

MAINE STATE LEGISLATURE

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Legislative Record

OF THE

Seventy-Sixth Legislature

OF THE

STATE OF MAINE

1913

HOUSE.

Wednesday, Jan. 22, 1913.

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

Prayer by the Rev. Mr. Hope of Augusta.

Journal of previous session read and approved.

Papers from the Senate disposed of in concurrence.

From the Senate: An Act to extend the charter of the Jonesport Central Railroad Company.

In the House this bill was referred to the committee on judiciary; in the Senate it was referred to the committee on railroads and expresses in non-concurrence.

On motion by Mr. Hutchins of Penobscot, the House voted to recede and concur with the Senate in its reference of the bill to the committee on railroads and expresses.

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

Judiciary.

By Mr. Umphrey of Washburn: An Act to incorporate the Washburn Water Company.

By Mr. Irving of Caribou: An Act to amend the Act establishing the Northern Aroostook Municipal Court.

By the same gentleman: An Act to create a lien on wells.

By Mr. McBride of Mount Desert: An Act relating to the use of automobiles in the town of Mount Desert, Hancock county, State of Maine. (Tabled for printing pending its reference to the committee on motion by Mr. McBride.)

By Mr. Smith of Presque Isle: An Act to amend section 27 of chapter 135 of the Revised Statutes, as amended by chapter 184 of the Public Laws of 1909, relating to new trials in criminal cases.

Legal Affairs.

By Mr. McBride of Mount Desert: An Act to incorporate the Southwest Harbor Water District.

By Mr. Maxwell of Boothbay Har-

bor: An Act to incorporate the Monhegan Water company.

By Mr. Cyr of Fort Kent: Petition of W. H. Cyr and 21 others of Fort Kent in favor of Act relating to the Fort Kent Electric Company.

By same gentleman: Petition of Fred D. Marsh and 33 others of Fort Kent in favor of same.

By Mr. Boman of Vinalhaven: Resolve in favor of the election of United States Senator by direct vote of the people.

Appropriations and Financial Affairs.

By Mr. Connors of Bangor: Resolve in favor of the Eastern Maine Orphan's Home of Bangor, Maine.

By same gentleman: Resolve in favor of the Bangor Tuberculosis Association.

By Mr. Stetson of Lewiston: Resolve in favor of a laboratory building for the State Board of Health.

By Mr. Kelleher of Portland: Resolve in favor of the Children's Hospital of Portland.

By Mr. Sturgis of Auburn: Resolve in favor of the Androscoggin Anti-Tuberculosis Association, with statement of facts.

By Mr. Peaks of Dover: An Act to regulate the salary of the Register of Probate for the county of Piscataquis.

Education.

By Mr. Thombs of Lincoln: Resolve to aid in repair of Springfield Normal Academy Building.

Banks and Banking.

By Mr. Greenleaf of Auburn: An Act to amend section 38 of chapter 48 of the Revised Statutes of Maine, in regard to Savings Banks.

By Mr. Irving of Caribou: An Act to amend section 54 of chapter eight of the Revised Statutes, relative to mortgages in Savings Banks.

By Mr. Stetson of Lewiston: An Act changing the name of the Lewiston Trust and Safe Deposit Company.

Agriculture.

By Mr. Smith of Presque Isle: An Act to provide for scientific investigations in agriculture in Aroostook county.

By Mr. Richardson of Canton: An

Act to regulate the packing, shipping and sale of apples.

By Mr. Smith of Presque Isle: Resolve in favor of the commissioner of agriculture in his capacity as sealer of weights and measures, and statement of facts accompanying the same.

By Mr. Peterson of New Sweden. Resolve for the further improvement of marketing farm products and purchasing supplies for the farm.

Ways and Bridges.

By Mr. Umphrey of Washburn: An Act relating to ditches, drains and gutters of public ways.

By Mr. Violette of Van Buren: Resolve in favor of unpaid bills on the Van Buren bridge.

By Mr. Peacock of Readfield: Resolve in favor of the town of Readfield.

Inland Fisheries and Game.

By Mr. Mathieson of Rangeley: An Act to provide for a close time on bull moose.

By Mr. Kelleher of Waterville: Resolve in favor of the Messalonskee Boat and Cottage Owners' Association.

By Mr. Austin of Phillips: Petition of Charles A. Hill and 10 others, residents of Belgrade Lakes and vicinity, county of Kennebec, asking that section two of chapter 284 of the Private and Special Laws of 1909, prohibiting the taking of smelts in the Belgrade chain of lakes from June 15th of each year until the ice is out the following spring, be repealed.

By Mr. Smith of Patten: Petition of F. W. Hodgkins and 42 others, in favor of repealing the restrictions on fishing in Davis Pond, in Penobscot county.

Sea and Shore Fisheries.

By Mr. Bucklin of Warren: An Act to regulate the catching of smelts in St. Georges River and its tributaries.

By Mr. Gordon of Biddeford: Petition of Kelton E. Fowle and 29 others, relating to chapter 41, section 17 of the Revised Statutes, proposing an amendment so as to have the legal length of lobsters nine inches.

By Mr. Farnham of Bath: Petition of F. A. Small and others to amend chapter 90 of the Public Laws of 1911, relating to the use of nets in smelt fishing.

By the same gentleman: Petition of M. L. Stinson and others for same.

By the same gentleman: Petition of Walter S. Glidden and others for same.

Towns.

By Mr. Emerson of Island Falls: An Act to set off part of the town of Dyer Brook and annex the same to the town of Island Falls, with proof of notice to Dyer Brook.

By Mr. Bowler of Bethel: An Act to set off from the town of Mason certain lots and annex them to the town of Bethel.

By Mr. Umphrey of Washburn: An Act to incorporate the town of Wade.

Pensions.

By Mr. Swift of Augusta: Resolve in favor of Maria A. Sylvester.

Claims.

By Mr. Gordon of Biddeford: Resolve in favor of John M. Deering of Saco, Maine, as secretary of the Maine Cattle Commission of 1910, the sum of \$65.

By same gentleman: Resolve in favor of John M. Deering of Saco, Maine, as secretary of the Maine Cattle Commission of 1910, the sum of \$19.50.

Orders.

On motion by Mr. Austin of Phillips, it was

Ordered, the Senate concurring, that in order to facilitate the performance of the business of the Legislature and of the committee on inland fisheries and game, that the commissioners on inland fisheries and game, with the cooperation of said committee, are hereby authorized and directed to revise, collate, arrange and consolidate the inland fish and game laws of the state, both general and public, and private and special, and the rules and regulations of the said commissioners now in force, and report the same to this Legislature; and said commissioners are hereby authorized to employ the necessary legal assistance in this work at an expense of not exceeding \$10.00 per day and necessary expenses for each person thus employed, to be paid out of the appropriations for inland fisheries and game.

Mr. Mitchell of Kittery presented the following order:

Ordered, the Senate concurring, that all committee are hereby directed to report to the committee on appropriations and financial affairs all appropriations of money recommended by them, or any acts or resolves recommended by them which amend existing statutes or resolves requiring an appropriation of money. The committee on appropriations and financial affairs is hereby directed to make record of said reports and forthwith submit the same to the Legislature without changes therein. No act or resolve involving an appropriation of money or amending a statute, or resolve involving an appropriation of money shall be engrossed without having endorsed thereon in addition to the usual endorsements of the officers of the Senate and House, the following: "Examined and recorded by the committee on appropriations and financial affairs.—Chairman."

Mr. MITCHELL of Kittery: Mr. Speaker, as there are many bills going through both branches of this Legislature carrying with them appropriations of money, I move that the rules be suspended and that this order have a passage at the present time. This does not change any appropriation; it simply gives the committee on appropriations and financial affairs a chance at any time to know the exact amount of money that has been appropriated by the Legislature.

The motion was agreed to, and the order received a passage.

On motion by Mr. Quinn of Millinocket, it was,

Ordered, That the committee on salaries and fees be directed to inquire into the expediency of increasing the pay of members of the Legislature and placing them, as regards free telephone service, on an equality with other state officials, and to report by bill or otherwise to this Legislature.

Mr. Irving of Caribou presented the following resolve:

RESOLVED, The Senate concurring, that the best interests of the State require an early and speedy adjustment of the disputes between the Bangor & Aroostook Railroad Co. and its locomotive engineers and firemen, and we therefore hereby urge the Bangor and

Aroostook Railroad Company and its engineers and firemen to counsel together in that broad and equitable spirit which should characterize a public service corporation and its employees, engaged in serving the general public, to the end that train service may be speedily resumed, normal conditions be restored and the peace, prosperity and welfare of the State be promoted, each party to the controversy ever bearing in mind that the public is in no way responsible for the controversy and that it is the general public and the wholly innocent who must suffer the most, if the controversy longer continues.

And it is hereby ordered that the Clerk of the House and the Secretary of the Senate send to the Bangor and Aroostook Railroad Company and to the Representatives of the locomotive engineers and the firemen, copies of this Resolution.

Mr. IRVING of Caribou: Mr. Speaker, through the press who are ever willing to give to the public the facts as they find them relative to matters of great importance, this controversy or the difficulties now existing in our county of Aroostook and in the counties of Penobscot, Piscataquis and Waldo, have been pretty clearly placed before the public; but as a matter of record for the future, and to show to the public a reason why we ask this body to pass this resolve, I ask you to bear with me for a few moments in order that I may repeat to you something of that which you probably already know. I know little or nothing of the merits, if there be merits, on either side of this controversy. I assume that both sides feel that they are right; but the fact remains, that a calamity is pressing down at this moment upon the people of Aroostook County. From the latest advices received—and they are plentiful from that region—there are hundreds of cars loaded with potatoes at various sidings between their starting point and the terminal of the Bangor & Aroostook Railroad; these are what are known as lined cars, which are box cars which are turned over to the shippers, into which they place inner

linings and stoves, burning wood to protect the potatoes from frost. These cars have gone forward in the care of firemen, and telegrams are coming in from them to their employers saying "our fuel is becoming exhausted," and it is getting impossible to purchase more or to secure more by any means.

This means a heavy loss, as in all probability the transportation companies will avail themselves of the clause on the back of every bill of lading to which the shipper has to subscribe, known as the strike clause, and the burden of loss will probably fall upon the shipper. But this amount, great as it may appear, and aggregating a large amount of money, is but a drop in the bucket in comparison with what is now pressing upon the people in that region.

Commencing in the month of August and running through the months of September and October the shippers make contracts of sale with the growers and business men and distributors in the South Atlantic States, in Texas and other southwestern states for hundreds of thousands of bushels of seed potatoes for planting, the season for which closes early in March and during the latter part of February. If these potatoes fail to reach their destination in time for planting, it makes a double loss. The seed men in the south cannot wait, and the shipper in the north loses his goods because they will promptly turn down the potatoes; the loss of the potatoes plus the freight comes upon the shipper; provided, as is being evidenced by advices coming in, that the receivers at the other end have ascertained that it will be impossible for the potatoes to reach their destination according to the contract, they send in their telegraphic cancellation of the contract.

Now, gentlemen, one member on the floor of this House has already received a telegram stating "Under the circumstances, please do not ship my car or my potatoes." This means hundred of dollars of loss, as an initial loss to this one individual, and this is not all of the loss that is pending there. With all the available

rolling stock facilities of the transportation companies it requires every working day and Sundays during the congested shipping periods to handle the produce of that country. The cessation of shipping for several days or weeks at that time means not only that the seed is lost—and let me here explain that this seed is a peculiar product; it is raised exclusively for the southern seed market and is useless for anything else, to be used in any other way than that, and it is not considered as a table variety at all.

The point I wish to make is, that a cessation of the business of this transportation company, will carry forward this business into a time of the year where there is no market for these potatoes, and a large amount of the crop raised in Aroostook county will become a dead weight and a heavy loss to that region. This difficulty, gentlemen, is not confined wholly to Aroostook county, nor to the products of that county. The industry there which produces a great revenue, the great mill industry, will be paralyzed. That industry employs a large number of men; they are rolling no product to the market, and must in a short time shut down their works and thus throw an immense number of men out of employment. The great mill at Millinocket has only a few more days of grace, and large quantities of paper which are going out from this country to keep the press in motion will be prevented from being shipped.

A very grave condition confronts the northern part of this State; and not only that, but it is just as sure to overflow to the southern and central portions of the State as the sun is sure to rise, for I assume that the Brotherhood of the connecting roads will not handle the goods that are being brought to them by men who have taken their brothers' places. I would not urge this House to any arbitrary action; I do not believe it is proper that we should take sides in this controversy, but as representatives of the people we should stand firmly for the protection of the rights of the people, and I claim that it is our common and plain duty to request, or to suggest

that it is proper and right that the contesting parties in this controversy should know that the eye of the Legislature of Maine is upon them; it is well that they forget not that this high court of appeal has a creative power, and may in the interests of the public punish the guilty. Mr. Speaker, I move that this resolution have a passage.

Mr. O'CONNELL of Milford: Mr. Speaker, I would say that the gentleman from Caribou, (Mr. Irving) coming from the section that he does, has made a very mild request, considering what this resolution means, not only to the State of Maine but to the whole of New England.

I was approached by a prominent lumberman at Old Town last Saturday, and he asked me if I thought the Legislature could adopt any measure that would help those people out. He told me that he had 40 horses in the woods, with only one week's supply of grain on hand. Now gentlemen, that is only one case that exists in Penobscot County. The lumber industries in that part of the State are at stake; the paper industries in that part of the State are at stake. It has been stated that the Brotherhood has offered to arbitrate this measure; but it seems to me that we have another duty here. The lives of the people of this State and people all over this country are at stake. The 160 men, engineers and firemen, who pass a rigid and strict examination to go on to this road and are liable to get fired any minute they make a mistake—when those men all walk out and their places are filled by men who have never seen that road, I tell you, gentlemen, there is something else at stake beside potatoes and grain; the lives of the people of this State are at stake.

The gentleman from Caribou (Mr. Irving) has placed before this House merely a request. It should not be a request, gentlemen; it should be a demand, if we have the power. This is a public service corporation; they are here under the laws of this State, different from an ordinary manufacturing concern. The interests of the counties of Aroostook, Penobscot and

Waldo are not the only ones at stake, but the whole 16 counties of Maine and all of New England; and this small railroad is going to tie up a great many industries. I second the motion of the gentleman from Caribou, (Mr. Irving) and I hope that this resolution will receive a passage in the interests of Penobscot county and the whole State.

The resolve received a passage.

Mr. IRVING of Caribou: Mr. Speaker, if it is in order, I would request that this resolution be at once sent to the Senate for concurrent action.

The resolution was sent to the Senate.

From the Senate: Ordered, the House concurring, that a joint standing committee on salaries and fees be appointed by the President of the Senate and Speaker of the House, consisting of three on the part of the Senate and seven on the part of the House, to whom shall be referred all bills and petitions relating to compensation, salaries and fees of officials. Said committee to consider the same and report thereon.

The order received a passage in concurrence.

Reports of Committees.

Mr. Peacock from the committee on legal affairs, reported "ought not to pass" on bill, An Act to amend section 25 of chapter 125 of the Revised Statutes, relating to observance of the Lord's Day.

The report was accepted.

First Reading of Printed Bills and Resolves.

Resolve in favor of the town of Oxford.

Orders of the Day.

On motion by Mr. Kimball of Bridgton, resolve in aid of navigation on Sebago Lake, was taken from the table, and on further motion by Mr. Kimball the resolve was tabled for printing.

On motion by Mr. Kimball of Bridgton, bill, An Act to regulate the use of Songo Lock by steamboats, vessels or other boats, was taken from the table, and on further motion by Mr. Kimball the bill was tabled for printing.

On motion by Mr. Descoteaux of Biddeford, bill, An Act to amend chapter 40 of the Revised Statutes, as amended by chapter 46 of the Public Laws of 1907 and chapters 30 and 357 of the Public Laws of 1909, relating to the employment of women and children, was taken from the table, and on further motion by Mr. Descoteaux the bill was referred to the committee on labor.

On motion by Mr. Austin of Phillips, House Document No. 2, bill, An Act to amend section nine of chapter 195 of the Public Laws of 1911, relative to the importation of horses into the State of Maine, was taken from the table, and on further motion by Mr. Austin the bill was referred to the committee on agriculture.

On motion by Mr. Austin of Phillips, House Document No. 15, petition praying that so much of the fish and game laws as prohibits the shipment by any person of more than one box of fish once in thirty days be repealed, and that the provisions of law previously in force be re-enacted, was taken from the table, and on further motion by Mr. Austin the petition was referred to the committee on inland fisheries and game.

On motion by Mr. Skelton of Bowdoin, House Document No. 29, bill, An Act to amend chapter 119 of the Public Laws of 1911, regulating the sale of agricultural seeds, commercial feeding stuffs, commercial fertilizers, foods, fungicides and insecticides, was taken from the table, and on further motion by Mr. Skelton the bill was referred to the committee on agriculture.

On motion by Mr. Skelton of Bowdoin, House Document No. 30, bill, An Act regulating the sale of paint, paint oil and turpentine, was taken from the table, and on further motion by Mr. Skelton the bill was referred to the committee on agriculture.

On motion by Mr. Farnham of Bath, House Document No. 16, bill, An Act relating to certain exemptions for the purpose of giving local option in taxation, was taken from the table,

and on further motion by Mr. Farnham the bill was referred to the committee on taxation.

On motion by Mr. Libby of Scarborough, the House took a recess until 7.30 o'clock this evening.

EVENING SESSION.

The SPEAKER: The Chair will state that the pending question is the motion to reconsider the vote whereby the seat of Representative Farrar of Ripley was declared vacant, upon the order introduced by the gentleman from Augusta, Mr. Newbert.

Mr. MORNEAU of Lewiston: Mr. Speaker, I wish to make a motion at this time, and I hope you will all agree with me. We have been debating this question for several days, and we have heard both sides of this controversy well discussed, and I believe that we should, this evening, bring this matter to a head. I hate to see any member of this House deprived of his seat unjustly as much as I hate to see any member retain his seat unjustly. I am going to make a motion which will have a tendency to shorten the debate upon this question, although this debate might be the means of several members making their maiden speeches. I recall a point which was made by the gentleman from South Paris (Mr. Wheeler) in his remarks, the other day, wherein he stated that any fair-minded man who knows the English language might be able easily to understand what the Constitution provided and just what was meant by the Constitution; and, therefore, Mr. Speaker and gentlemen, I wish to make this motion, that all speeches be limited to five minutes.

The SPEAKER: The House hears the motion of the gentleman from Lewiston, Mr. Morneau. Is the House ready for the question?

Mr. SMITH of Presque Isle: Mr. Speaker, on that motion I think we had better have the yeas and nays. The gentlemen upon the other side have had a great deal of time allowed them in debating this question, and I ask for the yeas and nays.

The SPEAKER: The gentleman

from Presque Isle, Mr. Smith, demands the yeas and nays on the question.

Mr. NEWBERT of Augusta: Mr. Speaker—

The SPEAKER: Will the gentleman from Presque Isle, Mr. Smith, yield to the gentleman from Augusta, Mr. Newbert?

Mr. SMITH of Presque Isle: Mr. Speaker, I do.

Mr. NEWBERT: Mr. Speaker, we are here, tonight, with nothing else to do and, personally I can assure you, gentlemen that I have no disposition to discuss this question. I had understood that my friend, Judge Smith of Presque Isle, has prepared himself, and he was sick the other while the rest of us were debating; and I will say that I should think it a great hardship to this House at this time to shut off anything which Judge Smith has prepared. I do not think we need to be arbitrary here. That is just my feeling about the matter individually, and I think there are other men on the floor of this House, who might wish to speak upon the question.

Mr. SMITH of Presque Isle: Mr. Speaker, the gentleman from Augusta (Mr. Newbert) is absolutely mistaken about my having made any preparations to make any speech here, tonight. There is one contingency which might arise where I might feel called upon to make a few remarks, but I understand there are other gentlemen here, who may want to be heard; and I submit that the five-minute proposition is unfair considering the length of time that the gentleman from Augusta consumed in his discussion, the other day.

The SPEAKER: The Chair would suggest that it takes about 20 minutes to call the roll, and it might be possible to arrive at the judgment of the House by means of a division.

Mr. SMITH of Presque Isle: Mr. Speaker, I withdraw my motion calling for the yeas and nays. The question is upon the motion of the gentleman from Lewiston, Mr. Morneau, that all debate be limited to five minutes.

A division being had, the motion was lost by a vote of 6 to 63.

The SPEAKER: The question is

now upon the motion to reconsider the vote whereby the seat of the gentleman from Ripley was declared vacant, under the order introduced by the gentleman from Augusta, Mr. Newbert.

Mr. SMITH of Patten: Mr. Speaker, because I rise in my seat I do not want the members of the House to be alarmed. I am not going to make a speech, nor any part of a speech; but in view of the fact that in the debate the other day I presented here a letter from Professor Little of Bowdoin College, giving a definition of the word "post-officers" taken from a new English Dictionary which is now in press, notwithstanding that fact, two or three gentlemen following the reading of that letter insisted that nobody had produced here and could not produce, and defied anybody to produce any book containing a definition of that sort.

Now, through the courtesy of Professor Little of Bowdoin College I have brought here, tonight, a copy of this new English Dictionary, and I have here a letter written which accompanies this dictionary. I will read only the part of the letter which is pertinent:

"The fact is that thousands of readers in this country as well as abroad united in asking the storehouse of citations from which the editors have been making the best dictionary any modern language possesses. It is everywhere regarded as the authority on the historical use of words." This letter is signed by Geo. T. Little, and addressed to Mr. Norton of the Portland Evening Express.

Now, from this book which is referred to by Professor Little, I read this definition: "Post-officer, Obsolete. An officer or official of the post. 1669 London Gazette. No. 406-4, The Post-Officers which were sent from hence into France to confer with Monsieur de Louvoy the French Postmaster, are this day returned. 1738-9 King in Swift's Lett. (1763) IV. 223 Whether those post-officers really thought me... a man of importance. 1843 Select Comm. Postage No. 2834. It was supposed that a post-officer could not pass

a letter containing two coins without discovering it." This is the only definition given, and which the House will see absolutely relates to men in the postoffice service, in the postal service, and nothing else.

Now, I have in my hand further a letter addressed to Senator George H. Richardson, written by the librarian of the Boston Public Library, and the letter reads as follows:

"Boston, Mass., U. S. A., Jan. 20, 1913.

"George H. Richardson, Esq.,
Augusta, Maine.

"Dear Sir: I have your favor of Jan. 19. The new Oxford Dictionary now in process of completion and an unquestioned authority, gives the definition of post-officer, with references, which I have placed upon the slip enclosed. You will note of course that the word is obsolete, so far as present usage is concerned." This letter is signed by H. G. Wadlin, librarian. This definition follows substantially the definition which I have just read.

"Further in the line of reading upon this subject, will read from the Standard Dictionary, issued in 1911, which will show the construction placed upon this word by writers upon the government of Maine. The subject is under "Maine," Page 608, and after giving certain data as to senators and representatives, it proceeds to give their qualifications: "Senators must be 25 and representatives 21 years of age; members of both houses must be citizens of the United States, residents in Maine for one year and in the district or town for three months before election, but no member of Congress, no officeholder of the federal government, except a postmaster, no paid official of the State," etc. I submit that as the construction placed upon the term by the compilers, who appear to have been men of eminent scholarship, as the names noted on the fly leaf will indicate. And, so far as I am concerned, I propose to leave the matter right there. We have produced the authority: we have answered the definition of these gentlemen, and now we hope if they have any authority the other way they will produce it in order that the House may see what it is.

Mr. SPENCER of Berwick: Mr.

Speaker and gentlemen of this House, it has been stated here that in order for the postmasters of the 76th Legislature to retain their seats in this House it will be necessary for them to bring themselves within the constitutional exception. In other words, the burden is upon them to show conclusively that they are included in the words "post-officer." This I shall proceed to do.

In order to do this, gentlemen, I shall produce a definition of the word "post-officers" so convincing, so explicit, that I anticipate beyond a degree of doubt that no member of this House will take exception thereto. The definition, as you will observe, excepts all post-officers from military service of any sort whatever. The authority which I shall present to you is the highest in this land, higher than the definition of a lexicographer, higher, if you will permit me, than the decision of this House, higher in this respect than even the supreme court of this State. I shall define the term "post-officer" in terms of a statute of the United States which was in force at the time our Constitution was born. This law was passed by the United States upon the recommendation of George Washington, whose picture you face when you go out through the corridor, in 1792; and that of course makes it three years after the establishment of the post-office department, and 97 years before the Constitutional convention drafted the Constitution of this State; and it was embodied in the laws of Maine by the first Legislature of Maine in the year 1821. With the permission of the Chair, I will now read this law:

"Chapter 33. An act more effectually to provide for the national defence by establishing an uniform militia throughout the United States." Section one is not essential to this argument, exception the fact that the military period for a man was between the years 18 and 45.

"Sec. 2. And be it further enacted, That the Vice President of the United States; the officers judicial and executive of the government of the United States; the members of

both Houses of Congress, and their respective officers; all custom-house officers with their clerks; all post-officers, and stage drivers, who are employed in the care and conveyance of the mail of the post-office of the United States; all ferrymen employed at any ferry on the post road; all inspectors of exports; all pilots; all mariners actually employed in the sea service of any citizen or merchant within the United States; and all persons who now are or may hereafter be exempted by the laws of the respective states, shall be, and are hereby exempted from militia duty, notwithstanding their being above the age of eighteen, and under the age of forty-five years."

Now, gentlemen, that is the statute law of the United States that was in force at the time your Constitution was written, and had been in force for 27 years; and you will see, as I have read there, that all post-officers are excepted from military service under the United States, not only at any garrison in the United States but in the service of the militia of any state.

Now, gentlemen, if there is any question about this law I will, with the permission of the Chair, transmit this law to the clerk of this House, who may read it and re-read it for verification. I have here also the laws of Maine, and if you will look at the laws of Maine, on page 549, you will find this very same language used. Can there be anything any more definite than that? Why, he who runs may read. If I do not forget, at the opening of this session everyone of us subscribed an oath, and that oath was that we would not only support the laws and the Constitution of Maine, but the Constitution and laws of the United States; and this is a law not only of the United States, but of the State of Maine.

We may decide, gentlemen, that white is black, or black is white, but such a decision would only be binding within these walls. Despotism is a passion of the past. The State of Maine is our umpire. Let us settle this question with fair-mindedness for

all time, for ourselves, for the people of the State of Maine, for the people who will be disfranchised if we take the action that we have undertaken, and for posterity. (Applause.)

Mr. SMITH of Patten: Mr. Speaker, I move that when the vote is taken it be taken by the yeas and nays. The yeas and nays were ordered.

The SPEAKER: Those favoring reconsideration of the vote whereby the seat of Representative Farrar from Ripley was declared vacant, when their names are called, will answer yes; those opposed will answer 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, Dunton, Durgin, Eastman, Emerson, Folsom, Greenleaf of Auburn, Greenleaf of Otisfield, Haines, Harper, Higgins, Hodsdon, Hutchins, Irving, Jennings, Johnson, Jones, Kimball, Marston, Mathieson, McBride, McFadden, Merrill, Metcalf, Mitchell of Kittery, Mitchell of Newport, Mooers, Morrison, Morse, Nute, O'Connell, Peacock, Peaks, Pendleton, Peters, Peterson, Plummer, Ricker, Roberts, Roussseau, Sanborn, Sanderson, Skelton, Skillin, Smith of Auburn, Smith of Patten, Smith of Pittsfield, Smith of Presque Isle, Spencer, Stanley, Stevens, Stuart, Sturgis, wift, Taylor, Thombs, Thompson, Tobey, Trimble, Tryon, Twombly, Umphrey, Violette, Washburn, Waterhouse—77.

NAY:—Boland, Boman, Brennan, Brown, Bucklin, Churchill, Clark of Portland, Clark of New Portland, Connors, Crowell, Currier, Cyr, Davis, Descoteaux, Doherty, Donovan, Dresser, Dunbar, Eaton, Eldridge, Elliott, Estes Farnham, Franck, Gallagher, Gamache, Gardner, Goodwin, Gordon, Hancock, Harman, Harriman, Haskell, Hogan, Kehoe, Kelleher of Portland, Kelleher of Waterville, Lawry, Leader, Leary, LeBel, Leveille, Libby, Mason, Maxwell, Maybury, Mildon, Morgan, Morneau, Newbert, Packard, Pitcher, Price, Putnam, Quinn, Reynolds, Richardson, Robinson, Rolfe, Sargent, Scates, Sherman, Snow, Sprague, Stetson, Swett, Wheeler, Winchenbau—69.

ABSENT:—Chadbourne, Jenkins, Ramsay, Wise—4.

The SPEAKER: Seventy-seven have voted in the affirmative and sixty-nine in the negative, the motion to reconsider prevails. (Applause.)

Mr. SMITH of Presque Isle: Mr. Speaker, if it be in order, and for the purpose of bringing this matter to a head, I move that the order introduced by the gentleman from Augusta, which in effect

declares that the seats of four gentlemen in this House have been declared vacant, be indefinite postponed, and upon that motion I ask for the yeas and nays.

Mr. NEWBERT of Augusta: Mr. Speaker, in view of the vote just taken and to save the time of the House, I second the motion of the gentleman from Presque Isle. (Applause.)

The SPEAKER: The gentleman from Presque Isle moves that the order introduced by Mr. Newbert of Augusta concerning the seats of four gentlemen, be indefinitely postponed. Is the House ready for the question? The gentleman demands the yeas and nays.

Mr. SCATES of Westbrook: Mr. Speaker, I think it is unnecessary to call the yeas and nays.

Mr. SMITH of Presque Isle: Mr. Speaker, I withdraw the motion.

The SPEAKER: The question is upon the motion by the gentleman from Presque Isle to indefinitely postpone this order. Those in favor of this motion will rise and stand until counted. The monitors will return the count.

One hundred and twenty-six voted in the affirmative. None opposed.

The SPEAKER: One hundred and twenty-six having voted in the affirmative and none opposed, the motion to indefinitely postpone prevails.

The SPEAKER: The next matter which comes up by special assignment is the order introduced by the gentleman from Skowhegan, Mr. Marston, in substance asking for the opinion of the justices of the supreme court on the question.

Mr. SCATES of Westbrook: Mr. Speaker, I stood in this seat last Wednesday and made a proposition to the gentlemen of this House to hold the election of a United States senator in abeyance until we could get a decision of the justices of the supreme court. Now in view of that fact I would move that that order be referred to the committee on rules.

The SPEAKER: And the gentleman from Westbrook moves that this order be committed to the committee on rules. Is the House ready for the question?

Mr. AUSTIN of Phillips: Mr. Speaker, I would like to ask the reason why the gentleman from Westbrook asks for such a disposition of the order. No doubt he has a good reason, but I did not understand him to state it.

Mr. SCATES: Mr. Speaker, my reason was that the committee on rules can consider the order and report to the House, and then the House can vote upon it.

Mr. AUSTIN: Mr. Speaker, I, as you all know, have lain bleeding in the dust for several days (laughter), and am now just able to get on my feet, and will not take a great deal of your time as I am feeling rather weak. It seems to me that the House is present here in sufficient numbers tonight to give this very important matter due care.

Now the matter appeals to me personally like this: We have had a condition in this State, prevailing for the past week, which has not prevailed for past three decades. We have had a portion of the membership of this House arrayed against another portion, claiming that the occupants of four of the seats in this House have been unqualified to hold them, that they could not, owing to the provisions of the Maine Constitution, be properly elected and seated.

Now, if the time of solemnity has gone by, if this matter has been cleared up to the satisfaction of all, I for one hesitate to take the ground that it has been cleared up for all time. And I think it would be well, and would conserve the public welfare, to get at this time an opinion from the supreme court of our State, not perhaps for the guidance of the present House, but for the guidance of future Houses, and for coming generations.

I think this matter has caused bad feeling and trouble enough for this House, so that we better smooth the way for our successors. Therefore, I for one very much hope we shall proceed to the consideration of the order now laid upon the table.

Mr. NEWBERT of Augusta: Mr. Speaker and gentlemen of the House, I am not so sure about this reference to the committee on rules, but I am positively sure about my own feeling about referring this matter to the court. After full discussion, gentlemen, and plenty of time, this House has determined by its vote this question. And I believe, and think you will agree with me, that this is the proper tribunal to so determine it.

It seems to me to be unfair to the supreme court of Maine to put up to it at this time this question that has divided parties on this floor, and which tonight

divides parties throughout this State. My own personal opinion would be that a better reference of the question would be a reference to the people. Whatever our terms may have thought—whatever the term “post-officers” may mean—the people of this State will never believe it means this thing or that, and they will think about it after the supreme court gives an opinion to this House. Whatever they may have thought in the old days, I believe if you go to the towns and cities and visit the men upon the streets, nine out of 10 will say that it is better now that postmasters under the federal government shall not sit in this House. And the better solution of the matter from my standpoint would be to submit a resolve to be voted on next September amending the constitution by striking out the words in dispute, notwithstanding the action taken here tonight.

The SPEAKER: The question is upon the motion of the gentleman from Westbrook, that this matter be committed to the committee on rules. Is the House ready for the question?

Mr. SMITH of Presque Isle: Mr. Speaker, I have not very much to say, but I am inclined to agree with the gentleman from Skowhegan and the gentleman from Phillips, that in some way the matter ought to be presented to the justice of the supreme court and see whether or not “postofficers” means postmasters, as used in the Constitution of the State of Maine. And with that idea, with that thought, it seems to me that the better method would be to let the order introduced by the gentleman from Skowhegan take its regular course and the opinion of the justices be asked, and then, as stated here, the question would undoubtedly be settled for all coming generations.

With that idea, gentlemen, I hope the motion to submit the order to the committee on rules will be voted down.

The SPEAKER: Is the House ready for the question? Those in favor of committing this matter to the committee on rules will say yes; those opposed will say no.

A viva voce vote being taken, the motion was lost.

The SPEAKER: The question now is on the passage of the order offered by the gentleman from Skowhegan.

Mr. PLUMMER of Lisbon: Mr. Speaker, I have hitherto taken no part in the discussion of this question before the House, and I do not now propose to discuss the question that we have settled, except in so far as it may bear upon what we have to say. For myself, I am free to say that up to the time that I heard the gentleman from Berwick (Mr. Spencer) read from the Statute, tonight, I had made up my mind to vote no. I had made it up for this reason, that from what evidence I was able to get, I was not at all satisfied as to the meaning of the term “post-officer”; and in view of the fact that I was unable to form an opinion as to what the framers of the Constitution meant, I was inclined to adopt the opinion which I myself held, as to what the term should mean, and that is that it should exclude postmasters, all officers of the post, as they are now officially determined to be. In my judgment there is no reason why a postmaster, or an official of the post, should have a seat in this House, which does not apply to the other officers of the government, custom house officers, and all others. I think they should all be shut out, or all be let in.

As for the matter of reference to the supreme court of this State, with all due regard to that honorable body, I must say that I have full as much confidence in the ability of this House to settle that question as I have in the ability of the supreme court. As was stated by the gentleman from Augusta, (Mr. Newbert) whatever the supreme court might determine as to the meaning of this term “post-officers,” it is likely that throughout the State there might be some who would not agree with that. I would suggest that as we have now interpreted the term to mean postmasters, by the submission of an amendment to the Constitution to the people, an amendment which would remove from the Constitution this parenthesis “post-officers excepted,” the

people then would be able, or would be offered an opportunity to determine whether they cared to have postmasters here in the Legislature, or whether they did not. I therefore trust that the motion to submit to the supreme court will not prevail; and I hope later to have an opportunity to vote for an amendment to be proposed to the people to abolish this term altogether from the Constitution.

Mr. SANBORN of South Portland: Mr. Speaker, my own recollection of the wording of this order is not clear, and in order that we may vote intelligently I will ask if it may be read. It occurs to me that it may be possibly describe a situation which does not at the present time exist.

The SPEAKER: In answer to the request of the gentleman from South Portland, Mr. Sanborn, the Chair will read the order which is as follows:

Ordered, that the Justices of the supreme court are hereby requested to give to the House of Representatives their opinion on the following question, to wit:

Whereas, there is pending in this body a resolve declaring vacant the seats of four members elected thereto, to wit, William H. Farrar of Ripley, Otis H. Taylor of Topsfield, Horace Mitchell of Kittery and James Mathieson of Rangeley, on the ground that said members are ineligible to hold a seat in this House under the provisions of Article 4, Section 11, of the Constitution of Maine. It appears and is unquestioned that at the time of the election of said members, and at the time of their taking their seats they held the offices of United States postmasters at West Ripley, Topsfield, Kittery Point and Indian Rock respectively. The alleged grounds of the resolve for the unseating of the above named members is that the words "post-officers excepted" in said section of the Constitution, making *cerm*asters but refers to officers of mill-fain officers ineligible to have a seat in this House, does not include post-tary posts, or that it has some other meaning.

The House of Representatives believing and declaring that the ques-

tion thus raised is an important question of law, and that the occasion is a solemn one, requests the justices of the supreme court to give to the House their opinion upon the same, as provided by the Constitution of Maine.

Mr. SANBORN: I see, then, Mr. Speaker, the situation as set forth in the order is a situation that does not exist at the present time. The question is as to whether some change in the wording ought to be made, some amendment, if it is to be referred to the court.

The SPEAKER: Does the gentleman from South Portland Mr. Sanborn, make any motion? If not, the question is upon the motion of the gentleman from Skowhegan, Mr. Marston, that this order have a passage.

Mr. SCATES of Westbrook: Mr. Speaker, possibly we can get together and amend the order by agreement later; and if it is agreeable to the members of the House, I will move that the matter lie upon the table at the present time.

The motion was agreed o.

The SPEAKER: Is there any further business to come before the House?

Mr. AUSTIN of Phillips: Mr. Speaker, I voted no on this question simply because I did not get onto my feet in time to ask the gentleman to assign a certain time for the consideration of the matter and to take the matter from the table. I will ask the gentleman from Westbrook, Mr. Scates, through the Chair, if he will assign a time for further consideration.

The SPEAKER: The gentleman from Phillips, Mr. Austin, requests through the Chair that a time be assigned for the further consideration of the order.

Mr. SCATES: Any time that will be agreeable to the gentleman from Phillips.

Mr. AUSTIN: I would like to ask the gentleman from Westbrook, Mr. Scates, if he would prefer a morning, afternoon or evening session.

Mr. SCATES: I hope, Mr. Speaker, we shall not have any more evening sessions.

Mr. AUSTIN: I would ask the gentleman from Westbrook, Mr. Scates, if a week from tomorrow morning, Thursday of next week, would meet with his approval.

Mr. SCATES: That would meet with

my approval, I will say, Mr. Speaker.

The SPEAKER: The gentleman from Westbrook, Mr. Scates, moves that Thursday morning next be assigned for further consideration of this order.

The motion was agreed to.

On motion by Mr. Austin of Phillips, Adjourned until tomorrow morning, at 10 o'clock.