

MAINE STATE LEGISLATURE

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Legislative Record

OF THE

Eighty-Seventh Legislature

OF THE

STATE OF MAINE

1935

KENNEBEC JOURNAL COMPANY
AUGUSTA, MAINE

HOUSE

Tuesday, March 19, 1935.

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

Prayer by the Rev. Mr. Van Couenhoven of Hallowell.

Mr. Ellis of Rangeley assumed the Chair as Speaker pro tem, amid the applause of the House.

Journal of the previous session read and approved.

On motion by Mr. Hill of South Portland, the rules were suspended and that gentleman offered the following order out of order, and moved its passage:

Ordered, the Senate concurring, that H. P. 596, L. D. 160, bill an act to provide for the surrender by town of Kingman of its organization, be recalled to the House from the Engrossing Department.

The order received passage and was sent up for concurrence.

Papers from the Senate disposed of in concurrence.

From the Senate: Bill an act relating to local option provisions, H. P. 1364, L. D. 593, which was passed to be engrossed in the House on March 14th.

Comes from the Senate passed to be engrossed as amended by Senate Amendment A in non-concurrence.

In the House:
(Senate amendment A read by the Clerk)

On motion by Mr. Findlen of Fort Fairfield bill and amendment tabled pending further consideration.

From the Senate: Report of the committee on Interior Waters reporting ought not to pass on bill an act relative to regulating the high and low water mark of Lake Moxie, H. P. 1129, L. D. 328, on which the bill was substituted for the report in the House on March 14th and referred to the committee on Legal Affairs.

Comes from the Senate the report accepted in non-concurrence.

In the House, on motion by Mr. Davis of Fairfield that body voted to recede and concur with the Senate.

From the Senate: Report of the committee on Salaries and Fees reporting ought not to pass on bill an act relative to the salaries of State officials and employes, H. P. 1353, L. D. 507, which was recommitted in the House on March 14th, Comes from the Senate the report accepted in non-concurrence.

In the House, on motion by Mr. Sewall of Bath, that body voted to insist and ask for a committee of Conference.

The SPEAKER pro tem: The committee of Conference will be announced later.

Communication from the Department of State**STATE OF MAINE**

Department of State

Augusta, March 19, 1935.

To the Speaker of the House of Representatives of the Eighty-seventh Legislature:

I have the honor to herewith transmit a supplement to the county estimates of the County of Waldo within the State for the years 1935 and 1936, the same having been filed in the office of the Secretary of State March 15 1935 according to the provisions of the Revised Statutes, Chapter 13, Section 67.

(Signed) LEWIS O. BARROWS,
Secretary of State.

Was read and referred to the Committee on County Estimates.

Communications from the Justices of the Supreme Judicial Court

Questions submitted by the House of Representatives of Maine to the Justices of the Supreme Judicial Court of Maine, March 5, 1935, with the answers of the Justices thereon.

STATE OF MAINE

In House, March 5, 1935.

WHEREAS, there is now pending in the Legislature of the State of Maine a bill providing for a representative town meeting in the town of Sanford; and

WHEREAS, said bill provides for the division of said town by the selectmen into not less than five nor more than ten districts; and

WHEREAS, said bill further provides that each district shall elect a certain number of representatives known as town meeting members, to wit, one town meeting member for a designated number of regis-

tered voters therein or a fractional part thereof, the elective town meeting membership, however, to be in no case less than one hundred fifty members nor more than two hundred members, with the further provision for membership of certain town officials ex officio; and

WHEREAS, said act further provides that the town shall have the capacity to act through and to be bound by its town meeting members who shall, when convened from time to time, constitute representative town meeting; and the representative town meetings shall exercise all powers vested in the municipal corporation. Action in conformity with all provisions of law now or hereafter applicable to the transaction of town affairs in town meetings shall, when taken by any representative town meeting in accordance with the provisions of this Act, have the same force and effect as if such action had been taken in a town meeting open to all of the voters of the town as organized and conducted before the establishment in the town of representative town meeting government; and

WHEREAS, said act provides that the town officers, other than town meeting members, shall be balloted upon by all the voters of the town, but that each district shall elect the number of town meeting members to which it is entitled, based upon the number of registered voters, therein as above set forth; and

WHEREAS, said bill further provides that each district shall vote at such voting place as the selectmen in the warrant shall designate; and

WHEREAS, said bill further provides that such voting place may or may not be within the territory of the district, and the only difference in the ballot of the respective districts being that the names of the town meeting members to be elected from any district appear on the ballot of that district only;

And it appearing to the House of Representatives that important questions of law have arisen in the determination of the constitutionality of said bill and that the occasion is a solemn one;

IT IS ORDERED that the Justices of the Supreme Judicial Court are hereby respectfully requested to give to the House of Representatives of the State of Maine, according to the provisions of the Constitution in this behalf, their opinion of the following questions, viz:

Question 1. Has the Legislature authority under the Constitution to authorize the establishment of a town government wherein authority to vote upon any business transacted at a town meeting is given to a limited number of representatives elected by the voters of the town and to such ex officio members as the town may designate?

Question 2. Is it necessary under the Constitution of the State of Maine that the voters of the whole town have an opportunity to vote for each representative or town meeting member, or may the Legislature authorize a division of the town into districts, each district being entitled to elect one representative or town meeting member for a designated number of registered voters therein or fractional part thereof, with authority in such town meeting members and such ex officio members as the town may designate, to bind the town at any town meeting in the same manner as if the meeting had been open to all of the voters of the town?

HOUSE OF REPRESENTATIVES

March 5, 1935

Read and laid on the table in compliance with House Rule 46.

Harvey R. Pease,
Clerk.

HOUSE OF REPRESENTATIVES

March 6, 1935

Under suspension of the rules,
out of order

On motion of Mr. Demers of Sanford taken from the table and on further motion of same gentleman passed.

Harvey R. Pease,
Clerk.

A True Copy:

Attest: HARVEY R. PEASE,
Clerk.

Mr. Demers
Sanford

TO THE HONORABLE HOUSE OF REPRESENTATIVES OF THE STATE OF MAINE:

The undersigned Justices of the Supreme Judicial Court, having considered the questions upon which their advisory opinions were requested by House Order of March 5, 1935 respectfully submit the following answers:

Question 1. Has the Legislature authority under the Constitution to authorize the establishment of a town government wherein authority

to vote upon any business transacted at a town meeting is given to a limited number of representatives elected by the voters of the town and to such ex officio members as the town may designate?

Question 2. Is it necessary under the Constitution of the State of Maine that the voters of the whole town have an opportunity to vote for each representative or town meeting member, or may the Legislature authorize a division of the town into districts, each district being entitled to elect one representative or town meeting member for a designated number of registered voters therein or fractional part thereof, with authority in such town meeting members and such ex officio members as the town may designate, to bind the town at any town meeting in the same manner as if the meeting had been open to all of the voters of the town?

Answer. One answer may suffice for both questions.

Towns are mere agencies of the State. They are purely creatures of the Legislature and their powers and duties are within its control. The wisdom, reasonableness and expediency of statutes, and whether they are required by the public welfare, are subject to exclusive and final determination by the law-making power, which is measured not by grant but by limitation. It is absolute and all embracing except as expressly or by necessary implication limited by the Constitution. The Court will only pronounce invalid those statutes that are clearly and conclusively shown to be in conflict with the organic law. Municipal corporations are but instruments of government, created for political purposes and subject to legislative control.

Legislative authority to create and incorporate political subdivisions of the State clearly embraces the right to alter or amend the original charter or act of incorporation as the public welfare demands and the wisdom of the law-making power dictates. The Legislature for more than a hundred years has exercised the power to convert plantations into towns, to incorporate the inhabitants of towns as cities and, in recent years, as in the cases of Presque Isle and Washburn and in a lesser degree Bar Harbor and other towns, to materially modify the usual form of town government. In the absence of a constitutional limitation in this

regard, the right to exercise this authority cannot be questioned.

Legislative authority to grant to a city a charter embracing the features contained in this bill is obvious. Whether a municipal corporation is denominated "city" or "town" is not of essential importance. Much as it offends against the use of terms, regardless of historic significance and accepted meaning, to entitle as a town a political subdivision of the state in which the entire electorate is not permitted to assemble in annual town meeting and individual voters play no more important part in local government than do those who reside in cities, it is not beyond legislative authority to so enact, within the limits of reason, especially when safeguarded, as in the present Act, by conditioning its effectiveness on the approval of the interested community.

Whether the inhabitants of incorporated towns should, instead of legislating directly by participation of qualified electors at town meetings duly held, be invested with authority to act with respect to corporate affairs through the intervention of chosen representatives, is a matter of legislative and not judicial concern, so long as constitutional limitations are observed.

Sanford has a population of more than thirteen thousand, its registered vote exceeds fifty-two hundred, and the ordinary method of conducting town business may have become impracticable. We assume that certain of its citizens prefer the proposed arrangement to a city charter. If the Legislature believes it wise to grant the request, we find nothing in the Constitution forbidding it.

In view of the fact that the proposed Act involves a system of government differing so markedly from any yet adopted by any town, it might not be unwise to incorporate an express provision that the change in form does not affect the legal responsibilities or privileges of the town nor the application of general statutes to its affairs. The proposed Act does not offend the Constitution.

Very respectfully,

W. R. PATTANGALL
CHARLES J. DUNN
GUY H. STURGIS
CHARLES P. BARNES
SIDNEY St. F. THAXTER
JAMES H. HUDSON

Dated March 16th, 1935.

Communication read and ordered placed on file, and on motion by Mr. Demers of Sanford 500 copies ordered printed.

Questions submitted by the House of Representatives of Maine to the Justices of the Supreme Judicial Court of Maine, March 8, 1935, with the answers of the Justices thereon.

STATE OF MAINE

In House, March 8, 1935.

WHEREAS, it appears to the House of the Eighty-seventh Legislature that the following are important questions of law, and the occasion a solemn one; and

WHEREAS, there is now pending before the Legislature of the State of Maine:

Bill "An Act Relating to Taxation" (H. P. 1361) (L. D. 471)

Bill "An Act Imposing an Income Tax" (H. P. 1359) (L. D. 472) document copies of which are hereby enclosed and made a part hereof; and

WHEREAS, the constitutionality of these measures has been questioned; and

WHEREAS, it is important that the Legislature be informed as to the constitutionality of the proposed measures; now therefore, be it

ORDERED: That the Justices of the Supreme Judicial Court are hereby respectfully requested to give to the House, according to the provisions of the Constitution on this behalf, their opinion on the following questions, to wit:

Question 1. Has the Legislature the right and power to enact an income tax law providing for a graduated tax as proposed by said bills?

Question 2. Has the Legislature the right and power to enact an income tax law with a single fixed rate of tax upon all incomes regardless of the amount thereof?

Question 3. If a provision was inserted in the aforesaid L. D. 471 or L. D. 472, exempting income from real estate from the provisions of said acts, would the said acts be constitutional?

HOUSE OF REPRESENTATIVES

Read and Passed

Under Suspension of Rules

March 8, 1935

Harvey R. Pease, Clerk.

Newton
Readfield

A True Copy,

Attest: HARVEY R. PEASE,

Clerk.

TO THE HONORABLE HOUSE OF REPRESENTATIVES OF THE STATE OF MAINE:

The undersigned Justices of the Supreme Judicial Court, having considered the questions upon which their advisory opinions were requested by House Order of March 8, 1935, respectfully submit the following answers:

Question 1. Has the Legislature the right and power to enact an income tax law providing for a graduated tax as proposed by said bills?

Question 2. Has the Legislature the right and power to enact an income tax law with a single fixed rate of tax upon all incomes regardless of the amount thereof?

Question 3. If a provision was inserted in the aforesaid L. D. 471 or L. D. 472, exempting income from real estate from the provisions of said acts would the said acts be constitutional?

Answer:

These questions are so closely interrelated that we find it feasible to answer them collectively. In doing so, we shall confine ourselves to the general problem whether or not the income tax proposed is constitutional and shall not attempt to pass upon the effect of the various provisions of the bills.

Has the Legislature the constitutional right to enact an income tax law, if it provide for a graduated tax or a single fixed rate or contain an exemption of income from real estate? Whether the Legislature has such a right is dependent upon the true nature of the proposed tax. If it be a tax upon real or personal estate, then it would be unconstitutional because it lacks equal apportionment and assessment required by Section 3 of Article IX of the Constitution as it now appears in Amendment XXXVI, which reads as follows:

"Sec. 3. All taxes upon real and personal estate, assessed by authority of this state, shall be apportioned and assessed equally, according to the just value thereof; but the legislature shall have power to levy a tax upon intangible personal property at such rate as it deems wise and equitable without regard to the rate applied to other classes of property."

Unless the income tax be direct on property, the right of the Legislature to levy it is clear.

"The full power of taxation is vested in the Legislature and is

measured not by grant but by limitation." Opinions of Justices, 123 Me. 576, 577.

We must, then, determine its nature.

Said Section 8 "simply requires that any tax which shall be lawfully imposed upon any kind or class of real or personal property shall be apportioned and assessed upon all such property equally, etc. *Portland v. Water Company*, 67 Me. 135. It does not require the Legislature to impose taxes upon all the real and personal property within this State of whatever kind and to whatever use applied. The Legislature may, nevertheless, determine what kinds and classes of property shall be taxed and what kinds and classes shall be exempt from taxation." Opinions of Justices, 102 Me. 528.

This Section does not "prohibit the Legislature from imposing other taxes than those on real and personal property. The Legislature is left free to impose other taxes, such as poll taxes, excise taxes, license taxes, etc. It can impose such taxes in addition to, or instead of, taxes on property. It can subject persons and corporations to both or either kinds of taxation, or exempt them from either kind. Further, the Legislature can adopt such mode, or measure, or rule as it deems best for determining the amount of an excise or license tax to be imposed, so that it applies equally to all persons and corporations subject to the tax. It may make the amount depend on the capital employed, or the gross earnings, or the net earnings, or upon some other element." Opinions of the Justices, 102 Me. 528, 529.

Then is this proposed income tax a property tax? Its nature in both bills, No. 471 and No. 472, apparently finds expression in Section 1, in which (the section being identical in each bill) is this language:

"A tax is hereby imposed upon every person a resident of the State, which tax shall be levied, collected and paid annually upon and with respect to his entire net income at the following rates:"

This language indicates a purpose to lay the tax upon the person, not upon property.

In both bills, the remedy for failure to pay the tax is that of collection of "a personal debt from the person liable to pay the same to the State of Maine." (See Sec-

tion 17 in both bills.) True, the bills provide for a lien, but the lien is general on all of the real and personal property of the person, and not specific against the particular property from which the particular income is derived. (See Section 35 of each bill. Thus it would appear reasonably clear that these bills do not contemplate taxation upon property. The proposal is to tax the privilege of receiving income. To be sure, "an income tax is to be distinguished from an inheritance, legacy, or estate tax, * * *" 61 C. J., page 1560. None the less, there are elements of marked similarity.

In *State v. Hamlin*, 86 Me. 495, the Court held that a graduated tax on inheritances was constitutionally valid because it was not a property tax. The opinion in that case is pertinent here. The Court held that Sections 7 and 8 of Article IX of the Constitution, read together, manifested that the inheritance tax was not a property tax.

"It is clear that these sections contemplate only the general, constantly recurring assessment upon the same property, and do not include occasional, exceptional and special subjects and modes of taxation. * * * It is not laid according to any rule of proportion, but is laid upon the interests specified in the Act, without any reference to the whole amount required to be raised for public purposes, or to the whole amount of property in the State liable to be assessed for public purposes. * * * The tax under this statute, is once for all, an excise or duty upon the right or privilege of taking property, by will or descent, under the law of the State. It is uniform in its rate as to the entire class of collaterals and strangers, which satisfies the constitutional requirement of uniformity." *State v. Hamlin*, *Supra*.

We find this language in the advisory opinion of Mr. Justice Peaslee in 77 N. H. 618:

"It is important that at the outset the fundamental difference between income and property be stated; and then as we go on, it will be more plainly seen how and why the attempt to treat the two things as one must necessarily fail. A man's property is the amount of wealth he possesses at a particular moment, while his income is the amount of wealth obtained during

some specified period. The two are measured by different standards. One is measured by amount and present possession. The other is determined by receipts, and quantity and time are necessary elements of the measure employed. In the measure of property, present ownership is an essential element, and lapse of time can have no place. In the measure of income, lapse of time is an essential element, and present possession can have no place. Each is measurable, but a common measure cannot be applied to both. The two are as incommensurate as a line and an angle."

That in a general sense income is property is conceded. It is not, however, property as used in the Constitutional provisions already mentioned.

The distinction between property and income is made in a recent United States case, *Lawrence v. State Tax Commission*, 286 U. S. 276, 281 (May 16, 1932), and also in *Featherstone v. Norman*, 153, S. E. 58, 170 Ga. 370.

These cases hold that a tax on income is not a tax upon the property from which that income was derived; the weight of judicial authority is to this effect. *State v. Frear*, 148 Wis. 456, 134 N. W. 673; *State v. Wisconsin Tax Commission*, 161 Wis. 111, 152 N. W. 848; *Diefendorf v. Gallet*, 51 Idaho, 619; *Stanley v. Gates*, 179 Ark. 886, 19 S. W. (2nd) 1000; *Hattiesburg Grocery Co. v. Robertson*, 126 Miss. 34, 88 So. 4; *Featherstone v. Norman*, *Supra*; *O'Connell v. State Board of Equalization*, 95 Mont. 91, 25 Pac. (2nd) 114; *Ludlow-Saylor Wire Co. v. Wollbrinck*, 275 Mo. 339, 205 S. W. 196.

"Income in common parlance and in the law is used in contradistinction to property." 31 C. J. 397, Sec. 2-B.

Income is defined as: "Something derived from property, skill, ingenuity or sound judgment, or from two or more in combination." *Stony Brook R. R. v. Boston & Maine R. R. Co.*, 260 Mass. 379, 384; "That gain or recurrent benefit (usually measured in money) which proceeds from labor, business, or property." *Webster's New International Dictionary*, 2nd Ed.

"The term 'property,' as used in reference to taxation, means the corpus of an estate or investment, as distinguished from the annual gain or revenue from it. Hence a

man's income is not 'property' within the meaning of a constitutional requirement that taxes shall be laid equally and uniformly upon all property within the State. *Black on Income and other Federal Taxes* (3rd Ed.), sec. 44 * * *. "The better rule seems to be that an income tax is not a tax on property within a constitutional requirement that taxation on property shall be in proportion to its value." *Cooley on Taxation* (4th Ed.), sec. 1751. * * * *Featherstone v. Norman*, *Supra*.

The bills submitted contemplate the taxation of persons upon and with respect to their net incomes. The word "person" is not defined in either bill, and, in the absence of definition, it would include a corporation. *Rules of Construction*, R. S. 1930, Chap. 1, Sec. 6, Paragraph XIV.

Both of the bills provide in Paragraph 2 of Section 1 for taxation on the income of intangible personal property at a higher rate than the tax on income derived from other sources. Such a discrimination would be invalid.

CONCLUSION

In conclusion, then, we answer Questions 1, 2 and 3 in the affirmative, excepting as herein qualified.

Very respectfully,

W. R. PATTANGALL
CHARLES J. DUNN
GUY H. STURGIS
CHARLES P. BARNES
SIDNEY St. F. THAXTER
JAMES H. HUDSON

March 16, 1935.

Communication read and ordered placed on file, and on motion by Mr. Newton of Readfield, 500 copies ordered printed.

The following petitions were received and upon recommendation of the committee on reference of bills were referred to the following committee:

Education

Petition of James A. Richardson of Castle Hill and 38 others in favor of L. D. 56, relating to educational program (H. P. No. 1764) (Presented by Mr. Ellis of Castle Hill)

Petition of C. H. Brett of Oxford and 24 others in favor of same (H. P. No. 1765) (Presented by Mr. Heald of Lovell)

Orders

On motion by Mr. Harriman of Prospect, it was

Ordered, that Rev. Leonard W. Fowler of Sandy Point be invited to officiate as Chaplain of the House on March 26th.

On motion by Mr. Wentworth of Kennebunk, it was

Ordered, that the use of the hall of the House be granted to the committee on Inland Fisheries and Game for the afternoon of Thursday, March 21st.

Mr. CAMPBELL of Leeds: Mr. Speaker, I wish to ask that the rules be suspended in order that I may present out of order a bill to incorporate the town of Leeds School District. I hope such unanimous consent will be given. The reasons that I am asking the indulgence of the House to this extent are as follows:

Whereas, the school accommodations in the town of Leeds are inadequate to take care of the pupils therein; and

Whereas, there are at present eight scattered buildings now used for school purposes, resulting in inefficiency in administration with corresponding waste of money; and

Whereas, it is vitally necessary that a reduction be made in this unnecessary expense; and

Whereas, a central school building will result in a saving of expense to the town, and an increase in the efficiency of education; and

Whereas, if immediate action is taken it will be possible to borrow and obtain additional Federal funds, thus reducing the expense to the town of Leeds.

The SPEAKER pro tem: Is there any objection to the reception of this bill? If not, the bill will be received and the Clerk will read the title.

The title was thereupon read by the Clerk, as follows:

Bill an act to incorporate the town of Leeds School District (H. P. 1767)

The SPEAKER pro tem: Did the gentleman make any motion as to what he wanted done with the bill?

Mr. CAMPBELL: Mr. Speaker, the reception of the bill is about all the answer I can give you, so that the town of Leeds may act.

The SPEAKER pro tem: The bill is already received. Do you wish it referred to a committee?

On motion by Mr. Austin of Exeter, the rules were suspended and the bill given its two several readings and tomorrow assigned.

Reports of Committees

Majority Report of the Committee on Judiciary reporting ought not to pass on resolve proposing an Amendment to the Constitution changing the Legislature to a one-body system (H. P. No. 1327) (L. D. No. 580)

Report was signed by the following members:

Messrs. Burkett of Cumberland

Burns of Aroostook

—of the Senate.

Wiley of Falmouth

Hill of So. Portland

Weatherbee of Lincoln

Gray of Presque Isle

Philbrick of Cape Elizabeth

Vaughan of So. Berwick

Jacobson of Portland

—of the House.

Minority Report of same Committee reporting ought to pass on same resolve.

Report was signed by the following member:

Mr. Fernald of Waldo

—of the Senate.

On motion by Mr. Lebel of Brunswick both reports tabled, pending acceptance of either.

Mr. King from the Committee on Claims on resolve in favor of Richard Clayton French of Carmel (H. P. No. 748) reported same in a new draft (H. P. No. 1753) under same title and that it ought to pass.

Mr. Davis from the Committee on Inland Fisheries and Game on resolve relative to the taking of smelts for food purposes from Crooked and Songo Rivers (H. P. No. 434) (L. D. No. 117) reported same in a new draft (H. P. No. 1754) under title of resolve relative to the taking of smelts for food purposes from Crooked and Songo Rivers and Batchelder Brook and that it ought to pass.

Mr. Hescoek from same Committee on resolve regulating ice fishing in Pleasant Pond in the counties of Kennebec and Sagadahoc (H. P. 1172) reported same in a new draft (H. P. 1755) under title of resolve regulating ice fishing in Pleasant, Mud and Horseshoe Ponds, Cobbosseecontee Stream and the Tacoma Chain of Lakes in the counties of Kennebec and Sagadahoc and that it ought to pass.

Same gentleman from same Committee on resolve regulating fishing in tributaries to Pleasant Pond in Kennebec and Sagadahoc Counties (H. P. No. 1173) reported same in a new draft (H. P. No. 1756) under same title and that it ought to pass.

Mr. Chase of Baring from the Committee on Legal Affairs on bill an act to amend the charter of the city of Brewer (H. P. No. 1071) (L. D. No. 408) reported same in a new draft (H. P. No. 1758) under same title and that it ought to pass.

Same gentleman from same Committee on bill an act to designate New Year's day as a legal holiday (H. P. No. 593) (L. D. No. 172) reported same in a new draft (H. P. No. 1759) under same title and that it ought to pass.

Mr. Chase of Sebec from same Committee on bill an act relating to pauper expense (H. P. No. 1333) (L. D. No. 541) reported same in a new draft (H. P. No. 1760) under same title and that it ought to pass.

Mr. Higgins from same Committee on bill an act to provide better government for the town of Mount Desert (H. P. No. 1144) (L. D. No. 332) reported same in a new draft (H. P. No. 1761) under title of an act relating to a superintending school committee for the town of Mount Desert and that it ought to pass.

Mr. Lewis from the Committee on Sea and Shore Fisheries on resolve relative to the digging of clams in Mt. Desert (H. P. No. 1158) reported same in a new draft (H. P. No. 1762) under same title and that it ought to pass.

Mr. Stilphen from the Committee on State Prison on bill an act relating to State's Prison for Women (H. P. No. 1342) (L. D. No. 588) reported same in a new draft (H. P. No. 1763) under title of an act relating to women prisoners and that it ought to pass.

Reports read and accepted and the new drafts ordered printed under the Joint Rules.

Mr. Webber from the Committee on Library reported ought to pass on resolve for the purchase of one hundred copies of "The First Century of the town of Naples." (H. P. No. 701)

Mr. Mace from the Committee on State Lands and Forest Preservation reported same on resolve authorizing the Forest Commissioner

to sell lands in Penobscot County. (H. P. No. 1630)

Reports read and accepted and the resolves ordered printed under the Joint Rules.

Mr. Chase of Baring from the Committee on Legal Affairs reported ought to pass on bill an act to incorporate the Eastport Cemetery Corporation. (H. P. No. 1146) (L. D. No. 334)

Mr. Burnham from same Committee reported same on bill an act to incorporate the town of Bucksport School District. (H. P. No. 304) (L. D. No. 74)

Reports read and accepted and the bills having already been printed were read twice under suspension of the rules and tomorrow assigned.

First Reading of Printed Bills and Resolves

(H. P. No. 1750) (L. D. No. 767)
An act relating to sealers of weights and measures.

(H. P. No. 1751) (L. D. No. 768)
An act relative to the countersignature of all insurance policies and bonds.

(H. P. No. 1752) (L. D. No. 769)
An act relating to delinquency in payment of insurance assessments.

(H. P. No. 1744) (L. D. No. 770)
Resolve in favor of Norris Wescott of Prospect.

(H. P. No. 1745) (L. D. No. 771)
Resolve in favor of Lang Plantation.

(H. P. No. 1746) (L. D. No. 772)
Resolve relating to the dipping of smelts in Mousam Lake in the towns of Acton and Shapleigh.

(H. P. No. 1747) (L. D. No. 773)
Resolve relative to closing Armstrong Brook and tributaries to said brook to all fishing.

(H. P. No. 1748) (L. D. No. 774)
Resolve relative to smelt fishing in China Lake.

(H. P. No. 1749) (L. D. No. 775)
Resolve relating to fishing in North Pond.

Passed to Be Engrossed

(S. P. No. 411) (L. D. No. 533)
An act relative to the filing of an inventory in estate

(H. P. No. 1190) (L. D. No. 392)
An act relating to the sale of prophylactic rubber goods for the prevention of venereal and other diseases

(H. P. No. 1728) (L. D. No. 760)
An act relative to qualification of voters

(H. P. No. 1730) (L. D. No. 761)
An act creating the Port of Calais Authority

(H. P. No. 1171) (L. D. No. 762)
Resolve relating to fishing in Great Meadow Stream
Amended bill.

(H. P. No. 335) (L. D. No. 105)
An act relating to lights on trucks.

Was reported by the Committee on Bills in the Third Reading, read the third time, passed to be engrossed as amended and sent up for concurrence.

Speaker Tompkins assumed the Chair, the Speaker pro tem, Mr. Ellis of Rangeley, received the applause of the House as he resumed his seat.

Orders of the Day

On motion by Mr. Payson of Brooks, it was voted to take from the table the seventh unassigned matter, an act relating to clerk hire in the office of the Clerk of Courts of Waldo County, S. P. 230, L. D. 193, tabled by that gentleman on March 13th, pending passage to be enacted; and on further motion by the same gentleman the bill was passed to be enacted.

On motion by Mr. Hill of South Portland, it was voted to take from the table the seventeenth unassigned matter, majority report ought not to pass and minority report ought to pass in new draft of the committee on Judiciary on bill an act relating to the procurement of medical services, physicians and surgeons for injured employees under the Workmen's Compensation Act, H. P. 200, L. D. 69, new draft H. P. 1647, L. D. 725, tabled by that gentleman on March 15th, pending motion of same gentleman to accept minority report.

Mr. HILL of South Portland: Mr. Speaker, may I ask that when the vote is taken on this question that it be taken by a division of the House?

The minority of the committee on Judiciary reports that this bill ought to pass. As one who signed that report, I feel so firmly convinced of the justice and the merits of this bill that I am constrained to lay before the House the reasons which impel me to that conclusion.

Before we talk about the bill itself, let us look at the law as it is

at present. Under the Workmen's Compensation Act, today, if you are an employee in some industrial plant, and if, in the course of your employment there, you suffer an injury, and if that injury necessitates an operation in a hospital, unless in the case of emergency or other justifiable cause—whatever the latter expression may mean—the insurance company of the employer is in the position to dictate to you the surgeon who shall be engaged to perform that operation.

Now it does seem to me—and I cannot escape the conclusion—that when you are taken to the hospital for a serious operation, you ought to have something to say as to who shall perform that operation. As the law is at present, if I understand it correctly—and I believe I do—the insurance company may say: "You must accept our doctor or else you forfeit all claim against the company, you forfeit all claim to hospital bills, doctor's bills, and compensation under the act."

There is another bill pending here—and I hope that this bill may not be confused with that one—which would permit employees to select physicians and surgeons in all cases when their services are required. This bill is much narrower in its scope, and applies only to cases reasonably requiring a surgical operation in a hospital. If you are an injured employee and are taken to a hospital, placed under ether, I think you would like to have a surgeon in whom you have confidence perform that operation, for it is your body that is being operated upon; it is your breast into which the knife of the surgeon is to be inserted; it is your life that hangs in the balance, and depends, perhaps, upon the ability of that surgeon, and depends, perhaps, in no small degree, upon the confidence or the lack of confidence which you have in him.

Now if the present Workmen's Compensation Act were so worded as to give to the insurance company the absolute power to dictate the selection of that surgeon—if there were no alternative at all—there would be no question but that such a law would be in violation of your individual rights and in contravention of the Constitution, and therefore void. But the law as it is at present of course does not go to that extent; it leaves to the em-

ploye the right to select his own surgeon provided he forfeits all claims of compensation. I submit, as a practical matter, the result is to practically deny the employee his freedom of choice, for we all know that the great majority of those who are employed in our great industrial plants are men lacking in sufficient means to be able to disregard their compensation, turn it down for the sake of securing their own choice of a surgeon.

Now there are cases, I will admit, in which the insurance companies are liberally disposed, and in which they will permit the employee to have his choice. On the other hand, there are other cases in which the insurance companies deny that choice, and although those cases may not be many, I submit that the laws of the State of Maine ought not to be such as to sanction and permit and make possible such a practice.

Now what happens under this law? The customary thing, I believe, is that an insurance company engages some surgeon to handle all of its cases of a particular type. That surgeon many times takes those cases upon a flat rate, that is, he receives so much a case for every hernia operation, for example, that he performs. Such a situation as that would seem to me to be somewhat unwholesome, for there is no incentive there for the physician to devote extra time, added services in cases in which complications may arise, and in which extra time and added services may be required.

Now nothing that I have said or that I may say should be taken as in any way derogatory to the medical profession, for I have the highest respect and the greatest admiration for that profession, and I have the highest respect and the greatest admiration for the many physicians and surgeons of high standing practicing their profession in the State of Maine, and physicians and surgeons of that class are very well illustrated and very well represented by those members of that profession who occupy seats here in this House. But it must be admitted, I think, that in the medical profession, as in the legal profession, or as in other profession or occupation known to man, there creep in those who are less qualified, less trained, less skillful, and

less worthy of the high standards which the profession sets. There are, unfortunately, I believe, in the State of Maine even, some doctors who perhaps may adopt something of the attitude, the philosophy of the old doctor who said:

“When people’s ill, they comes to I,
I physics, bleeds and sweats ’em.
Sometimes they live, sometimes they die.
What’s that to I? I let’s em.”

Now there is opposition to this bill, very strong opposition, all of which emanates from one source.

This bill was heard before the committee. Those who came there and opposed it came as representatives of the insurance company, or were persons having some connection directly or indirectly with those insurance companies, and they present here that opposition.

We are fortunate in having as a member of the House a gentleman whom I highly respect, a man who has served on the Industrial Accident Commission. He is a member of the committee on Judiciary. I anticipate that he will address the House in opposition to my motion. I urge that you give to his arguments very careful consideration, that you analyze and scrutinize them carefully, that if his arguments are sound, and his conclusions correct, in your judgment, that you will vote my motion down; for I seek only to arrive at a just and wise conclusion in this matter, whatever it may be.

The opponents of this bill will come here and tell you that there is no demand for the bill, that it ought not to be passed because there is no demand for it, that no crowd came down here and made a great hue and cry for it. But I ask you to judge the bill upon its merits. They will tell you that the bill would increase the cost of surgeons, although the present provision of the act which gives to the Industrial Accident Commission the power to regulate those fees, would remain in force, and would be applicable under this bill, and would not be changed in any respect. They will tell you that there is no need for this bill, that the law already covers the point, and they will tell you that the employers and the insurance companies are more competent to select the surgeon for their injured employees than are

the injured employees themselves. I hope you will listen carefully to those arguments, and after the arguments have been made, I hope that I may have an opportunity to reply.

Mr. GRAY of Presque Isle: Mr. Speaker and members of the House: I was a member of the Judiciary committee who signed the majority report ought not to pass, and I feel as strongly the necessity of expressing my views here, as briefly as possibly, as does the gentleman from South Portland (Mr. Hill) who has just addressed you.

All of us are in sympathy with an injured employee. None of us would deny any injured man any proper rights. I believe that the existing law is adequate, and I will read to you the law as it now stands upon the Statute: "During the first thirty days after an injury aforesaid the employee shall be entitled to reasonable and proper medical, surgical and hospital services, nursing, medicines, and mechanical surgical aids when they are needed. The amount of such services and aids shall not exceed one hundred dollars unless a longer period or a greater sum is allowed by the commission, which in its discretion it may allow when the nature of the injury or the process of recovery requires it.

"Upon knowledge or notice of such injury the employer shall promptly furnish to the employee the services and aids aforesaid. In case however the employer fails to furnish any of said services or aids, or in case of emergency or other justifiable cause, the employee may procure said services or aids and the commission may order the employer to pay for the same provided that they were necessary and adequate, and the charges therefor are reasonable."

That is the law as it stands today and the proposed change is the insertion in the second paragraph of section nine so that that paragraph reads as follows: "Upon knowledge or notice of such injury the employer shall promptly furnish to the employee the services and aids aforesaid. In case however the employer fails to furnish any of said services or aids, or in cases reasonably requiring a surgical operation in a hospital," is the only change made in that section.

As I said in opening, we are all in favor or in sympathy with any

injured employee. In theory, I have no criticism of the proposed change. As a practical matter I feel that the change is entirely unnecessary; and, if you will pardon a reference to personal experiences, may I say that for the four year period, 1929 to 1933, I assisted in writing the decisions in something over two thousand of these cases. In each of the years mentioned there was an average of over twelve hundred cases heard by that Commission each year, and I recall but one case where the question of surgical bills, hospitalization, was seriously questioned.

Reference has been made to the insurance carrier. May I call your attention, members of the House, to the fact that the insurance carrier in a compensation case simply stands in the stead of the employer. The employer is required to furnish surgical and medical treatment, hospitalization to a man who is injured in his employ; and he, the employer, in order to obtain for himself the safety of the provisions of the Workmen's Compensation Act, the safeguards against common law suits, is required to file either an insurance policy with the Industrial Commission or to put up a cash bond. The majority of the employers elect the insurance policy as their method of protection. So when it is said that the insurance carriers provide the doctors, the surgical treatment, the hospitalization, in reality it is the employer who is doing it.

The experience of an employer in any particular case is what determines his future premiums, and it is for the interest of that employer, or his agent, the insurance carrier—because the insurance carrier becomes the agent of the employer—to see to it that every injured employee is afforded the best treatment possible and returned to his employment as soon as possible.

Under the Compensation Act, and in line with protections afforded employees since the act became effective, there have arisen in the State, and there has been adopted by the State, a safety program intended for the benefit of all employees. In many of the mills of the State first-aid rooms are established in which there are full-time nurses and doctors who are constantly on call for the treatment of the men in those particular establishments. I can conceive of this

act as being detrimental to the men employed where those first-aid stations are established in that when the door is once let down, the injured employees in cases of hospitalization going to their own physician, they are gradually going to work away from the physicians who are now treating them, which will mean that the first-aid stations may be abolished. That is merely an incident to the matter.

I spoke a few moments ago of the one case where the question of the selection of a surgeon by the employee came to my attention as a member of the Industrial Commission. I can conceive of no more flagrant case of an injured employee leaving the protection which has been afforded him than was that case. In that case, a man had sustained an injury, had been hospitalized, had been treated by two physicians in the city of Bangor, both of whom any one will agree were capable and competent. That man left the hospital, went back to his home in Millinocket and was supposed to report from time to time in the city of Bangor for treatment; but for some reason he took the matter into his own hands and went to the city of Portland, where he found himself a physician and where he incurred medical and hospital bills of some two thousand dollars absolutely outside of the authority which had been given him, without permission from his employer and over the objection of his employer. That case was disputed by the employer. He said "Here is the law which says that I must furnish medical treatment and surgical treatment to this man when he is injured. I have furnished as good as there is anywhere to be found and he walked out on me and incurred this bill of around two thousand dollars." That case was heard before the Industrial Commission. The hospital was paid its bill because it was felt that the hospital was an innocent factor. The man had been brought to that hospital and the hospital had honestly furnished its treatment and had made proper charges. It was paid without question. No question whatever was raised as to the compensation of the injured man, although the law might have justified that insurance carrier, or that employer, in withholding compensation from that man; but that question never was raised. The compensation was paid regularly in spite of the fact that

he had walked out on his employer and started outside treatment. Further than that, the physician who was selected by him in Portland was paid a fee under the order of the Industrial Accident Commission, not the fee which he charged because the operation which he performed, while it was serious, the Commission during the course of the hearing had heard testimony from other doctors—several of them—as to what the reasonable fee was, and the doctor's bill was reduced. It was paid, however, in spite of the history of the man walking out from his employer and from the proper medical treatment and obtaining treatment outside.

I shall be as brief as possible and I have only a few notes here, but I do feel very strongly that the Compensation Act as it exists today furnishes, shall I say, complete protection for the employee. I have seen an average of 15,000 cases per year for four years reported through the office of the Industrial Accident Commission. Of those 15,000 cases or more on an average but 1,200, or thereabouts, per year ever came up for hearing. In other words, the employers, the employees and the insurance carriers are going along right now in pretty good shape together when but 1,200 cases out of 15,000 per year ever come up for hearing. Of the 1,200 per year a very small percentage—I was talking with a gentleman recently who said that on the fingers of one hand he could count the number of cases where the particular question sought to be covered by the proposed act has ever been invoked. He does know of less than that many cases out of the thousands that have been before that Commission in the period of six years with which the gentleman with whom I was talking has been a member of it. That many out of thousands of cases where any question has arisen to the detriment of the employee.

Now no law can be perfect. If this change is made, it is my conception that it will work a detriment to the employee, not necessarily from the point of view which you might assume, but simply on this ground: He, today, is given the best treatment which the employer or the insurance carrier can afford in the various localities of the State. It is for their mutual interest to get that man back to work as promptly as possible. This man may be a stranger in a given community. He

has the right to select his own physician. It is conceivable that some friend of his may steer him into the hands of some physician who is a friend of the steerer, and that the man may fall into less competent hands than would be afforded him by his employer.

There are reasons without number to my mind why this law should remain as it is. I have had considerable experience with it, and, as I have seen but one case where any serious question has been raised, and in that case the doctor of the employee was paid. I hope that the majority report will be accepted and that the motion of the gentleman from South Portland (Mr. Hill) to accept the minority report will not prevail.

Mr. JACOBSON of Portland: Mr. Speaker and members of the House: I too, as a member of the Judiciary committee, decided, after careful consideration of both sides, to sign the minority report. As the gentleman from Presque Isle, Mr. Gray, has stated, there seem to be several interpretations of this act. He as a former commissioner, believes that under this act the employee would be entitled to choose his own doctor. But I have in mind several cases where the injured employee, due to the fact that he did go to another surgeon, a surgeon whom he trusted, was refused compensation. I know that to be a fact. That was the interpretation of that particular commission.

Now I can see possibly where, if we pass the bill that the employee should choose his physician in any event, that may lead to fraud. But in this event, surgical operation in a hospital, no employee will go to a surgeon whom he knows will not do the job properly.

As you all know, the mental attitude of a patient probably is nine-tenths of the battle. If he goes into the operating room with the idea that he is going to have a surgeon whom he trusts, a surgeon who has operated on members of his family, the chances are much better that he will recover in ample time; whereas, if he goes into the operating room with the idea that he has got to take the surgeon the insurance company dictate, the chances are slimmer for recovery.

Now let us take an accident which is caused by an automobile. How would you, as an injured person in an automobile case, like to be dictated to by the party who

injured you as to which surgeon you should have? How would you like to have a member of your family who might be injured in that accident operated upon by a man whom the negligent party dictates? They should come in the same category. They are both injured. I personally cannot see how there can be any opposition to this bill. It is a just bill. I hope that the minority report will be accepted.

Mr. EVELETH of Portland: Mr. Speaker, in discussing with one of the most prominent physicians in Portland as to what is one of the most essential things that leads to recovery, he told me that absolute confidence in your physician is very necessary. In this law, it calls for a surgeon designated by the insurance company to attend the needs of the patient. If the patient has not confidence in this surgeon, how can he be expected to recover in the shortest length of time. Imagine yourself being told that you must have a surgeon for whom you have a personal dislike cut you up. How would you like that? I know that there are doctors that I would not have treat me. I know there are others who hold a great dislike for certain doctors for one reason or another. This law is not for the good of the people who live and work in our State, and I most heartily hope that we accept the minority report.

Mr. CHASE of Baring: Mr. Speaker, it has been my pleasure to serve as president of a hospital for seventeen years. That hospital serves several industries in the eastern section of the State. I want to say that in my seventeen years of experience I have yet to find a case where the employer or the insurance company did not try to obtain the best medical and surgical service that was to be obtained. I hope the majority report will be accepted.

Mr. POULIN of Biddeford: Mr. Speaker, coming from an industrial city myself, I have had occasion to witness how the present law works on injured employees. I have discovered that smaller firms permit their employees to hire doctors of their own choosing, but a great majority are employed in the larger industries where emergency hospitals are maintained, and where a regular physician is supervising the work of that emergency hospital. When major operations were to be performed, they were not permitted

to select doctors of their own choice.

If the minority report on this bill is accepted, it will be one of the greatest human contributions given by this present Legislature. There is a wide demand, and a great demand, of the people; the industrial workers have been clamoring for years for just that kind of legislation. Our compensation law was one of the greatest pieces of legislation ever passed. There is only one flaw to be found in it, and that one flaw is that you cannot obtain the services of a specialist when your life hangs in the balance; you have to have the doctor of their own choosing, who is perhaps far from being qualified to handle that particular operation. I myself would very much dislike to return home after having refused to vote for that bill, and receive the criticism of the public.

Mr. MACE of Augusta: Mr. Speaker, I do not wish at this time to enter into any long argument in regard to the merits of the majority report or the minority report. You have heard the long legal dissertation of the gentleman who favors the minority report, and you have listened to the able presentation of the man who favors the majority report.

I cannot conceive of any earthly objection from the employer or the insurance carrier to the minority report, if they are willing to assume the financial obligation imposed upon them by the Compensation Act. On the one hand, it would give to the injured person quicker, more humane surgical attention. It would not be an imposition upon the employer or the insurance carrier. The surgeon could not, if he wished, make a large charge for his services. It is passed upon by this Commission. On the other hand, it would insure to the hospitals of this State a quicker and more liberal return from hospitalization of the insured. I sincerely hope that the motion of the gentleman from South Portland (Mr. Hill) will prevail.

Mr. DENNETT of Sebago: Mr. Speaker, I would like to ask the gentleman from Presque Isle (Mr. Gray) if the insurance company or the employer designates the physician, and if they give him a salary, or so much per patient, or how do they do it?

The SPEAKER: The gentleman from Presque Isle may answer if he wishes.

Mr. GRAY: The only answer that I can make to the question, Mr. Speaker, is this: I think it differs in different localities. In case of a full-time physician at the larger plants, I believe that the physician or surgeon in charge is on a salary and devotes his entire time to that one type of work. I think, at the present time, there are two or three of those cases in the State. In other cases, I think that the surgeon or physician is paid by the call, the same as any physician would be paid,—if that answers the question.

Mr. DENNETT: Mr. Speaker, there is nothing any worse than these contracts for medical service. Now in the town where I used to live there was a manufacturing concern which at one time wanted to know if I would take care of all of their accident cases for so much per year. Think of it! Of course I refused. They finally got mad and took a physician who was recognized to be about the poorest surgeon in the whole town, and paid him so much. What did he do? He made just as few calls and gave just as little attention to the patients as he could, because he was only going to get so much anyway. It is a vicious thing, this contract for medical services, and there are very few concerns that employ physicians or surgeons on a year-round salary. It is just like the hotel doctors. I have always told my patients, when they went to a large city: "For God's sake, do not call in a hotel doctor. As a rule they are poor men who haven't a good practice; they just live at the hotel, and their opinion is of but very little value."

You do not get the best medical attention when you have a contract business for so much a call. I believe that for the welfare of our people this minority report should be accepted.

Mr. VAUGHAN of South Berwick: Mr. Speaker, I wish to correct a mistake on the calendar. By inadvertence my name appears in the majority report, where it should appear in the minority report.

Mr. CARSWELL of Gorham: Mr. Speaker, I move the previous question.

The SPEAKER: The gentleman from Gorham, Mr. Carswell, now moves the previous question. Before the Speaker can entertain that motion one-third of the members present must so vote. All those in favor of the Chair entertaining the

previous question will rise and stand until counted and the monitors will return the count.

Mr. DENNETT: Mr. Speaker, I do not understand—

The SPEAKER: The gentleman from Gorham, Mr. Carswell, has moved the previous question. Before that can be put, one-third of the members present must rise and signify their desire that the previous question be put. Now all those in favor of the previous question being put will rise and stand until counted and the monitors have returned the count.

A division of the House was had.

The SPEAKER: Obviously not enough members having arisen, the motion is lost. The Chair recognizes the gentleman from South Portland, Mr. Hill.

Mr. HILL: Mr. Speaker, I thank the House for the courtesy of permitting me to say a few words more, inasmuch as I had asked for that opportunity at the outset of my remarks.

I was interested in the able argument of the gentleman from Presque Isle (Mr. Gray). I noticed his reference to the many cases that have arisen before the Industrial Accident Commission, and to the few cases in which this question has arisen before him as a member of that Commission. I should like to point out that these cases to which I refer, and the cases to which the bill applies, do not, for the most part, arrive before that Commission, because as a result of the power the insurance company has, the employee almost invariably finally yields and accepts the surgeon that the employer recommends, therefore it is too late for him to raise that point when the case comes before the Commission.

The gentleman has spoken of work performed by first aid rooms in a few of the larger industrial plants. I think we all know that these first aid rooms carry on a very fine work, but it seems to me this bill is so drawn as not to apply to the work that is done in those first aid rooms, but applies only to the more serious cases which require operations in hospitals. The gentleman says that the insurance company and the employee have the same interest in the matter, that it is to the interest of each to have the man return to his work as soon and as cheaply as possible.

I agree that is true, as far as it goes, yet I contend that interest is not identical, because the interest of the employer, the interest of the insurance company is pecuniary only, while the interest of the employee may be the interest in his very life.

In concluding, may I say that this bill is no novel or unique proposition. This bill represents law already in existence in several of the other states which have amended their Workmen's Compensation Act so as to cover this point. May I read briefly a letter received from the Commissioner of Labor in the State of Rhode Island? He says: "The Rhode Island Workmen's Compensation law gives the injured employee the right to select the physician by whom, or the hospital in which, he desires to be treated. This provision of the law seems to be satisfactory to the injured employees as well as to the employers and insurance carriers as we have never heard any criticism on this particular point.

Yours very truly,

DANIEL F. McLAUGHLIN,
Commissioner of Labor."

The difficulties which the gentleman foresees in the operation of this bill do not appear to have materialized in these other states.

The Commonwealth of Massachusetts has an act which permits the employee the choice of the surgeon in such cases, and I have a letter from the Department of Industrial Accidents of the Commonwealth of Massachusetts which says: ". You will note the provision in Section 30 providing that the employee may select a physician other than the one provided by the insurer. .

"The Department has experienced no substantial difficulty with respect to this provision. The employees, in a great many cases, select their own physicians or surgeons and such physicians or surgeons in general render services in such cases with the knowledge that the cases are industrial in character and that the fees are subject to approval of the Department of Industrial Accidents."

I have also, from the state of Nebraska—and I will not read the whole letter—but I have a letter from the Department of Labor of the state of Nebraska, which says:

"Be advised that our statute pro-

vides in Workmen Compensation matters, the following:

"In cases of injury, requiring dismemberment, or injuries involving major surgical operation, the employee may designate to his employer the physician or surgeon to perform the operation."

"This provision has proven very helpful in compensation matters and gives, without argument, full right to the employer to provide the hospital and medical and surgical care in all other cases, not so indicated as above. To the seriously injured, it provides his choice of such service. It is a good measure and I feel our definition would add strength to your statute."

In concluding, may we not for a moment visualize this situation: Let us suppose that you have a son, and let us suppose that that son goes forth some morning in the full strength and vigor of early manhood, to toil among the whirring wheels of some modern establishment. As he labors there, a piece of one of those great wheels flies off and strikes that son of yours, inflicting a serious blow, causing some great and grievous injury to his internal organs.

The insurance company sends for a doctor—we will call him Doctor Black—and Doctor Black examines your son and announced that a very difficult, delicate and doubtful operation is necessary, and prepares to perform that operation. It so happens, perhaps, that both you and your son have little confidence in the professional ability of Doctor Black. Your son, in that appealing voice, asks that he be permitted to engage Doctor White to perform that operation. With Doctor White perhaps both you and he have had previous successful experience. You have great confidence in him and much prefer to entrust the precious life to his care and skill. Then a representative of the insurance company says to you: "Unless you employ Doctor Black, unless he performs this operation, you will forfeit all claims against this company, and we shall be required by law to pay not one cent of doctor's bills; we shall be required to pay no hospital bills, and we shall be required to pay you not one cent of compensation." You think that over. You are a poor man, without independent means. Finally, with great reluctance, and rather against your better judgment, you acquiesce.

The operation is in progress behind closed doors. You await its outcome in a nearby room, in a silence broken only by the ticking of a clock. What thoughts crowd in upon your mind as you sit there and wait, and you are seized again with redoubled fears and doubt and dread and fear for the life of that boy. The thought recurs to you that the mental attitude of the patient may be of the greatest consequence, that his very lack of faith alone may mean the difference between life and death. You feel that you would never forgive yourself, if this operation goes wrong, for not having insisted upon the services of Doctor White, notwithstanding the attitude of the insurance company. But your thoughts are interrupted by the approach of footsteps. A nurse, with solemn face, enters the room, and in whispered words informs you that the little light of life grows dim. You stand at the bedside to catch the last feeble utterance, and in the silence of the receding world he crosses the Bar into the Great Beyond.

"Sleep today, O early fallen,
In thy green and narrow bed,
Dirges from the pine and cypress
Mingle with the tears we shed."

(Applause).

The SPEAKER: The question before the House is on the adoption of the minority report ought to pass in new draft, on bill an act relating to procurement of medical services, physicians and surgeons for injured employees under the Workmen's Compensation Act, new draft H. P. 1647. L. D. 725. Are you ready for the question? The gentleman from South Portland, Mr. Hill, has asked for a division. All those in favor of the motion of the gentleman from South Portland that the minority report be accepted will rise and stand until counted and the monitors will make and return the count.

A division of the House being had, One hundred and six voting in the affirmative and 12 in the negative, the minority report ought to pass was accepted.

Thereupon, the rules were suspended and the bill was given its two several readings and tomorrow assigned.

On motion by Mr. Demers of Sanford it was voted to take from

the table the sixteenth unassigned matter, bill an act to provide for the appointment of a Board of Commissioners of Police for the town of Sanford, H. P. 1458, L. D. 759, tabled by that gentleman March 15, pending second reading.

Mr. BURNHAM of Kittery: Mr. Speaker, I move that this bill be recommitted to the Legal Affairs committee, and I will say that this bill is dependent on another bill.

The motion prevailed and the bill was so recommitted.

The SPEAKER: The Chair wishes to announce that the House has received a paper just recalled from the Engrossing Department, and the Chair recognizes the gentleman from Kittery, Mr. Burnham.

On motion by Mr. Burnham the House voted to reconsider its action whereby on March 14th, under suspension of the rules it passed to be engrossed an act to provide for the surrender by the town of Kingman of its organization; and on further motion by the same gentleman the

House voted to reconsider its action whereby House Amendment A was adopted. That gentleman then offered House Amendment A to House Amendment A as follows:

House Amendment A to House Amendment A to H. P. 596, L. D. 160, bill an act to provide for the surrender by the town of Kingman of its organization.

Amend said amendment by insert after the word "act" in the first line of the seventh paragraph thereof the words 'shall take effect when approved but'.

Mr. BURNHAM: Mr. Speaker, I would say that this is offered for purposes of clarification.

Thereupon House Amendment A to House Amendment A was adopted and House Amendment A as amended was adopted and the bill was passed to be engrossed as so amended.

On motion by Mr. Tupper of Calais,

Adjourned until ten o'clock tomorrow morning.