

HOUSE No. 18.

Commonwealth of Massachusetts.

RULING OF THE CHAIR.

HOUSE OF REPRESENTATIVES, January 25, 1878.

Mr. Read, of Lowell, has brought to the notice of the Chair, a doubt felt by him, but not stated at the time, as to the action of the Chair yesterday, under the following circumstances:—

Mr. Prescott of Boston, moved to take from the table a bill. On the *viva-voce* vote, the Chair declared it in the negative. At substantially the same time, Mr. Prescott and Mr. Read rose, each in his seat, the former doubting the vote, with no verbal recognition from the Chair; the latter saying "Mr. Speaker;" the Chair replying, "Mr. Read of Lowell;" and he then moving that the House adjourn.

In this juncture, the Chair said the action of the House must be on the doubt of Mr. Prescott. Mr. Read now suggests, that, having been recognized by the Chair, his motion was the matter before the House, and should have been put.

By our rules, "a motion to adjourn shall be always first in order;" but this means, of course, when it is in order at all, which is not always the case. For instance, during the taking of a vote, during a count or a roll-call, during the remarks of a member who does not yield the floor, such a motion is not in order, and, if injected, cannot be put. Nor would the Chair's recognition of a member so injecting the

motion, alone entitle him to make it. On the contrary, it is always the practice of the Chair, in courtesy, when a member addresses it, even if in the midst of remarks by another member, to recognize the interruption so far as to be informed, at least, what the purpose of the interruption is, for it may be justifiable. If not justifiable, then the Chair cannot act upon it.

This being the case, the next question is this: Do a *viva-voce* vote, a doubt, and thereupon a count, all duly made, constitute one entire act, so that, till it is completed, even a motion to adjourn cannot be injected into it, any more than into the remarks of a member holding the floor?

I think that such is the case; and any other ruling is full of danger.

In nothing is such exactness indispensable, as in a correct return of votes. It is a vital thing. 'So jealously is this guarded, that the Speaker's return of a *viva-voce* vote must yield to the doubt of a single member, the only requisite being that he shall rise in his place for the purpose of suggesting the doubt. The rule does not even require him to put his doubt in any formal way, though probably in words. The maintenance of this right is all the more important, when it is remembered that such are the variations of voices, that no ear can distinguish a difference of four or five, or ten or twenty, in a vote of two hundred; that the doubt is greatest when the vote is closest; and that the temptation on either side to prevent a verification against itself in the declaration of a *viva-voce* vote will always be greatest when the vote is so close that the Speaker's ear is least trustworthy.

If, then, a rule be established by which a quick securing of the floor and fixing the eye of the Speaker should be allowed to prevent a true count when most needed, and when simultaneously another member, complying with the rule, rises to express his doubt, it would put the assembly, in the expression of its convictions, at the mercy of chance instead of certainty.

It is no answer to say, that if an adjournment is permitted, in such a case the count might, perhaps, proceed on re-assembling; for, even if this were rulable at all, still, on re-assembling, exactly the same members are never present, and the doubt could never be solved.

Of course, the member who doubts a vote, must do so within a reasonable time. If he neglects to doubt it till after some other member, clearly and completely securing the floor to himself, has proceeded to a new stage in business by moving an adjournment, or making any other legitimate motion, the doubter is then too late.

A doubt is not a motion, nor debate, nor any thing, except an integral part of the unity of a vote, and a part the most vital to fairness and accuracy.

Had the House yesterday adjourned on the motion of the member from Lowell, it would have done so in ignorance and uncertainty as to whether the motion to lay on the table prevailed or not, nor could this ever have been known, for to-day we are not the same members; and how untrustworthy, in the close *viva-voce* vote that was taken, the Speaker's ear was, is now apparent by the count, which afterwards showed that, while his declaration was one way, the count was the other; nor could the doubting member have enjoyed the privilege which our rule distinctly gives him and which is so salutary a safeguard. I shall, therefore, make it a practice, unless you determine otherwise, when next the question arises, that when declaration is made on a *viva-voce* vote, and thereupon two members rise at substantially the same time, each in his place, the intention of neither of whom is at first known to the Chair, and one of them being recognized by the Chair, moves to adjourn, and the other, without formal recognition, yet conveys his doubt of the vote substantially at the same time, I shall deem it my duty to prefer the verification of the vote to the question of adjournment, for then I shall aid in making true what otherwise might be incorrect.

The courtesy of the member from Lowell, in suggesting his doubt of my ruling, gives me an opportunity to make a decision for future occasions, which I have taken the liberty to improve.

JOHN D. LONG, *Speaker*.

