the foundation, for illustration; and if the court is called upon to construe that contract, it will construe it against your exception.

And so I take the ground that these friends of mine who are seeking to hold their seats upon the floor of this House by virtue of an exception, have upon their shoulders the burden of proof, and they must show beyond a reasonable doubt that they are in fact included in that exception. I resent the attitude of certain lawyers, who try to make us believe that the burden of proof is the other way. It may be that postmasters have occupied seats upon the floor of this House for many and many years, because the question has not been raised. The court of Maine has said that if a wrong idea or the wrong construction of a statute has persisted for many years that it does not make it right when the question first comes up for construction. It is just as new a proposition as you can conceive of.

It may be that these gentlemen have some equities in their favor because they have been allowed to keep their seats here for 10 or a dozen days. I take the view of that matter that they do not owe us anything for that, and we do not owe anything to them for allowing them to sit here; and because they have been here 12 days is no presumption that they should serve during the rest of the session. I am willing to leave the matter where I was willing to leave it, yesterday. A proposition was made here which seemed to me to be fair, regardless of the source from which it came or the purpose for which it was introduced, and I have sought no occasion to raise any question upon that.

I believe, gentlemen, that when a recess was declared, yesterday, for the purpose of suspending this matter where it stood, that the proposition was a fair one; and I went into that conference, and I made the suggestion—and I think the members will bear me out, that it was a fair proposition, that the matter ought to stay just where it was then, so that the gentleman, who has been unseated, could be re-seated by the action of this House, if the supreme court should advise us that it was desirable. I cannot now understand the motives of those gentlemen who opposed that suggestion. I have stood ready to vote against each and every man who stood in this class, postmasters. There has been a suggestion persistently made that the name of one member was omitted for a purpose; but he knows, and so do others know, that I stood ready to unseat him if he stood in the same condition with the others; and he knows, as well as others, that I have advised him not to resign under the circumstances because I believe it is too late to cure the defect; it is not a plea of guilty, and I believe it does not help the situation for him to resign at this late day. I think it is proper to state that this gentleman is not trying to hold his seat, but by a fair-minded statement made in the hearing of all of us he said that he was ready to conform to the Constitution.

It is more than probable that even

now a compromise upon this situation can be reached, so that the matter can be suspended until we get a decision from the supreme court which will tell us whether they want to decide it for us or not; and if it is possible for that suspension of the matter to be made I should be in favor of it; and when an answer comes back from the court, if these gentlemen are entitled to their seats upon the advice of the court, I shall be the first one to seek an opportunity to vote to reseat the gentleman who has been deprived of his seat and to sustain the others; but I hope the discussion of the matter will proceed upon the assumption that the fairness and the honesty and the sincerity of the members of this House does not lie in any particular section of this House, and that such honesty is not entertained wholly and to the exclusion of others by any political party or faction here. (Applause.)

Mr. COOK of Vassalboro: Mr. Speaker and gentlemen of the House, there seems to be a doubt, a reasonable doubt, in regard to the seats of these gentlemen under discussion, and it seems to me that as fellow members and comrades here we ought to give those gentlemen the benefit of the doubt. (Applause.)

I hope this motion to reconsider will prevail. On the side of that motion prevailing is the opinion of an eminent chief justice of the supreme court. At this distance I would be almost afraid to disagree with him; I have been rebuked by him in court, and you see the color of my hair. (Laughter.) I remember in court I was as much afraid of him as the French used to be afraid of Richelieu, and it will follow me until after he has been dead a while, if perchance he die first. Now why does the gentleman want these men unseated and wait for a decision of the supreme court? Why not re-seat this one who has the same standing as the others, and then wait until we get a decision from the supreme court? Let us be fair, gentlemen, and generous to our comrades. (Applause.)

Mr. MATHIESON of Rangeley: Mr. Speaker, there may be some doubt in



regard to the location, and so forth, of the post office at Indian Rock. I hold a commission from the government for that post office, and my instructions are every year, not in that commission but from the department that they will notify me when to open that office. Usually it is from the first of May to the first of October. I am notified just previous to the first of May, and it expires the first of October. Now, if any one of you should come there, today, and ask me to take and mail a letter there for you, I could not do it; I don't dare to put my stamp upon it; I have no authority to do so, and that is the position I am in in regard to that matter. I would be obliged to tell you to take your mail over to Oquossuc, a mile and a quarter from there, and that is the fact. If you came there, today, you could not post a letter there, or I would not dare to dispatch or receive a letter from that office.

Now in his insinuation about resigning, and all this, that and the other, I wish to say that I took those things into consideration. Resigning seemed to be a manly thing to do, and if I am wrong and have no right here, I am wrong and ought not to be here. I voted when the gentleman from Phillips (Mr. Austin) presented that amendment to add my name, I voted for it. (Applause) Several have come to me and said that I could resign the same as the others have done. I don't see as that would add anything to my position in regard to this seat, because, if I remember the condition, we are to act as postmasters until our successors are appointed, and I doubt if you can find in the records of the postal department where any three resignations were ever accepted so quickly; and therefore I did not believe it could be done, and done justly and honestly, and I would not do it. (Applause)

Mr. PEACOCK of Readfield: Mr. Speaker and gentlemen of the House, it is with a great deal of fear and trepidation that I rise to address this body, but I stand not as a Democrat, a Republican or a Progressive. I stand to exercise my right as an American citizen, elected to represent a certain

constituency in this body. I will not attempt to play upon your emotions with stories, but I will endeavor to say what I have to say in a fair and impartial manner.

This is an important question, whether or not three or four men within this body have a perfect right to sit and act with us; and I for one, regardless of politics, want to lay aside our political faiths and act upon this question as American citizens should act, as one should do by his neighbor, the fair, square and just thing. I am willing to rest my case upon the Constitution, and if you will bear with me a moment you will find there we have certain free and inalienable rights; one of them is the freedom of speech, and another is that when anyone is accused of crime he shall not be convicted without a fair and impartial trial; in that case if he has only his clothes upon his back our Constitution provides that he shall be furnished with means to procure witnesses and counsel.

Now, gentlemen, let us rest upon this Constitution. There seems to be a mis-conception about the word "post-officers," placed there 80 or 90 years ago. Men who are lawyers know that we must interpret words and phrases as they were accepted at the time they were used; and as my Brother from Patten, Mr. Smith, stated yesterday that a member of that constitutional convention which met and framed this Constitution was also a member of the next Legislature and was a postmaster, I submit to you, gentlemen, that he must have known at that time better than we know here today what the interpretation of the word "post-officer" meant. It makes no difference to me whether my friend from Rangeley (Mr. Mathieson) votes against me in a Senatorial contest or not; I don't care; I want to see fair play.

Let us look at this question fairly and squarely; and when the Constitution of our sister state in 1823 says "postmaster excepted," framed three years later, why isn't it good faith to believe that they simply transferred the obsolete term of "post-officer" into the more modern term of postmaster.

It makes no difference to me whether this information is brought by a corporation lawyer or by the smallest lawyer in the State of Maine, if it is correct. And so, gentlemen, in the settlement of this question let us lay aside party affiliations and be honest men. Let us put this up to our supreme court, and if we have not confidence in the supreme court of the State of Maine, let us every one accept Theodore Roosevelt's proposition for the recall of judges.

Two years hence when this august body assembles, if I do mistake my calculation, it will be necessary to interpret this Constitution judicially, because I think I have reason to believe that there will be a great mass of postmasters and post-officers in Maine who will be affiliated with the Democratic party. Let us safe-guard their interest then, and these gentlemen now. I will not vote to unseat my Brother Farrar, Democratic, Republican or Progressive, I care not which, upon the interpretation of only one or two members of this House. We are in a peculiar position; we are judge and jury. This matter was brought in here upon us quickly, and I am not going to say whether it was for political purposes or not; but we have an opportunity now to do the fair, square and honest thing: and that is what I want to do, regardless of any party affiliations. If we are not broad-minded enough to come down here and serve our constituents without first thinking when a measure of anything like this is presented "Is this a Democratic measure, a Republican measure or a Progressive measure," then, gentlemen, we are not fit to fill the seats which we now occupy. (Applause.)

Mr. DUNTON of Belfast: Mr. Speaker and gentlemen of the House, it was far from my intention when I came to this House this morning to address you upon this question, but it has taken a turn which makes me think it is my duty to speak my mind in relation to the phase of it last discussed.

There seems to be a feeling and an opinion on the part of those who have last spoken that, notwithstanding this

House is the judge of the qualifications of its members and in that respect the highest authority to which constitutional questions can be submitted, nevertheless, recognizing that there is a difference of opinion and an honest difference of opinion, if we may believe some of the Republican members who have last spoken, and I accept that as the opinion of the other Republican members here, and the others who have not expressed their opinion, that the Democratic members and the Progressive member who voted in this way upon this question were acting from purely selfish party political motives to defeat the will of the people of this State by a purely technical question without merit, but disfranchising three members of this House.

Now, I am convinced that there is an honest difference of opinion. It is not for me, gentlemen, and it is not for my friends from Patten (Mr. Smith) to reflect upon the honesty of these several members who may hold opinions differing from ours upon this question, which is not a question for a lawyer so much as it is a question for a lexicographer; it is a question of the definition of a term, not a question of law; and what the meaning of that term is has been argued pro and con by different members holding those varying opinions. But we are getting nowhere.

What does it all mean? It is not a question for reasoning and argument so much as it is a question of historical interpretation of what the founders of this constitution meant by this word "post-officers." One says it means one thing, and another says it means another thing. And those who introduced that order that day were as confident, I believe, as their expressions, their assertions indicated that they were confident, and relied not only upon their opinions of eminent lawyers to whom they had submitted that questions. I say that we should dismiss from this discussion altogether the question of sincerity. We cannot impute motives to our neighbors on various matters because when the last word is said and you go to authorities for a definition of that word post-officer, you don't find

the word. No one in this House has found that word in the Century Dictionary, the Standard Dictionary or any other dictionary, or any other book except the Constitution of the State of Maine. (Applause).

And I will go further, and say that no man in this room will stand upon his feet and say that he ever saw that word printed from a printing press, the word "post-officer." I submit to you that Professor Little of Bowdoin should be an authority which would help us and give us light upon this question. The only fact that he gives us is that in the New England Dictionary, or some other dictionary the name of which I don't remember, he found the word "post-officer." He says no more about it in that letter, if I understood it correctly; and so I say that there is a difference of opinion and an honest difference of opinion, and we are asked that that question of opinion be settled. It should be settled, not only for our satisfaction, but it should be settled for succeeding Legislatures and for the direction of the people of this State who are contemplating the nomination of one who may be a postmaster. I believe it is of sufficient importance that this question be raised at this time and settled.

There is one other point to which I want to call attention. That question was not raised until Monday night last, so far as I know, the first that I heard of it. Tuesday we were to vote to elect a United States senator. There was a question of doubt. What was the situation? You all know and I need not recount to you any of the details of that situation. I need not say to you that the greatest pressure had been brought to bear upon the so-called Progressives to keep them within the fold until the election of United States senator was effected. There is a Progressive party in this State now; there was not a Progressive party in this State at the time of the September election; there was not a Progressive party in this State perhaps at the November election in the sense that there was a Progressive party in other states; but by a series of compromises they were held together, and where 48,000 voted the Progressive ticket, 26,000 voted the Republican ticket, and they

came to this Legislature from all parts of the State with those unsettled questions as to what they should do. You know what has happened since. You know how the old guard has stood before them, looking toward the west, rigid, stand-pat; and you know how the Progressive Republican party, so-called, has stood. They have seen the way to the Promised Land, but they were standing with their faces toward the west, marking time, with their eyes upon the golden calf and with their thoughts only upon the Promised Land, making no progress, marking time. That was the situation, and there was a division; it was found that there were those in that Progressive Republican rank who were real Progressives, who stood for the Progressive idea, and were not simply and solely for all purposes an adjunct of the Republican party; and there was a division, and there were three parties—

Mr. HUTCHINS of Penobscot: Mr. Speaker, I raise a point of order.

The SPEAKER: The gentleman will state his point of order.

Mr. HUTCHINS: I will inquire if the gentleman is in order.

The SPEAKER: The Chair sees nothing out of order in the remarks of the gentleman.

Mr. DUNTON: (Continuing). There was that doubt expressed and argued, and the opinions of able lawyers cited to show that there was a doubt; and the opinion was current in various parts of the State in relation to it; and there arose a conviction that those men who were United States postmasters were not within the meaning of the exception.

There was a question raised, and it was raised in such a way as to make the supreme court of this State realize that there is a solemn occasion for the interpretation of the meaning of the Constitution; and I believe, gentlemen, that no action should be taken on the case of Mr. Farrar for that very reason, until we get an interpretation from the supreme court. By the action of this House he is unseated and I have no doubt that everyone personally regrets that fact; but when we take into consideration, as I said before, the fact that the

meaning of this constitutional provision has been seriously questioned, it seems to me that he himself will say that it is of sufficient importance, of supreme importance, and that nothing can be done in relation to that seat until we get a return from this question to be submitted to the supreme court, if it is to be submitted to the supreme court. I think, Mr. Speaker, there is nothing further that I have to say on this question, and I beg the pardon of the gentlemen of the House for having consumed so much of your time.

Mr. TRIMBLE: Mr. Speaker, I have listened to the previous speakers on this subject with the idea of getting some light upon what the future program may be. I confess that I am unable to abstract much satisfaction from the matter. The matter may be presented to the supreme court, or it may not be; they may rule upon it or they may not; if they do, the House may have to pass on the question because under a constitutional provision the members of the House are made judges as to its membership. Now, in the event of it being necessary for us individuals to determine on the merits of this case, there are two things that occur to me that will help me decide how to vote; and perhaps it would be well that I should explain my position. Of course there is a difference of opinion as to the meaning of the word "post-officer." It has been demonstrated that many postmasters have occupied seats in this House. It has not been demonstrated or even claimed that a single military post-officer ever occupied a seat in this House. Does that mean anything?

Then there is this further fact: We all know that an officer in the United States military service stationed in the State of Maine does not gain a voting residence while he is stationed there. If he does not gain a voting residence, is it not rather unreasonable to expect that he will be qualified to represent that town or that locality in the State Legislature. Isn't it then absurd to contend that the meaning of the word "post-officer" is anything other than the officials con-

nected with the post office department? (Applause.)

Mr. BOWLER of Bethel: Mr. Speaker, being a young man in the Legislature, I did not intend to say anything upon this subject, but it seems to me that we have had a vast amount of argument, and we are getting now close to the voting point of the question. We have heard a great deal deal about being fair. For one thing, I would say that I have been touched a bit by the fairness of some of the rulings of our Speaker. We want some fairness in this matter. It is a question, as it has been said, of constitutional law, and we are beating about the bush a great deal, but as I have thought the situation over it seem to me that the weight of the argument must be pretty much with the gentleman whom we are about whom we are about to vote upon and decide whether he shall remain a member of this House or not.

Our friend from Belfast (Mr. Dunton) has told us that we cannot find the word in the English language, that it cannot be found in the dictionary, and we know very little about it. If the word has dropped out of the dictionary and has become obsolete, what better can we do than to look back and treat the word as those people did treat it who put it there. We have had some evidence brought to us and we have the opinion of one of our former chief justices of the supreme court of Maine. We have also had the version of the gentleman from Brunswick which has been referred to. The only bit of evidence we have had is from a quotation from a text book used in the schools.

It is an important thing whether you are going to submit this question to the supreme court or not; but it seems to me we cannot do better than to go back upon the suggestion made by the gentleman from Vassalboro. Why not put these men all in the same class? Why throw one man down here and wait and see what the supreme court will do about it? If you want to be fair, and if you want to take politics out of this thing, what can we do better than to reinstate the gentleman and place him on a par with the

rest, and then let the supreme court have it if they will take it. (Applause)

Mr. DUNTON of Belfast: Mr. Speaker, it seems to me if the question is to be submitted to the supreme court it should go there under such auspices that they will feel that it is of sufficient importance for them to take cognizance of it, that it is a solemn occasion; and that is the only reason why I should insist that the status of Mr. Farrar remain as it is, in order that the supreme court may adjudge that we have a right to have their opinion upon it. I submit there is no reason for immediate action by our body upon those motions that were introduced, nothing is pending; our vote for United States senator has been taken. There is time to look into this matter all we please, and I submit that we will get a report from the supreme court more speedily if there was something pending and something necessitating in justice to our fellow members an answer to this question.

The SPEAKER: Does the Chair understand that the gentleman from Belfast moves to lay on the table the motion to reconsider?

Mr. DUNTON: I have made no motion, Mr. Speaker.

Mr. KEHOE of Portland: Mr. Speaker and gentlemen, the Constitution of Maine was made for the common people of Maine; it was made for the common people to read and for the common people to understand; it was not made for lawyers; it was not made for the construction of the supreme court; it was expressed in the simplest terms. As I say, it was not made to be a subject of dispute. It was a document to establish the rights for all time of all the people, and for that reason the framers of that Constitution used the simplest terms, terms that meant what they said.

It is undisputed in this whole discussion that at the time of the making of this Constitution, in the year 1819, the term "postmaster," and the office of postmaster was well understood. There were postmasters in those days, and there had been postmasters before those days. If the makers of the Constitution meant to say "postmasters

excepted" they would have said "postmasters excepted." There is no dispute about that, and I defy my friend on my right (Mr. Smith) or any other gentleman here to question that. The term "postmaster" was not unknown at that time. The term "post-officer" that was used, and I say there is a good deal of question about it, no man here can absolutely say what it means, or what the history of it is.

Every man has a right to assume that, as I say from the fact that in the Constitution were used the simplest terms. If they included postmasters in the term "post-officers" it was a broader term than "post-officers," and included others. I have learned since this matter came up that in the military world—and there are military posts in Portland where I come from, four or five military posts, and I understand that every officer below the commander in that post is called a post-officer. The commander is not a post-officer; he is the head, but all the officers below the commander are called post-officers. Of course that does not settle this question, but my contention is that if the framers of this Constitution intended to include postmasters they would have said "postmasters."

I hold in my hand a clipping taken from the Kennebec Journal, asking the opinion of former Chief Justice Emery on this question. He was and is a very able lawyer, there is no question about that; and he is a direct man. If there is anything that appears strongly in his history on the bench it is the directness with which he stated the law, and the clearness and applicability of the question to the facts. A question was asked of him, but the question is not recited here. The answer is recited here. He does not answer the question in a manner to give much light to any one. He says: "If you think best, however, you can say that you inquired of me my opinion as to whether the phrase 'post-officers excepted' in the seventh section referred to military officers of military posts or to similar officers in the postal department, and I answer that I think it clearly refers to the latter class."

Now, as my Brother Wheeler has stated, in the clear words of the Con-

stitution there is no dispute that postmasters would not have a right to sit here, that is, any one holding office under the United States; there is no question but what a postmaster does hold an office under the United States. And the burden of proof is on the opponents of this measure to show that postmasters are within the excepted clause, and the burden is not upon the proponents.

Now, in regard to the matter of fairness. When we came to this House we were all ordered to stand and raise our right hands and take the oath. What was that oath? That oath was that we would support the Constitution of the United States and of this State, so help us God. What man here can say that any man who did less than his duty when he had the right to believe that the Constitution of his own State was being defiled and set at naught by men coming here and sitting here who had no constitutional or legal right to be in this body. It was the duty of every man here, if he had that feeling and that belief, to raise that question.

The proponents of this measure only appeal to the common sense of the members here, and this thing is not a question of law. The Constitution is not written for lawyers. The judgment of the members of this House is as good as the judgment of any body on earth. (Applause).

Mr. COOK of Vassalboro: Mr. Speaker, I move that we lay the matter upon the table for discussion and that we adjourn.

The SPEAKER: The gentleman will have to put one motion at a time.

Mr. COOK: Then I move that the matter lie upon the table.

The SPEAKER: The gentleman from Vassalboro, Mr. Cook, moves that the question of reconsideration, which is now before the House, lie upon the table.

Mr. SCATES of Westbrook: Mr. Speaker, I would say, and of course the Speaker knows, that to make a motion to lie on the table, a date must be assigned for its consideration.

The SPEAKER: Will the gentleman from Vassalboro suggest a date for the further consideration of this question?

Mr. COOK: At 3 o'clock this afternoon.

The SPEAKER: The gentleman names 3 o'clock this afternoon.

Mr. NEWBERT of Augusta: Mr. Speaker, I do not wish to debate this motion, but I think the House will agree with me that we have all been doing a great deal of thinking this morning. I have some doubt whether this House is just in the mood to vote on this proposition. It has occurred to me that it might be well to lay this whole matter on the table until next week. There is no great haste now, no pressure upon us. I doubt the advisability of continuing upon the matter this afternoon, and I should be willing the whole thing should be put over until next week.

Mr. AUSTIN of Phillips: Mr. Speaker, I rise to a point of inquiry.

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

Mr. AUSTIN: I recall, I think, the passage of a concurrent resolution of the Senate, that when we adjourn we were to adjourn until Tuesday morning next, so I don't see how we can adjourn; we might possibly take a recess.

Mr. SCATES: Mr. Speaker, I fully agree with the motion of the gentleman from Vassalboro. We have been having a strenuous time here for this week, and I think if this matter could be assigned for next Wednesday that we might get together and smooth and iron this thing out.

Mr. COOK: Mr. Speaker, I would move that this matter be assigned for next Wednesday, at 2 o'clock, for further consideration.

Mr. AUSTIN: I would move to amend that motion by striking out the words "2 o'clock" and inserting the words "Half past seven o'clock in the evening;" and I will state briefly my reason for doing so. Wednesday is a general committee day. There are several hearings already advertised before our committees for Wednesday afternoon. If we are going to give this matter long consideration so that we will have to take time outside of the regular morning session, it would seem to me that it would meet with the approval of the majority of the members of the House that we adjourn until Wednesday evening, or at some other date than Wednesday aft-

ernoon, when we have so many important committee hearings.

The SPEAKER: The gentleman from Phillips, Mr. Austin, moves to amend by substituting Wednesday evening at seven-thirty o'clock for Wednesday at two o'clock in the afternoon. Is it the pleasure of the House that this amendment be adopted?

Mr. BOWLER of Bethel: Mr. Speaker, if it would be agreeable and if it would be in order under this amendment, I would suggest that there are various reasons why Thursday evening would be very much better for some of us than Wednesday evening, and I would suggest that the time be fixed for Thursday evening at the same hour.

Mr. HIGGINS of Brewer: Mr. Speaker, if it is in order, I would offer an amendment to the amendment making the hour at 11 o'clock.

The SPEAKER: The Chair suggests that it is out of order. The Chair understands the question is upon the motion of the gentleman from Bethel, Mr. Bowler, that we amend the motion of the gentleman from Phillips, Mr. Austin, by substituting Thursday at half past seven o'clock in the evening for Wednesday at half past seven o'clock in the evening.

Mr. GORDON of Biddeford: Mr. Speaker, it seems to me that Wednesday evening would be a better time to consider the matter, inasmuch as there are many members who will perhaps be here at that time and will not be here Thursday afternoon.

Mr. BOWLER: I will say in reference to the amendment which I offered that this being an important matter and it being necessary for the members to be here, I offered that amendment for the very reason that I thought it would be impossible for a large number of our members to be here at that time.

The SPEAKER: The question is on the adoption of the amendment to the amendment offered by the gentleman from Bethel, which amendment to the

amendment is that Thursday, at 7.30 o'clock P. M., be substituted for Wednesday at 7.30 o'clock P. M., for further consideration of this question.

A viva voce vote being doubted,

A division was had and the motion was lost by a vote of 59 to 79.

The SPEAKER: The question now recurs upon the adoption of the amendment offered by the gentleman from Phillips, Mr. Austin, that the matter lie upon the table to be considered, next Wednesday, at 7.30 o'clock P. M.

The motion was agreed to and the amendment was unanimously adopted.

Mr. SCATES of Westbrook: Mr. Speaker: I laid upon the table, yesterday, the order introduced by the gentleman from Skowhegan, Mr. Marston, and it was assigned for consideration, today. I will now move to take it from the table and assign it for Wednesday evening of next week.

The motion was agreed to.

Mr. WHEELER of South Paris: Mr. Speaker, I would like the privilege of making an explanation at the request of the gentleman from Oxford, who informs me that there are some doubts as to whether or not he is a postmaster. In the remarks which I made I did not intend to convey that impression, because he is not and never has been. The gentleman, who was the postmaster involved in the matter at Oxford, decided not to enter the primaries, and did not do so. The gentleman from Oxford (Mr. Eaton) desires this matter to be put right on the record.

Mr. EATON of Oxford: Mr. Speaker, I would like to state for the benefit of the House why I requested Brother Wheeler to make the remarks. It was because I think some of the members of this House were under the impression that I was or that I had been a postmaster; so I requested Mr. Wheeler to state to the members of the House that I was not postmaster and never had been.

The Speaker joined on the part of

the House as a committee to investigate in regard to the high price of coal on the Senate order relating to that matter: Messrs. Bass of Wilton, Clark of Portland, Mitchell of Newport, Doherty of Rockland, Merrill of

Buxton, Taylor of Topsfield and Lawry of Fairfield.

On motion by Mr. Nute of Wiscasset,

Adjourned.