

MAINE STATE LEGISLATURE

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Legislative Record

OF THE

Seventy-Sixth Legislature

OF THE

STATE OF MAINE

1913

HOUSE.

Tuesday, April 1, 1913.

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

Prayer by Rev. Mr. Smith of Hallowell.

Journal of previous session read and approved.

Papers from the Senate disposed of in concurrence.

From the Senate: An Act relating to the assistant assessors of the city of Portland.

In the House this bill was passed to be engrossed, and came from the Senate in that branch indefinitely postponed in non-concurrence.

On motion by Mr. Kehoe of Portland the House voted to insist upon its action in passing the bill to be engrossed and ask for a committee of conference.

The motion was agreed to and the Chair appointed as such committee on the part of the House Messrs. Kehoe of Portland, Clark of Portland and Thombs of Lincoln.

From the Senate: Majority and minority reports of the committee on judiciary on bill, An Act relating to the practice of osteopathy.

In the House the majority report "ought to pass" was accepted and the bill was passed to be engrossed.

In the Senate the minority report "ought not to pass" was accepted; the Senate also has voted to insist on its action and ask for a committee of conference, appointing as such committee on the part of the Senate Senators Stearns, Patten and Moulton.

On motion by Mr. Irving of Caribou the House voted to concur with the Senate in the appointment of a committee of conference, and the Chair joined on the part of the House as such committee Messrs. Irving of Caribou, Rolfe of Portland and Marston of Skowhegan.

From the Senate: Resolve proposing an amendment to the Constitution of Maine providing for the recall of public officers.

In the House this resolve was referred to the next Legislature, and came from the Senate in that branch indefinitely postponed in non-concurrence.

On motion by Mr. Jones of China the House voted to recede and concur with the Senate in the indefinite postponement of the resolve.

From the Senate: An Act to provide for the care and treatment of tubercular patients.

In the House this bill was referred to the committee on public health, and came from the Senate in that branch indefinitely postponed in non-concurrence.

On motion by Mr. Putnam of Houlton the bill was laid upon the table pending concurrent action.

From the Senate: An Act to regulate the use of hat pins and other decorative utilities.

In the House this bill was passed to be engrossed, and came from the Senate in that branch indefinitely postponed in non-concurrence.

On motion by Mr. Spencer of Berwick the House voted to recede and concur with the Senate in the indefinite postponement of the bill.

From the Senate: An Act to provide for the reconstruction of Portland bridge.

This bill came from the Senate in that branch amended by Senate Amendment A to House Amendment B.

On motion by Mr. Scates of Westbrook the bill together with the amendment to the amendment was laid upon the table pending concurrent action with the Senate on the adoption of the amendment to the amendment.

Senate Bills on First Reading.

An Act in relation to the assessment and collection of inheritance taxes.

An Act to amend Sections 2, 3, 4, 5, 6 and 9 of Chapter 17 of the Public Laws of 1905, as amended, relating to the practice of veterinary surgery, medicine and dentistry.

An Act to amend Sections 2 and 3 of Chapter 117 of the Public Laws of

1905, relating to the compensation of county commissioners.

An Act to provide temporary clerk hire for the register of probate in Aroostook county.

An Act providing temporary clerk hire for the clerk of courts in York county.

An Act providing temporary clerk hire for the municipal court of the city of Lewiston.

Resolve making an appropriation for the purpose of obtaining information in regard to wild lands for the purpose of taxation.

Resolve in favor of Mary H. Perkins for services as stenographer to the President of the Senate and the Speaker of the House, and for clerical assistance in the office of the secretary of State.

On motion by Mr. Scates of Westbrook the rules were suspended and that gentleman was permitted to introduce out of order the following resolve:

Resolve in favor of the appointment of three commissioners by the Governor to act with the commissioners from certain other states in proposing and recommending a uniform code of laws for motor vehicles to be adopted by the Legislatures of other states.

On further motion by Mr. Scates the rules were suspended and the resolve received its first and second readings at the present time without reference to a committee, and was passed to be engrossed.

On motion by Mr. Spencer of Berwick the rules were suspended and that gentleman introduced out of order the following bill:

An Act to establish a neutral automobile zone in adjacent states, and on further motion by Mr. Spencer the bill received its first and second readings and was assigned for tomorrow morning for its third reading.

First Reading of Printed Bills and Resolves.

An Act providing temporary clerk hire for the clerk of courts in Aroostook county.

An Act providing temporary clerk hire for the register of deeds in Penobscot county.

An Act providing temporary clerk hire for the register of probate in Penobscot county.

An Act providing temporary clerk hire for the register of probate in Kennebec county.

An Act providing temporary clerk hire for the clerk of courts of Cumberland county.

An Act providing temporary clerk hire for the register of deeds in Oxford county.

An Act providing temporary clerk hire for the clerk of courts in Piscataquis county.

An Act providing temporary clerk hire for the register of probate in Piscataquis county.

Passed to Be Enacted.

An Act to amend Section 5 of Chapter 117 of the Revised Statutes, relating to the salary of the officer to attend the superior court of Cumberland county.

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

An Act to amend Section 1 of Chapter 198 of the Public Laws of 1909 as amended, relating to the school equalization fund,

An Act to incorporate the Sanford Investment Company.

An Act authorizing the Secretary of State to prepare and publish a list of corporations delinquent in payment of their franchise taxes.

An Act to amend Section 16 of Chapter 15 of the Revised Statutes, as amended, relating to the withholding of State school funds from delinquent towns.

An Act to amend Section 3 of Chapter 256 of the Private and Special Laws of 1907, in relation to the Cumberland County Power and Light Company.

An Act to amend Sections 2, 9 and 12 of Chapter 195 of the Public Laws of 1911 in relation to the control of contagious diseases among cattle, sheep and swine. Tabled pending its third reading on motion by Mr. Peacock of Readfield.)

An Act in relation to Main street in the city of Westbrook and certain streets in the city of Portland.

Resolve in favor of Fred F. Lawrence.

Resolve in favor of Warren B. Clark.

Resolve in favor of the clerk and the Stenographer to the committee on Inland Fisheries and Game.

Resolve in favor of Clyde Scribner, Messenger to the Committee on Inland Fisheries and Game.

Resolve in favor of John Metcalf.

Resolve in favor of W. V. Peebles.

Resolve in favor of W. A. Ricker, Secretary of the Committee on Education.

Resolve in favor of the State Highway Department covering the expenditures for repairs and maintenance of the State Bridge at Old Town.

Resolve in favor of Cassie K. Turner for services as Stenographer to the Committee on Military Affairs.

Resolve in favor of H. P. Hawes, Clerk to Committee on Railroads and Expresses for services rendered.

Resolve in favor of providing a suitable Storehouse for Military Property in Augusta.

Resolve providing for an epidemic or emergency fund for the year 1914.

Resolve to provide for indexing the House and Senate Papers in the Senate Office, for the Session of 1913.

Passed to Be Enacted.

An Act relating to the disbursement of appropriations to institutions receiving State aid.

An Act to create the office of Assistant Attorney General.

An Act to amend Section 4 of Chapter 61 of the Revised Statutes, as amended, relating to marriage and the registration of vital statistics.

An Act to establish a Board of State Park Commissioners and to define its powers and duties.

An Act to amend Section 1 of Chapter 93 of the Revised Statutes, as amended, relating to mortgages of personal property.

An Act to amend Chapter 119 of the Public Laws of 1911, regulating the sale of agricultural seeds, commercial feeding stuffs, commercial fertilizers, drugs, foods, fungicides and insecticides, by amending Section 9 thereof and by adding two new sections thereto.

An Act relating to municipal elections in the town of Eden.

The SPEAKER: The Chair will state that among the bills passed to be enacted, yesterday, by the House was one entitled bill, An Act to appropriate monies for the expenditure of government for the year 1913. This bill on its passage to be enacted should have

received the vote of two-thirds of the members elected to this House, and it was by inadvertence that this was omitted.

On motion by Mr. Marston of Skowhegan the vote was reconsidered whereby this bill was passed to be enacted.

The question being on the passage of the bill to be enacted, the bill carrying the emergency clause and requiring a vote of two-thirds of the members elected to this House.

A rising vote being taken, 123 voted in favor and none against.

So the bill was passed to be enacted under the emergency clause.

The following message was received from the Governor:

"To the Senate and House of Representatives:

Gentlemen: I understand a resolution will be offered appropriating money for the aid and relief of the people of Ohio and Indiana suffering from the results of the late storm and flood in those states. I sincerely hope you will appropriate a sum of money to aid the people in those states in their time of need and distress. The people of Maine will approve such action on your part in my judgment. Remember that charity is the greatest of all virtues.

(Signed) "WILLIAM T. HAINES."

On motion by Mr. Wheeler of Paris the communication was received and placed on file.

Orders of the Day.

On motion by Mr. Scates of Westbrook, the resolve with the amendments relating to proceedings against Lewis W. Moulton, sheriff of the county of Cumberland, Wilbert W. Emerson, sheriff of the county of Penobscot, and John W. Ballou, sheriff of the county of Sagadahoc, was taken from the table.

Mr. SCATES: Mr. Speaker, I move that the House insist upon its action and ask for a committee of conference; and I hope that this motion will prevail without any opposition, because it does seem that in a matter as important as this the House and Senate should endeavor if possible to get together and reconcile their differences.

The SPEAKER: This resolve passed the Senate and in the House was amended by House Amendment A. In the Senate House Amendment A was indefinitely postponed in non-concurrence.

The question being on the motion that the House insist upon its action and ask for a committee of conference,

A viva voce vote being taken,

The motion was agreed to.

The Chair thereupon appointed as members of such committee of conference Messrs. Scates of Westbrook, Smith of Patten and Newbert of Augusta.

Mr. SCATES: Mr. Speaker, I also move that all other matters in this same connection and specially assigned for consideration, today, be laid upon the table until a report has been received from the committee of conference.

The motion was agreed to.

The SPEAKER: The first matter assigned for today is bill, An Act relative to compensation to employes for personal injuries received in the course of their employment and to the prevention of such injuries, with the amendments thereto.

Mr. Smith of Auburn moved that the House resolve itself into a committee of the whole for the consideration of the bill and the amendments thereto.

The motion was agreed to.

The Speaker thereupon appointed as chairman of the committee of the whole Mr. Sanborn of South Portland.

(Mr. Sanborn at this point assumed the Chair.)

In Committee of the Whole.

On motion by Mr. Dunton of Belfast, Gardner K. Heath was appointed to act as secretary of the committee of the whole.

The CHAIRMAN: The Chair will lay before the committee the bill in question with the several House amendments.

Mr. SMITH of Auburn: Mr. Chairman, before starting in to consider the various amendments it might be well for us to consider the history of this proposed legislation. The first law of this kind in relation to a workmen's

compensation was enacted in Germany or in Prussia, in 1838. Then in 1871 the law was amended and in 1884 practically the same form of law was enacted which was in force in Germany. This question since that time has spread all over the world. England adopted practically the same form we are presenting to you, today; every other country in Europe practically has adopted it, and I think, today, that practically all of Europe has a workmen's compensation law similar to what we are offering you, today. A few years ago a workmen's compensation law commenced to be adopted in this country, and now workmen's compensation acts have been adopted in the states of Michigan, Massachusetts, New Jersey, Washington, New York, Arizona, New Hampshire and several other states; so that I think there are at the present time 15 states of this Union in which a workmen's compensation law is in force, today.

President Taft in a special message to Congress, upon Feb. 20, 1912, said:

"I sincerely hope that this act will pass. I deem it one of the great steps of progress toward a satisfactory solution of an important phase of the controversies between employer and employee that has been proposed within the last two or three decades. The old rules of liability under the common law were adapted to a different age and condition and were evidently drawn by men imbued with the importance of preserving the employers from burdensome or unjust liability. It was treated as a personal matter of each employee, and the employer and the employee were put on a level of dealing, which, however, it may have been in the past, certainly creates injustice to the employee under the present conditions.

One of the great objections to the old common-law method of settling questions of this character was the lack of uniformity in the recoveries made by injured employes, and by the representatives of those who suffered death. Frequently meritorious cases that appealed strongly to every sense of human justice were shut out by arbitrary rules limiting the liability of the employer. On the other hand, often by

perjured evidence and the undue emotional generosity of the jury, recoveries were given far in excess of the real injury, and sometimes on facts that hardly justified recovery at all. Now, under this system the tendency will be to create as nearly a uniform system as can be devised; there will be recoveries in every case, and they will be limited by the terms of the law so as to be reasonable."

At the time of the adoption of the common-law rules of liability, industrial conditions radically differed from those which prevail, today. The master employed comparatively few servants, with whom in the performance of their work he was brought into intimate association and was able to exercise a supervising care and control. He was acquainted with the habits and characteristics of each of his servants; the servants knew the master personally in the same way, and, moreover, were brought into such close relationship with one another that their habits and peculiarities were mutually known and understood. The business carried on was small in extent; the appliances which were used in the work consisted in the main of hand tools; the power, when any was used, was simple in character, afforded by the utilization of horse sor of water power applied directly to the machinery, which was neither complicated nor particularly dangerous in character. Under these conditions the rules of the common law originated.

Under existing law only a part of the injured employees are able to successfully maintain an action for damages, and the amount recovered is subject to a very considerable diminution by reason of the deduction therefrom of large contingent fees and other expenses. Of course it can not be determined in advance what the cost to the employees of transmitting and distributing the compensation afforded by the proposed law will be, but in the majority of cases it will be nothing at all or trifling in amount, and in the remainder it will be far less than the expense now borne by them in transmitting from the railroads to the beneficiaries the amounts

paid under the negligence law, since extravagant contingent fees now paid to personal-injury lawyers will be eliminated and all other expenses greatly reduced. In other words, while for every dollar the railroad companies are compelled to pay under existing law, they will, under the proposed law, pay approximately \$1.25; for every dollar which the employees and their dependents now receive under existing law they will, under the proposed law, receive a sum very much in excess of \$1.25.

Under this bill which is presented to you, today, there is a compromise between the bill introduced into the Senate and the bill introduced into the House. We believe as it is offered now it is fair to labor and fair to capital. The conditions of the old common-law, which have existed for hundreds of years when the employer employed only a few men and worked with them and knew them, have passed away; the conditions are different, today; the relationship between master and servant is no longer a simple one.

This employers' liability law still left uncovered that large class of injuries caused by chance, and those caused by fellow servants; it resulted in an increased number of law suits, seriously embittering the relations between employer and employed, and caused vast expenditures for litigation that should have been spent directly for the benefit of the injured employees.

Under modern conditions all this is changed. The relation of master and servant is no longer a simple one, but as applied to the overwhelming number of industries is exceedingly complex. The master is no longer in daily personal contact with his men, directly supervising their work; he has been twice removed; first, by the employment of superintending agents, and second, by the creation of the modern corporation. The appliances are no longer simple, consisting of manual tools, but are complex and in many respects inherently dangerous. Complicated and ponderous machinery has taken the place of manual tools. The great and dangerous forces of steam and electricity have

supplanted the simple forms of power. Instead of employing a few men as was the case with the master at common law, the modern railroad carries upon its pay rolls thousands and sometimes tens of thousands of employees. Under these conditions the whole situation has reversed. Instead of the majority of accidents being due to somebody's carelessness, the majority of accidents now are due neither to the negligence of the master nor the man, but are the result of the inherent dangers of these modern industrial conditions.

It has been stated that out of every dollar the employer pays now, the employee receives less than 40 cents, that is, 60 per cent. is utilized in the transaction between the employer and the employee, in the cost of court and injuries and things of that sort; while under the provisions of this law the employee will receive the full benefit of all the money that is paid by the employer.

I now move, Mr. Chairman, that we take up the amendments alphabetically, commencing with House Amendment A.

The motion was agreed to.

The CHAIRMAN: The Chair will lay before the committee House Document No. 672, the same being House Amendment A to Senate Document No. 575.

Mr. IRVING of Caribou: Mr. Chairman, this amendment provides that "farm laborers and laborers employed in cutting, hauling, yarding or driving the logs or lumber or any labor in woods or on the drives," shall also be exempt from the provisions of this bill. Many of the members present know something of the peculiar hazards in connection with lumbering and driving. In the first place, I wish to state that I am not interested in lumbering or in lumber men. I speak from knowledge of a man coming from a region where this is one of the dominating industries in the county. A lumberman or operator has absolutely no control over his little band of men as they go into their work; as they are separated out into small groups. That is very true as applied to the spring driving. Now the pro-

vision of this bill is that the employer shall be compelled to place an insurance on his laborers or his employes, so that in case of accident they shall have some money coming to them for the support of their families.

The principle is good, in theory it is excellent; the question is how does it work out in practice in the case of the lumberman toward whom this amendment is amended, to relieve them from possible conditions that will make it impossible for them to meet the provisions of the bill. The question of injuries comes up and whether or not at the present time it is possible for an operator to insure his help at a cost of 3% per cent. That is nearly prohibitive when you consider what I will try very briefly to bring before the committee. The hazards of the business is so much increased that the percentage must necessarily very rapidly increase, and for a time it will come, in the opinion of many who have become conversant with this matter, prohibitive.

In regard to the work that is done in the lumbering operations, it is not the big lumber operator who does this work, neither is it under the supervision of his general manager, for perhaps in the case of 80 to 90 per cent. of all the lumber cut and driven the work is done by a sub-contractor.

The enactment of this law with its almost prohibitive cost of insuring men will result in the removing from that method of sub-contracting responsible men; they will seek employment elsewhere, and this I think is not desired.

Section 2 of this bill appears to me to be the most dangerous provision. Under the present law the contractor is protected by a law which is known as the contributory negligence of the employee, that is, in the case which is brought to recover for injury to an employee, it may be shown that the employee contributed to the accident. Therefore, the employer is exempt from paying damages. Section 2 repeals that law and deprives the employer of that protection. It also de-

prives him by repeal of the law from the protection of the negligence of the fellow employee.

I do not believe it is necessary for me to go any further in the discussion of this matter. I think the repeal of that law will open the door wider for litigation of the employee against the employer, and with the condition existing that makes it almost impossible for the poor sub-contractor to protect himself. It seems to me it is unnecessary to go any farther in the discussion in this matter, as far as House Amendment A is concerned; and I move that this committee recommend the adoption of House Amendment A.

Mr. MARSTON of Skowhegan: Mr. Chairman, I am not a member of the sub-committee, but I have been asked by the sub-committee to express their views on this particular amendment, on the ground that I am a lumberman and an employer of labor in the lumber industry who would be affected by the provisions of this amendment.

I wish to say that it strikes me after very careful consideration of the amendment and consultation with eminent and competent counsel that a large part of the fear of that particular section on the part of the lumbermen is without foundation. Certainly the effect of this act upon the lumbermen would not be greater than the effect of the act which was unanimously passed in this House and to the passage of which no objection was made by any of the lumbermen present on the floor of this House, viz., the act shifting the burden of proof in case of accidental death. That act went through this House with practically no discussion and, as I remember it, without any opposition.

I believe that an employer's liability act which would either very much modify or do away entirely with the common law defence, as provided in Section 2 of this bill, would have passed through this House without much comment. There might have been some discussion upon it but I do not think there would have been strong opposition to it. I believe the particular section in this bill which

scares most people is that part of the title in which the word "compensation" appears. As a matter of fact, had we passed an employer's liability bill, such as was recommended by both platforms, and such as would have received favorable action on the part of a majority of this House, there is no question and there can be no question but what the employers of labor would be more seriously injured than they will be in the passage of this law which provides compensation, instead of damages at the hands of a jury, as they would in the case of an employer's liability act.

This act provides for the maximum limit beyond which you cannot go, that is, in the case of an accident. The employer's liability act which I have mentioned and which would have received favorable comment, leaves no limit and places no limit upon what the employer may pay. The limit which has been sort of agreed upon as a standard limit which I believe most of the insurance companies consider, of \$5000 for death, is in excess of what is provided by this compensation bill; and the ordinary limit that juries award for permanent injuries or permanent disability is sometimes in excess of what is provided for in this compensation act. This bill says that all shall be taken care of, and not a few who may sue and receive enormous damages, and who are in turn obliged to divide whatever damages they may get with their lawyers and witnesses and the costs of legal procedure.

Now, I want to say that as a lumberman, and representing certainly a respectable percentage of the lumbermen of this State, that I do not ask and do not insist or desire that our industry be favored any more than any other industry; I do not ask that it be exempted from the provisions of this bill; I do realize that there are some conditions in relation to this industry which are greatly different from those relating to some other industries. But in spite of that, I believe that there should be no exemptions of any sort, that farm laborers will be included in the provisions of the act, but for the present I realize

that it is wiser to exempt certain classes of laborers; and for these reasons, Mr. Chairman, I hope that the amendment will not be adopted.

Mr. IRVING: I will ask the gentleman from Skowhegan, Mr. Marston, if his lumber is not cut, as I suggested a few moments ago, by sub-contractors?

Mr. MARSTON: I will say, Mr. Chairman, that a great deal of our lumber is cut by sub-contractors.

Mr. O'CONNELL of Milford: Mr. Chairman, living in a lumber section of our State as I do, and realizing from experience by working in the lumber woods, I cannot see any reason why the laborers of our principal industry should be stricken out from the privileges of the workmen's compensation act. The gentleman from Caribou (Mr. Irving) has told you that a repeal of the law where a man is injured from the fault of a fellow workman would be a damage. I say that it would be a help, and it would give the lumberman a chance to dodge the responsibility in case he may be liable. We already have a weekly payment clause. I will say that in Maine the lumber industry is a hazardous occupation; river driving is a hazardous occupation. Why not have this bill cover every laborer in the State of Maine? It comes right down to the fact that the cost of the workmen's compensation act adds to the cost of production. For instance, in the textile mills it will add a cent or two a yard to the manufacturing product of that mill; it reaches right back to the consumer; also in the shoe factory, if it adds 10 cents to the price of a pair of shoes it is all figured in and goes right back to the consumer, in the cost of the shoes. The workmen all buy shoes and clothing and they buy everything that is manufactured, and they are going to pay their share of the cost of protecting the people of the factories and mills and in every other plant.

Now, I say it is nothing more than fair that the consumer of lumber should pay the cost of protecting those men on the drives and in the woods; and I will also say this, that it would be a good thing for the man who is

employing laborers in the woods, and he would get a better class of laborers to go into the woods; those men would be protected to a certain extent, and that is, they would not feel the dangers, for instance, of a man going home injured and with the knowledge that there was no revenue for him to support his family. I claim, Mr. Chairman, you will be doing a great injustice, because when the timberland owner says that spruce logs shall be \$8 a thousand instead of \$7, the man cutting the lumber immediately adds it on to the cost of production; and when he says the cost will be 50 cents more for the sake of protecting those men why not add it on to the cost of production and get right back to the consumer same as all the other industries?

The CHAIRMAN: The question recurs upon the motion of the gentleman from Caribou, Mr. Irving, which is that the committee recommend the adoption of House Amendment A.

A viva voce vote being taken,

The motion was lost, and the adoption of the amendment was not recommended.

The CHAIRMAN: The Chair is informed that House Amendment B was withdrawn, and if that information is correct the Chair will now lay before the committee House Document No. 673, the same being House Amendment C to Senate Document No. 575.

Mr. SMITH of Auburn: Mr. Chairman, this amendment says: "If such deposit be in cash, interest thereon shall be paid to the depositor from the State treasury at the rate of four per centum per annum; if in securities, any interest accruing shall likewise be returned to the owner of such securities."

It seems to the committee that this amendment is not necessary. If the deposit is made in cash the committee feel that the rate of interest is too high, and if the securities are deposited then the interest accruing thereon would belong to the depositor; and therefore I move that the amendment be rejected.

The question being on the recommendation that House Amendment C be rejected,

A viva voce vote being taken,
The motion was agreed to, and House Amendment C was recommended to be rejected.

The CHAIRMAN: The Chair will next lay before the committee House Document No. 674, being House Amendment D to Senate Document No. 575.

Mr. DUNTON of Belfast: Mr. Chairman, House Amendment D provides that the word "shall" in the 55th line of Section 13 shall be substituted for the words "may in its discretion." This provision briefly amounts to this, that in case of the State insurance the commission may rebate to the insurers any excessive premium that they may have paid if they find out at the end of the year that the premium is more than the cost, the commission may rebate to those insurers whatever excess there has been over the cost to the State; and it also provides that the commissioners may in their discretion collect by suit of the insurers any balance of premium which has not been paid; if the premium which they have paid is not sufficient to pay the actual cost the commissioners may collect the balance from the insurers.

Now it seems to your committee that since these commissioners are men or will be men of experience and judgment and discretion, and it seems to me that there should be no change at this time in this section. If experience should show that a change were necessary it would be very easy to make an amendment to this particular section later. The chances are that there will be no State insurance anyway, and that the employers will prefer to insure in mutual companies organized for their own insurance; and on the whole, it seems to the committee that this should be left as it is, and I move that this amendment be rejected.

The question being on the motion that this House Amendment D be rejected,

A viva voce vote being taken,

The motion was agreed to, and House Amendment D was recommended to be rejected.

The CHAIRMAN: The Chair next lays before the committee House Doc-

ument No. 675, the same being House Amendment E to Senate Document No. 575.

Mr. DUNTON of Belfast: Mr. Chairman, this amendment provides for the appointment of one commissioner instead of three. Now, this is a very important matter for the reason that it will affect the organization and the conduct of affairs of this commission very materially. I think in almost all of these compensation acts in the various states, a commission has charge of the matter instead of one commissioner; and certainly in this State in connection with the organization of the work more than one man is needed. The organization will require a great deal of work, and it will require a great deal of work in the adjudication of the various claims which will be presented. One man can only be in one place at one time, and there will undoubtedly arise instances where it will certainly be for the convenience of the work that one man go to one place and adjudicate a claim and another man go to another place and adjudicate another claim; and the conduct of the work would be very materially affected if there were only one man on this commission instead of three. Then in the case of State insurance, if that should be adopted generally, it would be almost imperative that the State insurance commissioner have something to do with that, and have charge of that branch of the question; and it has also seemed to the committee that the commissioner of labor should have some connection with the conduct of affairs of the commission. It is a large power beside that large work to be delegated to one man. This matter has been considered by your committee very carefully, and the committee has no question but that a commission of three men would be much preferable to a single commissioner; and for those reasons I move that the Amendment E be rejected.

The question being on the motion that House Amendment E be rejected,

A viva voce vote being taken,

The motion was agreed to, and

House Amendment E was recommended to be rejected.

The CHAIRMAN: The Chair will next lay before the committee House Document No. 682, being House Amendment F to Senate Document No. 575.

Mr. SMITH of Auburn: Mr. Chairman, this is an amendment which I introduced on request after the other amendments has been offered. The original bill which we have before us provides for the exemption of employers of ten or less employees. This amendment which we are now considering would reduce that number to five. As far as I am personally concerned, I should be in favor of doing away with that limitation altogether. The sub-committee and the committee in our discussion became convinced that it was necessary for us to put some limit in there in order to secure a passage of the measure. This is a big step in the right direction, and we believed that we had better go part way, this year, and consequently we agreed on placing the limit at ten, which it seemed to us would be fair to both the employer and the employee. For that reason I move that this amendment be rejected.

Mr. NEWBERT of Augusta: Mr. Chairman, those of us who believe in this measure certainly want to have a good measure. If the compensation act before us has merit then I say we should be very careful in the consideration of these exemption matters. If the principle embodied in this act be a correct principle, then I submit that it should apply to all employers of labor and protect all the employees. I doubt seriously whether farm hands should be exempted, but they seem to be, and I will not discuss that issue. I am very certain that the great number of men employed in the lumber industries should not be exempt, and that amendment has been disposed of.

If we are to get a fair bill that means something like exact justice between the employer and the employed, there will be no exemptions in it. I oppose, on that principal, the exemption of any group of men, num-

bering 10 or otherwise. I cannot understand how it is that on a street in this city one building contractor should not come under the provisions of this act because he employs but 10 or less carpenters and masons, and why it is that upon the other side of the same street that a contracting builder comes under the provisions of this act because he chances to employ 11 or more men. Nor can I see the justice of such exemption when, because a laborer works for an employer who employs 10 or less, that he shall not come under the provisions of this act, under its protection, while the laborer belonging to the same class and in the same city but working in a larger crew does come under the protective principle of this compensation act. I cannot see the justice of that.

I am so unfortunate as to be a member of a small concern making bricks in Augusta. We employ in the early part of the season I think fewer than 19 men, and I and my fellows in this company would be exempt under the terms of this act, and these employes at this brick yard would not come under the protection of this act. But I have other men in mind up on the Kennebec who make bricks as we make bricks, but who employ some 25 or more men, and these employers in this larger brick yard will be brought under the provisions of this act, while we shall escape, so that their men have the protection of this act and my men will not have it. Now you will get a fairer bill if you strike out the exemption entirely; but if it is necessary to bring it down five then that may do for a time. In the interest of all concerned and in the interest of exact justice between the employed and the employer I say there should be no exemption at all. I am in favor of an amendment which brings it down to five, if that is all we can get.

Mr. SMITH of Auburn: I do not intend to say anything further, but there is one thing that occurs to me. This amendment strikes out lines nine and ten and substitutes in place thereof the following: "This section shall only apply to employers who employ five or more workmen or operatives in the same business." This will

allow the employes of the gentleman from Augusta (Mr. Newbert) to come under this act if their employer saw fit to accept the provisions thereof. As I have said, personally I should be glad to see all limitations or exceptions wiped away, but in making as great a step as this, I do not believe it is wise for us to do it at this time. I think the amendment should be rejected.

The question being upon the motion recommending the rejection of House amendment F,

A viva voce vote being doubted,

A division was had and the motion was lost by a vote of 44 to 47.

Mr. Descoteaux of Biddeford then moved that the committee recommend the adoption of House Amendment F.

A viva voce vote being taken,

The motion was agreed to, and House Amendment F was recommended to be adopted.

The CHAIRMAN: The Chair will next lay before the committee House Document No. 683, the same being House Amendment G to Senate Document No. 575.

Mr. WATERHOUSE of Kennebunk: Mr. Chairman, House Amendment G has reference to assenting employers. It simply makes certain and clear and definite what the provisions of this section are. That is to say, supposing an employer was engaged in more than one kind of business, and he wished to become an assenting employer in one of them and a non-assenting employer in another, he would have that privilege so to do. This section merely makes clear and plain that provision, and the sub-committee has seen fit to recommend the adoption of this amendment; and I therefore move that this committee recommend the adoption of House Amendment G.

The question being on the motion that the committee recommend the adoption of House Amendment G,

A viva voce vote being taken,

The motion was agreed to, and House Amendment G was recommended to be adopted.

The CHAIRMAN: This completes the list of amendments to be considered at this time.

Mr. MARSTON of Skowhegan: Mr.

Chairman, before moving that this committee recommends to the House the passage of this law, I wish to state as briefly as I can the position of those who are believers in this law and in its passage.

When this session began, there were four pieces of legislation which everyone conceded would merit its earnest consideration. Three of these have been given an exhaustive hearing in both Houses, one of the three has been signed by the Governor, another will be, this week, and the third, the Massachusetts ballot bill, has been defeated. The Public Utilities bill and the Good-Roads bill were both re-drafted by sub-committees appointed for the purpose. These sub-committees made a thorough study and investigation of their subjects, and when they brought their new drafts back to the floor, we other members gave them credit for their labor and their knowledge; and considered them as authorities when the amendments were voted upon.

These two measures were fortunate in coming fairly early in the session before the various private bills and pet measures had been disposed of.

The measure which we are now to consider is not so fortunate. It comes when we are tired, and want to go home; it comes right at the beginning of what promises to be a long-drawn-out and vexing series of impeachment proceedings. Therefore let us be a little extra indulgent and patient.

The workmen's compensation Act is without doubt the most technical piece of legislation that we have considered, this winter. Your sub-committee of the judiciary have taken the House bill introduced by the gentleman from Auburn, Mr. Smith, and the Senate bill introduced by Senator Stearns, as a basis for the present new draft. They have studied not only the acts but the experiences of the several countries of Europe, and of the 15 states of this country, and they have picked out the best points of each and blended them all into a well-nigh perfect bill. They have worked days and nights for months on this measure. They are thoroughly competent men who have soberly and seriously given their best efforts. I feel that we can trust in their

judgment and I hope this House, to-day, will accord to them the same authority and courtesy that it accorded to the special committees on the other two measures. The men deserve it and have earned it, and the measure most certainly deserves it.

Careful study and observation show beyond a doubt that practically all industries are subject to accidents causing injury and death to the workman; that the number of accidents in any given industry over a series of years is more or less stable; that the degree of accidental injury in any one group of industries remains fairly constant; that accidents are governed by the law of probability; and that they are to a certain degree inevitable. If we acknowledge the fact that there is a certain accident risk attached to all industrial employments, we must also acknowledge that justice and humanity demands that the loss shall not fall wholly on the workman.

Statistics show that a large percentage of accidents are not due to the fault or negligence of the employer or the employee. An exhaustive inquiry into over 81,000 accidents showed the following results:

Fault of employer, 12 per cent

Fault of workman, 42 per cent.

Fault of both employer and workman, 1 per cent.

Fault of fellow workman, 6 per cent.

General hazard of industry, 37 per cent.

All other causes, act of God, etc., 2 per cent.

Under the present system of employers liability laws, damages would be paid on only 12 1-2 per cent. or one-eighth of these accidents. In other words for every eight accidents, the industries would be liable for damage, on only one, and labor must stand the loss of the other seven. Workmen's Compensation Acts are designed to provide damages for the other seven accidents.

The granting of just compensation for this large proportion of accidents results in a higher standard of living for the injured workman and his family; in a better education for his children; in a decrease in the num-

ber of persons dependent upon public or private charity for support; and in lessening the untold suffering and misery which never come to public notice.

Workmen's Compensation Acts are based upon two great fundamental principles, the one humanitarian and the other economic. The humanitarian principle is the theory that a workman injured in the course of his employment is entitled to some remuneration for his physical suffering and financial loss without regard to the negligence or fault of himself or his fellow workman. This principle appeals to the sentiment and sympathy of every man who is not so steeped in ruthless commercialism that all love and decent regard for his fellow man is wrung out and dried out of his heart. Society and governments no longer reckon the workers of the world as mere cogs in the wheels of production to be thrown into the junk heap when broken. They are not only the all important essential of industry, but they are fellow beings, fathers of families, and citizens and makers of laws, who have tired of calling out for sympathy and now demand justice.

If you are fair men, you must admit with me, that the remedy provided by the present common law, which an injured workman has against his employer for injuries is not only inadequate, but unjust and not based on sound economic principles.

The employers' liability laws assume that the employer is not liable, unless he has been guilty of some fault, and the workman or his fellow workman have not been guilty of contributory negligence, or assumed his own risk in the course of his employment. As I said before, under this system the employer is liable for only one-eighth of the accidents.

Reliable statistics show that in settling for this one-eighth part, less than 40 per cent. of the sum actually paid by the employer ever reaches the workman. In other words, out of every \$1000 paid by employers for accidents, less than \$400 goes to the injured workman and his family.

Now the workman isn't the only injured party, for Mr. Ultimate Consumer, when he pays for the product has to pay for every \$400 the workman receives, not only the \$1000 judgment the employer paid, but the total of all his enormous legal expense, the cost of the time and energy wasted in repeated trials and appeals, and finally the biggest cost of all, the impaired efficiency of the rest of his workmen due to the bad feeling and friction aroused by the passionate and angry legal battle.

This brings me to the second fundamental cause for compensation acts, the economic principle which recognizes three main elements in the cost of production, namely, labor, material, and capital. The consumer pays for the entire cost of materials and for the use of capital, but he does not pay for maimed and broken limbs and deaths of the workmen whose hands produce the product. When a piece of costly machinery breaks or becomes old and obsolete, the manufacturer charges its cost into the price of his goods. It doesn't matter whether a fault in the machine itself, or in a piece of controlling or dependent machinery, or whether lightning, fire or flood injured or destroyed it, the loss is charged to the cost of the product. This act asks you to treat workmen as well as you treat the machine. It insists that the complete cost of labor shall include all losses to the workman caused by his employment, and that these losses properly belong to the cost of production.

The growth of the theory of compensation to workmen injured in the service of the employer has been slow; every step in advance being met with opposition. In the beginning a small payment limited to the master's own negligence, next the broader principle of the employer's negligence, later with the three defenses greatly curtailed or partially abrogated, and finally compensation without regard to fault.

The introduction of power machinery and the factory system supplied the impetus which developed the principle of compensation for work accidents most rapidly. The greatest progress made in the theory of compensation for all accidental injuries to

the workmen unless wilfully inflicted, is predicted upon the unprecedented development of industrial conditions in all civilized countries during the past half century.

That the demand has not been sooner felt in America is due to three causes:

1st. That America, in matters of social legislation, is probably the most conservative country in the world;

2nd. That the American working men are, as a whole, in better financial condition, and better able themselves to take care of their disabled fellow employes;

3rd. That the American manufacturer is the most humane and generous employer in the whole world of commerce.

Two years ago the National Association of Manufacturers of this country appointed a special committee to investigate the whole question from the view point of the progressive employer. Its members had long been impressed with the continually increasing importance of the problem, its appeal to justice and to the efficiency of employes, and with its relation to widely proposed changes in the nature of employers' liability legislation.

After a thorough study of the situation among 10,000 of the large manufacturers, a report was made at the annual meeting of the association. At this meeting the following resolutions were given a passage:

"Whereas, The National Association of Manufacturers occupies a leading position in all constructive work for industrial betterment and particularly for harmonious relations between American employers and wage-workers, and

Whereas, The United States is less advanced than progressive European nations in respect to employers' liability and industrial accident indemnity, to the detriment of the nation, its institutions and its people; be it

Resolved, That the present system of determining employers' liability is unsatisfactory, wasteful, slow in operation and antagonistic to harmonious relations between employers and wage-workers; that an equitable, mutually

contributory indemnity system, automatically providing relief for victims of industrial accidents and their dependents, is required to reduce waste, litigation and friction, and to meet the demands of an enlightened nation; be it further

Resolved, That prevention of accidents is of even greater importance than equitable compensation to injured workers."

These resolutions are not only of importance as showing how the great body of manufacturers feel about the problem, but they were the direct cause of the employment by the association of the two most competent experts that could be found to make a thorough investigation of the Workmen's Compensation Acts and the prevention of accident situation in the countries of Europe and to report to the association.

The report of this investigation has been of material assistance in the development of the Workman's Compensation agitation in this country, and indeed, in the framing of State legislation.

From the more or less voluminous report, I ask you to allow me to quote very briefly a few paragraphs which are of especial interest to us here, to-day.

"From the investigation herein set forth, your committee finds:

That limited compensation for personal injury received in the course of employment is assured in the chief states of Europe and many of the British colonies. Such legislation substantially predicates

That accidents, during work, frequently arise from unavoidable risks inherent in the nature and circumstances of modern production; that the economic consequences of such injuries should be borne primarily by the employment in which they occur and ultimately by society in whose service they are incurred and not entirely by the workman to whom they occur; That assurance against loss of working capacity is the basis of all European compensation."

"We believe those systems most equitable and expedient which re-

quire minor contributions from the employer. They alone provide a justly proportionate distribution of the pecuniary burden, assured dual interest in the discouragement of fraudulent claims and mutual co-operation in the practical prevention of accidents for which employer and employee are jointly responsible. They provide a necessary protection against the contamination of those qualities of thrift and self-reliance which have ever been regarded as among the most valuable assets of American character."

"We find that the amount of compensation required under the various European systems is not regarded as a complete indemnity, but as a substantial expression of the impairment of earning capacity. That in the best systems it is neither allowed nor intended to recompense trivial injuries nor breed paupers by corrupting thrift. That to this end a reasonable waiting period is established between the reception of injury and the allowance of compensation; that precaution, alone, provides efficient defence against the conscious or unconscious exaggeration of slight injuries, and safeguards self-reliance. We find further, however, that during such waiting period, from the moment he has notice of the accident the employer should provide first aid and necessary medical attendance, thus preventing trivial injuries from becoming serious disabilities through ignorance or neglect."

"We are conscious that the introduction of principles implying systematic compensation for accidents into our form of government bristles with difficulties. We believe, however, that at the present time, and during the period which must necessarily precede the adoption of the absolutely satisfactory system, voluntary action by private employers should receive public encouragement."

The report closes with this sound advice: "Successful legislation throughout Europe has been preceded by deliberate and painstaking investigation. We are fortunately able to avail ourselves of the most practical features of the Old World's labor and experience. But we

should make a start for ourselves here and now, providing at once for the accumulation of information which is a basic necessity for intelligent action. Having determined upon a rational policy of compensation, we believe rapid progress can be made in giving it appropriate legal form, and adapting it to our customs and institutions. We should act now and as rapidly as is compatible with the greatness and complicity of the subject and its intimate relation to the prosperity of the employers and workmen of our country."

I have made these quotations to show to you that the manufacturers are interested in this form of legislation. I believe the manufacturers of Maine who have investigated the matter fairly are in favor of this measure.

As there are no American compensation laws which have been in force long enough to judge much of their effect, we can profitably consider very briefly the German and the English systems which have been in existence for 30 years and 16 years respectively.

In Germany every employer is compelled to accept the Workmen's Compensation Act. Germany is frequently referred to as the country which best exemplifies state insurance. The fact is that in Germany, accident insurance is conducted entirely by mutual associations of employers supervised by the state. Large and small employers are organized into employers' associations. Each employer on beginning business is compelled to join the association representing his industry. There are 113 such mutual industrial associations. Upon these organizations is placed the responsibility of carrying on and administering the compensation system. The funds are collected by the insurance associations from their members. They manage the fund through officers chosen by themselves, most of whom serve without pay. The German government supervises the fund in much the same way that our insurance department in Maine supervises the companies doing business in the State.

For the first 13 weeks, the compensation of injured workmen is paid out of a so-called sickness fund which is

supported by the employer and employees jointly, the employer contributing one third and the employees two thirds of the cost premiums. After 13 weeks, the mutual insurance associations become responsible.

Both the government and the insurance associations have given a great deal of study to accident prevention, which has become a science and a profession in Germany. Disobedience of rules relating to safety, involves the infliction of severe penalties on both the employee and employer. Accident prevention is kept constantly before the public, before the Legislatures, before the workmen and the manufacturers. Trade schools, with which Germany abounds, give special courses to train accident prevention engineers. Insurance rates are gauged according to the degree of accident prevention practiced in individual shops; and the workmen and leaders in industrial and political life, instead of quarreling as to where the blame for accidents should be placed, combine and concentrate their energies upon an educational and practical accident prevention campaign.

Competent statisticians have determined that the German system gives the workman about 150 per cent. more than the American common law system, and consequently the accident insurance rates are somewhat higher. But the head of the German advisory board says: "We are not building for one year or for 10 years, we are building for centuries. Believing in the 'survival of the fittest' we are building up a nation fit to win in international competition. We believe it is a paying proposition for us to spend more money than other nations for our incapacitated workmen. But please note that we are spending our money not in life pensions to disabled workmen, nor in old age pensions to persons who can prove that they are paupers. We believe such a course would manufacture paupers and invalids. We spend our money with the workers in every effort that is calculated to promote their efficiency and capacity, to the end that every man may be a producing member instead of a mere consuming member of society."

The tariff board investigations of labor costs showed beyond doubt that Germa-

ry has materially raised the unit of efficiency in her workers, and that it is no longer England but ever alert and progressive Germany that threatens America's industrial supremacy.

The English system of compensation which took form in 1880 is particularly interesting from the fact that what we know as the Common Law principle of liability originated in the now famous case of Priestly versus Fowler in 1837. In this decision the court established the doctrine that an employer was not liable for the injuries to one workman caused by the negligence of a fellow servant.

The English Act of 1880 was an Employers' Liability Act, declaring that the employer should be liable for injuries to a workman when caused by the neglect of persons to whom he delegated his powers of giving orders. This was modified from time to time until the complete Compensation Act of 1906 was passed which covers all employers, individual and corporate in every employment. In addition to compensation for accidental bodily injuries, it is also allowed for disability due to occupational diseases, and certain other diseases as are specified by the secretary of State.

If the injury is caused by the workman's own serious or wilful misconduct, compensation is not allowed unless death or permanent disability results. The workman has the absolute right of election, after the accident has happened to sue either at common law for damages, or demand compensation. If his action for damages fails he may still request the court to assess compensation under the act.

The employer and employee may agree upon the amount of compensation to be paid, and in case of dispute ask the county judge to act as arbitrator.

For all incapacity exceeding one week, the workman is entitled to receive one-half his weekly earnings but not more than \$5 per week, the specific amount being determined by the degree of incapacity.

In case of death, his dependents receive not less than \$750 nor more than \$1500.

The English act has not been satis-

factory to either employer or employee as it has bred a tremendous amount of litigation, which should be the very thing to be eliminated by a Compensation Act. It has not afforded prompt payment to the injured workman, nor has it eliminated the waste of money of the old Employers Liability Acts. It was framed by politicians for political purposes, and, today, they are paying for the consequences.

Both Germany and England recognize in their acts the principle of trade risk. Great Britain meets this by extending personal liability to assure limited compensation for injury. Germany eliminates personal liability, substituting compulsory mutual insurance, administered by its contributors. Germany invites attack upon the cause with defence against the effect of injury; the British policy bears no relation to accident prevention. The British legislation intervenes to relieve dependency; the German to confer a right to assistance in return for contribution.

The whole literature of English speeches and writings expounding the virtues and vindications of the liabilities created by Parliament, presents their Compensation Act in the guise of a gigantic scheme for poor relief. It bears no relation to the prevention of injuries, it does not call for an investigation of its causes, and, knowing that ignorance and neglect may permit trivial injuries to develop into serious disabilities, and that sound healing depends upon first aid to the injured, it takes no steps to contribute to recovery.

It regards the workman merely as one who must not become a public charge. Its purpose is concentrated upon making the employer relieve distress which might require the aid of the state. It views the whole problem from the standpoint of charity. A learned English critic has said that the English Act is fast pauperising and undermining the character of British workmen. This same English critic made a statement some time ago which appears to me to be sound advice to us. He said: "Whatever may be the true view as to the incidence of the burden of compensation for accidents,

it seems plain that if the cost thrown, at all events in the first instance, on the employer is excessive, the ultimate loss consequent thereon will fall with equal or greater weight upon the workman either by diminution of wages or loss of employment, or loss through the insolvency of the employer."

The framers of American compensation laws have had the advantage of the British decisions which show the main defects in the English system, and of the very careful and complete statistics showing the effects of the German law. There have been four general forms of compensations acts adopted in the United States.

1st. The Washington State system of Compulsory State Insurance. While the state collects and disburses the insurance fund, it does not guarantee payments, and where in any particular industry insufficient funds have been collected to pay the compensation, the injured workmen simply remain unpaid.

2nd. The Ohio law is what is called an "Optional State Insurance Law" in that the employer may either adopt the State insurance plan or refuse to accept the act. In other words, the only way an employer can adopt the compensation plan is to insure in the state insurance department.

3rd. The Massachusetts law is typical of the elective Compensation Acts. The employer may elect to insure in any liability company authorized to do business by the state insurance department, or he may become a subscriber to the Massachusetts Employers Association, an organization created by the law and operated by directors elected from the employers who are subscribers. There is no provision for the classification of industries in the Massachusetts Act.

4th. Michigan has what is known as the complete elective system. The employer may elect four different methods to assure his workmen of their compensation.

(a) Insure himself, by giving the State Accident board sufficient proof and guarantee of his personal financial ability and responsibility to take

care of the liability under the terms of the act.

(b) Insure in a regular authorized stock liability company.

(c) Insure in a mutual industrial insurance association.

(d) Insure under the State Insurance Fund.

As would be presumed the Acts passed by the fifteen different states differ somewhat in the amount of compensation, to whom it is due, the manner of its payment and the machinery provided for carrying out the provisions of the Act. But the general wording of the various provisions covering every phase of the subject has been established by the many able commissioners and committees and the eminent legal authorities who have framed the various drafts of the Acts. The definitions of terms and words are always such as may be found in legal dictionaries. Consequently in the consideration of the proposed Act before you, today, you need to be concerned only with the principles involved in its provisions, and not with the phraseology.

There are four great objects which a good Compensation Act should achieve.

1st. The acceptance and adoption of the Act by the greatest possible number of employers and employes.

2nd. The elimination of all possible waste, so that as large a proportion of the money paid by the employer will reach the hands of the injured workman promptly. In other words to eliminate litigation and red tape.

3rd. the equalization of the sums paid on account of similar injuries, so that every man injured in a particular way will receive the same sum.

4th. The prevention of accidents by supplying the spur of self-interest to secure adequate safety conditions of labor.

I wish to show very briefly how in my mind this bill which we have before us meets these four requirements.

As to the first object, this bill offers every possible choice of method for the employer to insure against accidents to his workmen. He can

take out insurance with the regular liability companies that he has been doing business with before. The rates will undoubtedly be somewhat larger. His insurance will cost him more. But his final cost for all the accidents in his business will be no greater if he takes into account all his expenditures consequent upon accidents under the present system; and, I submit, to you gentlemen, his final cost will be less than under a modified employers' liability law, greatly lessening the common law defenses.

He can take out State insurance with the Accident Board if he so elects. He can join a mutual liability association of employers doing the same general sort of business and get his insurance at actual cost, a system that has worked wonderfully well in Germany.

Or, finally, he can deposit a bond or satisfactory securities with the Accident Board, and insure himself. This system will, I believe, be adopted by a large number of employers in Maine who have already established their own scheme for caring for their injured workmen. I know of a dozen concerns in Maine who became dissatisfied with the treatment that their workmen received at the hands of the Accident Liability Companies, and established a system of their own in which the common law defense has no place. They have established reserves by setting aside a certain sum each month to take care of their system. Many of these concerns are doing more for their injured workmen by 25 per cent. than is required by the provisions of this act. I want to cite just one instance in the great number that have come to my attention. A percher in a textile mill ran his hand into the heavy rollers of his machine, and when his hand came out, his fingers had been benevolently assimilated by the cloth he was making. Almost before the surgeon had finished dressing the wound the casualty company's lawyer was in the mill. Asked how it happened and the young man replied: "I wasn't paying attention to what I was doing. If I hadn't been a darned fool it wouldn't have happened." Almost before one could say "Jack Robinson," the man

who had lost his fingers forever had signed an innocent looking release to the insuring accident company. Under the terms of the policy the textile manufacturer has to help the liability company defend its suits, however and wherever his sympathies and sense of justice may lie. When the young man claimed damages, he was told by the liability company that he wasn't entitled to anything, but they would give him \$50 as it would cost that much to defend the suit. He has found a lawyer to take his case on shares and sued for \$5000. He won't get a cent because he has already admitted his own negligence, but the textile manufacturer has paid for all his medical attendance, and is giving him part pay during his incapacity, and when he gets back to work he'll find a job waiting for him that in time will pay him as well as perching. Now, the point I want to make, gentlemen, is that this manufacturer paid not only the regular insurance premium to the liability company, which was supposed to take care of the risk, but also the medical attendance, and compensation during the incapacity of this young man. I think it would be hard to find an employer of labor who has not had a similar experience.

The second requirement of a good bill is the elimination of waste. This bill provides machinery to enforce its provisions at the lowest possible cost. A workman who has been injured has only to notify the commission of the time, place and cause of the injury. The commission orders a physician or surgeon to make an examination of the injured workman and if the examination shows the injury to be within the specifications of this act, the workman begins to receive his compensation automatically for all lost time after the first two weeks. He need not pay one cent for legal services or for any other expense except postage. He gets his money while he is incapacitated, without delay or bother. And during the first two weeks the act provides for the payment of all his medical or hospital attendance and expense. When he gets well he goes right back to his employer feeling that he has received fair and just compensation for the time that he has lost.

He doesn't have to wait until he is well enough to consult a lawyer, work up a

case against his employer, persuade his fellow workmen at a sacrifice to appear as witnesses and then fight for damages in the courts, where his suit may be continued from one term to another if it is more convenient for the lawyers, and if the suit is successful have it appealed to the law court. Sometimes years elapse between the accident and the final settlement. In the meantime he has lost his job, and perhaps been the cause of his fellow workmen losing their jobs because they were witnesses against the employer.

The employer knows that every cent which he has paid has gone to his workman. He hasn't had to employ an expensive lawyer. He hasn't lost a good and efficient workman and perhaps several others. He doesn't have to worry what a jury is going to award, the Act tells him exactly and he has prepared himself to meet it.

When the percentage of accident hazard has been worked out for the different industries by a few years' experience, the Commission and liability companies should be able to greatly reduce the insurance rates, for the reason that the hazard known, and the compensation specified in the Act, they will be working on a sure thing. Now the rates must be based on what they guess juries will award for certain injuries, and after the actuaries have made their estimates the company has to add the cost of legal expense in fighting the injury suits.

The third object of Compensation Acts is to provide that every man injured in a particular way shall receive the same sum. The Act specifically states what payments shall be made for every degree of injury, and practically leaves nothing to be thrashed out in controversy. It makes the right to compensation dependent upon the proof of facts, capable of being accurately perceived by the senses of a witness. It eliminates so-called questions of fact which involve the drawing of inferences from the physical facts proved in evidence whether by a court or jury.

I believe your sub-committee has so clearly defined the injuries which

are the subject of compensation as to eliminate those litigable questions of so-called fact which are really mere questions of opinion.

The fourth object of Compensation Acts is the prevention of accidents. We have laws prohibiting the use of unsafe machinery and prescribing safety precautions, but we must admit that they are of no avail unless strictly enforced. This Compensation Act places the enforcement directly upon the employer. It provides practically an automatic factory inspection, because it becomes at once the interest of the employer to reduce accidents. As a pure matter of dollars and cents, it is cheaper to spend money in safeguarding machinery and overseeing its use so as to prevent accidents, than to pay claims for compensation.

The experience of the factory mutual fire insurance associations indicate how much can be done in the way of the prevention of loss by adequate inspection and careful adjustment of rates to the risk discovered.

I believe that the prevention of accidents is one of the most important results that will come from the passage of this Act. The 40 years of experience in Germany demonstrates this fact. It is not only humanitarian but it is economic; it is not only a decent sympathy for your fellow men, but, gentlemen, it is dollars and cents. To most of us, I realize, sympathy for our fellow-men comes easier when our pocketbooks are assured of being filled. I feel that the financial argument in favor of this bill is as strong as the humanity argument. I am no sentimentalist, I lay no claim to loving my fellow-man more than any of you. I am an employer of labor. I am as much interested in the financial success of my business as you are, gentlemen, of yours. And I stand here, today, confidently and I believe intelligently, and say to you that I believe the passage of this bill will benefit my business and your business, and the industrial welfare of this State.

I do not urge you to vote for this measure, because you promised it to the people of Maine. I do not ask you Progressives to vote for it because it

is a tenet of your party placed there in the memorable speech of your great leader when he insisted that every employee of this government should be protected by it; I do not ask you Democrats to vote for it because your great President in that most remarkable and able public document of modern times—his inaugural address—plead for it, and fellow Republicans, I do not ask you to stand behind and defend this measure because that greatest of our Progressive-Republicans, whom we miss so in our councils, today, and whose memory will always be green in the hearts of Maine, Herbert M. Heath, in his wisdom wrote it into our platform, nor because our Governor and leader extolled it and promised it in his speeches and was elected by the workmen of Maine because of it, nor because you and I and all of us, knowing that it was written in our platform and that our constituents knew it was written there, stood on that platform and agreed with our people that we would enact its provisions into law. Not for this, do I urge you gentlemen of this House, but because after careful study and thorough investigation, I believe this measure to be just, to be right and to be for the best interests of all the people of the State of Maine.

I move that this committee recommend to the House that this bill as amended ought to pass.

Mr. DUNTON of Belfast: Mr. Chairman, in rising to second the motion of the gentleman from Skowhegan (Mr. Marston) I wish to call attention to one or two principles. It is a well-known fact and well recognized that we have grown old in the last fifty years, that we have lived longer in the last 50 years than the people of the world who went before us lived in the preceding years. We have gone as fast in our progress as the method of transportation. The methods of communication by electricity have gone faster than the old methods of communication by messenger, and we have come to realize that society today is independent; our grandfathers were independent, each in his own little plot of land with his own family about him as producers was in-

dependent of the world and supplied himself and his family with all things needed at that time. But no home, today, supplies itself with the things it needs, but depends upon others for all the things practically that are needed in the way of food and clothing, and even shelter. It is just on the same principle that the belt and pulleys and shafts and cogs are a part of the single unit of production; so each member of society is a part of that great organism by which the work of the world is carried on, today. We are co-operating with each other, willingly or unwilling, knowingly or ignorantly, the fact remains that this is the age of co-operation.

Modern industry is organized on that plan. Where 50 years ago one man could make a pair of shoe, today, it takes probably a hundred men in our big factories to do all the different parts of work necessary for the production of one pair of shoes. And so it is in all of our other industries, the labor is divided, the inventions of modern machinery have necessitated that in the economy of production, and while a man is a part of the one great unit of production he is more than a cog in the wheels of production, and he is so recognized.

Do you realize, gentlemen, that every year in these United States there are more than 30,000 men who meet death in the line of their duty in these factories, in these industries, and that in every year there are 2,000,000 men who meet with accidents, or a total of about 2,000,000 accidents in these industries suffered by men in the line of their duty; and that there are more men killed in the line of their duty in these industries during every four years than were killed in all the battles of the four years of our Civil War, and that if all of these injuries which are suffered in a year were placed back a hundred years that two out of three of all the people of these United States would be disabled, and all this I repeat is in the line of duty.

And who bears the loss? This work is done and these deaths are suffered, and this dread provision and loss of labor that is suffered from injury are not suf-

ferred by the employee alone, but are suffered by the employee and his employer.

We have been told that the lawyers get 60 per cent. of all that is recovered from these losses. However that may be true, I think that possibly only 40 per cent. gets back to those who should get 100 per cent., but I have not heard a lawyer complain of his loss of fees because of this proposed act of justice to the men who do the work of the world. And to their honor be it said, I have not heard on the floor of this House any complaint from the employers of labor. I think this proposition can be established by experience that the condition not only of the employee but of the employee himself in the long run, would be very much better if this act were passed.

Now the question of negligence is eliminated. The theory of compensation acts, as has been stated, is that the loss of life and limb is a necessary attendant of modern industry. Society has created these great machines: machines which know no difference between the hand of a man and a piece of raw material that it is to work into some useful product. And it feels no pang at the crushing out of a life. It is senseless, but it is useful to society. It does the work it was intended that it should do for the benefit of society, and society which has organized this great system of industry, society which benefits by it, ought to bear the cost of production, including the cost to the man who is maimed, the loss to the family of the man who is killed, and the necessary loss of the labor of the man who is disabled by injury, and for that reason, Mr. Chairman, I second the motion of the gentleman from Skowhegan.

The question being on the motion by Mr. Marston of Skowhegan, that the committee recommend the passage by the House of Senate Bill No. 575, as amended,

A viva voce vote being taken,

The motion was agreed to.

Mr. Smith of Auburn moved that the committee now rise and report to the House.

The motion was agreed to.

IN THE HOUSE.

(The Speaker in the Chair.)

Mr. Sanborn of South Portland mov-

ed that the House receive out of order the report of the committee of the whole.

The motion was agreed to, and Mr. Sanborn for the committee reported bill, An Act relative to the compensation of employes for personal injuries received in the course of their employment, and for the prevention of such injuries, with House Amendments A, C, D and E recommended to be rejected, and House Amendments F and G recommended to be adopted, and that the bill, as amended, "ought to pass."

The report was accepted.

Mr. Sanborn then moved that House Amendments A, C, D and E be rejected.

A viva voce vote being taken,

The motion was agreed to, and House Amendments A, C, D and E were rejected.

Mr. Sanborn then moved that House Amendment F, as recommended by the committee, be adopted.

A viva voce vote being taken,

The motion was agreed to, and House Amendment F was adopted.

Mr. Sanborn then moved that House Amendment G, as recommended by the committee, be adopted.

A viva voce vote being taken,

The motion was agreed to, and House Amendment G was adopted.

The bill then received its first and second readings, and on motion by Mr. Marston of Skowhegan the rules were suspended and the bill received its third reading and was passed to be engrossed, as amended.

On motion by Mr. Austin of Phillips, resolve in favor of the sufferers from the recent flood in Ohio, was taken from the table.

Mr. AUSTIN: Mr. Speaker, I wish to call attention to the fact that this resolve must be passed by a two-thirds vote of this House.

Mr. Maybury of Saco offered Amendment A. to amend by striking out the word "two" and inserting in place thereof the word "five," so that the resolve shall provide for an appropriation of \$5000 instead of \$2000.

The amendment was adopted.

Mr. Boman of Vinalhaven offered House Amendment B, to amend by adding to the title of the resolve the words "and Indiana."

Mr. SANBORN of South Portland: Mr. Speaker, it seems to me that some provisions should be made to enable the treasurer of the State or the Governor, or whoever is authorized to draw the warrant, to know how much of it is going into one state and how much of it into another. If this amendment is to be made it should be made in such form as to make it absolutely definite so that it will be known how the money is to be distributed and how it is to be applied.

Mr. AUSTIN of Phillips: It seems to me, Mr. Speaker, that it might be acceptable to the gentlemen who are interested in this resolve if this fund could be made payable to the National Red Cross Society, for the purpose of relieving the sufferers in Ohio valley. I notice that other state organizations are making their funds payable or to be distributed by the National Red Cross Society. The work is being done by them, and I simply make the suggestion that if that would be acceptable it might be a way out of the difficulty.

Mr. RICHARDSON of Canton: I will say, Mr. Speaker, that such an amendment will be perfectly satisfactory to me.

The SPEAKER: The Chair will state that this resolve is being amended so much that some care should be used in the wording of the amendments.

Mr. Boman moved that the resolve together with the amendments be laid upon the table.

The motion was agreed to.

On motion by Mr. Dunbar of Jonesport the rules were suspended and that gentleman was permitted to introduce out of order the following order:

Ordered, the Senate concurring, that whereas the Governor of the State in his address to the Legislature stated that there were five sheriffs that were derelict in their duties with reference to enforcement of the prohibitory law, and upon the order be-

ing subsequently passed by both branches of the Legislature the Governor of the State only presented the names of four sheriffs so derelict in their duties.

Now, therefore, the Governor of the State is hereby requested to furnish forthwith the name of the fifth sheriff who is derelict in the performance of his duties as stated in his original communication, and all evidence in his possession in reference to the same matter.

Mr. Dunbar moved that the order receive a passage.

A viva voce vote being taken,

The motion was agreed to.

The vote being subsequently doubted by Mr. Austin of Phillips, that gentleman called for a division.

A division was had.

Mr. AUSTIN: Mr. Speaker, I rise to a question of privilege. I will say that my only idea for doubting this vote was because I understood from a communication which we recently received from the Governor that he had submitted to us all evidence in his hands; and I for one do not want to appear to be questioning the sincerity and fair dealing of our Governor. I simply wish to make this explanation.

Mr. DUNBAR: Mr. Speaker, I was not in any way doubting the sincerity of our Governor in this matter; but in his address he says, "I am informed that the so-called prohibitory law is fairly well enforced in 11 counties of the State, but is partly enforced in two or three counties of the State, in the rural sections; but in the cities of at least five counties it is not fairly or honestly enforced by the sheriffs of those counties and the deputies under them; I am further informed that in some of the counties the county attorneys have not failed but neglected, and in some instances refused to perform their duties as clearly expressed in our statute."

When the order was introduced by a member of this House asking him to name the other counties, he named only three, which, with the sheriff from Cumberland county, makes four. He says in his address that he has evidence in his possession in regard to five, and I simply thought and I think

now that it is a little inadvertence on the part of the Governor that the fifth county was not included, and I simply wanted the fifth county included, and that was the only purpose for the introduction of the order.

Mr. AUSTIN: As I understood from the remarks of the gentleman from Jonesport (Mr. Dunbar) he says in quoting from the Governor's communication, "I have been informed," but he does not say that he has evidence in his possession that the law is not being enforced in five counties. That is the very point I made. There is no doubt but what we have all been informed that these laws are being non-enforced in a great many counties of the State, but we may have no evidence of it. I presume it is for that reason that the Governor says in his message there that he has been informed. What one is informed of and what one has which is backed up by evidence, are different matters; so I claim that the passage of this order by this House is a distinct assertion on the part of this House that they do not think the Governor is acting in good faith; and if the Republicans of this House care to make that assertion it is up to them and not to me.

The SPEAKER: Discussion upon this matter is out of order because the Chair was about to declare the vote upon the division of the House, 70 having voted in the affirmative and 8 in the negative, the motion prevails, and the order receives a passage.

On motion by Mr. O'Connell of Milford under a suspension of the rules the vote was reconsidered whereby the House passed to be engrossed resolve in favor of the westerly span of the Old Town-Milford bridge.

Mr. O'Connell then offered House Amendment A, to amend by adding at the end of said resolve the emergency clause.

The amendment was adopted.

On further motion by Mr. O'Connell the bill was then passed to be engrossed, as amended.

On motion by Mr. Butler of Farmington bill, An Act to legalize and confirm the action of the Litchfield Plains Cemetery Association at its annual meeting on the

seventh day of December, 1912, was taken from the table.

Mr. Butler then moved that the House insist upon its action and ask for a committee of conference.

The motion was agreed to, and the Speaker appointed as such committee on the part of the House Messrs. Butler of Farmington, Chick of Monmouth and Wheeler of Paris.

On motion by Mr. Swift of Augusta bill, An Act relating to the jurisdiction of the superior court of the county of Kennebec, was taken from the table.

Mr. Swift then offered House Amendment A, to amend by adding Section 4.

The question being on the adoption of Amendment A,

The amendment was adopted.

The bill was then passed to be engrossed, as amended by House Amendment A.

On motion by Mr. Thombs of Lincoln bill, An Act for the better protection of automobile garage keepers and owners, was taken from the table.

Mr. Thombs then moved that the House concur with the Senate in asking for a committee of conference.

Mr. Hodsdone of North Yarmouth moved that the matter be laid upon the table.

The motion was lost.

The question being on the motion that the House concur with the Senate in the request for a committee of conference,

A viva voce vote being taken,

The motion was agreed to.

The Speaker thereupon appointed as such committee on the part of the House Messrs. Plummer of Lisbon, Austin of Phillips and Bass of Wilton.

On motion by Mr. Boman of Vinalhaven resolve in favor of the sufferers of the recent flood in Ohio, was taken from the table.

Mr. Boman offered House Amendment B, to amend by striking out the words "Governor of Ohio" and substituting therefor the words "Treasurer of the Red Cross Society, for the benefit of the sufferers from the floods in the valley of the Ohio River."

The question being on the adoption of House Amendment B,

The amendment was adopted.

The resolve then received its first reading.

On motion by Mr. Richardson of Canton the rules were suspended and the resolve received its second reading and was passed to be engrossed, as amended by House Amendments A and B.

The SPEAKER: The remaining matter assigned for today is bill, An Act to establish the Lincoln Municipal Court.

Mr. Cochrane of Edgecomb moved that the bill be laid upon the table and be specially assigned for consideration, tomorrow morning.

The motion was agreed to.

Mr. Benn of Hodgdon moved that the House take a recess until half past two o'clock this afternoon.

The motion was agreed to.

After Recess.

On motion by Mr. Mitchell of Kittery the rules were suspended and that gentleman was permitted to introduce out of order the following committee reports:

Mr. Mitchell from the committee on appropriations and financial affairs on resolve in favor of State house employes for extra work incurred during the session of this Legislature, reported that the same "ought not to pass."

The report was accepted.

Same gentleman from same committee on resolve in favor of Stewart & Blunt of Skowhegan, Maine, reported that the same "ought to pass."

The report was accepted, and the resolve ordered printed under the joint rules.

Same gentleman from same committee on resolve in favor of the commissioners of pharmacy, reported that the same "ought to pass."

The report was accepted, and this resolve having been already printed received its first reading and was assigned for tomorrow morning for its second reading.

On motion by Mr. Wheeler of Paris the rules were suspended and that gentleman was permitted to introduce out of order bill, an Act to amend Section 50 of Chapter 51 of the Revised Statutes, as amended by Chapter 165 of the Public Laws of 1911,

relating to the duties of the railroad commissioners.

On further motion by Mr. Wheeler the resolve was tabled for printing and specially assigned for consideration tomorrow morning.

On motion by Mr. Trimble of Calais, House Document No. 481, bill, An Act providing for the inspection of bakeries and confectioneries, was taken from the table.

Mr. Boman of Vinalhaven moved that the bill be substituted for the report of the committee, said report being "ought not to pass."

A viva voce vote being taken,

The motion was agreed to, and the bill was substituted for the report of the committee.

On further motion by Mr. Boman the bill received its first and second readings and was assigned for tomorrow morning for its third reading.

On motion by Mr. Mildon of Eastport the report of the committee on salaries and fees on bill, An Act to amend Chapter 219 of the Private and Special Laws of 1903, establishing a salary for the judge of the Eastport municipal court, reporting legislation thereon inexpedient was taken from the table.

On further motion by Mr. Mildon the House voted to concur with the Senate in the acceptance of the report of the committee.

On motion by Mr. Smith of Auburn, House Document No. 107, bill, An Act to legalize the doings of the stockholders of the Abertshaw Construction Company, was taken from the table.

In the House this bill was passed to be engrossed, and came from the Senate in that branch indefinitely postponed.

On further motion by Mr. Smith the House voted to recede and concur with the Senate in the indefinite postponement of the bill.

On motion by Mr. Doherty of Rockland, House Document No. 141, bill, An Act granting the Knox County Power Company the right to generate and sell electricity in the municipi-

palties of Thomaston and Rockland, together with pole rights therein, was taken from the table.

In the Senate the report of the committee, reporting "ought not to pass," was accepted; in the House the bill was substituted for the report of the committee and was passed to be engrossed in non-concurrence with the Senate.

Mr. Doherty moved that the House in-

sist upon its action and ask for a committee of conference.

The motion was agreed to.

The Speaker thereupon appointed as such committee on the part of the House Messrs. Doherty of Rockland, Durgin of Milo and Boman of Vinalhaven.

On motion by Mr. Benn of Hodgdon,
Adjourned.