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WORKMEN'S INSURANCE AND COMPENSATION SERIES: No. 5

WORKMEN'S COMPENSATION LAWS OF THE  
UNITED STATES AND FOREIGN COUNTRIES



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## WORKMEN'S COMPENSATION LAWS OF THE UNITED STATES AND FOREIGN COUNTRIES.

### INTRODUCTION.

The Fourth Special Report of the Commissioner of Labor, issued in 1893 under the title of "Compulsory Insurance in Germany," was the first report published in this country devoted to the subject of workmen's insurance.<sup>1</sup> At that time compensation for industrial accidents had been established by law in two countries only, Germany in 1884, and Austria in 1887; the third country—Norway—not following until 1894. In the other countries discussed in the appendix of this early report the workmen's compensation movement had not passed beyond the stage of Government commissions and legislative discussion.

Since the publication of this first report, the development of the legislation providing for workmen's compensation for industrial accidents in Europe and throughout the world has been extremely rapid; in fact, it may be doubted whether any subject of labor legislation has ever made such progress or gained so general acceptance for its principles throughout the world in so brief a period. The legislative summaries in the present report show that 41 foreign countries (including all European countries except Turkey) have introduced

<sup>1</sup> The publications of the Bureau of Labor Statistics relating to the general subject of workmen's compensation and insurance are the following: Fourth Special Report, 1893, Compulsory Insurance in Germany, including an appendix relating to insurance in other countries in Europe; Twelfth Special Report, 1906, Coal Mine Labor in Europe; Twenty-third Annual Report, 1908, Workmen's Insurance and Benefit Funds in the United States; Twenty-fourth Annual Report, 1909, Workmen's Insurance and Compensation Systems in Europe (including the texts of the laws existing in 1909 in Alberta, Austria, Belgium, British Columbia, Cape of Good Hope, Denmark, Finland, France, Great Britain, Hungary, Italy, Luxemburg, Netherlands, Norway, Quebec, Queensland, Spain, Sweden, Transvaal); Bul. No. 31, Present status (1900) of employers' liability in the United States; Bul. No. 32, British workmen's compensation act and its operation; Bul. No. 34, Workmen's compensation act of Holland; Bul. No. 40, Workmen's compensation acts of foreign countries; Bul. No. 57, State cooperative accident insurance fund of Maryland; Bul. No. 58, The new Russian workmen's compensation act of 1903; Bul. No. 70, British workmen's compensation acts; Bul. No. 74, Legal liability of employers for injuries to their employees in the United States; Summary of foreign workmen's compensation acts; British workmen's compensation act of 1906; Bul. No. 77, Compensation for injuries of artisans and laborers in the service of the United States; Bul. No. 90, Recent action (1910) relating to employers' liability and workmen's compensation; Essential features of a compensation law; Chicago conference of November, 1910; Summary of foreign workmen's compensation acts; Cost of employer's liability and workmen's compensation insurance; Bul. No. 92, Workmen's compensation and insurance: laws and bills, 1911; Bul. No. 96, Workmen's insurance code of July, 1911, of Germany; Bul. No. 102, British national insurance act, 1911; Bul. No. 103, Sickness and accident insurance law of Switzerland; Compensation for injuries to employees of the United States arising from accidents occurring between August 1, 1908, and June 30, 1911 (prepared by the Bureau and published as a report of the Secretary of Commerce and Labor).

some form of workmen's compensation for industrial accidents, all of which, while showing great variations in the industries covered, the amount of compensation provided, and the methods by which compensation payments are secured, recognize the principles of compensation as distinguished from the older idea of employer's liability previously accepted in the civil law of continental Europe, as well as in English and American law.

In the United States what might be called the period of investigation and education began somewhat late as compared with European countries. But since that beginning, investigation and study have been followed by legislative action with great rapidity. The first American State commissions were appointed in New York, Wisconsin, and Minnesota in 1909, and legislation followed in New York in 1910, in Wisconsin in 1911, and in Minnesota in 1913. Within this period beginning with 1909, 27 commissions (not including one Federal commission) have been appointed to consider the subject of compensation, and compensation legislation has been enacted in 23 States.

With this remarkable development of compensation legislation in the United States and throughout the world within so short a period, it seems especially desirable to bring together at this time the laws as they now exist, in order that the material may be available for those who wish to study and compare the various provisions already in force to serve as a guide to new or amendatory legislation.

The present report is in three parts. The first part reviews the work of the compensation commissions of the various States, summarizes the principal features of the legislation enacted and the experience thus far available under such legislation, and briefly discusses the decisions of the courts upon the constitutionality and construction of the workmen's compensation statutes. The second part summarizes the principal features of the foreign workmen's compensation laws as now existing, presenting also analyses of the principal features of the laws of the individual countries. Forty-one foreign countries are thus represented. The third part gives in an appendix the text of the workmen's compensation laws of the various States.

# WORKMEN'S COMPENSATION LAWS OF THE UNITED STATES.

BY LINDLEY D. CLARK, A. M., LL. M.

## INTRODUCTION.

The first summary view of the status of workmen's compensation and insurance in the United States published by the Bureau of Labor Statistics appeared in Bulletin No. 90,<sup>1</sup> September, 1910. At that time it was possible to present only the tentative propositions of a number of State legislatures and commissions and of interested organizations and associations, the report of a single State commission, the laws of three States providing for insurance and compensation systems, and the Federal compensation act of May 30, 1908, relating to certain employees of the United States.

A second review of the subject, in January, 1911,<sup>2</sup> gave an account of the reports of seven State commissions and of the enactment of seven State laws, besides drafts of three commission bills, two of which, with some amendment, became laws later in the year.

It is the purpose of the present article to give a summary account of existing data, including commission reports, laws, court decisions, and experience under the laws so far as an account of the same is available:

Following is a list of the States, etc., in which special committees or commissions have been charged by the legislature or otherwise with the duty of investigating the subject of a more adequate method of caring for the results of industrial accident than is provided under the system of employers' liability; also of the States in which compensation laws have been enacted, and those in which the laws have been amended.

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<sup>1</sup> Recent action relating to employers' liability and workmen's compensation. September, 1910.

<sup>2</sup> Workmen's compensation and insurance: Laws and bills, 1911. Bul. No. 92, January, 1911.

## STATES IN WHICH COMMISSIONS WERE APPOINTED AND IN WHICH COMPENSATION LAWS WERE ENACTED AND AMENDED, BY YEARS, 1908 TO 1913.

| State, etc.        | Year commission was appointed. | Year compensation law was enacted. |            | State, etc.        | Year commission was appointed. | Year compensation law was enacted. |                  |
|--------------------|--------------------------------|------------------------------------|------------|--------------------|--------------------------------|------------------------------------|------------------|
|                    |                                | Original.                          | Amendment. |                    |                                | Original.                          | Amendment.       |
| Arizona.....       |                                | 1912                               | 1913       | Nevada.....        |                                | 1911                               | 1913             |
| California.....    |                                | 1911                               | 1913       | New Hampshire..... |                                | 1911                               |                  |
| Colorado.....      | 1911                           |                                    |            | New Jersey.....    | 1910                           | 1911                               | 1913             |
| Connecticut.....   | 1911                           | 1913                               |            | New York.....      | 1909                           | * 1910                             | 1913             |
| Delaware.....      | 1911                           |                                    |            | North Dakota.....  | 1911                           |                                    |                  |
| Illinois.....      | 1910                           | 1911                               | 1913       | Ohio.....          | 1910                           | 1911                               | 1913             |
| Indiana.....       | 1913                           |                                    |            | Oregon.....        | <sup>1</sup> 1911              | 1913                               |                  |
| Iowa.....          | 1911                           | 1913                               |            | Pennsylvania.....  | 1911                           |                                    |                  |
| Kansas.....        |                                | 1911                               | 1913       | Porto Rico.....    | 1913                           |                                    |                  |
| Louisiana.....     | 1912                           |                                    |            | Rhode Island.....  |                                | 1912                               | 1913             |
| Maryland.....      | <sup>1</sup> 1913              | 1912                               |            | Tennessee.....     | 1913                           |                                    |                  |
| Massachusetts..... | 1910                           | 1911                               | 1912, 1913 | Texas.....         | 1911                           | 1913                               |                  |
| Michigan.....      | 1911                           | 1912                               | 1913       | Vermont.....       | 1913                           |                                    |                  |
| Minnesota.....     | 1909                           | 1913                               |            | Washington.....    | <sup>1</sup> 1910              | 1911                               | 1913             |
| Missouri.....      | <sup>1</sup> 1910              |                                    |            | West Virginia..... | <sup>1</sup> 1911              | 1913                               |                  |
| Montana.....       | <sup>1</sup> 1910              | <sup>2</sup> 1909                  |            | Wisconsin.....     | 1909                           | 1911                               | 1913             |
| Nebraska.....      | 1911                           | 1913                               |            | United States..... | 1910                           | 1908                               | 1909, 1911, 1912 |

<sup>1</sup> Appointed by the governor.<sup>2</sup> Law declared unconstitutional.<sup>3</sup> Two laws, one (compulsory) law declared unconstitutional.

The following table summarizes the above data so as to show the action taken during each of the 6 years since the enactment of the first workmen's compensation law.

## NUMBER OF WORKMEN'S COMPENSATION COMMISSIONS AND LAWS, BY YEARS, 1908 TO 1913.

| Year.      | Commissions appointed. | States enacting original law. | States enacting amending laws. |
|------------|------------------------|-------------------------------|--------------------------------|
| 1908.....  |                        | <sup>1</sup> 1                |                                |
| 1909.....  | 3                      | 1                             | 1                              |
| 1910.....  | 8                      | 1                             |                                |
| 1911.....  | 11                     | 10                            | 1                              |
| 1912.....  | 1                      | 4                             | 2                              |
| 1913.....  | 5                      | 7                             | 13                             |
| Total..... | 28                     | 24                            |                                |

<sup>1</sup> United States.

From the above list it is to be seen that the majority of the earlier laws were amended in 1913. Two of the laws have been declared unconstitutional by the court of last resort of the States in which they were enacted, while on the other hand the constitutionality of the statute of Massachusetts, New Jersey, Ohio, Washington, and Wisconsin has been upheld by the highest court in each State. The first law declared unconstitutional was the compulsory statute of New York applicable only to railway service, leaving on the statute books the elective law relating to other employments. The other law that was held invalid was that of Montana. The decisions in these and other cases will be considered later.

**REPORTS OF COMMISSIONS.**

Beginning with 1909, commissions or committees have been appointed in 20 States and in Porto Rico as the result of legislative action, and in 6 States commissions were appointed by the governors without legislative action; a Federal commission was also created. Reports are not yet due from the commissions of Indiana, Louisiana, Maryland, Porto Rico, Tennessee, Vermont, and the third commission of Missouri, while those of Delaware and Texas seem to have made no report.

The reports of the commissions will be considered in order.

**COLORADO.**

The members of this commission were designated in the act of June 1, 1911, creating it, a representative of the bar, one of labor, one of the employers of labor, and one of each house of the legislature being named. An appropriation of \$1,000 was made, but was placed in a class of appropriations that did not become available within the time fixed for the commission to report. The principal work that could be done under the circumstances was the collection of existing literature on the subject.

There was no attempt made to draft a law, and the examination made of the statutes of other States showed such wide divergence that no conclusion was reached as to the type to be recommended. The commission was impressed with the importance of uniformity of legislation on the subject, but felt that none of the existing State laws were adapted to the industrial conditions of Colorado. It was agreed that a compensation law should be enacted, that it should be applicable to all productive employments, and that there should be some plan by which compensation payments would be guaranteed. It was recommended that more study and investigation be given to the subject before any bill was drafted, reference being made to the fact that all laws of this type are of recent enactment in this country, and that it took 16 years to unify the laws of Germany on the subject.

A summary of State laws, mention of the commissions appointed to investigate employers' liability, and a list of printed matter collected complete this pamphlet<sup>1</sup> of 48 pages. No law has yet been enacted.

**CONNECTICUT.**

A joint resolution of August 22, 1911, authorized the governor of the State to appoint a commission of three persons to serve without compensation, but with power to employ necessary clerical assistance and to incur proper expenses. Public meetings were held at various points in the State, some of which were largely attended. Nineteen

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<sup>1</sup> Report of Employees' Compensation Commission, 1913.

pages of the report<sup>1</sup> are occupied with general and constitutional considerations, the remaining 22 pages being given to the reproduction of a tentative draft of a law. The type proposed was compulsory compensation, administered by the courts, surgical examiners to be appointed in each county, and a commissioner for each of four districts into which the State was to be divided. A law was enacted in 1913, but it differs widely from the bill recommended by the commission.

#### ILLINOIS.

The report of the Illinois commission<sup>2</sup> is an octavo volume of 249 pages, presenting a brief record of the work of the commission; a draft of a bill; a discussion of the constitutionality of a compensation law; records of cases heard before certain courts of the State; the record of the coroner of Cook County, in which the city of Chicago is situated; special studies of the coal-mining industry, railroads, manufactories, etc., from the standpoint of hazard, and showing accident records and compensation for injuries; and other valuable statistical and economic data. The discussion as to constitutionality was made by the commission's attorney, who expressed the conviction that within a decade compulsory compensation will be generally accepted as being within the police power of the State to provide for. He recommended, however, as a concession to the present state of information and public opinion that an alternative proposition be enacted, embodying compensation as optional but not required, though so limiting rights and defenses as to lead both parties to an acceptance of the compensation provisions. "That the law should read into every contract of hiring a limited guaranty by the master to his servant against injury to life or limb while the servant is going about his master's business, when it appears that the larger proportion of such injuries in almost all employments are entirely incidental to the business, does not seem any more unreasonable than that the law should conclusively presume that the servant, upon entering the employment, voluntarily assumes in advance all the necessary and inherent hazards of the trade."

The study of the coal-mining industry—one of the largest industries of the State—leads the commission to the conclusion that the adoption of the scheme of compensation proposed, giving \$2,250 for fatal accidents as against the present average award of \$168, would effect a charge of but 1.6 cents per ton of coal mined to meet the necessary expenditures. As to the direction of this expenditure it is said: "Should this prompt the exercise of extra care, as the commission confidently anticipates, only a portion of this increase would be

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<sup>1</sup> Report of the Connecticut State Commission on Compensation for Industrial Accidents, 1912.

<sup>2</sup> Report of the Employers' Liability Commission of the State of Illinois, 1910.

utilized for the purpose of compensation, the remainder going into the plant in additional safeguards and conveniences.”

In the other industries investigated and in the report from the Illinois Manufacturers' Association details of accidents showing the nature of the injury and the form and amount of damages or compensation on account of it are shown; also a comparison of the present actual cost and the estimated cost under the commission's plan.

The bill proposed became law, though restricted to especially dangerous employments, but was amended in 1913 so as to cover all industries. The rates of compensation were also increased over those proposed by the commission.

#### IOWA.

A commission, to consist of two employers, two employees, and one disinterested person, was authorized by an act of the Legislature of Iowa at its session of 1911. A report was ordered to be in the hands of the members of the legislature not later than November 15, 1912. This report<sup>1</sup> forms a volume of above 400 pages, in which is discussed briefly the classes of laws in force in Europe and in the various States having compensation or insurance laws. The liability law of Iowa is next considered, and a proposed bill is briefly discussed. The bill was of the elective type, to be administered by a State commission, and with provisions for an employers' indemnity association to form a reserve fund to secure compensation payments, all employers under the act to be members. A minority report urged a compulsory plan but without the State insurance feature. The system embodied in the law enacted is elective, with a requirement that payments shall be guaranteed by some form of insurance unless the industrial commission is satisfied as to the employer's solvency.

Appendixes form a considerable portion of the volume. Among these are an estimate of insurance rates in Iowa, accident statistics, and various papers and excerpts on subjects connected with questions of constitutionality, a synopsis of American laws, etc. The second and larger part of the volume is made up of minutes of the hearings and of papers submitted in connection therewith.

#### MASSACHUSETTS.

This commission was appointed in June, 1910, and first submitted only a partial report, recommending that another year be given to investigation before submitting any bill, an earlier tentative draft not being included in the report. A pamphlet<sup>2</sup> of 23 pages sketched briefly the forms of compensation in use in Great Britain, Germany,

<sup>1</sup> Report of the Employers' Liability Commission, 1912.

<sup>2</sup> Report of the Commission on Compensation for Industrial Accidents, 1911.

and Norway as typical of the three systems in use in countries having compensation systems. Tables were given showing the period of disability in 2,849 accidents reported to the commission from September 12 to November 20, 1910; also the cost of industrial accidents in 734 establishments during 1909.

In accordance with its recommendations, the commission was continued in existence until July 1, 1912. A compensation law having been enacted in 1911, the duties of the commission were to compile accident data, and make recommendations as to further legislation, the expenditures not to exceed \$13,000. Under this new authorization a report<sup>1</sup> of 322 pages was made to the legislature, setting forth the work of the commission in various directions, both before and after the enactment of the State law; the text of the State law, with commentary; a brief description of foreign laws and of the laws of the United States; a consideration of the constitutionality of a compulsory law for Massachusetts; statistics of accidents in Massachusetts, May 1, 1911, to April 30, 1912, and an appendix in which are reproduced the laws of the States providing for compensation, with some other matter.

The question of the constitutionality of a compulsory law for Massachusetts is considered at some length, the conclusion being reached that the courts of that State would probably uphold such a law. The action of the New York court of appeals in declaring invalid the compulsory law of that State, and the effect of this decision on subsequent legislation in the various States is noted, and strong exceptions are taken both as to the ruling in this case and the attitude of the court of that State generally in the matter of testing the constitutionality of the acts of the legislature.

#### MICHIGAN.

An act of May 1, 1911, created a commission of five members without salary, but to be reimbursed for actual expenses. A report to the next legislature was directed, or to any earlier extra session. An extra session was in fact held, at which a law was enacted and approved March 20, 1912, following in the main the recommendations of the commission.

The report<sup>2</sup> is a pamphlet of 152 pages, in which are discussed in brief the rules and defenses applicable in employers' liability actions. Data as to accidents and damages are presented, and the results of the old system of liability, under which it was concluded that it was impossible to secure justice to either employer or employee. The proposed bill is next analyzed and presented, and appendixes con-

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<sup>1</sup> Report of the Commission on Compensation for Industrial Accidents, 1912.

<sup>2</sup> Report of the Employers' Liability and Workmen's Compensation Commission, 1911.



taining minutes of the meetings of the commission, schedules of inquiry, accident statistics, costs, representative relief plans in use, etc., conclude the report.

#### MINNESOTA.

The report of the Minnesota commission<sup>1</sup> is devoted more to the discussion of legal and constitutional questions than to a study of industrial conditions. Practically 100 of the 289 pages of the report are taken up with a presentation of the draft of a bill proposed by the commission and its discussion, point by point, in which the rights and liabilities provided are defined and court decisions cited in support of the various provisions.

The conclusions of the commission are adverse to the constitutionality of a State insurance law, in view of the provisions of the State constitution which forbid the State to engage in private business or to use the public funds in competitive undertakings as a means of regulating the conduct of business, citing *Rippe v. Becker* (56 Minn., 100), a case in which it was held that the State had not the power to build and operate a grain elevator. The discussion as to the constitutionality of the proposed bill is detailed and, together with the summary, presents the argument in favor of a compensation bill of compulsory application.

No law was enacted until 1913, when an act embodying the principle of compensation, but in elective form, was passed.

#### MISSOURI.

A commission was appointed in 1910 by the governor of Missouri, the principal recommendation of which, so far as appears, was that a commission be appointed to give the matter further consideration. The State senate in 1911 passed a resolution of similar effect, and a new commission was accordingly appointed. It consisted of 15 members, 5 being appointed by the president of the senate, 5 by the speaker of the house, and 5 by the governor, and held a number of meetings in September and October, 1912. Majority and minority reports were submitted, with bills representing the diverse views. The report<sup>2</sup> of the majority is a pamphlet of 145 pages, 10 of which contain the commission's letter of transmittal setting forth its conclusions, the remainder being minutes of the hearings. In the bill recommended for the consideration of the legislature, the New Jersey law was used as a basis, the avowed purpose of the commission being "to establish the principle of workmen's compensation in this State,"

<sup>1</sup> Report to Legislature of Minnesota Employees' Compensation Commission, 1911.

<sup>2</sup> Report of Missouri Commission on Employers' Liability and Workmen's Compensation, 1913.

while recognizing that "to realize the ideal of workmen's compensation is impossible."

The minority report<sup>1</sup> consists of 30 pages, 22 of which present a bill, while the remaining portion is taken up with an account of the grounds for dissent from the majority. The principal contention was to the effect that later drafts and more extended studies were available, showing advances over the provisions of the New Jersey act of 1911, and that these should be taken advantage of in the enactment of new legislation. The bill recommended was the draft of a law prepared by a committee of the National Association of Manufacturers, some of the points of advantage emphasized being the prevention of accidents, the compulsory insurance of the risks of all employers who elect to accept the law, the encouragement of mutual insurance as a means of holding in check the charges for premiums, and the inclusion of farm and domestic labor. Compulsory compensation was said by the minority report to be desirable eventually, but not immediately attainable.

No law was enacted in 1913, but a third commission was provided for, to report to the legislature of 1915.

#### MONTANA.

Though the legislature had in 1909 enacted a law of limited scope, applicable to coal mines only, the governor of Montana appointed on his own motion a commission of eight men in 1910 to prepare employers' liability and workmen's compensation acts to present to the legislature. This commission, or six of its members, agreed to recommend two bills, one providing for automatic compensation in extra-hazardous employments, and a companion bill limiting the amounts recoverable if workmen elect to sue instead of accepting the proposed benefits. Neither of these bills became a law.

The report<sup>2</sup> proper is very short, containing only seven pages, occupied with an account of the appointment and action of the commissions, the nature of the proposed bills, and a general expression as to the desirability of compensation laws as compared with those declaring the employers' liability. A recommendation was made for the appointment of a commission by the legislature to give further attention to the subject.

#### NEBRASKA.

The House of Representatives of Nebraska passed a resolution, April 6, 1911, empowering and requesting the governor to appoint a commission to investigate the subject of employers' liability and compensation laws. No appropriation was made for expenses, but

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<sup>1</sup> Letter of transmittal accompanying minority report prepared by F. C. Schwedman of the Missouri Commission on Employers' Liability and Workmen's Compensation, 1913.

<sup>2</sup> Governor's message relating to employers' liability and workmen's compensation act, with report of the commission appointed by the governor, 1911.

the commission was authorized to call on the State legislative reference bureau for assistance and clerical help and for other aid in preparing its report. The report<sup>1</sup> is a pamphlet of 48 pages, and is issued by the Nebraska legislative reference bureau as Bulletin No. 2. Data are presented as to accidental deaths in the State for the first 11 months of 1912, reported under the board of health law of 1905, and court business from personal-injury cases.

Two bills are presented as majority and minority reports of the commission, the first being a compulsory compensation system and the second an elective State insurance system. A law was passed in 1913 differing widely from either of the propositions of the commission, being an elective compensation law.

#### NEW JERSEY.

The report of the New Jersey commission<sup>2</sup> is embodied in a message of the governor to the legislature, transmitting the report. The pamphlet, of 91 pages, contains the evidence taken at the hearings of the commission, discussions of the defenses commonly in use in meeting actions for injuries to employees, some account of the Chicago conference of November, 1910, and the bill proposed for enactment. The representatives of labor on the commission, while supporting the principle of the bill, objected to the amount of compensation proposed.

A law on the subject was enacted in 1911, practically in agreement with the recommendations of the commission, and has been upheld as constitutional by the courts.

#### NEW YORK.

The Legislature of New York by an act of May 27, 1909, provided for a commission of 14 persons to consider existing conditions in the State as to the liability of employers for industrial accidents, and "the comparative efficiency, cost, justice, merits, and defects of the laws of the other industrial States and countries relative to the same subject." An appropriation of \$10,000 was made for the expenses of the commission, which reported in 1910, the volume<sup>3</sup> being a quarto composed of the report proper, of 69 pages, with 200 pages of appendixes, and a record of hearings comprising 470 pages. A second volume appeared under the date of April 20, 1911, on the causes and prevention of industrial accidents, consisting of a report, 116 pages, and minutes, 307 pages; while after the action of the court of appeals of the State declaring the compulsory compensation law unconstitutional, a brief report (11 pp.) was issued May 3, 1911, reviewing

<sup>1</sup> Preliminary Report, Employers' Liability and Workmen's Compensation Commission, 1912.

<sup>2</sup> Message of the governor transmitting to the legislature the report of commission on employers' liability, 1911.

<sup>3</sup> Report by the Commission to Inquire into the Question of Employers' Liability. First report, Mar. 19, 1910.

this decision and recommending the adoption of an amendment to the constitution of the State to meet objections raised by the court. In this report the enactment of an elective system, withdrawing the employer's defenses to secure his coming under the law, was considered as of doubtful constitutionality under the ruling in the case in which the compulsory act was disapproved, and also as of doubtful practical value, since many employers might refuse to accept it, even under such pressure as the law might provide.

The first and principal report is one of the most extended reports issued by a State commission. Eleven public hearings in various parts of the State, 14 executive sessions of the commission, and numerous meetings of committees and subcommittees indicate something of the activity of the commission in one direction. Inquiries were sent to 1,942 employers reporting accidents to the State department of labor, to 975 reporting accidents to the public-service commission, and to the presidents of 2,331 labor organizations in the State. Several statistical studies were made as to the economic results of accidents and proceedings at law with reference to such accidents; also the cost of industrial accidents to employers and the distribution of such costs to hospitals, for fees, insurance premiums, settlements, as damages, etc.

An investigation of 1,040 work accidents by the State labor department, in which total losses and payments were ascertained, showed that in 404 of the 902 cases of temporary disability (lasting from one week to more than one year) nothing was received by the injured person, not even medical expenses; while in 304 cases the amount recovered from the employer was less than one-half the loss of wages and expenses of the injury. In 71 cases there was permanent partial disability, reducing the earning capacity of the employee in varying amounts. Of this number 18 received nothing, 22 received \$100 or less, 14 received from \$101 to \$500, 5 received from \$501 to \$2,000, while 1 person received more than \$2,000; suits were still pending in 11 cases. In 902 cases of temporary disability there was a wage loss of \$66,800, besides medical expenses amounting to \$20,000, while all payments by employers amounted to but \$25,339, or less than 30 per cent of the losses and costs. Payments in cases of permanent partial disability make a somewhat better showing, approximating 34 per cent of the actual losses, though this omits from consideration the depreciated earning power; while in 10 cases of permanent total disability, computed on a basis of 3 years' wage loss, the payments by employers amounted to but 9.7 per cent of the losses and costs. Data obtained from other sources indicate the same general condition of inadequate compensation for losses suffered.

That the system of liability and damage suits entails waste is shown by the fact that the expenditures of 327 firms in the State in 1907, employing 125,995 men, amounted to \$192,538 on account of the accidents, accident insurance, legal expenses, etc., of which the amount paid to the persons injured was but \$104,643, or 54 per cent of the employers' outgo in this connection. Premium receipts and payments of losses by 9 insurance companies that kept separate accounts of their employers' liability business show that during 1906, 1907, and 1908 they took in as premiums \$23,523,585 and paid out in insurance \$8,559,795, or but 36 per cent of the premiums received. In connection with attorney's fees, which are frequently contingent on recoveries, it was shown that in 14 of the 51 cases investigated the fee was less than 25 per cent of the recovery, in 14 cases it was 50 per cent or more, while in the remaining 23 cases it was more than 25 per cent and less than 50 per cent.

The question of the cost to the employer of a compensation system as compared with the cost of the present system received consideration, the investigation of this phase of the question being conducted by the State bureau of labor statistics.

It was concluded that large manufacturing firms (though perhaps not small employers) could pay compensation benefits at least equal to the English scale at no greater cost than incurred for accidents under the existing system, and probably in some cases for less.

With the exception of one member, who thought that a change of system was necessary, but that the remedy for the situation had not yet been found, the commission summarized its conclusions as follows:

First. That the present system in New York rests on a basis that is economically unwise and unfair, and that in operation it is wasteful, uncertain, and productive of antagonism between workmen and employers.

Second. That it is satisfactory to none, and tolerable only to those employers and workmen who practically disregard their legal rights and obligations and fairly share the burden of accidents in industries.

Third. That the evils of the system are most marked in hazardous employments where the trade risk is high and serious accidents frequent.

Fourth. That as a matter of fact workmen in the dangerous trades do not, and practically can not, provide themselves adequate accident insurance, and therefore the burden of serious accidents falls on the workmen least able to bear it, and brings many of them and their families to want.

The commission recommended legislation along two lines—a compulsory compensation act applicable to specified dangerous employments, and an elective law of general application, coupled with amendments to the existing laws on liability. Drafts of bills were prepared and submitted to the legislature in accordance with these

views, and, with some amendment, were passed, being the pioneers in their class in the United States. As already noted, the compulsory act was subsequently declared unconstitutional as interfering with freedom of contract and due process of law.

Subsequent to this decision, the constitution of the State was amended, as recommended by the commission in its report of May 3, 1911, and a compulsory statute applicable to an extensive list of employments classed as hazardous was enacted in 1913.

#### NORTH DAKOTA.

The compensation commission of this State was appointed in accordance with the provisions of an act of March 17, 1911, creating a commission of three persons, one to be an employer of labor, one a representative of labor, and one learned in the law. No compensation was appropriated for the commission but necessary expenses might be incurred, not exceeding \$1,000.

The report<sup>1</sup> is a pamphlet of 128 pages, and is in six sections, discussing the present state of the law in North Dakota, its inadequateness, the statutory modifications of the common law, a brief summary of foreign and domestic compensation acts, two proposed acts for the consideration of the legislature, concluding with a consideration of the constitutionality of these proposed acts.

The recommendation as to bills is an alternative one, the first being for simple compensation, the law of Wisconsin being substantially followed, the other conforming closely to the Ohio statute providing for a State insurance system. While the recommendation presents these two forms for consideration by the legislature, the preference of the commission is for the State insurance system as eliminating waste, while the burden of administration is offset by the improved condition of the beneficiaries, reducing police and relief expenses. No law was passed.

In the discussion of the inadequacy of present remedies large use is made of the report of the New York commission, while in the consideration of the question of constitutionality the brief of Mr. H. V. Mercer, of the Minnesota commission, is said to have been liberally drawn from.

#### OHIO.

The report of this commission<sup>2</sup> consists of two octavo volumes, each of more than 400 pages. The first volume contains the report to the State legislature, with numerous appendixes containing summaries and discussions of the compensation acts of foreign countries, statistical data, Federal and State laws, drafts submitted by other

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<sup>1</sup> Report of the Commission on Legislation providing for the Liability of Employers in Compensation for Injured Workingmen, 1913.

<sup>2</sup> Report to the Legislature of the State of Ohio by the Employers' Liability Commission, 1911.

commissions, etc. The second volume is made up of minutes of evidence and a record of the public hearings held by the commission.

Considerable space is given in the report proper to a consideration of the legal aspects of the question, while the social and economic reasons for a change in the law are also discussed. The conclusions of the commission were in favor of a law providing "a uniform plan of insurance, practically compulsory in its nature," and the argument as to constitutionality is, of course, directed to the support of such a law. Besides the draft of a compensation bill, the commission recommended an investigation of occupational diseases, an increase in the number of factory inspectors, and an increase of the penalty for violations of the laws requiring the installation of guards and safety devices in factories and workshops.

An optional State insurance law was enacted in 1911 and amended in 1913 so as to make it compulsory.

#### OREGON.

The commission of this State was appointed by the governor, representatives of employers, of employees, and of the general public being chosen. The report<sup>1</sup> is a pamphlet of 23 pages, 15 of which are taken up with a draft of a bill prepared by the commission.

No hearings or statistical investigations seem to have taken place, the commission having taken into consideration the action of other States in legislation in the same field, and its results. This was said to be "of incalculable value," and the bill reported was "in large measure a composite of features of acts of other States which have been tried and proven, with modifications necessary to a proper unification."

The law of Washington was chiefly followed in this draft, an elective system being substituted for a compulsory one, however, the insurance fund to be maintained by contributions from both employers and employees, as well as other changes of less importance. The reason for this change is chiefly the uncertainty as to the constitutionality of a compulsory law, while the practically general acceptance of the proposed law was anticipated on account of the withdrawal of the customary defenses from employers not accepting the act, and the certain and obvious advantages offered to the workmen by it.

A law was enacted in 1913 in practical agreement with the recommendations of the commission.

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<sup>1</sup> Report of Commission to Draft a Workmen's Compensation Bill to be Submitted to the 27th Legislative Assembly, 1912.(7)

## PENNSYLVANIA.

An act of June 14, 1911, directed the appointment of a commission with the duty of investigating the prevention of industrial accidents and the compensation of injured workmen and their dependents. The report<sup>1</sup> consists of but 55 pages, mainly occupied with drafts of bills for consideration by the legislature. As to accident prevention, existing legislation is commended and its amendment and better enforcement advised.

The question of the desirability of a compensation law as compared with the present liability law is considered as no longer open to debate, the only point being the type to be adopted. State insurance is thought not desirable, as it removes the incentive to vigilant safety work and affords opportunity for injustice in the determination of premium rates. A compulsory compensation system is recommended similar to that provided by the New York statute of 1909, which was declared unconstitutional in the Ives case, but was thought to require an amendment of the constitution of the State, which is urged. In the meantime an elective compensation system is proposed and a draft of a bill submitted. Correlated laws are recommended to meet the situation that would arise in connection with a compensation law, the full list being an amendment to the factory act, an act requiring employers to make reports of accidents, an elective workmen's compensation law, an act providing for the incorporation of employers' mutual insurance associations, an act regulating policies of insurance so as to secure the payment of benefits directly to injured workmen in case of the insolvency of the employer, and an act authorizing the appointment of an industrial accidents commission.

The commission contemplated in the last-named bill was to make a study of accidents, observe the workings of the compensation law, and suggest such amendments as might be suggested by the first two years of experience. No compensation law was passed at the regular session of 1913. Each house of the legislature passed a bill, but the two houses were unable to reach an agreement.

## WASHINGTON.

The report of the Washington commission<sup>2</sup> is one of the briefest, comprising but 5 pages of a pamphlet of 48 pages, the remainder of the pamphlet being taken up with the proposed bill and a discussion of its provisions from a legal viewpoint. Like the Ohio bill, the bill offered is one that provides for State insurance, and so far from feeling itself bound by the case cited by the Minnesota commission it regards

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<sup>1</sup> Report of Industrial Accidents Commission, 1912.

<sup>2</sup> Report of Commission to Investigate the Problems of Industrial Accidents, 1910.



this case as controverted by decisions in the Slaughterhouse cases (16 Wall. (U. S.) 36), and the State Dispensary cases (*State v. Porterfield*, 47 S. C. 75; *Farmville v. Walker*, 101 Va. 323; *Carsed v. Greensboro*, 126 N. C. 159, etc.). It is said that "it ought to be a sufficient answer that in the proposed act the State is not engaging in a business, but only creating and through State officers disbursing funds, to which the State contributes nothing, in the administration of the police power by the means deemed by the legislature most effective. There is no possibility of a revenue or profit to the State, and the State is not insuring anybody or anything." The law enacted provided for compulsory insurance administered by a State department, and has been sustained as constitutional.

#### WEST VIRGINIA.

The legislature of this State provided by a joint resolution of February 24, 1911, for the appointment of a commission, the members of which were in part named in the resolution, and in part to be selected from the senate and house, to investigate what States have laws on the subject of liability and compensation and the purport of such laws, to secure data as to the industries of the State and as to the amount of liability litigation in the State, and to consider the advisability of legislation on the subject. The sum of \$5,000 was appropriated to meet the expenses of the commission.

A volume of 274 pages was issued as Part I of the commission's report,<sup>1</sup> covering the liability and compensation laws of the several States, with a summary of their principal features and opinions on their form, contents, constitutionality, and administration, and the more important bills drafted by State commissions and associations of employers and labor organizations. A second volume to contain the findings and recommendations of the commission was announced, but a subsequent communication to the United States Commissioner of Labor stated that in all probability no other volume would be published.

The first chapter presents definitions of employer, employee, vice principal, etc., in terms of the statutes of a number of States, while the second presents the text of the liability and compensation laws of the various States. Chapter 3 summarizes these laws, and the fourth chapter presents proposed drafts of bills. The last chapter is chiefly quoted matter bearing on the points previously considered and on the legal aspects of compensation.

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<sup>1</sup> Report of the Employers' Liability and Laborers' Compensation Commission, 1911.

## WISCONSIN.

The report of the Wisconsin commission<sup>1</sup> is a pamphlet of 98 pages, presenting a draft of a bill which is discussed section by section to set forth the working and purpose of the various provisions rather than to support their constitutionality. There are about 40 pages of tables showing the nature and results of accidents, the outcome of damage suits, insurance costs, etc.

The counsel for the commission concluded that no compulsory system of compensation could constitutionally be enacted, except for the State and its subdivisions, while an elective system would be possible and, by the withdrawal of the defenses commonly offered by employers, acceptable as well.

The commission reports that from the beginning they agreed that accidents or deaths suffered in industrial pursuits should be reasonably compensated, not as a matter of charity, but as a matter of justice; and that as a rule the manufacturers of the State have approved a change in the conditions and have expressed at all times their desire to cooperate in framing a suitable bill and in gathering helpful data. As to the matter of uniformity of legislation, the commission regarded it as important that Wisconsin and other States, particularly those that are adjacent, should adopt a uniform or nearly uniform scale of compensation, though it did not think it important that the bills should be similar as regards compulsory or optional features.

A law was enacted in 1911, in practical accordance with the recommendations of the commission, and has been declared constitutional by the courts of the State.

## UNITED STATES.

The Employers' Liability and Workmen's Compensation Commission of the United States was appointed in accordance with the provisions of a joint resolution of Congress approved June 25, 1910, to report by the time of the opening of Congress in 1911. By subsequent legislation its term was extended to March 1, 1912.

The report of this commission<sup>2</sup> is approached in size only by that of New York, and comprises two volumes of 214 and 1,495 pages, respectively.

The first volume contains the report proper of the commission, and three appendixes, the first being a memorandum showing the law and conditions in the United States, Germany, and England, the second presenting the bill recommended by the commission, and the third a statistical appendix of 81 pages showing accident data for

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<sup>1</sup> Report of the Special Committee on Industrial Insurance, 1911.

<sup>2</sup> Report of the Employers' Liability and Workmen's Compensation Commission, 1912.

the years 1908, 1909, and 1910, of railway companies operating practically one-half the railway mileage of the United States. Judgments and settlements for different classes of injuries, the accident rate for different classes of employees by districts, and the days lost by reason of accidental injury are the principal items presented. The second volume contains about 300 pages of briefs and minutes of the hearings.

While, on account of the constitutional restrictions on congressional action, the special subject of the hearings and briefs was a compensation system for interstate railway service, the economic and constitutional principles underlying the idea of compensation were necessarily considered, and much of the discussion related to these general phases of the question. Of those appearing before the commission or submitting briefs, by far the larger number were favorable to a substitution of the compensation idea for that of liability, though on the question of compulsory and elective systems there was more of a division.

Constitutional questions were argued ably and at length, the conclusion of the commission being that Congress possesses the power of absolute control in the field under consideration. A compulsory compensation law was therefore recommended for enactment, the law to be exclusive within its scope. It was said in the report that an elective law appeared to the commission to be fundamentally unsound. "A law is a rule of conduct prescribed by the law-making power. It should operate upon all alike, irrespective of the wishes of the private persons affected by it. It would seem to be an anomaly in legislation to prescribe a rule of conduct to be observed by the private citizen which the law-making power deemed to be wise, just, and wholesome, and at the same time leave it to the private citizen, as his pleasure or convenience may determine, to say whether or not he will or will not be bound by the terms of the law."

The rule of expediency that may control a legislature in its attempt to avoid conflict with the Constitution did not affect the commission's attitude, since it was "thoroughly convinced of the constitutionality of a compulsory law."

The argument for exclusiveness is along the same lines. "The basic principle upon which a compensation law is urged is that the existing system of liability for negligence is wasteful, unjust, and provocative of ill feeling between employer and employee. To provide for compensation in all cases, whether fault exists or not and at the same time permit the employee to elect between an acceptance of this compensation or a resort to the common-law remedy, would simply amount to a perpetuation of the principal evils of the existing system."

The bill that was submitted by the commission passed the Senate at the session of 1912-13, with some amendments, and was further amended in the House, finally failing of enactment because the two Houses were unable to adjust their differences in the face of the opposition that developed to the bill during the closing days of the session. Bills embodying the principles of the commission report and several of the amendments incorporated during the consideration of the measure by the Sixty-second Congress were introduced into both Houses at the called session of the Sixty-third Congress. A copy of this bill, known as the Sutherland bill, from the Senator who was chairman of the commission, is printed following the laws reproduced in this report.

This completes the list of reports known to the Bureau at the time of publication of this report. A commission of Louisiana, provided for last year, and those of Indiana, Missouri, Tennessee, and Vermont may be expected to report in due course, and others may have been created and the action not have come to the knowledge of the Bureau.

It is obvious that in the state of knowledge of the subject in this country five years ago there was an important place for these commissions to fill in considering both the economic and legal aspects of the questions involved. With the accumulation of material of a statistical nature and the numerous briefs presenting the social and economic arguments, the necessity for such commissions is largely discounted. As regards the legal aspects, the opinions of the courts of last resort of seven States furnish a guide to legislation in States in which similar views as to the lawmaking power are held.

Beginning with a Massachusetts committee in 1903, there has been a series of more than 25 bodies of this nature acting in an investigating capacity, whose conclusions have been unanimously in favor of doing away with the liability system and substituting therefor one of compensation; the only approach to a difference of opinion on this subject being a committee appointed in Connecticut in 1907, which, while recognizing that compensation was highly indorsed and agreeing that it would probably come to be the controlling system in the future, was unable to recommend its adoption at that time.

Not only have the commissions been thus unanimous, but in the hearings before the commissions, open to all who wished to present their views as individuals or as representatives of organizations or associations, the defenders of the liability system have been a very small minority. One of the most prominent and perhaps the most active among these opponents of the compensation system said in introducing his argument before the Federal commission:

The most impressive feature of the entire discussion has been the almost undivided support given the theory of workmen's compensation by those employers and employees that have appeared before

legislative committee hearings. There seem to have been but few to question its advisability or to present reasons why the abandonment of American ideas and the adoption of European practice may be detrimental, at least to those American workmen who have expended years in building up magnificent systems of compensation for death and disability arising from any cause, and in creating by constant agitation a public sentiment, which during recent years has resulted in greatly improved employers' liability legislation, both State and National.

The writer realizes that the great mass of working people in this country have not exhibited that degree of ability and determination necessary to protect themselves in the proper manner, and that something should be done to help these helpless working people. What is said herein against the theory of workmen's compensation does not apply to the millions who have proven themselves helpless, and who apparently must depend upon a paternal government for compensation for injuries arising out of modern industries. The sole purpose is to present the question from the standpoint of a railway employee in train service, who has found means of helping himself in matters of compensation for injuries, arising out of his employment.

Obviously this opposition is not directed toward compensation as an idea, but toward its application to a small and highly organized body of employees, important in their field, but not typical of the millions of unorganized or less closely organized working men and women whose situation precludes the possibility of self-supported and self-administered benefit systems. And the question is hardly an open one as to whether or not it is desirable to have one law for one class of a railway company's employees and another for another, or even for different fields of industry; so that while the restricted railway organization (Locomotive Firemen and Enginemen), of which the writer above quoted is the head, has put itself on record as opposed to a Federal compensation law for interstate carriers, the American Federation of Labor has for a number of years been working for compensation legislation for all classes of employment.

No State or country that has adopted compensation has ever returned to the older system, so that questions of desirability or feasibility may be said to be answered for all legislatures before whom the subject may come, and that without the necessity of statistical or other argument.

The question of the type of law seems hardly more capable of satisfactory solution by a commission than without its aid. The cooperation of such bodies as the American Federation of Labor, the National Civic Federation, the American Association for Labor Legislation, and the commissioners on uniform legislation, despite their strength and the thoroughness of their work, can not be said to have been markedly effective in securing uniformity of type, or of amount of compensation, on which latter point the Wisconsin commission considered that stress should be laid rather than on the general type

of the law. Doubtless the most satisfactory answer to the questions as to type will be given by experience, as intimated by the Colorado commission, but the States do not seem much inclined to defer action to observe in this country the working out of systems that have been long used in European countries. The Legislature of Michigan solves the problem of experimentation by offering practically all options to its employers as to methods of administering the benefits contemplated by the law; i. e., directly by the employer, if of proved solvency; by insurance in any authorized insurance company; by funds maintained by mutual associations of employers; and by a State fund to which employers may arrange to contribute. This is for the avowed purpose of a determination by experience of the system best adapted to the conditions prevailing in the State. The New York act of 1913 contains practically the same provisions in this respect.

### PROGRESS OF LEGISLATION.

Legislation providing for stated benefits payable without suit or proof of negligence was first enacted in the United States in the form of a cooperative insurance law of the State of Maryland in 1902. This law was of restricted application, affecting only mining, quarrying, steam and street railways, and work by municipalities in constructing any sewer, excavation, or other physical structure. This law was to be administered by the State insurance commissioner, and made payment an absolute requirement in case of death. It was declared unconstitutional as depriving parties of the right of trial by jury and conferring on an executive officer judicial or at least quasi-judicial functions.<sup>1</sup>

The next law within the territorial jurisdiction of the United States was an enactment by the United States Philippine Commission in 1905, authorizing the continuance of wages for a period during disability, but not exceeding 90 days, in case of injury received by employees of the insular government in line of duty.<sup>2</sup>

In 1908 the Federal Congress enacted a law "granting to certain employees of the United States the right to receive from it compensation for injuries sustained in the course of employment."

Next in order of time was the Montana statute of March 4, 1909, in effect October 1, 1910, providing for the maintenance of a State cooperative insurance fund for miners and laborers in and about the coal mines of the State. Contribution to the fund was compulsory, employers to pay on the basis of the tonnage of coal mined and employees on the basis of their monthly gross earnings. State

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<sup>1</sup> For an account of the operations of this law and the opinion declaring it unconstitutional, see Bul. No. 57, pp. 645-648, 689, 690. The law itself is given in Bul. No. 45, pp. 406-408.

<sup>2</sup> Act No. 1416: See Bul. No. 71, p. 394.

officials were to administer the fund, payments for death and disability being provided for.

While compulsory, the act was not exclusive as against injured workmen, who were permitted to sue under the employers' liability law, though bringing suit forfeited benefits under the law. The double obligation imposed upon the employer by the act was held by the supreme court of the State to invalidate it, though in its essential features it was held to be a valid exercise of the lawmaking power.<sup>1</sup> The opinion of the court will be further noticed under the heading "Constitutionality and construction of statutes."

The next law enacted in this field, and the last before the effect of investigations by commissions came to be influential, is a local law of 1910 of Maryland establishing cooperative insurance funds for the coal and clay miners of Allegany and Garrett Counties. This act is not affected by the compensation law of 1912, and provides for equal contributions to a fund to be collected and disbursed by the treasurers of the respective counties. Miners in Allegany County must pay 27 cents per month and in Garrett County 38 cents per month, employers paying like amounts, unless funds in fixed sums have accumulated in the hands of the respective treasurers. The county commissioners administer the act, the maximum payment for death being \$1,500, while for maiming injuries a schedule of awards is provided, the maximum being \$750, though medical relief in the amount of \$1 per working day for not more than 26 weeks may also be allowed. For injuries without maiming \$1 per working day may be allowed for not more than 52 weeks. Suit may be brought, but doing so bars compensation rights, and conversely the acceptance of benefits bars the right to sue. The fault of double liability which was held to invalidate the Montana statute is avoided in this law by a provision which authorizes an employer who has defended a suit, and against whom judgment has been rendered, to deduct, on compliance with certain conditions, the amount of such judgment and costs from the payments thereafter to be made by him to the county fund.<sup>2</sup>

It is to be observed of the foregoing legislation, antedating what may be called the commission period, that it is of limited application, either locally or as to the classes of employees affected; also that there appears to have been but little regard to actuarial requirements in its enactment. Indeed in the Federal and Philippine statutes there is no occasion to consider this question, as they are simple compensation laws in form, but in fact falling far short of establishing a balanced compensation system. The remaining laws to be noticed

<sup>1</sup> For the law in full see Bul. No. 85, pp. 658-661.

<sup>2</sup> This act is given in Bul. No. 91, pp. 1066-1070; amendments enacted in 1912 appear in Bul. No. 111, pp. 88, 89.

may be said to be of general application, and have either followed the investigations of commissions or have been enacted under conditions making the results of such investigations available to those interested in their enactment.

The first of these laws to be noted is the elective compensation law of New York, 1910, followed in the same session by a compulsory law for hazardous occupations. Ten laws were enacted in 1911, 7 providing for simple compensation, and 3 for a system of insurance; while in 1912, 3 States enacted compensation laws and 1 an insurance law; and in 1913, 7 States were added to the list, in 5 of which a compensation law was enacted, while 2 provided for a system of insurance. The finding of unconstitutionality of the compulsory law of New York as determined by the court of appeals of that State in no way affects the elective law; furthermore a new compulsory law was enacted in 1913, as already noted; so that there are now 22 States having laws of this class on their statute books, of which 16 are compensation laws and 6 provide for insurance. All these laws are reproduced on subsequent pages, as well as the Federal law applying to certain employees of the United States, with its amendments, and the modified United States commission bill applicable to employees engaged in interstate commerce. By an act of August 24, 1912, Congress authorized the President of the United States to provide a system of compensation for employees on the Isthmian Canal and the Panama Railroad. This was promulgated by President Taft as an Executive order of February 26, 1913, to take effect March 1, 1913. On account of the lack of an appropriation to meet the payments provided by the order, an order was issued by President Wilson on March 24, 1913, suspending the operation of the order of February 26, and continuing in effect the act of May 30, 1908, and its amendments relative to employees of the Isthmian Canal Commission. The order providing compensation is reproduced, however, as the later order only suspends and does not abrogate it.

The constitution of Arizona as adopted when that State was admitted to the Union contains a provision authorizing the enactment of a compulsory compensation system; while California, New York, Ohio, and Vermont have amended their constitutions to the same effect. Also, the Legislature of Wyoming has taken steps to submit a similar amendment to the people of that State at the next general election. These amendments and the proposed amendment are also reproduced.



**SUMMARY OF PRINCIPAL FEATURES OF THE LAWS.**

The principal features of the various laws are presented in two forms, one as a table facing page 48, and the other as analyses of the laws, according to a fixed outline, presented at pages 49 to 74. The form of analysis used in the latter presentation corresponds to that used in presentations made of the principal features of foreign workmen's compensation and insurance laws, given on pages 138 to 179.

While all the laws under consideration are compensation laws, in that they provide for fixed awards in case of industrial accidents, proof of negligence and legal actions being dispensed with, some of the laws go beyond the simple determination of the right to compensation and provide for insurance systems, either under State supervision or otherwise. While, therefore, the laws are all classifiable as compensation laws, they may be distinguished for convenience as compensation laws and insurance laws.

A question, second only in importance to the right of the workman to compensation for industrial accidents, is the security of payments. Under some of the compensation laws, the provision is made that the employer must give satisfactory evidence of his solvency, or must give bond for the payment of any sums for which he may become liable, or must insure his liability in some approved company. The necessity of some provision of this sort, apparent on the face of things, is borne out by the report on the operations under the statute of New Jersey (pp. 115 and 116) in which it is reported that in a number of cases the benefits due workmen were not paid to them.

The establishment of a State fund involves a considerable departure from the experience of the past in this country, and the question of its advisability is warmly discussed. The compulsory State insurance system of Washington is the conspicuous example up to the present time, and is claimed by its administrators to have achieved marked success. There is on the other hand vigorous criticism and it is charged by persons within and without the State as being inadequate and unjust. The elective insurance law of Ohio, which likewise provides for State management of an insurance fund, fares similarly at the hands of the respective parties, i. e., the administrators of the act and critics among the employers and insurance companies.

It is not within the province of the present study to go into the arguments of the two parties, but it is suggestive to note that during 1913 the law of Ohio has been strengthened so as to be in effect compulsory, as permitted by constitutional amendment, and that the States of Nevada and Oregon have adopted elective State insurance laws.

### SYSTEMS PROVIDED FOR.

An inspection of the table or chart above referred to discloses a considerable diversity in the matter of systems adopted, whether compensation or insurance, compulsory or elective; if insurance, whether under State control or with approved companies, and whether at the sole cost of employer or cooperative.

### INDUSTRIES COVERED.

There is wide variety in the scope of the laws and the tests adopted for the inclusion or exclusion of industries. In most cases domestic and agricultural labor is excluded, while in some only designated classes of extrahazardous employments are covered. This matter is shown more in detail on the page summaries than in the table.

### ACCEPTANCE OF COMPENSATION SYSTEM.

Under this head are presented the methods prescribed for the expression by employers and workmen of their preference as to the acceptance or rejection of the compensation system. This ranges from an individual filing by each workman of an acknowledged writing in the elective law of New York to a presumed acceptance in the absence of formal rejection in a number of States.

### ABROGATION OF DEFENSES.

Under the elective system in most of the States, it is made an inducement, which has been criticized as coercive, that where employers refuse to come within the provisions of the compensation law the customary defenses to actions for injuries shall not be allowed them. Such abrogation is not necessarily connected with the alternative of accepting the provisions of the compensation law, as is evident in the case of the New York statute, but in most instances the provision is made as an alternative one. In some cases where the law applies only to employers having in excess of a certain number of employees, the abrogation of these defenses does not affect employers of a smaller number of employees. The same is true also in cases in which the employee rejects the compensation system and sues an employer who has accepted such a system.

### SUITS FOR DAMAGES.

The bringing of suits for damages seems not absolutely forbidden in any State, though after electing to accept compensation, or failing to give notice of a rejection of the system, the employee may not sue unless the employer was guilty of serious or willful misconduct or failed to comply with the safety laws. In one State it is permitted as a simple alternative in lieu of compensation, but as this State provides for a simple elective compensation system the difficulty is not met that was found in the case of the Montana statute which fixed

upon the employer a double liability by compelling him to contribute to an insurance fund and leaving him still liable to defend an action at law.

#### **SPECIAL CONTRACTS.**

Under this head are presented the provisions of the laws relative to agreements between employers and employees on questions of substitute schemes or modifications of the employer's liability under the law. Such schemes are not usually absolutely forbidden, but the employer is not allowed to reduce his liability as fixed by the law, and where the burden of cost is entirely on the employer by the statute, if the employee makes any contribution to the fund or substitute system he must receive additional compensating benefits.

#### **BURDEN OF COST.**

With practical uniformity the States have placed the entire burden of the cost of the compensation or insurance systems adopted on the employer. The exceptions to this rule are the States of Maryland, Oregon, and West Virginia, the Ohio law having been amended in 1913 so that contributions by employees are no longer required.

#### **GUARANTY OF PAYMENTS.**

As already noted on page 33 under this general heading, the importance of the guaranty of payments has been recognized even more widely than any provision has been made therefor. One commission in considering this matter recognized the practical necessity for such a provision, but desired further time before making a recommendation for legislation. Aside from the guaranties and preferences indicated in the table, compensation payments are usually exempt from execution and are not assignable when not in the hands of the beneficiary.

#### **WAITING TIME.**

Most of the laws fix a time during which no compensation is payable immediately following the accident causing disability. This ranges from six days to two weeks, and for this time no compensation is allowed in most States other than such provision as is made for medical and surgical attendance. In a few cases, however, if the disability is prolonged beyond a designated time benefits are payable for the first week or weeks of disability. The Federal statute allows no compensation for an injury not continuing beyond 15 days, but where the injury continues payment is made from the first day. This results in the denial of all compensation for disabilities lasting as much as 14 or 15 days, but allowing 16 days' full pay for a disability of a single day or portion of a day beyond the waiting time fixed. An amendment restricted in its application to the Canal Zone permits compensation under local regulations for all work time lost, and in connection with these facts it may be noted that during

the 11 months of 1908-9 that this law was in operation 55.2 per cent of all injuries lasted less than 15 days on the Canal Zone, while in all the other branches of the service the number was 40.95 per cent of the total; in 1909-10, 61.4 per cent of the injuries on the Canal Zone terminated within 15 days, while in the other branches of the service 38.93 per cent so terminated; in 1910-11, 73.04 per cent of the employees on the Canal Zone recovered in less than 15 days, while in the other branches of the service the number amounted to but 39.35 per cent. On the other hand, the recoveries from disability lasting from 15 to 21 days on the Canal Zone during 1908-9 amounted to 12.64 per cent of the whole as against 13.35 per cent in other branches of service; in 1909-10, 8.24 per cent on the Canal Zone as against 14.46 per cent elsewhere; and in 1910-11, 6.96 per cent on the Canal Zone as against 15.48 per cent in the other branches of service. There may be a variety of reasons for these differences, but there is ground at least for a belief that the difficulty in enforcing a return to work under circumstances that would forfeit all compensation, when the prolongation of the disability, whether with or without serious extension of a proper time for recovery, allows the injured workman to secure full pay for all the time lost, is a factor.

#### AMOUNT OF COMPENSATION.

Compensation proper falls into three classes—for death, for total disability, and for partial disability, while for disability of any class there may be also different provisions for temporary and permanent disability. Besides these compensation provisions, a number of the laws provide for medical, surgical, and hospital attendance, and in a number of cases for burial in case of fatal injuries as well. The determination of the scale of compensation is a subject earnestly discussed and on which considerable differences have arisen. The necessity for a workable law on the one hand, not excessively burdensome to the employer and not unduly tempting the prolongation of benefits, while on the other hand it affords actually reasonable benefits to the injured workman so as to prevent hardships of dependents and loss of income of the family wage earner, have led to a wide variety of attempts as a determination of the proper amounts to be awarded. In defending the proposition for a certain waiting time during which no benefits shall be paid, the argument is offered not only that trivial injuries will thus be left out of consideration, but also that it is proper that the workman should share in the burden of accident; so also in determining the scale of compensation, the premise is laid down that the employer should be responsible only for a fraction of the loss incurred, since the employee is also a factor in industry, and it is industry that is to be charged with the burden of accident, one important report stating that "the scale, so far as possible, should divide the wage loss sustained by the em-

ployees and their dependents equally between them and their employers." While it is both impossible and undesirable to compensate injuries by the continuance of the full rate of pay, it can not be overlooked that a large actual burden of pain, inconvenience, and expense, is inevitably borne by the injured workman and his family on which no money value can be set. Furthermore, the employer is in theory and usually in practice able to add the burden of his expense to the selling price of his product, so that the cost of compensation in so far as it is directly chargeable to the employer is capable of being passed on or at least distributed in a way that is entirely outside the possibilities with reference to the loss borne by the workman.

The benefits for death are in most cases based on the earnings of the injured person, usually approximating 3 or 4 years' wages, payable in installments, ranging from 50 per cent to 66 $\frac{2}{3}$  per cent of the weekly or monthly wages. In a few cases the amounts are fixed monthly payments, uniform for all classes of employees without reference to their previous income. Minimum and maximum amounts for weekly or monthly payments and for the total are frequently prescribed. The provisions as to children who are beneficiaries usually make the benefits payable in their behalf cease on their reaching the age of 16 years, though in a few cases the limit is 18 years, while in West Virginia benefits to children cease when they reach the legal age of employment, which in that State is 14 years. A few States have the provision also that benefits shall not cease at the ages named if the recipient is mentally or physically incapacitated for earning a living.

The remarriage of a widow is made to terminate benefits in a number of cases, though in a few instances a lump sum is payable on such remarriage, either a fixed amount or representing a fixed number of months of benefit payments. If the beneficiary is a widower no provision is made for a similar allowance in case of his remarriage.

A few States recognize the fact that a permanently disabled workman is a greater economic loss to his family than if he were killed outright at the time of the accident, and allow in case of permanent total disability a larger amount of compensation than in case of fatal accidents, some continuing payments for such disability for the full period of the injured workman's life. For the most part, however, the basis of the payments is the same as for death. Where the disability is but partial and continuing, a special difficulty arises in view of the fact that while the workman may be able to return to work of some sort within a few weeks, so that the compensation for total disability is but meager, he is handicapped for life by reason of some maiming or other injury that interferes with his ability as a workman. Under the Federal law there is no provision for other than total disability, so that a man who has lost an eye receives no

compensation except for the time necessary for the healing of the wound caused by the injury and any necessary consequent operation. The same is true for minor maimings, and even for major injuries in many cases, so that it frequently happens under this law that the amount of compensation is entirely incommensurate with the damage suffered. Thus, there are numerous cases of the loss of a finger or fingers where the compensation ranged from \$25 to \$50; in 5 cases the loss of an eye was similarly compensated; and in a case of the loss of a right arm the injured workman received less than \$50.

Under every State law, however, special provision is made for continuing partial disability, frequently by an award of a percentage of the wage loss occasioned by such disability, though in a number of cases there is a scale fixed by the law awarding weekly payments for fixed periods after specified injuries, the payments being based on the amount of wages earned at the time of the injury. The question is one that is earnestly discussed as to which is the fairer method of compensation, the advocates of the percentage basis contending that the wage loss may develop with passing years and that the subject of the amount of compensation should be open to revision in accordance with the changing conditions; while, on the other hand, it is claimed that there is an apparent fixed proportionate loss for which an equitable award can be made, and which should be made in every case at the time the injury is inflicted. This has the advantage at least of securing compensation to the workman who is injured on the basis of an actually proved injury without leaving the matter open to remote contingencies and the possibility of the disability arising at a time when there is no fund available from which it could be compensated or when by removal or other change of conditions it would be impossible to take any steps in the way of proof and the securing of the contemplated compensation. It may be noted that in the legislation of the year 1913 the system of providing a schedule of fixed rates for specified injuries seems to have been in favor, and furthermore, that in amendments to earlier laws such schedules were adopted in lieu of the percentage provision contained therein.

The schedules of periods of compensation adopted in the various States include generally the same items and it is possible to tabulate them so as to afford a comparison of the awards allowed by the different States for specified injuries. In most cases compensation is to continue for a fixed number of weeks, though in a few instances the term is measured by months. In order to make the latter cases comparable with the majority, the number of months indicated has been multiplied by  $4\frac{1}{3}$  to reduce them to weeks, the nearest whole number of weeks being used. Several of the laws provide for the loss of one phalange of a finger or toe by allowing one-half the compensation that is fixed for the whole member, and the term of com-

pensation has been computed in these cases, which accounts for the appearance of a number of fractions in the tables which are not evident on the face of the schedules as enacted by law. It should be borne in mind that the periods named show the time during which compensation payments at the rates fixed in the various laws continue, and do not indicate full pay for that number of weeks.

The table follows:

SCHEDULES OF COMPENSATION AWARDS FOR SPECIFIED INJURIES, VARIOUS LAWS.

| Nature of injury.       | Weeks for which compensation is payable in— |                   |                  |                    |                  |                    |                    |                 |
|-------------------------|---|-------------------|------------------|--------------------|------------------|--------------------|--------------------|-----------------|
|                         | Conn. <sup>1</sup>                          | Ill. <sup>2</sup> | Iowa.            | Mass. <sup>3</sup> | Mich.            | Minn. <sup>1</sup> | Nebr. <sup>1</sup> | Nev.            |
| Loss of—                |   |                   |                  |                    |                  |                    |                    |                 |
| Arm.....                | 208   | 200               | 200              | 50                 | 20 <sup>1</sup>  | 200                | 215                | 217             |
| Hand.....               | 156   | 150               | 150              | 50                 | 150              | 150                | 175                | 173             |
| Thumb.....              | 38  | 60                | 40               | 12                 | 60               | 60                 |                    | 65              |
| One phalange.....       | 19  | 30                | 20               | 12                 | 30               | 30                 |                    |                 |
| Index finger.....       | 38  | 35                | 30               | 12                 | 35               | 35                 |                    | 39              |
| One phalange.....       |   | 17 $\frac{1}{2}$  | 15               | 12                 | 17 $\frac{1}{2}$ | 17 $\frac{1}{2}$   |                    |                 |
| Middle finger.....      | 30  | 30                | 25               | 12                 | 30               | 30                 |                    | 30              |
| One phalange.....       |   | 15                | 12 $\frac{1}{2}$ | 12                 | 15               | 15                 |                    |                 |
| Ring finger.....        | 25  | 20                | 20               | 12                 | 20               | 20                 |                    | 22              |
| One phalange.....       |   | 10                | 10               | 12                 | 10               | 10                 |                    |                 |
| Little finger.....      | 20  | 15                | 15               | 12                 | 15               | 15                 |                    | 17              |
| One phalange.....       |   | 7 $\frac{1}{2}$   | 7 $\frac{1}{2}$  | 12                 | 7 $\frac{1}{2}$  | 7 $\frac{1}{2}$    |                    |                 |
| Leg.....                | 182   | 175               | 175              | 50                 | 175              | 175                | 215                | 195             |
| Foot.....               | 130   | 125               | 125              | 50                 | 125              | 125                | 150                | 152             |
| Great toe.....          | 38  | 30                | 25               | 12                 | 30               | 30                 |                    | 30              |
| One phalange.....       |   | 15                | 12 $\frac{1}{2}$ | 12                 | 15               | 15                 |                    | 15              |
| Other toe.....          | 13  | 10                | 15               | 12                 | 10               | 10                 |                    | 11              |
| One phalange.....       |   | 5                 | 7 $\frac{1}{2}$  | 12                 | 5                | 5                  |                    | 5 $\frac{1}{2}$ |
| Sight of one eye.....   | 104   | 100               | 100              | 50                 | 100              | 100                | 125                | 108             |
| Hearing, one ear.....   | 52  |                   |                  |                    |                  |                    |                    |                 |
| Hearing, both ears..... | 156   |                   |                  |                    |                  |                    |                    |                 |
| Total disability.....   | 520   | <sup>2</sup> 416  | 400              | 500                | 500              | 400                | <sup>2</sup> 300   | 433             |

| Nature of injury.       | Weeks for which compensation is payable in— |                  |                    |                    |                   |      |                                |
|-------------------------|---|------------------|--------------------|--------------------|-------------------|------|--------------------------------|
|                         | N. J. <sup>2</sup>                          | Ohio.            | Oreg. <sup>4</sup> | R. I. <sup>2</sup> | Tex. <sup>2</sup> | Wis. | United States (railroad bill). |
| Loss of—                |   |                  |                    |                    |                   |      |                                |
| Arm.....                | 200   | 200              | 416                | 50                 | 50                | 240  | 312                            |
| Hand.....               | 150   | 150              | 329                | 50                 | 50                | 160  | 247                            |
| Thumb.....              | 60  | 60               | 104                | 12                 | 12                | 40   | 56                             |
| One phalange.....       | 30  | 30               | 52                 | 12                 | 12                | 20   | 28                             |
| Index finger.....       | 35  | 35               | 69                 | 12                 | 12                | 20   | 39                             |
| One phalange.....       | 17 $\frac{1}{2}$                            | 12               | 23                 | 12                 | 12                | 10   |                                |
| Middle finger.....      | 30  | 30               | 39                 | 12                 | 12                | 15   | 30                             |
| One phalange.....       | 15  | 10               | 13                 | 12                 | 12                | 5    |                                |
| Ring finger.....        | 20  | 20               | 35                 | 12                 | 12                | 8    | 26                             |
| One phalange.....       | 10  | 7                | 12                 | 12                 | 12                | 4    |                                |
| Little finger.....      | 15  | 15               | 26                 | 12                 | 12                | 10   | 22                             |
| One phalange.....       | 7 $\frac{1}{2}$                             | 5                | 9                  | 12                 | 12                | 4    |                                |
| Leg.....                | 175   | 175              | 381                | 50                 | 50                | 160  | 256                            |
| Foot.....               | 125   | 125              | 277                | 50                 | 50                | 120  | 208                            |
| Great toe.....          | 30  | 30               | 43                 | 12                 | 12                | 20   | 39                             |
| One phalange.....       | 15  |                  |                    | 12                 | 12                | 10   |                                |
| Other toe.....          | 10  | 10               | 17                 | 12                 | 12                | 4    | 17                             |
| One phalange.....       | 5   |                  |                    | 12                 | 12                | 4    |                                |
| Sight of one eye.....   | 100   | 100              | 173                | 50                 | 50                | 120  | 130                            |
| Hearing, one ear.....   |   |                  | 208                |                    |                   | 40   | 156                            |
| Hearing, both ears..... |   |                  | 416                |                    |                   | 160  | 312                            |
| Total disability.....   | 400   | ( <sup>5</sup> ) | ( <sup>5</sup> )   | 500                | 400               | 478  | ( <sup>5</sup> )               |

<sup>1</sup> Payments under this schedule are exclusive or in lieu of all other payments.

<sup>2</sup> Payments under this schedule are in addition to payments on account of temporary total disability.

<sup>3</sup> Thereafter a pension during life.

<sup>4</sup> The periods named in this column are to be reduced by any time for which payments on account of temporary total disability have been made.

<sup>5</sup> Payments during life.

Naturally, with the years of cumulative experience under the European laws, many decisions have been made on the subject of awards for injuries, and on the basis of these awards some laws have been enacted codifying this experience, while in other instances scales have been drawn up for the guidance of administrative officers of the insurance associations. Experts in administration and students of the subject have also taken up the matter and have drawn up tables embodying the experience under these laws either as a matter of selection or by elaboration and a systematic development of proposed percentages of disability. The subject seems of sufficient interest to warrant the introduction at this place of some comparative data, though it is evident that strict comparisons can not be made on account of the varying forms and provisions of the laws. The periods during which compensation is paid and the rate of its payment are to be considered in determining the liberality of a schedule as well as the rating of degree of disability for a specified injury. The fact remains, however, that on the basis of an award for total disability the European schedules have fixed certain percentages of disability as corresponding to specified forms of injury, and the American laws have likewise fixed a limit for the period of payments for total disability and for the periods for which compensation will be paid for specified injuries. While, therefore, under the European systems payment is usually continuous during life and the insurance payments begin only after the expiration of a period during which benefits are derived from other funds in many instances, a general idea of the comparative standards can, nevertheless, be derived by considering the tables for the two countries.

Since the foreign scales present degrees of disability by percentages of an estimated total disability, while the State laws make awards for specified periods, in order to make the latter comparable with the former it becomes necessary to compute the percentages for the States, using the number of weeks' payments for total disability as the base, and determining the percentage for each specific compensation period, respectively. Inasmuch as certain American laws provide for payment during life, it would be impossible to compute percentages for the temporary awards made without the introduction of the actuarial basis of expectancy, and these are therefore omitted from this comparison. It must be borne in mind also that in some cases, indicated in the foregoing table, the specific awards provided for are declared to be in lieu of all other compensation for the injuries in question, while in others they are in addition to the amounts paid during the continuance of total disability on account of the injury received, and in still others the law is silent on this point. It is obvious, therefore, that strict comparisons between the American and European scales



as thus arrived at are not possible, though a measure of value doubtless remains.

The computed table, based on the American laws, is as follows:

COMPUTED PERCENTAGES OF DISABILITY FOR SPECIFIED INJURIES, BASED ON SCHEDULES OF COMPENSATION AWARDS UNDER THE LAWS OF VARIOUS STATES.

| Nature of injury.       | Conn.         | Iowa.         | Mass.         | Mich.         | Minn.         | Nev.          | N. J.         | R. I.         | Tex.          | Wis.          |
|-------------------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|
| Loss of—                | <i>P. ct.</i> | <i>P. ct.</i> | <i>P. ct.</i> | <i>P. ct.</i> | <i>P. ct.</i> | <i>P. ct.</i> | <i>P. ct.</i> | <i>P. ct.</i> | <i>P. ct.</i> | <i>P. ct.</i> |
| Arm.....                | 40            | 50            | 10            | 40            | 50            | 27            | 50            | 10            | 13            | 50            |
| Hand.....               | 30            | 38            | 10            | 30            | 38            | 40            | 38            | 10            | 13            | 33            |
| Thumb.....              | 7             | 10            | 2             | 12            | 15            | 15            | 15            | 2             | 3             | 8             |
| One phalange.....       | 4             | 5             | 2             | 6             | 8             | 8             | 8             | 2             | 3             | 4             |
| Index finger.....       | 7             | 8             | 2             | 7             | 9             | 9             | 9             | 2             | 3             | 4             |
| One phalange.....       | 4             | 4             | 2             | 4             | 4             | 4             | 4             | 2             | 3             | 2             |
| Middle finger.....      | 6             | 6             | 2             | 6             | 8             | 8             | 8             | 2             | 3             | 3             |
| One phalange.....       | 3             | 3             | 2             | 3             | 4             | 7             | 4             | 2             | 3             | 3             |
| Ring finger.....        | 5             | 5             | 2             | 4             | 5             | 5             | 5             | 2             | 3             | 2             |
| One phalange.....       | 3             | 3             | 2             | 2             | 3             | 3             | 3             | 2             | 3             | 1             |
| Little finger.....      | 4             | 4             | 2             | 3             | 3             | 4             | 4             | 2             | 3             | 3             |
| One phalange.....       | 2             | 2             | 2             | 2             | 2             | 4             | 2             | 2             | 3             | 1             |
| Leg.....                | 35            | 44            | 10            | 35            | 44            | 44            | 44            | 10            | 13            | 33            |
| Foot.....               | 25            | 31            | 10            | 25            | 31            | 35            | 31            | 10            | 13            | 25            |
| Great toe.....          | 7             | 6             | 2             | 6             | 8             | 7             | 8             | 2             | 3             | 4             |
| One phalange.....       | 3             | 3             | 2             | 3             | 4             | 3             | 4             | 2             | 3             | 2             |
| Other toe.....          | 3             | 4             | 2             | 2             | 3             | 3             | 3             | 2             | 3             | 1             |
| One phalange.....       | 2             | 2             | 2             | 1             | 1             | 1             | 1             | 2             | 3             | 1             |
| Sight of one eye.....   | 20            | 25            | 10            | 20            | 25            | 25            | 25            | 10            | 13            | 25            |
| Hearing, one ear.....   | 10            | 10            | 10            | 10            | 10            | 10            | 10            | 10            | 10            | 10            |
| Hearing, both ears..... | 30            | 30            | 30            | 30            | 30            | 30            | 30            | 30            | 30            | 30            |

The Bureau of Labor Statistics undertook some time ago to secure the official scales of disability (*Invaliditäts-Skala*) of the German associations (*Berufsgenossenschaften*), but obtained such a scale in only one of the three score instances in which they were supposed to exist, this being the scale of the association managing the insurance in the Bavarian woodworking industries; a number of such associations stated that the matter was in the hands of the administrative bodies, and such tables were not used. There are available, however, in the library of the Bureau of Labor Statistics and the Library of Congress books presenting the results of a number of studies, while the Twenty-fourth Annual Report of the Commissioner of Labor Statistics, Workmen's Insurance and Compensation Systems in Europe, contains some material along these lines, notably the official schedule used in administering the Russian workmen's insurance law, presented at pages 2107-2111 of the report. Such data as are at hand at this time are collected in a table presented below, the list of injuries being one that was drawn up by the authors of a French work "Accidents du Travail: Guide pour l'Evaluation des Incapacités," by Imbert, Oddo, and Chavernac. The data on which this classification and rating is based are cited as from official sources, the German, French, and Austrian material being official adjudications or ratings, while the Italian law itself furnishes the rates for that country. From these four sources, and some others which the authors consider as of commanding value, the scale presented in the

first column, headed "Imbert," etc., is derived, and the four succeeding columns present the basic data contained in the work above mentioned.

Dr. Maximilian Miller published a work in 1908 on the subject of degrees of disability under the insurance legislation of Germany, "Die Erwerbsunfähigkeit und ihre Ursachen." This author presents a table based on the collective experience of a number of German insurance associations giving different rates for skilled and unskilled workmen. These rates are presented in the two columns headed "Miller" on page 44. The next column presents the data furnished by the Bavarian woodworkers' association mentioned above, while the column immediately following contains the Russian standard adopted in 1904, having been drawn up by the medical council of the Ministry of the Interior for the guidance of the physicians concerned with the administration of the workmen's insurance law of that country.

This scale and the one presented in the column headed "Könen-Köln" present forms of disability not contained in the other scales, to which attention will be given in another place, the items here presented being such as correspond to the list of Imbert. The basis of the scale presented by Könen-Köln is the decisions of the German adjudicating officers. The next column, headed "Bähr," results from the consideration of the experience of important German, Swiss, and Austrian insurance associations as brought together by F. Bähr. The two last-named scales are presented in a volume, "Handbuch der Unfallkrankungen," by Dr. C. Thiem, 1909. Dr. Thiem undertakes to draw up from the above and other data a table of his own, systematizing the degrees of disability in accordance with the various facts at hand, and the result of his labors is given in the last column of the table which follows:

DEGREES OF DISABILITY FOR SPECIFIED INJURIES, ACCORDING TO VARIOUS FOREIGN STANDARDS AND AUTHORITIES, EXPRESSED IN PERCENTAGES OF TOTAL DISABILITY.

| Nature of injury.                     | Imbert, etc.     | German adjudications. | French adjudications. | Austrian imperial office ratings. | Italian law.     |
|---------------------------------------|------------------|-----------------------|-----------------------|-----------------------------------|------------------|
| <b>Loss of right or major—</b>        | <i>Per cent.</i> | <i>Per cent.</i>      | <i>Per cent.</i>      | <i>Per cent.</i>                  | <i>Per cent.</i> |
| Arm.....                              | 75               | 60-75                 | 60-85                 | 66-83                             | 80               |
| Forearm.....                          | 70               | 66-75                 | 70-80                 |                                   | 70-80            |
| Disarticulation at shoulder.....      | 85               |                       |                       |                                   |                  |
| Hand.....                             | 65               | 50-75                 | 55-80                 | 50-83                             | 70               |
| Thumb.....                            | 30               | 30                    | 14-60                 | 25-33                             | 30               |
| Including metacarpal bone.....        | 35               |                       |                       |                                   |                  |
| One phalange only.....                | 15               | 10-20                 | 6-30                  | 16                                | 15               |
| Index finger.....                     | 15               | 10-15                 | 8-15                  |                                   | 20               |
| Two phalanges.....                    | 10               | 10                    | 7-20                  |                                   |                  |
| One phalange only.....                | 6                | 0-10                  | 2-12                  | 10                                |                  |
| Middle finger.....                    | 10               | 20                    | 6-16                  |                                   | 8                |
| Two phalanges.....                    | 8                | 0-10                  | 5-10                  |                                   |                  |
| One phalange only.....                | 5                | 0-10                  | 3-10                  | 1-10                              | 5                |
| Ring finger.....                      | 10               | 15                    | 8-11                  |                                   | 8                |
| Two phalanges.....                    | 8                | 0-10                  | 5-10                  |                                   |                  |
| One phalange only.....                | 5                | 0-10                  | 0-8                   |                                   | 5                |
| Little finger.....                    | 8                | 10                    | 6-8                   |                                   | 12               |
| Two phalanges.....                    | 6                | 0-10                  | 3-8                   |                                   |                  |
| One phalange only.....                | 3                | 0                     | 0-6                   | 8-10                              | 5                |
| Thumb and index finger.....           | 45               | 40                    |                       |                                   |                  |
| Index and middle fingers.....         | 25               | 25-50                 | 34-70                 |                                   |                  |
| Middle and ring fingers.....          | 20               | 33-40                 | 33-40                 |                                   |                  |
| Ring and little fingers.....          | 20               | 20-33                 | 10-20                 |                                   |                  |
| Thumb, index, and middle fingers..... | 55               | 50-60                 | 30-50                 |                                   |                  |
| Index, middle, and ring fingers.....  | 35               | 45-60                 | 40-50                 |                                   |                  |
| Middle, ring, and little fingers..... | 30               | 33                    | 50-60                 |                                   |                  |
| Thumb and three fingers.....          | 65               | 50-60                 | 60-65                 |                                   |                  |
| Four fingers.....                     | 50               |                       | 60                    |                                   |                  |
| <b>Loss of left or minor—</b>         |                  |                       |                       |                                   |                  |
| Arm.....                              | 65               | 60                    | 60-80                 | 66-83                             | 75               |
| Forearm.....                          | 60               | 60-75                 | 60                    | 66-75                             | 65-75            |
| Disarticulation at shoulder.....      | 75               |                       |                       |                                   |                  |
| Hand.....                             | 55               | 50-60                 | 50-55                 | 50-83                             | 65               |
| Thumb.....                            | 25               | 25                    | 10-20                 | 25-30                             | 25               |
| Including metacarpal bone.....        | 30               |                       |                       |                                   |                  |
| One phalange only.....                | 10               | 10                    | 5-13                  |                                   | 12               |
| Index finger.....                     | 10               | 10                    | 11-13                 |                                   | 15               |
| Two phalanges.....                    | 8                | 10                    | 6-20                  |                                   |                  |
| One phalange only.....                | 5                | 0-10                  | 0-10                  |                                   |                  |
| Middle finger.....                    | 8                | 15                    | 5-16                  |                                   | 8                |
| Two phalanges.....                    | 6                | 0-10                  | 8-15                  |                                   |                  |
| One phalange only.....                | 2                | 0-10                  | 3-10                  | 1-10                              |                  |
| Ring finger.....                      | 8                | 0-10                  | 8-10                  |                                   |                  |
| Two phalanges.....                    | 6                | 0-10                  | 5-8                   |                                   |                  |
| One phalange only.....                | 2                | 0-10                  | 2-6                   |                                   |                  |
| Little finger.....                    | 6                | 0-10                  | 3-10                  |                                   |                  |
| Two phalanges.....                    | 4                | 0-10                  | 2-10                  |                                   |                  |
| One phalange only.....                | 1                | 0                     | 1-6                   | 8-10                              |                  |
| Thumb and index finger.....           | 35               |                       |                       |                                   |                  |
| Index and middle fingers.....         | 20               |                       | 20-35                 |                                   |                  |
| Middle and ring fingers.....          | 15               |                       |                       |                                   |                  |
| Ring and little fingers.....          | 12               |                       | 13                    |                                   |                  |
| Thumb, index, and middle fingers..... | 45               | 33                    | 30-40                 |                                   |                  |
| Index, middle, and ring fingers.....  | 25               | 45                    |                       |                                   |                  |
| Middle, ring, and little fingers..... | 20               |                       | 20-35                 |                                   |                  |
| Thumb and three fingers.....          | 50               |                       |                       |                                   |                  |
| Four fingers.....                     | 40               |                       |                       |                                   |                  |
| <b>Loss of thigh:</b>                 |                  |                       |                       |                                   |                  |
| Disarticulation.....                  | 85-90            | 85                    |                       | 50-83                             | 70               |
| Amputation.....                       | 70-80            | 66                    | 65-90                 | 66                                | 60               |
| Loss of leg.....                      | 60-65            | 50-70                 | 43-65                 | 45-65                             | 50               |
| Loss of foot.....                     | 45-55            | 50-60                 | 60-65                 |                                   | 50               |
| Fore part of foot only.....           | 20-30            | 35-50                 |                       |                                   |                  |
| Loss of great toe.....                | 12-16            | 10-15                 | 5-8                   | 10                                | 7                |
| Including metatarsal bone.....        | 15-20            |                       |                       |                                   | 15               |
| One phalange only.....                | 4-5              |                       | 2-8                   |                                   |                  |
| Loss of other toe.....                | 3-5              | 5                     | 7-20                  |                                   | 5                |
| Loss of all toes.....                 | 20-25            | 20-25                 |                       | 30                                |                  |
| Loss of sight, one eye.....           | 20-50            | 25                    | 33                    |                                   | 35               |
| Loss of hearing, one ear:             |                  |                       |                       |                                   |                  |
| Partial.....                          | 8-10             | 10-40                 |                       |                                   |                  |
| Complete.....                         | 10-15            | 15-30                 | 4-22                  |                                   | 10               |
| Loss of hearing, both ears:           |                  |                       |                       |                                   |                  |
| Partial.....                          | 10-15            | 20-30                 |                       |                                   |                  |
| Complete.....                         | 50               | 15-50                 |                       | 45                                | 40               |

## DEGREES OF DISABILITY FOR SPECIFIED INJURIES, ACCORDING TO VARIOUS FOREIGN STANDARDS AND AUTHORITIES, EXPRESSED IN PERCENTAGES OF TOTAL DISABILITY—Concluded.

| Nature of injury.                     | Miller.                  |                                 | Bava-<br>rian<br>wood-<br>workers<br>associa-<br>tion. | Rus-<br>sian<br>stand-<br>ard,<br>1904. | Könen-<br>Köln. | Bähr.          | Thiem.         |
|---------------------------------------|--------------------------|---------------------------------|--|---|-----------------|----------------|----------------|
|                                       | Skilled<br>work-<br>men. | Un-<br>skilled<br>work-<br>men. |  |   |                 |                |                |
| Loss of right or major—               | <i>Per ct.</i>           | <i>Per ct.</i>                  | <i>Per ct.</i>   | <i>Per ct.</i>                          | <i>Per ct.</i>  | <i>Per ct.</i> | <i>Per ct.</i> |
| Arm.....                              | 80                       | 60                              | 70-80  | 75                                      | 75              | 50-66½         | 66½-80         |
| Forearm.....                          | 70                       | 60                              |  | 75                                      |                 | 50-66½         |                |
| Disarticulation at shoulder.....      |                          |                                 |  | 75                                      |                 |                |                |
| Hand.....                             | 70                       | 60                              | 70-80  | 75                                      | 66½             | 50-66½         | 60-66½         |
| Thumb.....                            | 30                       | 20                              | 22-26  | 30                                      | 25-30           | 18-27          | 25-30          |
| Including metacarpal bone.....        | 40                       | 30                              |  | 30                                      |                 |                | 30-33½         |
| One phalange only.....                |                          |                                 | 11-13  | 15                                      |                 |                |                |
| Index finger.....                     | 15                       | 15                              | 16-18  | 25                                      | 15-20           | 12-17½         | 15-18          |
| Two phalanges.....                    |                          |                                 |  | 15                                      |                 |                |                |
| One phalange only.....                |                          |                                 | 5½-6   |   |                 |                |                |
| Middle finger.....                    | 10                       | 10                              | 13-14  | 10                                      | 15              | 5-10           | 12             |
| Two phalanges.....                    |                          |                                 |  | 5                                       |                 |                |                |
| One phalange only.....                |                          |                                 | 4-5  |   |                 |                |                |
| Ring finger.....                      | 10                       | 10                              | 8-10   | 10                                      | 10              | 5-10           | 10             |
| Two phalanges.....                    |                          |                                 |  | 5                                       |                 |                |                |
| One phalange only.....                |                          |                                 | 3  |   |                 |                |                |
| Little finger.....                    | 10                       | 10                              | 11-12  |   | 10              | 10-17½         | 10-12          |
| Two phalanges.....                    |                          |                                 |  |   |                 |                |                |
| One phalange only.....                |                          |                                 | 3½-4   |   |                 |                |                |
| Thumb and index finger.....           |                          |                                 |  | 50                                      |                 |                |                |
| Index and middle fingers.....         |                          |                                 |  | 35                                      |                 |                |                |
| Middle and ring fingers.....          |                          |                                 |  | 25                                      |                 |                |                |
| Ring and little fingers.....          |                          |                                 |  | 20                                      |                 |                |                |
| Thumb, index, and middle fingers..... |                          |                                 |  | 60                                      |                 |                |                |
| Index, middle, and ring fingers.....  |                          |                                 |  | 50                                      |                 |                |                |
| Middle, ring, and little fingers..... |                          |                                 |  | 35                                      |                 |                |                |
| Thumb and three fingers.....          |                          |                                 |  | 70                                      |                 |                |                |
| Four fingers.....                     |                          |                                 |  | 70                                      | 50              |                |                |
| Loss of left or minor—                |                          |                                 |  |   |                 |                |                |
| Arm.....                              | 70                       | 50                              | 60-70  | 60                                      | 66½             | 40-50          | 60-70          |
| Forearm.....                          | 60                       | 50                              |  | 65                                      |                 | 40-50          |                |
| Disarticulation at shoulder.....      |                          |                                 |  | 60                                      |                 |                |                |
| Hand.....                             | 60                       | 50                              | 60-70  | 65                                      | 50-60           | 40-50          | 50-60          |
| Thumb.....                            | 20                       | 20                              | 19-22  | 25                                      | 20-25           | 12-17½         | 20-25          |
| Including metacarpal bone.....        | 30                       | 20                              |  | 25                                      |                 |                | 25-30          |
| One phalange only.....                |                          |                                 | 9½-11  | 10                                      |                 |                |                |
| Index finger.....                     | 15                       | 15                              | 14-16  | 15                                      | 15              | 8-12           | 12-15          |
| Two phalanges.....                    |                          |                                 |  | 10                                      |                 |                |                |
| One phalange only.....                |                          |                                 | 4½-5½  |   |                 |                |                |
| Middle finger.....                    | 10                       | 10                              | 11-13  | 5                                       | 10              | 5-10           | 10             |
| Two phalanges.....                    |                          |                                 |  |   |                 |                |                |
| One phalange only.....                |                          |                                 | 3½-4   |   |                 |                |                |
| Ring finger.....                      | 10                       | 10                              | 7-8  | 5                                       | 10              | 5-10           | 10             |
| Two phalanges.....                    |                          |                                 |  |   |                 |                |                |
| One phalange only.....                |                          |                                 | 2½-3   |   |                 |                |                |
| Little finger.....                    | 10                       | 10                              | 9-11   |   | 10              | 7½-10          | 10-12          |
| Two phalanges.....                    |                          |                                 |  |   |                 |                |                |
| One phalange only.....                |                          |                                 | 3-3½   |   |                 |                |                |
| Thumb and index finger.....           |                          |                                 |  | 40                                      |                 |                |                |
| Index and middle fingers.....         |                          |                                 |  | 25                                      |                 |                |                |
| Middle and ring fingers.....          |                          |                                 |  | 20                                      |                 |                |                |
| Ring and little fingers.....          |                          |                                 |  | 10                                      |                 |                |                |
| Thumb, index, and middle fingers..... |                          |                                 |  | 50                                      |                 |                |                |
| Index, middle, and ring fingers.....  |                          |                                 |  | 40                                      |                 |                |                |
| Middle, ring, and little fingers..... |                          |                                 |  | 20                                      |                 |                |                |
| Thumb and three fingers.....          |                          |                                 |  | 60                                      |                 |                |                |
| Four fingers.....                     |                          |                                 |  | 55                                      | 40              |                |                |
| Loss of thigh:                        |                          |                                 |  |   |                 |                |                |
| Disarticulation.....                  |                          |                                 |  |   | 85              |                |                |
| Amputation.....                       | 80                       | 70                              | 50-70  | 75                                      | 75              | 40-50          | 75             |
| Loss of leg.....                      | 60                       | 60                              |  | 65                                      | 60              | 40-50          | 50-66½         |
| Loss of foot.....                     | 50                       | 50                              | 50-60  | 60                                      | 40              | 30-50          | 50             |
| Fore part of foot only.....           | 30-40                    | 30-40                           |  | 50                                      |                 |                |                |
| Loss of great toe.....                | 10                       | 10                              | 15-20  | 10                                      | 10              | 5-10           | 0-10           |
| Including metatarsal bone.....        |                          |                                 |  |   |                 |                |                |
| One phalange only.....                |                          |                                 |  |   |                 |                |                |
| Loss of other toe.....                |                          |                                 | 5-6  |   | 5               | 3-5            |                |
| Loss of all toes.....                 |                          |                                 | 50-60  | 25                                      |                 |                | 20-33½         |
| Loss of sight, one eye.....           | 33                       | 25                              | 35-50  | 35                                      |                 | 25-40          | 20-30          |
| Loss of hearing, one ear:             |                          |                                 |  |   |                 |                |                |
| Partial.....                          | 10                       | 10                              |  |   |                 |                | 0-10           |
| Complete.....                         | 20                       | 20                              |  | 10                                      |                 | 25             | 20             |
| Loss of hearing, both ears:           |                          |                                 |  |   |                 |                |                |
| Partial.....                          | 20                       | 20                              |  |   |                 |                | 10-40          |
| Complete.....                         | 50                       | 50                              |  | 50                                      |                 | 65             | 50-60          |

As mentioned in the introduction to the foregoing tables, certain forms of disability are provided for in some of these scales which are not mentioned in the American laws except by the provision in some cases that the loss of the use of a member is equivalent to the loss of that member. On account of their interest in the general field, some of these rates are given in the following table, though not strictly comparable with any American material:

DEGREES OF DISABILITY FOR SPECIFIED INJURIES OTHER THAN MAIMINGS, ACCORDING TO CERTAIN FOREIGN STANDARDS, EXPRESSED IN PERCENTAGES OF TOTAL DISABILITY.

| Nature of injury.   | Russian standard, 1904. |       | Könen-Köln. |       |
|---|-------------------------|-------|-------------|-------|
|   | Right.                  | Left. | Right.      | Left. |
| Stiff wrist joint.....  | 30                      | 25    | 40          | 30    |
| Stiff elbow joint at full extension or full flexion.....      | 50                      | 40    | 60          | 50    |
| Stiff elbow joint at right-angle flexion.....                 | 35                      | 25    | 40          | 30    |
| Loose elbow joint.....  | 60                      | 50    | 60-70       | 50-60 |
| Stiffness of elbow and wrist joints.....                      | 60                      | 50    | 70          | 60    |
| Stiffness of shoulder joint.....                              | 60                      | 50    | 50          | 40    |
| Inability to raise arm above horizontal position.....         | 40                      | 30    | 30          | 20    |
| Habitual dislocation of shoulder.....                         | 20                      | 10.   | 35          | 15    |
| Stiffness of knee joint at extension.....                     | 40                      |       | 50          |       |
| Stiffness of knee joint strongly flexed or overextended.....  | 50                      |       | 60-70       |       |
| Loose knee joint.....   | 9                       |       | 50          |       |
| Fracture of patella with injury to extension attachments..... | 50                      |       | 50          |       |

Injuries to the eye have received comparatively little attention in American laws, degrees of visual capacity being noted in perhaps but one statute. The subject has been given detailed attention in European practice, the medical council of the Russian Ministry of the Interior having adopted what is known as Josten's table for computing the degrees of disability due to the weakening of eyesight. The table is as follows:

JOSTEN'S TABLE FOR DETERMINING DEGREES OF DISABILITY RESULTING FROM WEAKENING OF VISION.

| S.   | 0.50  | 0.40  | 0.30  | 0.20  | 0.10  | 0.00   |
|------|-------|-------|-------|-------|-------|--------|
| 0.50 | 0.00  | 6.50  | 13.50 | 20.00 | 26.50 | 33.50  |
| .40  | 6.50  | 14.50 | 22.00 | 30.00 | 38.00 | 46.00  |
| .30  | 13.50 | 22.00 | 31.50 | 41.00 | 50.50 | 60.00  |
| .20  | 20.00 | 30.00 | 41.00 | 52.00 | 62.50 | 73.50  |
| .10  | 26.50 | 38.00 | 50.50 | 62.50 | 75.00 | 87.00  |
| .00  | 33.50 | 46.00 | 60.00 | 73.50 | 87.00 | 100.00 |

NOTE.—S. stands for strength of vision; the first horizontal line of figures gives the remaining strength of one eye, and the first vertical line the remaining strength of vision of the other eye. The figure at the crossing of the two lines proceeding from the respective figures in the first horizontal and vertical lines gives the degree of loss of vision. Thus, when the vision in one eye is 0.20, and the other 0.10, the disability is 62.50 per cent.

Besides the strength of central vision, other conditions, such as accommodation, muscular action of the eye, etc., as well as the nature of the employment of the injured, may be taken into consideration.

A small volume by a German authority, Dr. Maschke, makes this subject the sole matter of its consideration. This volume in a French translation is entitled "Guide Pratique pour la Determination des Rentes en Cas d'Accidents Oculaires." The table presented by Dr. Maschke is said by him to be the rating actually employed in German practice in determining insurance benefits. It differs in detail from the Josten's table used by the Russian authorities, making more refined distinctions as to degrees of disability.

The method is the same as in Josten's table, i. e., the left-hand column represents the visual power of one eye and the horizontal line of fractions represents the visual power of the other, while the figure in the body of the table found at the vertex of a right angle drawn from the two fractional quantities represents the percentage of a total disability that is allowed for the particular case. Thus if the left-hand figure, one-seventh, represents the visual capacity of one eye, and the fraction, one-half, represents the visual capacity of the other, the amount of compensation allowed would be 20 per cent of a full allowance. It will be noted that in eight cases an amount of compensation in excess of the standard full allowance is granted, the amounts ranging from 105 to 125 per cent. This is explained by the fact that it is considered that the person whose loss of vision is so extensive as to involve complete or practically complete blindness is entitled to a higher rate of compensation because he is not only incapable of exercising any trade but in addition requires personal care and attention.

The table follows:

GERMAN TABLE FOR DETERMINING DEGREES OF DISABILITY RESULTING FROM WEAKNESS OF VISION.

| Visual capacity.         | 1 to $\frac{1}{2}$ | $\frac{1}{2}$ | $\frac{1}{3}$ | $\frac{1}{4}$ | $\frac{1}{5}$ | $\frac{1}{6}$ | $\frac{1}{7}$ | $\frac{1}{8}$ | $\frac{1}{9}$ | $\frac{1}{10}$ | 0   |
|--------------------------|--------------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|----------------|-----|
| 1 to $\frac{1}{2}$ ..... | 0                  | 0             | 5             | 10            | 10            | 15            | 15            | 15            | 20            | 20             | 25  |
| $\frac{1}{2}$ .....      | 0                  | 5             | 10            | 10            | 15            | 20            | 25            | 25            | 30            | 30             | 35  |
| $\frac{1}{3}$ .....      | 5                  | 10            | 25            | 25            | 30            | 30            | 35            | 40            | 45            | 45             | 55  |
| $\frac{1}{4}$ .....      | 10                 | 10            | 25            | 40            | 40            | 45            | 50            | 55            | 60            | 60             | 65  |
| $\frac{1}{5}$ .....      | 10                 | 15            | 30            | 40            | 55            | 60            | 65            | 70            | 75            | 80             | 80  |
| $\frac{1}{6}$ .....      | 15                 | 20            | 30            | 45            | 60            | 70            | 75            | 80            | 85            | 90             | 90  |
| $\frac{1}{7}$ .....      | 15                 | 25            | 35            | 50            | 65            | 75            | 85            | 90            | 95            | 95             | 105 |
| $\frac{1}{8}$ .....      | 20                 | 25            | 40            | 55            | 70            | 80            | 90            | 95            | 100           | 100            | 115 |
| $\frac{1}{9}$ .....      | 20                 | 30            | 45            | 60            | 75            | 85            | 95            | 100           | 110           | 110            | 125 |
| 0.....                   | 25                 | 35            | 55            | 65            | 80            | 90            | 105           | 115           | 125           | 125            | 125 |

While many of the distinctions presented in the foregoing tables are far more elaborate than any yet in force, the development of a system of compensation awards will necessarily involve the use of scales for the guidance of administrators of compensation laws. Indeed, one of the most elaborately worked-out schemes that has come to the attention of the writer is the one proposed by the Industrial Accident Board of the State of California, undertaking to determine schedules of percentages of physical disabilities resulting from injuries sustained through industrial accident, each organ and part of the body being considered in turn and the various forms of disability to which they are subject being enumerated, the parts being considered singly and in combination. The length to which detail is carried in the proposed scheme may be seen by the fact that when considering the middle and ring fingers 42 items are presented; for the lower extremities, 26; for shoulders and arms, 28; for the eye, 14, etc. The working out of fixed scales in such extended detail necessarily requires a wide range of experience or a large use of estimates based on reasoned proportionate results. In the French work by Imbert, Oddo, and Chavernac it appears that some of the estimates made by the authors were thus derived or reasoned rather than based on actual awards. The writer is aware of the fact that data are in existence on which some of the tables presented in this study are based, and the Bureau of Labor Statistics has in view the further pursuit of this subject, so as to be able to present more fully the details of European experience along these lines.

#### **TIME FOR NOTICE AND CLAIM.**

Limitations are placed on the time for giving notice and for making claims under the acts, notice usually being required within from 10 to 30 days, and a claim within from 6 months to 2 years. A number of laws contain the provision that no notice is necessary where the employer has other knowledge of the fact or where the accident was a fatal one. The time set may also be extended if it is shown that the employer was not prejudiced by the delay. The time for presenting the claim or bringing action thereon appears usually to be fixed absolutely.

#### **SETTLEMENT OF DISPUTES.**

Under this head are given the agencies to which recourse may be had on the failure of the employer and his workmen or the claimant to reach an agreement as to the amount of compensation or other facts involved. In a number of States a special commission or board is created to have charge of the administration of the law and, if an insurance law, of the funds collected under it. In other States arbitrators chosen for the purpose or any standing committee of the

employer and his workmen may take cognizance of the disputes, while in some States the disputes are referred to the courts. In all cases an appeal, sometimes only on certain phases of questions involved, may be had to the courts. Where the courts are charged with the settlement of disputes, it may be provided that proceedings shall be summary, or that juries may be dispensed with in such cases.

#### **NONRESIDENT ALIEN BENEFICIARIES.**

The provisions of the laws as to beneficiaries residing abroad are quite various, some of the laws giving them the same standing as other beneficiaries, others excluding them entirely, while still others permit persons only of certain degrees of kinship to receive benefits or limit the amounts payable to nonresidents.



PRINCIPAL FEATURES OF LAWS RELATING TO WORKMEN'S COMPENSATION AND INSURANCE.

| States, etc.   | System provided for.  | Industries covered.   | How election is made.   |  | Defenses abrogated if employer does not elect.   | Suits for damages are—  | Special contracts.  | Burden of cost is on—   | Security of payments.   | To be compensated disability must continue—  | Compensation for—   |   |   |  | Time for notice and claim.   | Disputes settled by—   | Nonresident alien beneficiaries of deceased workmen.  |
|--|---|---|---|--|--|---|---|---|---|--|---|---|---|--|--|--|---|
|  |   |   | By employer.  | By employee.   |  |   |   |   |   |  | Death.  | Total disability.   | Partial disability.   | Medical and surgical aid.  |  |  |   |
| Connecticut. Ch. 133. Approved May 29, 1913. In effect Jan. 1, 1914.   | Compensation, elective.   | All.....  | Presumed in absence of written notice.  | Presumed in absence of written notice.   | Assumed risks, fellow service, and contributory negligence, except as to casual employees, and employers of less than 5 persons.   | Not permitted after electing compensation.  | Approved schemes may be substituted.  | Employer.....   | Employer must give proof of solvency or insure risks.   | More than 2 weeks.....   | \$100 funeral expenses; 20 per cent of wages for 12 weeks; \$5 minimum, \$10 maximum; no dependents; \$750 to State expense fund.   | 50 per cent of earnings for not over 520 weeks; \$5 minimum, \$10 maximum.  | 50 per cent of wage decrease; \$10 maximum, for not over 312 weeks; fixed rates for specified injuries.                                       | During first 30 days.....  | Notice in 30 days; claim in 1 year.  | Compensation commission; appeal to courts.   | Half rates, except as to residents of Canada or dependencies of the United States.                                  |
| Illinois. P. 314. Approved June 1, 1911. In effect May 1, 1912. Amended June 28, 1913.                               | Compensation, elective (compulsory as to State and its municipalities).     | All (casual employees and those not exposed to hazards of employments excepted).  | Presumed as to State and its municipalities.  | Presumed in absence of written notice, if employer elects.   | Assumed risks, fellow service, and contributory negligence, as to employers in designated extra-hazardous employments in absence of written notice; other employers file notice. | .....do.....  | Employer may insure or maintain a benefit fund, but may not reduce liability fixed by law.  | .....do.....  | Employer must give proof of financial ability, furnish security, insure, or make other provision for security.                        | More than 6 working days; then compensation from eighth day.                           | 4 years' earnings; \$1,500 minimum, \$3,500 maximum, no dependents, \$150.  | 50 per cent of weekly earnings for 8 years; \$5 minimum, \$12 maximum, up to \$5,500.   | 50 per cent of wage decrease; \$12 maximum, for not over 312 weeks; fixed rates for specified injuries.                                       | During first 8 weeks, not over \$200; physician or surgeon during disability unless employee prefers his own.              | Notice as soon as practicable, not later than 30 days; claim in 6 months.  | Arbitrators for each case, subject to review by industrial board and appeal to courts.   |   |
| Iowa. Ch. 147. Approved Apr. 18, 1913. In effect July 1, 1914.   | .....do.....  | All except domestic and agricultural labor (casual employees excepted).   | Presumed in absence of notice posted in establishment and filed with industrial commissioner.   | Presumed in absence of written notice to employer and industrial commissioner.   | Assumed risks and fellow service; contributory negligence unless willful.  | .....do.....  | Approved schemes may be substituted, but no reduction of liability allowed.   | .....do.....  | Employer must give proof of solvency or insure risks.   | More than 2 weeks.....   | Funeral expenses, not over \$100; 50 per cent of wages for 30 weeks; \$5 minimum, \$10 maximum.   | 50 per cent of wages for 400 weeks; \$5 minimum, \$10 maximum.  | Fixed rates for specified injuries; proportionate for others; \$5 minimum, \$10 maximum.  | During first 2 weeks; not over \$100, including burial if injury was fatal.  | Notice in 15 days; if in 30 days, not barred except as to extent employer was prejudiced; bar absolute after 90 days.                  | Industrial commissioner and two others as arbitrators; limited appeal to courts.         |   |
| Kansas. Ch. 218. Approved May 14, 1911. In effect Jan. 1, 1912. Amended Mar. 10, 1913.                               | Compensation, elective.   | "Especially dangerous" (enumerated list); where 5 or more workmen are employed.   | Presumed in absence of notice posted in establishment and filed with secretary of state.  | Presumed in absence of written notice filed with secretary of state.   | Assumed risks and fellow service; contributory negligence to be measured.  | .....do.....  | Approved schemes may be substituted.  | .....do.....  | Bond may be required to secure lump sums awarded by court. Insurers have rights and duties of insured employees.                      | .....do.....   | 3 years' earnings; \$1,200 minimum, \$3,000 maximum; no dependents, \$100.  | 50 per cent of weekly earnings; \$5 minimum, \$15 maximum, for not more than 8 years.   | 25 to 50 per cent of weekly earnings; \$3 minimum, \$12 maximum, for not more than 8 years.   | Only if employee dies leaving no dependents.   | Notice in 10 days; claim in 6 months.  | Local committees or arbitrators; court review allowed.                                   | \$750 maximum except to residents of Canada.  |
| Michigan. No. 10. Approved Mar. 2, 1912. In effect Sept. 1, 1912. Amended Apr. 30, Apr. 16, May 2, May 7, 1913.      | Compensation, elective (compulsory as to State and its municipalities).     | All (casual employees excepted).  | Writing filed with accident board.  | Presumed in absence of written notice, if employer elects.   | Assumed risks, fellow service, and contributory negligence, except in suits by domestic and farm laborers.   | Not permitted after electing compensation, unless employer is in default on insurance premiums.   | Forbidden.....  | .....do.....  | Employer must give proof of financial ability or procure State, mutual, or private insurance. If insolvent, claims are a first lien.  | More than 2 weeks (payment from date of injury if disability lasts 8 weeks or more).   | 50 per cent of wages for not over 300 weeks; \$4 minimum, \$10 maximum; no dependents, \$200.   | 50 per cent of wages for not over 300 weeks; \$4 minimum, \$10 maximum, total not to exceed \$4,000.  | 50 per cent of wage decrease; \$10 maximum, for not over 300 weeks; fixed rates for specified injuries.                                       | During first 3 weeks.....  | Notice in 3 months; claim in 6 months.   | Industrial accident board; arbitration, appeals to supreme court.                        | Included.   |
| Minnesota. Ch. 467. Approved Apr. 24, 1913. In effect Oct. 1, 1913.  | Compensation, elective.   | All except railroads in interstate commerce, and domestic and agricultural labor (casual employees excepted).                               | Presumed in absence of notice posted in establishment and filed with commissioner of labor.   | Presumed in absence of written notice to employer and filed with commissioner of labor.  | Assumed risks and fellow service; contributory negligence unless willful.  | Not permitted after electing compensation.  | Employer may insure or maintain a benefit fund, but may not reduce liability fixed by law.  | .....do.....  | If insured employer is insolvent, have lien on proceeds of policy.  | More than 2 weeks.....   | 25 to 60 per cent of wages for 300 weeks; \$8 minimum, \$10 maximum; no dependents, \$100.  | 50 per cent of wages for 400 weeks; \$5 minimum, \$10 maximum.  | 50 per cent of wage decrease for 300 weeks; \$8 minimum, \$10 maximum; fixed rates for specified injuries.                                    | During first 90 days; not over \$100, or by order of court, \$500.   | Notice in 14 days; if in 30 days, not barred except as to extent employer was prejudiced; bar absolute after 90 days.                  | Courts.....  | Included.   |
| Nebraska. Ch. 198. Approved Apr. 21, 1913. In effect July 17, 1913.  | .....do.....  | All employing 5 or more workmen, except railroads in interstate commerce and agricultural labor (casual employees and outworkers excepted). | Presumed in absence of notice posted in establishment and filed with insurance commissioner.  | Presumed in absence of written notice to employer and insurance commissioner.  | Assumed risks, fellow service, and contributory negligence, except for domestic and farm labor and employers of 5 or less persons.   | Not permitted after electing compensation.  | Forbidden.....  | .....do.....  | If insured employer is insolvent, claims are enforceable directly against the company.  | More than 2 weeks (payment from date of injury if disability lasts 8 weeks or longer). | \$100 funeral expenses; 50 per cent of wages for 300 weeks; \$5 minimum, \$10 maximum.  | 50 per cent of wages for 300 weeks; \$5 minimum, \$10 maximum, then 40 per cent of wages during life; \$4 minimum, \$8 maximum.   | 50 per cent of wage decrease; \$10 maximum, for 300 weeks; fixed rates for specified injuries.  | During first 3 weeks; not to exceed \$200.   | Notice as soon as practicable; claim in 6 months; petitions filed in court in 1 year.  | Arbitrators or district court of county.   | Included (widows, children, and parents only).  |
| New Hampshire. Ch. 163. Approved Apr. 15, 1911. In effect Jan. 1, 1912.  | .....do.....  | "Dangerous" (enumerated list).  | Writing filed with commissioner of labor.   | By accepting compensation or beginning proceedings under the act.  | None (assumed risks, fellow service, and contributory negligence restricted by liability provisions of statute).   | Permitted in lieu of compensation.  | .....do.....  | .....do.....  | Employer must give proof of financial ability or give bond.   | More than 2 weeks.....   | 150 times weekly earnings, not more than \$5,000; no dependents, \$100.   | 50 per cent of average weekly earnings; maximum, \$10 for not more than 300 weeks.  | 50 per cent of wage loss; maximum, \$10 per week, not more than 300 weeks.  | Only if employee dies leaving no dependents.   | Notice as soon as practicable and before leaving service; claim in 6 months.   | Proceedings in equity.   | Beneficiaries must be residents of State.   |
| New Jersey. Ch. 95. Approved Apr. 4, 1911. In effect July 4, 1911. Amended May 2, 1911, Apr. 1, 1912, Mar. 27, 1913. | Compensation, elective (compulsory as to State and its municipalities).     | All (casual employees excepted).  | Presumed in absence of written notice to employer.  | Presumed in absence of written notice to employer.   | Assumed risks and fellow service; contributory negligence unless willful.  | Not permitted after electing compensation.  | No substitute agreements valid.   | .....do.....  | Compensation payments are preferred claims on assets of employer.   | .....do.....   | 35 to 60 per cent of wages for 300 weeks; \$5 minimum, \$10 maximum; no dependents, \$100.  | 50 per cent of wages for 400 weeks; \$5 minimum, \$10 maximum.  | Fixed scale for specified injuries; others proportionate.   | During first 2 weeks; not over \$50.   | Notice in 14 days; if in 30 days, not barred except as to extent employer was prejudiced, but absolute after 90 days; claim in 1 year. | Judges of court of common pleas; limited appeal to supreme court.                        | Excluded.   |
| New York. Ch. 332. Approved Mar. 24, 1910. In effect Sept. 1, 1910.  | Compensation, elective.   | All but railroads.....  | Writing filed with county clerk.  | Writing filed with county clerk.   | None; restricts defenses of assumed risks and fellow service; requires proof of contributory negligence.   | Permitted in lieu of compensation if employer was guilty of serious or willful misconduct or violated safety law.   | .....do.....  | .....do.....  | .....do.....  | .....do.....   | 1,200 times daily earnings; \$3,000 maximum; no dependents, \$100.  | 50 per cent of wages (not more than \$10 weekly) for not more than 8 years.   | 50 per cent of wage decrease until recovery, for total disability.  | Only if employee dies leaving no dependents.   | Notice as soon as practicable and before leaving service; claim in 6 months.   | Arbitration or courts.   |   |
| Rhode Island. Ch. 831. Approved Apr. 29, 1912. In effect Oct. 1, 1912. Amended Apr. 29, 1913.                        | .....do.....  | All employing more than 5 workmen, except in domestic service and agriculture (casual employees and those earning over \$1,800 excepted).   | Writing filed with commissioner of industrial statistics.   | Presumed in absence of written notice, if employer elects.   | Assumed risks, fellow service, and contributory negligence, except for domestic and farm labor and employers of 5 or less persons.   | Not permitted after electing compensation.  | Approved schemes may be substituted; no reduction of liability allowed.   | .....do.....  | Payments are a claim superior to unsecured debts.   | .....do.....   | 50 per cent of weekly wages for 300 weeks; \$4 minimum, \$10 maximum; no dependents, \$200.   | 50 per cent of weekly earnings for not over 300 weeks; \$4 minimum, \$10 maximum.   | 50 per cent of wage decrease; \$10 maximum, for not more than 300 weeks; fixed rates for specified injuries.                                  | Reasonable services for first 2 weeks; maximum \$200 in fatal cases with no dependents, including burial.                  | Notice in 30 days; claim in 1 year.  | Courts in summary proceedings.   |   |
| Wisconsin. Ch. 50. Approved May 3, 1911. In effect same date. Amended June 26 and Aug. 9, 1913.                      | Compensation, elective (compulsory as to the State and its municipalities). | All (casual employees excepted).  | Presumed as to employers of 4 or more persons (except railroads) in absence of notice filed with industrial commissioner; other employers may elect by filing notice. | Presumed in absence of written notice to employer, if employer elects, except on railroads; industrial commissioner acceptance must be in writing. | Assumed risks; also fellow service and contributory negligence unless willful, if 4 or more employees.   | .....do.....  | Insurance or other schemes permitted, but no reduction of liability allowed.  | .....do.....  | Employer must give proof of financial ability or insure risks.  | More than 1 week (payment for first week if disability lasts more than 4 weeks).       | 4 years' earnings, but amount added to prior disability payments may not exceed 6 years' earnings; no dependents, \$100.  | 65 per cent of wages; if nurse is required, 100 per cent after 90 days; no total to exceed 6 years' earnings.   | 65 per cent of wage decrease; no total to exceed 4 years' earnings; fixed rates for specified injuries.                                       | For not more than 90 days.   | Notice in 30 days; claim in 2 years.   | Industrial commissioner; appeal to courts.   | Included.   |
| Arizona. Ch. 14. Approved June 8, 1912. In effect same date. Amended May 13, 1913.                                   | Compensation, compulsory.   | "Especially dangerous" (enumerated list); elective as to all others.  | .....do.....  | .....do.....   | .....do.....   | Permitted in lieu of compensation.  | Permitted if compensation is provided not less than that of the act.  | .....do.....  | Judgments awarding compensation have same preference as wage debts.   | At least 2 weeks.....  | 2,400 times one-half the daily wages; \$4,000 maximum; no dependents, medical and burial expenses.  | 50 per cent of average semimonthly earnings, during disability, not to exceed \$4,000.  | 50 per cent of wage decrease until recovery, not to exceed \$4,000.   | Only if employee dies leaving no dependents.   | Notice in 2 weeks; none required in case of death or incompetence. Action on claim within 1 year.                                      | Arbitration, reference to attorney general, or appeal to courts.                         |   |
| California. Ch. 399. Approved Apr. 8, 1911. In effect Sept. 1, 1911. Amended May 26, 1913.                           | .....do.....  | All except domestic and agricultural labor (casual employees excepted); elective as to excepted classes.                                    | .....do.....  | .....do.....   | .....do.....   | Permitted in lieu of compensation if employer was personally grossly negligent.   | Employer may insure or maintain a benefit fund, but may not reduce liability fixed by law.  | .....do.....  | Payments have same preference as wage debts.  | More than 2 weeks.....   | 3 years' earnings; \$1,000 minimum, \$5,000 maximum; no dependents, \$100.  | 65 per cent of wages for 240 weeks, then 40 per cent for life.  | 65 per cent of wage decrease for fixed periods proportionate to disability.   | During first 90 days.....  | Notice in 30 days; claim in 6 months for disability, 1 year for death.   | Industrial accident commission; limited appeal to courts.                                | Included.   |
| New York. Ch. 337. Approved Dec. 16, 1913. In effect July 1, 1914.   | .....do.....  | Hazardous employment; domestic and agricultural labor excluded.   | .....do.....  | .....do.....   | .....do.....   | Permitted if employer fails to secure payment of compensation; defenses of fellow service, assumed risks, and contributory negligence abrogated.          | Forbidden.....  | .....do.....  | Employer must give proof of financial ability (deposit of securities may be required) or procure State, mutual, or private insurance. | .....do.....   | \$100 funeral expenses; widow or dependent, 50 per cent of wages until death or remarriage; 10 per cent additional for each child under 18 years, total not over 60 per cent.                 | 60 per cent during convalescence; \$5 minimum, \$13 maximum.  | 60 per cent of wage decrease; \$5 minimum, \$15 maximum.  | During first 60 days.....  | Notice of injury in 10 days, of death in 30 days, unless excused for cause; claim in 1 year.   | Workmen's compensation commission; limited appeal to courts.                             | Included.   |
| United States. 35 Stat., 556. Approved May 30, 1908. In effect Aug. 1, 1908.   | .....do.....  | Artisans and mechanics in certain classes of employments; all persons in hazardous employments in certain others.                           | .....do.....  | .....do.....   | .....do.....   | Government can not be sued.   | Waivers forbidden.....  | .....do.....  | Payments are made from regular appropriations.  | More than 15 days.....   | 1 year's earnings.....  | Same pay as if employed, not to exceed 1 year.  | All benefits cease when able to resume work.  | No provision.....  | Claim for disability in reasonable time; death in 90 days.   | Secretary of Labor.....  |   |
| Canal Zone. Executive Order. Feb. 29, 1913. In effect Mar. 1, 1913. (Suspended.)                                     | .....do.....  | All employees on Panama Canal or Railroad.  | .....do.....  | .....do.....   | .....do.....   | Not permitted.....  | .....do.....  | .....do.....  | Government supervision and funds.   | More than 5 days.....  | Burial or transportation of body; spouse receives 35 per cent of earnings for 6 years, then 20 to 30 per cent until death or remarriage; added sums for children, total not over 50 per cent. | 50 per cent of earnings for 6 years, then 25 to 40 per cent until death.  | 50 per cent of wage loss for 6 years, then 25 to 40 per cent.   | Reasonable services.....   | Notice of injury immediate, of death in 90 days; claim for injury in 60 days, for death in 1 year.                                     | Governor of Panama Canal.....  | Included; payments committed to lump sum.   |
| United States (Railway Employees' Bill).   | .....do.....  | Railroads in interstate commerce.   | .....do.....  | .....do.....   | .....do.....   | .....do.....  | Waivers forbidden.....  | .....do.....  | Claims are first liens on property of insolvent employers.  | More than 2 weeks.....   | 25 to 50 per cent of earnings for 8 years, \$50 minimum monthly wage; \$75 funeral benefit if monthly payments do not exceed \$15.  | 50 per cent of monthly wages during disability; for life, if permanent.   | Fixed rates for specified injuries; proportionate for other partial disabilities.   | During first 2 weeks, and thereafter not to exceed \$200, unless employee provides own care.                               | Notice in 90 days; claims lapse in 2 years.  | Disputes committee and adjusters; appeals to courts.                                     | Benefits limited to 1 year's wages if beneficiaries are not residents of the United States or contiguous countries. |
| Maryland. Ch. 837. Approved Apr. 15, 1912. In effect same date.  | Insurance, cooperative, elective.   | All.....  | By contract in writing with employer.   | By contract in writing with employer.  | .....do.....   | Permitted if injury is due to the failure of the employer to comply with safety laws.   | Law is based on contracts with casualty companies. Employers of not less than 1,500 persons may maintain establishment funds; maintain establishment funds. | Employer, not less than 50 per cent (plus cost of management in case of establishment funds); remainder on installment basis; remainder on employees. | Establishment funds must be held as trust funds.  | At least 1 week if so provided in the contract.  | 3 years' earnings, \$1,000 minimum, \$75 minimum, \$100 maximum.  | 50 per cent of average weekly wages during previous 12 months, if so long in employer's service; if not, then a weekly benefit for such shorter period as he may have been in such service. | Difference between amount for total disability and amount workman is able to earn after the injury; fixed proportions for specified injuries. | Only if employee dies, leaving no dependents.  | Contract may require reasonable and timely notice.   | Arbitration, if so provided in contract.   |   |
| Massachusetts. Ch. 751. Approved July 28, 1912. In effect July 1, 1912.  | Insurance, elective (State or authorized company).                          | All (casual employees excepted).  | By subscribing to State association or insuring in other company.   | Presumed in absence of written notice, if employer insures.  | Assumed risks, fellow service, and contributory negligence, except in domestic and farm labor.   | Not permitted after election of insurance system.   | Employer must insure in authorized company or State association.  | Employer.....   | State control of Employees' Insurance Association.  | More than 2 weeks.....   | 50 per cent of wages for 300 weeks; \$4 minimum, \$10 maximum; no dependents, \$200.  | 50 per cent of wages for not over 500 weeks; \$4 minimum, \$10 maximum, not to exceed \$3,000.  | 50 per cent of wage loss, for not more than 300 weeks; fixed rates for specified injuries.  | During first 2 weeks.....  | Notice as soon as practicable; claim in 6 months.  | Arbitrators for each case; industrial accident board; appeal to courts on points of law. | Industrial commissioner.  |
| Nevada. Ch. 183. Approved Mar. 21, 1911. In effect July 1, 1911. Amended Mar. 15, 1913. In effect July 1, 1913.      | Insurance, elective (State or authorized company).                          | All employing 2 or more persons.  | Presumed in absence of notice posted in establishment and filed with commissioner.  | Presumed in absence of written notice to employer and filed with commissioner.   | Assumed risks and fellow service; contributory negligence except willful.  | Not permitted after employer's election, unless he is in default on premiums.   | Forbidden.....  | .....do.....  | Insurance is under State control.   | More than 2 weeks.....   | \$125 burial expenses and 50 per cent of earnings for 100 months, \$20 minimum, \$80 maximum, total not to exceed \$5,000. No dependents, \$25 medical and burial expenses.                   | 50 per cent of earnings for 100 months, \$20 minimum, \$50 maximum, not to exceed \$5,000.  | 50 per cent of wage decrease; \$10 maximum, for not more than 60 months; fixed rates for specified injuries.                                  | Only if employee dies, leaving no dependents.  | Applications must be enforced in 1 year.   | Industrial commissioner.   |   |
| Oregon. Ch. 112. Approved Feb. 25, 1913. In effect July 1, 1913.   | State insurance, elective.  | Hazardous (enumerated list); others if employer elects.   | Presumed as to employers in hazardous employments in absence of notice posted in establishment and filed with commissioner; other employers file acceptance.          | Presumed in absence of written notice, if employer elects.   | Assumed risks and fellow service; contributory negligence unless willful.  | Permitted if injury was due to employer's failure to comply with safety laws or his intention to injure, or employer is in default on insurance premiums. | Employer one-half of 1 per cent of wages (not less than 25 cts. per month), employer 9 times as much; State subsidy.  | .....do.....  | .....do.....  | Any time.....  | \$100 burial expenses; widow or invalid widower, \$30 per month until death or remarriage; \$6 additional for each child under 16, total not to exceed \$50.                                  | \$30 per month if single, \$35 if dependent spouse, \$6 additional for each child, total not to exceed \$50.  | Proportionate benefits for not over 2 years if temporary; fixed rates for specified injuries.   | Not to exceed \$250.   | Claim in 1 year.....   | Industrial accident commission; appeals to courts.                                       | Parents, widow, widower, and children included.   |
| Texas. Ch. 173. Approved Apr. 16, 1913. In effect Sept. 1, 1913.   | Insurance, elective (State or authorized company).                          | Employers of more than 5 persons, cotton gins, and domestic and agricultural labor (casual employees excepted).                             | By subscribing to State association or insuring in other company.   | No option.....   | Assumed risks and fellow service; contributory negligence to be measured.  | Not permitted against employer's election, unless he is in default on premiums.   | No waiver permitted with other companies must conform to law.   | Employer.....   | .....do.....  | More than 1 week.....  | 60 per cent of wages for 300 weeks; \$15 maximum; no dependents, \$100.   | 60 per cent of wages for 300 weeks; \$15 minimum, \$15 maximum.   | 60 per cent of wage decrease, for not over 300 weeks; fixed rates for specified injuries.   | During first week.....   | Notice as soon as practicable; claim in 6 months.  | Industrial accident board; appeals to courts.  |   |
| West Virginia. Ch. 10. Approved Feb. 22, 1913. In effect Oct. 1, 1913.   | State insurance, cooperative, elective.                                     | All except domestic and agricultural labor (casual employees excepted).   | By payment of premium and posting notice.   | Remaining in service with notice of employer's election.   | Assumed risks, fellow service, and contributory negligence, and negligence of statutory employee.  | Not permitted after employer's election, unless he is in default on premiums.   | Not permitted.....  | Employer, 90 per cent; employees, 10 per cent.  | .....do.....  | .....do.....   | \$75 burial expenses; widow or invalid widower, \$20 monthly until death or remarriage; \$5 additional for each child under 14, total not to exceed \$50.                                     | 50 per cent of wages until death, \$3 minimum, \$5 maximum.   | 50 per cent of wage decrease, \$4 minimum, \$8 maximum, for 20 weeks; loss of arm, leg, or eye, 150 weeks.                                    | Not to exceed \$150.   | Claim in 6 months.....   | Public-service commission; limited appeal to courts.                                     | Included.   |
| Ohio. P. 524. Approved June 15, 1911. In effect Jan. 1, 1912. Amended Mar. 14, 1913. In effect Jan. 1, 1914.         | State insurance, compulsory.  | All employing 5 or more workmen; elective as to others (casual employees excepted).   | .....do.....  | .....do.....   | .....do.....   | Permitted if injury was due to willful act of employer, his failure to comply with safety law, or if he is in default on premiums.                        | Approved schemes or insurance permitted; must contribute to surplus fund of State.  | Employer.....   | .....do.....  | .....do.....   | \$100 funeral expenses; 60 per cent of wages for 6 years; \$1,500 minimum, \$3,750 maximum.   | 60 per cent of wages until death, if permanently disabled; \$5 minimum, \$12 maximum.   | 60 per cent of wage decrease, \$12 per week maximum, not over \$3,750 in all; fixed rates for specified injuries.                             | Not to exceed \$200.   | To be fixed by board.....  | Industrial commissioner; limited appeal to courts.                                       |   |
| Washington. Ch. 74. Approved Mar. 14, 1911. In effect Oct. 1, 1911.  | .....do.....  | "Extra-hazardous" (enumerated list); elective as to all others.   | .....do.....  | .....do.....   | .....do.....   | Permitted in addition to insurance benefits if injury resulted from deliberate intention of employer.   | Forbidden.....  | .....do.....  | .....do.....  | .....do.....   | \$75 funeral expenses; widow or invalid widower receives \$20 monthly until death or remarriage; each child under 16, \$5 per month; total not to exceed \$35.                                | \$20 per month if single, \$25 if married; for each child under 16 years, \$5 per month, not over \$35 in all.  | Proportionate; not over \$1,500.  | 50 per cent of benefits added for first 6 months of total temporary disability; not more than 60 per cent of wages in all. | Claim in 1 year.....   | Industrial insurance department; appeal to courts.                                       | Only father and mother included, except where otherwise provided by treaty.   |

1 If complete disability still continues then a compensation during life, equal annually to 8 per cent of the death benefit, not less than \$10 per month.

2 Employers having fewer employees may elect, but lose no defenses if they do not.

3 These defenses are not abrogated where an employee sues an employer who has elected to use the compensation system.

4 Constructed by department to exclude cases in which less than 6 per cent of a working month was lost.

5 If there are children and no widow, they receive \$10 per month each, but not more than \$35 in all, until 16 years of age; if injury was caused by removal of safeguard by injured employee, or by a fellow workman with his consent, 10 per cent is deducted.

6 If injury was caused by removal of safeguard by injured employee, or by a fellow workman with his consent, 10 per cent is deducted.

## ANALYSIS OF PRINCIPAL FEATURES OF THE LAWS.

In order to facilitate the study and comparison of the compensation laws of the various States, they are analyzed in the following pages according to a uniform outline designed to show clearly the most important features of the several plans. The outline followed here is the one also used in another part of this Bulletin where under the title "Workmen's compensation laws of foreign countries" the various foreign laws as now existing are summarized.

## ARIZONA.

*Date of enactment.* June 8, 1912; in effect September 1, 1912; amended May 13, 1913, in effect October 1, 1913.

*Injuries compensated.* All accidental injuries causing disability of at least two weeks, or death, arising out of and in the course of the employment, caused in whole, or in part, or contributed to, by a necessary risk or danger of, or inherent in the nature of the employment, or by failure of the employer or his agents to exercise due care or to comply with any law affecting the employment.

*Industries covered.* All especially dangerous employments, including the construction, operation and maintenance of steam and street railroads, using or working near explosives, building work using iron or steel frames or hoists, derricks, or ladders or scaffolds 20 or more feet above ground; telegraph, telephone or other electrical work; work in mines, quarries, tunnels, subways, etc.; all mills, shops, and factories using power machinery. Industries declared especially dangerous are specified in law. Elective as to other industries.

*Persons compensated.* Private employment: All employees in industries covered. Public employment: No provision.

*Burden of payment.* Entire cost rests upon the employer.

*Compensation for death.*

(a) To persons wholly dependent, a lump sum equal to 2,400 times one-half the daily wages or earnings of the deceased employee, but not to exceed \$4,000. Payments to children cease on reaching the age of 18 years.

(b) If no dependents, the reasonable expenses of medical attendance and burial of deceased employee.

*Compensation for disability.*

(a) For total disability, 50 per cent of the employee's semimonthly earnings during the time he is unable to work at any gainful occupation.

(b) For partial disability, a semimonthly payment equal to one-half the wage decrease.

(c) The total amount of payments for total or partial disability caused by a single injury not to exceed \$4,000.

*Revision of benefits.* Examinations as to the nature of injury and degree of incapacity, etc., may be required by either party at intervals of not less than three months.

*Insurance.* The employer may insure provided the liability for compensation is not less than the compensation fixed by law.

*Security of payments.* A judgment for compensation issued by a court is collectible without relief from valuation or appraisal laws and has the same preferential claim as is allowed by law for unpaid wages or personal services.

*Settlement of disputes.* Disputes may be settled by (a) written agreement between the parties, (b) arbitration, or (c) by reference to the attorney general of the State, in case of failure or refusal to agree by any of the modes above provided, then by a civil action at law.

## CALIFORNIA.

*Date of enactment.* April 8, 1911; in effect September 1, 1911; amended May 26, 1913, in effect January 1, 1914.

*Injuries compensated.* Injuries arising out of and in the course of employment causing disability for more than two weeks, or death, and not the result of the intoxication or willful misconduct of the injured employee.

*Industries covered.* All except agriculture and domestic service.

*Persons compensated.* Private employment: Every person in the service of an employer for hire, including aliens, apprentices, and members of employer's family who perform labor, excepting casual laborers. Public employment: Persons employed by the State and its political subdivisions, and all public corporations.

*Burden of payment.* Entire cost rests upon the employer.

*Compensation in case of death.*

- (a) To persons wholly dependent, 3 times the annual earnings of the deceased employee; not less than \$1,000 nor more than \$5,000, payable at least monthly in installments equal to 65 per cent of the wages. Payments to children cease on reaching the age of 18 years, unless mentally or physically incapacitated for earning a living.
- (b) If only partial dependents survive, such proportion of the above as corresponds to the ratio between the earnings of the deceased and his contribution to their support.
- (c) If no dependents, the reasonable expense of burial, not exceeding \$100.

*Compensation for disability.*

- (a) Reasonable medical, surgical, and hospital treatment required during the first 90 days after the injury.
- (b) For temporary total disability 65 per cent of average weekly earnings during such disability.
- (c) For temporary partial disability 65 per cent of weekly loss of wages during such disability.
- (d) The aggregate amount of benefits for a single injury causing temporary disability is limited to three times the annual earnings of the injured person, with a maximum benefit period of 240 weeks.
- (e) For permanent disability 65 per cent of average weekly earnings, for periods varying from 40 to 240 weeks, according to the degree of disability. After the expiration of 240 weeks, a further benefit varying from 10 to 40 per cent of the weekly earnings is payable during the remainder of life, when the degree of disability reaches or exceeds 70 per cent.

In case of permanent incapacity or death, a lump sum may be substituted for benefits, such lump sum to equal the present value of the benefits computed at 6 per cent.

*Revision of benefits.* Decisions and awards may be reviewed at any time during the first 245 weeks, after legal notice received.

*Insurance.* A State insurance fund is created under State control for the purpose of insuring employers against liability. Employers may effect insurance for liability for accident with any insurance company. Municipalities are required to insure in the State fund, unless the risk is refused.

*Security of payments.* A claim for injury or death of an employee or any award shall have the same preference over other unsecured debts as is given by law to claims for wages, but not so as to impair a lien of a previous award.

*Settlement of disputes.* Disputes are settled by the State industrial accident commission, subject to a limited review by the courts.

## CONNECTICUT.

*Date of enactment.* May 29, 1913; in effect January 1, 1914.

*Injuries compensated.* All injuries arising out of and in the course of employment, disability of more than two weeks, or death, except when injury is caused by willful and serious misconduct of the injured employee, or by his intoxication.

*Industries covered.* All industries, in absence of contrary election by employer.

*Persons compensated.* Private employment: All employees of employers accepting the act, in absence of contrary election. Public employment: Employees of the State and any public corporation within the State using the services of another for pay.

*Burden of payment.* Entire cost rests upon the employer.

*Compensation for death.*

- (a) \$100 for burial expenses.
- (b) To persons wholly dependent, a weekly compensation equal to one-half the earnings of the deceased employee.
- (c) If only partial dependents survive, a weekly compensation, determined according to the measure of dependence, not exceeding one-half the earnings of the deceased employee.
- (d) If no dependents, the sum of \$750 is to be paid to the State treasurer to meet the lawful expenses of the compensation commissioners.
- (e) Compensation shall in no case be more than \$10 or less than \$5 weekly, and shall not continue longer than 312 weeks.

A widow's or widower's dependence ceases with remarriage, and a child's upon reaching 18 years of age, unless physically or mentally incapacitated.

*Compensation for disability.*

- (a) Medical and surgical aid and hospital service during the first 30 days.
- (b) For total disability, a weekly compensation equal to one-half the employee's earnings, not more than \$10 or less than \$5 weekly, or for longer than 520 weeks.
- (c) For partial disability, a weekly compensation equal to one-half the wage loss, but not more than \$10 per week, or for longer than 312 weeks. For specified injuries causing permanent partial disability, one-half the average weekly earnings for fixed periods, in lieu of all other payments.

Lump sum payments may be approved by the commissioner, provided they equal the value of the compensations.

*Revision of benefits.* Review may be had upon request of either party, whenever it shall appear to the compensation commissioner that the incapacity or the measure of dependence has changed.

*Insurance.* Approved schemes may be substituted provided the benefits are equivalent to those provided by law. Insurance may be taken in approved stock or mutual companies or associations.

*Security of payments.* Employer must furnish the insurance commissioner satisfactory proof of his solvency and financial ability to pay awards, file satisfactory security with the insurance commissioner, or insure in approved stock or mutual companies or associations.

*Settlement of disputes.* Disputes are to be settled by the compensation commissioners. Appeals from findings and awards of any commissioner may be made to the superior court of the county without cost to either party.

## ILLINOIS.

*Date of enactment.* June 10, 1911; in effect May 1, 1912; amended June 28, 1913, in effect July 1, 1913.

*Injuries compensated.* Accidental injuries arising out of and in the course of employment causing permanent disfigurement, disability of over 6 working days, or death.

*Industries covered.* The building trades; construction, excavating and electrical work; transportation; mining and quarrying; work with or about explosives, molten metals, injurious gases or vapors, or corrosive acids; and all enterprises in which the law requires protective devices; provided the employer elects. Other employers may elect, but forfeit no defenses if they do not. Compulsory as to State and its municipalities.

*Persons compensated.* Private employment: All employees. Public employment: All persons employed by the State, county, municipality, etc., except officials.

*Burden of payment.* Entire cost rests on the employer.

*Compensation for death.*

- (a) To persons wholly dependent or to lineal heirs to whose support the employee had contributed within 4 years, a sum equal to 4 years' earnings, not less than \$1,500 nor more than \$3,500.
- (b) If only dependent collateral heirs survive, such a percentage of the above sum as the support rendered during the past two years was of the earnings of the deceased.
- (c) If no dependents, a burial benefit not exceeding \$150.

*Compensation for disability.*

- (a) Medical and surgical aid for not over 8 weeks, not over \$200 in value.
- (b) For total disability, beginning with eighth day, a weekly sum equal to one-half the employee's earnings, \$5 minimum, \$12 maximum, during disability or until payments equal a death benefit; thereafter, if the disability is permanent, a sum annually equal to 8 per cent of a death benefit, but not less than \$10 per month.
- (c) For permanent partial disability, one-half the loss of earning capacity, not less than \$5 nor more than \$12 a week.
- (d) For certain specific injuries (mutilations, etc.), an additional benefit of 50 per cent of weekly wages for fixed periods.
- (e) For serious and permanent disfigurement, not causing incapacity, and not otherwise compensated, a sum not exceeding one-fourth the death benefits.

No payments are to extend beyond 8 years except in case of permanent total incapacity.

Lump sum payments for either death or disability may be substituted for periodic payments by the industrial board.

*Revision of benefits.* Medical examinations may be had not oftener than every four weeks. The industrial board may, on request, review installment payments, within eighteen months after the award or agreement thereon.

*Insurance.* The employer may insure or maintain a benefit system, but may not reduce his liability under the act.

*Security of payments.* In case of insolvency, awards constitute liens upon all property of the employer within the county, paramount to all other claims, except wages, taxes, mortgages, or trust deeds.

Employers must furnish proof of ability to pay, or give security, insure, or make other provision for security of payment. The rights of an insolvent employer to insurance indemnities are subrogated to injured employees.

*Settlement of disputes.* Disputes are determined by the industrial board through an arbitration committee, subject to review by the board. Questions of law may be reviewed by the supreme court.

## IOWA.

*Date of enactment.* April 18, 1913; in effect (a) establishing industrial commission and providing for insurance of employees July 4, 1913; (b) compensation features, July 1, 1914.

*Injuries compensated.* All personal injuries arising out of and in the course of the employment causing disability of more than two weeks, or death; except when caused by the injured employee's willful intention to injure himself or another, or by the intoxication of the employee.

*Industries covered.* All industries except agriculture, in absence of contrary election by employer. Compulsory as to State and its municipalities.

*Persons compensated.* Private employment: All employees in industries covered in absence of contrary election, except clerks not subjected to the hazards of the industry and casual employees. Public employment: All employees of the State and its subdivisions.

*Burden of payment.* Entire burden is on employer.

*Compensation for death.*

- (a) Reasonable expenses of the employee's last sickness and burial, not to exceed \$100.
- (b) To persons wholly dependent, a weekly payment equal to 50 per cent of the wages of the deceased employee, but not more than \$10 nor less than \$5 per week, for 300 weeks.
- (c) If only partial dependents survive, such a proportion of the above as the amounts contributed by the employee to such partial dependents bear to his annual earnings.
- (d) If the employee was a minor whose earnings were received by the parent, a sum to the parent equal to two-thirds of the amount provided for persons wholly dependent.

*Compensation for disability.*

- (a) Reasonable surgical, medical, and hospital services and supplies for first two weeks, not exceeding \$100.
- (b) For total temporary disability, 50 per cent of wages, not more than \$10 nor less than \$5, (unless wages are less than \$5, then full wages), for not more than 300 weeks.
- (c) For total permanent disability, the same compensation as for temporary disability, to be paid for a period of not more than 400 weeks.
- (d) For partial permanent disability, (specified maimings) 50 per cent of average weekly wages for fixed periods.

Lump sum payments may be substituted on approval of the court.

*Revision of benefits.* Payments may be reviewed by the industrial commissioner at the request of either party.

*Insurance.* Employers may insure in approved companies or mutual associations, or contract with employees to maintain approved scheme in lieu of the compensation provided by law, provided there is no diminution of benefits.

*Security of payments.* Employers must insure in approved companies or mutual associations, or furnish satisfactory proof of financial ability to make payments, or deposit security with the State insurance department. In case of insolvency of the insurer, a claim for compensation becomes a first lien, and in case of legal incapacity of insured to receive the amount due the insurer must settle directly with the beneficiary.

*Settlement of disputes.* Disputes may be settled by arbitration.

## KANSAS.

*Date of enactment.* March 14, 1911; in effect January 1, 1912; amended March 10, 1913.

*Injuries compensated.* Injuries by accident arising out of and in the course of employment not due to intoxication or deliberate intention of injured employee, or caused by his willful failure to use safeguards provided by statute or furnished by employer, causing incapacity to earn full wages for at least two weeks, or death.

*Industries covered.* Railways, factories, quarries, electrical, building or engineering work, laundries, natural gas plants, county and municipal work, employments requiring the use of dangerous, explosive or inflammable materials, if employing 5 or more persons; and mines without reference to the number of employees, in absence of contrary election; employers of less than 5 persons may also elect.

*Persons compensated.* Private employment: All employees, including apprentices, but excluding casual employees. Public employment: Workmen on county and municipal work.

*Burden of payment.* Entire cost rests upon the employer.

*Compensation for death.*

- (a) To persons wholly dependent, a sum equal to 3 years' earnings of the deceased employee, not less than \$1,200 nor more than \$3,600. For nonresident alien beneficiaries (except in Canada) the maximum is \$750.
- (b) If only partial dependents survive, a sum proportionate to the injury to such dependents.
- (c) If no dependents are left, a reasonable expense for medical attendance and burial not exceeding \$100.

Compensation ceases upon the marriage of any dependent, or when a minor, not physically or mentally incapable of wage earning, shall become 18 years of age.

*Compensation for disability.*

- (a) For total incapacity, payments during incapacity after the second week, equal to 50 per cent of earnings, but not less than \$6 nor more than \$15 per week.
- (b) For partial incapacity, payments during incapacity, after the second week, not less than 25 nor more than 50 per cent of earnings, not less than \$3 nor more than \$12 per week, except in case of minors earning less than \$10 per week, in which case the compensation shall not be less than 75 per cent of the earnings.

No payments for total or partial disability shall extend over more than 8 years.

After six months, lump sum payments may be substituted, as agreed upon or determined by the court.

*Revision of benefits.* Any award may be modified at any time by agreement. After one year either party may demand a revision. Employees must submit to medical examination at reasonable periods to determine their physical condition.

*Insurance.* The employer may insure in any approved insurance scheme which provides compensation not less favorable than is provided in this act.

*Security of payments.* Lump sums awarded by the court, may be secured by order of the court by a good and sufficient bond when there is doubt of security of payment. If the employer was insured, the insurer shall be subrogated to the rights and duties of the employer.

*Settlement of disputes.* Disputes not settled by agreement may be referred to arbitrators, subject to an appeal to courts.

## MARYLAND.

*Date of enactment.* April 15, 1912; in effect same date.

*Injuries compensated.* Injuries by accident arising out of and in the course of employment resulting in death or disability, not caused by the injured employee's intoxication, or willful intention to produce such injury. Contract may provide that injury must incapacitate employee from earning full wages for at least one week.

*Industries covered.* All industries, on agreement between employers and employees.

*Persons compensated.* Private employment: All employees who agree to accept this law. Public employment: No provision.

*Burden of payment.* Not less than fifty per cent, plus cost of management in case of establishment funds, on employer; remainder on employee.

*Compensation for death.*

- (a) To persons wholly dependent, a sum equal to 3 years' earnings of the deceased employee, but not less than \$1,000.
- (b) If only partial dependents survive, a sum equal to that provided for total dependence, less six times the average annual earnings of the beneficiary.
- (c) If no dependents, reasonable expenses of medical attendance and in addition burial expenses not less than \$75 nor more than \$100.
- (d) Payments under (a) and (b) may be made in lump sum or in weekly payments, according to the contract of insurance.

*Compensation for disability.*

- (a) In case of total disability, a weekly payment of not less than 50 per cent of the average weekly wages during the previous 12 months, to be paid during the period of disability. If not employed 12 months, then a weekly benefit during such shorter period as he may have been employed by the employer liable for payments.
- (b) In case of partial disability, weekly payments equal to the difference between amount paid for total disability and the amount employee is able to earn after injury; fixed rates for loss of hand, foot, or eye.

*Revision of benefits.* No provision.

*Insurance.* Insurance may be effected in approved companies, or employers employing not less than 1,500 employees may establish an insurance fund from sums contributed by themselves and employees.

*Security of payments.* Establishment funds must be held as trust funds and not otherwise invested.

*Settlement of disputes.* Disputes are settled by arbitration, if so provided in contract.



## MASSACHUSETTS.

*Date of enactment.* July 28, 1911; in effect July 1, 1912; amended May 10, 1912; February 4, 1913; April 7, 1913; April 28, 1913; and May 22, 1913.

*Injuries compensated.* Injuries arising out of and in the course of employment causing incapacity for two weeks, or death, unless the injury is due to the serious and willful misconduct of the injured employee.

*Industries covered.* All industries if the employer so elects.

*Persons compensated.* Private employment: All employees, except masters of vessels and seamen engaged in interstate or foreign commerce and casual employees. Public employment: The State shall and any county, city, town or district having power of taxation may compensate laborers, workmen and mechanics. The question shall be submitted to the voters each year, except as to the State.

*Burden of payment.* Entire cost rests upon the employer.

*Compensation for death.*

- (a) To persons wholly dependent, a weekly payment equal to one-half the average weekly wages of the deceased employee, but not less than \$4 nor more than \$10, for a period of 300 weeks.
- (b) If only partial dependents survive, a sum proportionate to the portion of earnings contributed to their support by the deceased employee.
- (c) If no dependents, the reasonable expense of last sickness and burial, not to exceed \$200.

*Compensation for disability.*

- (a) Reasonable medical and hospital services, and medicines as needed, for the first two weeks after injury.
- (b) For total disability, a sum equal to one-half the average weekly wages, but not less than \$4 or more than \$10 per week, not exceeding 500 weeks, nor \$3,000 in amount.
- (c) For partial disability, one-half the wage loss, but not to exceed \$10 per week, and for not longer than 300 weeks.
- (d) In specified injuries (mutilations, etc.) a sum not exceeding \$10 nor less than \$4 per week for fixed periods, in addition to other compensation.

A lump sum payment may be substituted after payments for injury or death have been made for not less than six months.

*Revision of benefits.* Either party may demand a revision of payment at any time. Employees must submit to medical examination to determine their physical condition when requested by the employer.

*Insurance.* Employer must become a subscriber of the State Employees' Insurance Association or insure in some authorized liability insurance company.

*Security of payments.* The State controls the State Employees' Insurance Association, and other companies must be authorized by the State to do business.

*Settlement of dispute.* On request of either party, the industrial accident board calls for a committee of arbitration, whose decision is subject to review by the industrial accident board.

## MICHIGAN.

*Date of enactment.* March 20, 1912; in effect September 1, 1912; amended April 10, 1913; April 16, 1913; May 2, 1913; and May 7, 1913.

*Injuries compensated.* Injuries causing incapacity to earn full wages for a period of two weeks, or death, arising out of and in the course of employment, unless such injuries resulted from intentional and willful misconduct of the injured person.

*Industries covered.* Compulsory as to the State and its municipalities, and each incorporated public board and commission authorized to hold property and to sue and be sued. All industries having one or more persons in service under contract of hire if the employer elects.

*Persons compensated.* Private employment: All employees, including aliens and minors, except casual employees. Public employment: All employees except officials of the State or of a municipality.

*Burden of payment.* Entire cost rests upon the employer.

*Compensation for death.*

- (a) To persons wholly dependent, a weekly payment equal to one-half the deceased workman's earnings, but not less than \$4 nor more than \$10 per week for a period of 300 weeks.
- (b) If only partial dependents survive, such proportion of the above as the amount of previous contributions bears to such earnings.
- (c) If no dependents, the reasonable expense of the last sickness and burial, not exceeding \$200.

*Compensation for disability.*

- (a) Reasonable medical and hospital services for the first 3 weeks.
- (b) For total incapacity, a weekly payment equal to one-half the earnings, but not less than \$4 nor more than \$10 per week, nor for a period longer than 500 weeks from the date of the injury, and not exceeding \$4,000.
- (c) For partial incapacity, a weekly payment equal to one-half the wage loss, but not more than \$10 per week, and for not longer than 300 weeks.
- (d) For certain specified injuries (mutilations, etc.), 50 per cent of average weekly earnings for fixed periods.
- (e) Payments begin with the fifteenth day after the injury, but if the disability continues for 8 weeks or longer compensation is computed from the date of injury.

After six months lump sums may be substituted for weekly payments.

*Revision of benefits.* Weekly payments may be reviewed by the industrial accident board at the request of either party. An injured employee must submit to medical examination when requested.

*Insurance.* Employer must furnish proof of financial ability to pay the required compensation, or insure in an authorized employers' liability company, or in an employers' insurance association organized under State laws, or become a member of a State insurance fund administered by the State commissioner of insurance.

*Security of payments.* In case of insolvency, claims constitute a first lien upon all property of the employer. Employers must furnish proof of financial ability to pay compensation, or insure in approved companies or with the State.

*Settlement of disputes.* Either party may request the industrial accident board to appoint a committee of arbitration whose decisions are subject to review by the board. The supreme court may review questions of law.

## MINNESOTA.

*Date of enactment.* April 24, 1913; in effect October 1, 1913.

*Injuries compensated.* Injury by accident arising out of and in the course of employment causing disability for more than two weeks, or death, unless intentionally caused, or due to the intoxication of the injured person.

*Industries covered.* All excepting interstate or foreign commerce and farm and domestic service, in the absence of contrary election by employers.

*Persons compensated.* Private employment: All employees, including aliens and minors, in the absence of contrary election, casual employees excepted. Public employment: All persons in the service of a county, city, town, village or school district, excluding public officials elected or appointed for regular terms.

*Burden of payment.* Cost rests upon the employer.

*Compensation for death.*

- (a) To a widow alone, 35 per cent of monthly wages of deceased, increasing to 60 per cent if four or more children; to a dependent husband alone, 25 per cent; to a dependent orphan 40 per cent, with 10 per cent additional for each orphan in excess of two, with a maximum of 60 per cent; to the dependent parent or parents, if no dependent widow, widower or children, 25 per cent if one parent and 35 per cent if both survive; if none of the foregoing, but a brother, sister, or grandparent is wholly dependent if but one such relative, 25 per cent, or if more than one, 30 per cent, divided equally.
- (b) If only partial dependents survive, that proportion of benefits provided for actual dependents which contributions bore to wages earned.
- (c) When no dependents are left, expense of last sickness and burial not exceeding \$100, in addition to medical and hospital services provided in case of disability.

Payments cease when a minor child reaches the age of 18, unless physically or mentally incapacitated on earning, and upon the death or marriage of other dependents unless otherwise specified.

*Compensation for disability.*

- (a) Reasonable medical and surgical treatment, not exceeding 90 days, nor \$200 in value.
- (b) For total disability, 50 per cent of wages.
- (c) For temporary partial disability, 50 per cent of the wage loss.
- (d) For specified permanent partial disability (mutilations, etc.), 50 per cent of the earnings for fixed periods.

Payment for death or disability may not be less than \$6 nor more than \$10 per week, unless the wages were less than \$6 when the amount of wages is paid. Payments may not extend beyond 300 weeks except for permanent total disability, when the maximum is 400 weeks.

Lump sums may be substituted for periodical payments, but in case of compensation for death, permanent total disability, or certain maimings, the consent of the court must be obtained.

*Revision of benefits.* After six months from the date of an award either party may apply to the court for revision. The employee must submit to medical examination when requested.

*Insurance.* Employers may insure in any authorized company, stock or mutual, or maintain cooperative schemes, assuming other and greater risks, and other classes of industrial insurance.

*Security of payments.* Insured workmen have an equitable lien upon any policy becoming due, and in case of the employer's incapacity the insurer shall make payment directly to them. Claims to compensation have the same preference against the assets of the employer as unpaid wages.

*Settlement of disputes.* Either party may submit a claim to the judge of the district court, who shall determine such dispute in a summary manner, subject to review by the supreme court as to questions of law.

## NEBRASKA.

*Date of enactment.* April 21, 1913; in effect July 17, 1913.

*Injuries compensated.* Injury causing disability for more than fourteen days, or death, caused by accident arising out of and in the course of employment, except accident caused by or resulting in any degree from willful negligence or intoxication.

*Industries covered.* All industries where 5 or more persons are employed by the employer in the regular trade, business or occupation of the employer, except domestic service, agriculture, and interstate or foreign commerce, in the absence of contrary election. Exempt employers may make an affirmative election.

*Persons compensated.* Private employment: All employees, including aliens and minors, but excluding casual employees, and home workers. Public employment: All persons employed by the State, or any government agency created by the State, not having been elected or appointed for a regular term.

*Burden of payment.* The entire cost rests upon the employer.

*Compensation for death.*

- (a) In addition to any other benefits, a reasonable amount not exceeding \$100 to cover expenses of last sickness and burial.
- (b) To persons wholly dependent, 50 per cent of the employee's wages, but not less than \$5 nor more than \$10 per week, during dependency, but not exceeding 350 weeks; if the wages of the deceased were less than \$5 per week, then full wages are to be paid as compensation.
- (c) If only partial dependents survive, a proportion of the above corresponding to the relation the contribution of the deceased to their support bore to his wages.

Compensation to children ceases when they reach the age of 16 years, unless they are physically or mentally incapacitated from earning.

*Compensation for disability.*

- (a) Medical and hospital services during the first 21 days, not exceeding \$200 in value.
- (b) For total disability, one-half of the weekly wages, but not less than \$5 or more than \$10 per week for 300 weeks; thereafter while disability lasts 40 per cent of such wages, but not less than \$4 or more than \$8 per week: *Provided, however,* If weekly wages are less than the minimum, compensation to amount of full wages is to be paid.
- (c) For partial disability, 50 per cent of loss of earning capacity, but not exceeding \$10 per week nor exceeding 300 weeks.
- (d) For certain specified injuries (mutilations, etc.), 50 per cent of wages for fixed periods with the same limits as to amounts as above.

Payments begin with the twenty-second day, but if disability continues 8 weeks or longer, compensation is computed from the date of injury.

Lump sums may be substituted for periodic payments, but if for death or permanent disability, the approval of the court must be obtained.

*Revision of benefits.* Benefits running for a period of six months or longer may be revised at any time by agreement of the parties or after six months by application to a court.

*Insurance.* An employer may insure his liability for compensation in any authorized stock or mutual insurance company.

*Security of payments.* In case of the insolvency of an insured employer, claimants are subrogated to the rights as against the company which the employer would have had if he had paid the claim.

Compensation rights and awards have the same preference against the assets of the employer as unpaid wages for labor.

*Settlement of disputes.* Questions may be submitted to arbitration by mutual consent, or either party may submit a claim to the district court of county to be heard and determined as a cause in equity, with the right of appeal to the supreme court.

## NEVADA.

*Date of enactment.* March 15, 1913; in effect July 1, 1913.

*Injuries compensated.* Injuries arising out of and in the usual course of employment, causing incapacity to earn full wages for a period of two weeks, or death, except when caused by the employee's willful intention to injure himself or another, or if the injury is sustained while intoxicated.

*Industries covered.* All in which two or more persons are employed, except domestic and farm labor, in the absence of contrary election; compulsory as to the State and its municipalities regardless of the number of employees.

*Persons compensated.* Private employment: All employees in the industries covered. Public employment: All employees.

*Burden of payment.* The entire cost rests upon the employer.

*Compensation for death.*

- (a) To the dependents or beneficiaries of the deceased employee, a sum equal to 50 per cent of his average monthly earnings, but not less than \$20 nor more than \$60 per month for a period of 100 months, in no case exceeding \$5,000, and in addition the burial expenses, not exceeding \$125.
- (b) If no dependents are left, expenses of the last sickness and burial of the deceased employee, not to exceed \$125.

*Compensation for disability.*

- (a) For total disability, an amount equal to 50 per cent of the average monthly wages, but not less than \$20 nor more than \$60 per month for 100 months, the total amount not to exceed \$5,000.
- (b) For partial disability, one-half the loss of earning capacity, but not more than \$40 per month for a period not to exceed 60 months.
- (c) For certain specific injuries (mutilations, etc.) subject to a minimum of \$20 and a maximum of \$60 per month, a monthly payment equal to 50 per cent of average monthly wages, for fixed periods.

No compensation is payable for the first 2 weeks of disability, but if the disability continues 8 weeks or longer compensation is paid from the date of the injury.

The industrial commission may permit substitution of lump sum payments for monthly payments, but no such payment shall exceed \$5,000.

*Revision of benefits.* Rearrangement of compensation may be made by the industrial commission when application is made therefor.

*Insurance.* Employers coming under this act must insure in the State insurance fund.

*Security of payments.* State management of the insurance fund and collection of premiums by the State.

*Settlement of disputes.* All matters relating to the amount of compensation to be paid are determined by the industrial commission.

## NEW HAMPSHIRE.

*Date of enactment.* April 15, 1911; in effect January 1, 1912.

*Injuries compensated.* Any injury to an employee arising out of and in the course of employment causing disability of over two weeks, or death, unless due to willful misconduct, intoxication, or violation of law.

*Industries covered.* Industries dangerous to life or limb, including the operation and maintenance of steam and electric railroads, work in shops, mills, factories, etc., employing 5 or more persons; work about lines or cables charged with electricity; operations dangerously near explosives used in the industry, or to a steam boiler owned and operated by the employer; and work in or about any quarry, mine or foundry; provided the employer elects.

*Persons compensated.* Private employment: All workmen engaged in any of the employments covered by this law. Public employment: Government employees are not mentioned.

*Burden of payment.* Entire cost rests upon the employer.

*Compensation for death.*

- (a) To persons wholly dependent, a sum equal to 150 times the average weekly earnings of the deceased, not to exceed \$3,000.
- (b) If only partial dependents survive, such proportion of the above compensation as corresponds to the portion of wages contributed to their support.
- (c) If no dependents are left, expenses of medical care and burial to a reasonable amount, not in excess of \$100.

*Compensation for disability.*

- (a) For total disability, a sum beginning with the fifteenth day, not exceeding 50 per cent of average weekly earnings.
- (b) For partial disability, a sum not in excess of 50 per cent of the loss of earning capacity.

In no case is compensation to exceed \$10 a week nor run for a longer period than 300 weeks.

The court may determine the amount of lump sums payable as a substitute for weekly payments.

*Revision of benefits.* The injured person, when requested by the employer, must submit to medical examination not oftener than once a week.

*Insurance.* No provision.

*Security of payments.* The employer must satisfy the commissioner of labor of his ability to pay the required compensation or file a bond conditioned on the discharge of all liability incurred under this act.

Weekly payments have the same preferential claim against the assets of the employer as is allowed for unpaid wages or personal services.

*Settlement of disputes.* All questions not settled by agreement are determined by an action in equity.

## NEW JERSEY.

*Date of enactment.* April 4, 1911; in effect July 1, 1911; amended May 2, 1911, April 1, 1912, and March 27, 1913.

*Injuries compensated.* Injury by accident arising out of and in the course of employment causing disability of over two weeks, or death, unless intentionally self-inflicted or due to intoxication.

*Industries covered.* All employments in the absence of contrary election.

*Persons compensated.* Private employment: All employees except casual. Non-resident aliens receive no benefits. Public employment: Every employee of the State, county, municipality, board or commission, or other governing body, including boards of education, except persons receiving a salary greater than \$1,200 per year, and those holding an elective office.

*Burden of payment.* The entire cost rests upon the employer.

*Compensation for death.*

- (a) To one dependent, 35 per cent of the wages of the deceased person, and for each additional dependent 5 per cent additional, the total not to exceed 60 per cent, payable for not more than 300 weeks. Compensation not to be less than \$5 nor more than \$10 per week, unless the earnings were less than \$5, when full wages are paid.
- (b) If no dependents, the expense of the last sickness and of burial, not exceeding \$100.

Payments to widows cease on remarriage, and to orphans on reaching the age of 18, unless physically or mentally deficient.

A lump sum payment may be substituted at the discretion of the court of common pleas.

*Compensation for disability.*

- (a) Reasonable medical and hospital services for the first two weeks of incapacity, not exceeding \$50 in value.
- (b) For temporary total disability 50 per cent of wages, payable during disability but not beyond 300 weeks.
- (c) For permanent total disability, 50 per cent of wages during such disability, not beyond 400 weeks.
- (d) For certain specific injuries (mutilations, etc.) producing partial but permanent disabilities, 50 per cent of wages during fixed periods.

All weekly payments are subject to the same rule as to minimum and maximum, as for death benefits.

A lump sum payment may be substituted at the discretion of the court of common pleas.

*Revision of benefits.* At any time after one year after an award has been made, either party may demand a revision of benefits.

*Insurance.* No provision.

*Security of payments.* The right of compensation has the same preference against the assets of the employer as are now or may hereafter be allowed by law for a claim for unpaid wages.

*Settlement of disputes.* Either party may submit a claim to the judge of the court of common pleas who shall hear and determine such disputes in a summary manner, subject to review of questions of law by the supreme court.

## NEW YORK.

[Elective law.]

*Date of enactment.* May 24, 1910; in effect September 1, 1910.

*Injuries compensated.* All injuries causing disability to earn full wages for a period of at least two weeks, or death, provided the injury was not the result of serious and willful misconduct of the injured person.

*Industries covered.* Any industry except railroads if the employer elects.

*Persons compensated.* Private employment: Any employee. Public employment: Government employees are not mentioned.

*Burden of payment.* Entire cost rests upon the employer.

*Compensation for death.*

- (a) To persons wholly dependent, a sum equal to 1,200 times the daily earnings of the employee, but not exceeding \$3,000.
- (b) If only partial dependents survive, such sum not exceeding that provided for persons wholly dependent, as may be determined to be reasonable and proportionate to the loss to such dependents.
- (c) If no dependents, the reasonable expenses of medical attendance and burial not exceeding \$100.

*Compensation for disability.*

- (a) For total disability, a weekly payment beginning with the fifteenth day after injury, and continuing during incapacity, not exceeding 50 per cent of earnings. In no case is such compensation to exceed \$10 per week or extend beyond eight years from the date of accident.
- (b) In case of partial incapacity the weekly payment shall equal but not exceed one-half the loss of earning capacity.

In fixing the amount of compensation regard is to be had to any payment or other benefit the injured person may have received from his employer during the period of incapacity.

*Revision of benefits.* The employer may require the injured person to submit to a medical examination after three weeks following the injury at intervals not oftener than once in six weeks.

*Insurance.* No provision.

*Security of payments.* Weekly payments under this law have the same preferential claim against the assets of the employer as are now allowed by law for unpaid wages or personal services.

*Settlement of disputes.* Disputes are determined by arbitration as provided by civil procedure, or by an action at law in any court having jurisdiction in cases on written contracts.



## NEW YORK.

[Compulsory law.]

*Date of enactment.* December 16, 1913; in effect July 1, 1914.

*Injuries compensated.* Accidental injuries arising out of and in course of employment, and disease or infection naturally and unavoidably resulting therefrom, causing disability for more than two weeks, or death, unless caused by the willful intention of the injured employee to bring about the injury or death of himself or another, or by his intoxication while on duty.

*Industries covered.* "Hazardous employments," including construction, maintenance, and operation of steam and street railroads; telegraph, telephone, and other electrical construction, installation, or operation; foundries, machine shops, and power plants; stone cutting or dressing; manufactures, tanneries, laundries, printing, and bookbinding; shipbuilding and repair, and the use of vessels in intrastate commerce; work in mines, quarries, tunnels, subways, shaft sinking, etc.; engineering work, and the construction, repair, and demolition of buildings and bridges; lumbering, draying, loading, and unloading.

*Persons compensated.* Private employment: All employees in industries covered, farm laborers and domestic servants not included. Public employment: Not included.

*Burden of payment.* Entire cost rests on employer.

*Compensation in case of death.*

(a) \$100 for funeral expenses.

(b) To a widow or dependent widower alone, 30 per cent of wages of deceased, 10 per cent additional for each child under 18; dependent orphans under 18 receive 15 per cent each, and dependent parents, brothers, or sisters receive 15 per cent each; aggregate payments in no case to exceed 66 $\frac{2}{3}$  per cent.

(c) Payments to widow or widower cease on death or remarriage or when dependence of widower ceases, with two years' compensation on remarriage; payments to children, brothers, and sisters cease at 18, and to parents when dependence ceases.

In computing the above benefits no wages in excess of \$100 monthly are considered.

*Compensation for disability.*

(a) Medical and surgical treatment and hospital services for 60 days, costs to be approved by the commission.

(b) For total disability, 66 $\frac{2}{3}$  per cent of wages during continuance.

(c) For partial disability, 66 $\frac{2}{3}$  per cent of wage loss; for specified permanent partial disabilities (mutilations, etc.), 66 $\frac{2}{3}$  per cent of wages for fixed periods.

The foregoing payments may not be less than \$5 nor more than \$15 per week, except for certain maimings the maximum may be \$20.

*Revision of benefits.* Awards may be reviewed at any time, and ended or increased or decreased within the limits fixed.

*Insurance.* Employer must give proof of financial ability to make payments (deposit of securities may be required), or must insure in State fund or mutual or stock company.

*Security of payments.* Insurance may be made to inure directly to the benefit of claimants; insolvency of employer does not release insurance company. Payments have same preference as unpaid wages for labor.

*Settlement of disputes.* Disputes are settled by the State workmen's compensation commission, with appeals to courts.

## OHIO.

*Date of enactment.* June 15, 1911; in effect January 1, 1912; amended March 14, 1913.

*Injuries compensated.* All injuries not self-inflicted received in the course of employment causing disability beyond one week, or death.

*Industries covered.* All industries employing 5 or more persons regularly in the same business; also establishments with less than 5 workmen if the employer elects to pay the premiums provided by this act.

*Persons compensated.* Private employment: All employees excluding casual workers, but including aliens and minors lawfully employed. Public employment: Persons in the service of the State, or its political subdivisions, excepting the officials of the State or municipal governments, and policemen and firemen in cities where pension funds are established and maintained by municipal authority.

*Burden of payment.* Entire cost rests upon the employer.

*Compensation for death.*

- (a) Burial expenses not to exceed \$150.
- (b) To persons wholly dependent, 66 $\frac{2}{3}$  per cent of the average weekly earnings of the deceased workman for six years after the date of the injury, not less than \$1,500 nor more than \$3,750.
- (c) If only partial dependents survive, a proportionate sum to continue for all or such portion of the period of six years as the State liability board may determine in each case, not exceeding a maximum of \$3,750.
- (d) If no dependents, medical and hospital services not exceeding \$200 in value, and burial expenses as above.

*Compensation for disability.*

- (a) Medical, hospital, etc., services, not to exceed \$200.
- (b) For total temporary disability, a weekly payment of 66 $\frac{2}{3}$  per cent of average weekly wages, during disability, not less than \$5 nor more than \$12 per week, but not for longer than six years, nor exceeding \$3,750.
- (c) For total permanent disability, a weekly payment as above continuing until death.
- (d) For partial disability, 66 $\frac{2}{3}$  per cent of loss of earning capacity during the continuance thereof, but not exceeding \$12 per week or a total of \$3,750.
- (e) In certain specified injuries (mutilations, etc.), compensation of 66 $\frac{2}{3}$  per cent of wages for fixed periods, with the same maximum and minimum limitations noted above.

In all cases if wages are less than prescribed minimum, then total wages are paid as compensation; an expected increase in wages may be given consideration.

*Revision of benefits.* The State liability board may from time to time make such modification or change in its former findings of fact as it deems necessary.

*Insurance.* The law creates a State insurance fund, under control of a State liability board. Other schemes are permitted, provided benefits equal to those provided by the State insurance fund are guaranteed employees at the employer's cost.

*Security of payments.* Insurance is under State control. Claims for compensation under this law have the same preference against the assets of the employer as are or may be allowed by law on judgments rendered for claims for taxes.

*Settlement of disputes.* The board hears and determines all cases within its jurisdiction, limited right of appeal to the civil courts being reserved to the claimant.

## OREGON.

*Date of enactment.* February 25, 1913; in effect 90 days after adjournment of the legislature. (July 1, 1913.)

*Injuries compensated.* Injuries by accident arising out of and in the course of employment, except those brought about intentionally.

*Industries covered.* All hazardous occupations, including factories, mills, and workshops employing machinery; mines, quarries, wharves and docks, dredges, engineering works; building trades; telegraph, telephone, electric light and power plants or lines, steamboats, tugs and ferries; all in absence of contrary election. Other employers may accept the law by affirmative election.

*Persons compensated.* Private employment: Any workman employed as above in absence of contrary election. Nonresident alien beneficiaries other than parent, spouse or child are not included unless otherwise provided by treaty. Public employment: Not included.

*Burden of payment.* The employer deducts five-tenths of one per cent of employee's monthly earnings, not less, however, than 25 cents per month, and himself contributes six times this amount. The State gives a subsidy.

*Compensation for death.*

- (a) Burial expenses not to exceed \$100.
- (b) To widow or invalid widower, a monthly payment of \$30, and to each child under 16 (daughters 18), \$6 a month, the total monthly not to exceed \$50.
- (c) To orphans under 16 years of age (daughters 18), a monthly payment of \$15 each; the total not to exceed \$50.
- (d) To other dependents, there being none of the foregoing, a monthly payment to each of 50 per cent of the average support received during the preceding year, but not to exceed \$30 a month in all.
- (e) To parents of an unmarried minor, a monthly payment of \$25, until such time as he would have been 21, after which time compensation shall be paid according to (d) above.

Payments to widow or widower continue until death or remarriage. On remarriage of widow she receives a lump sum of \$300. Payments to a male child cease at 16 and to a female at 18, unless the child is an invalid.

*Compensation for disability.*

- (a) Transportation, medical, surgical, and hospital expenses not exceeding \$250 in value.
- (b) For permanent total disability, monthly payments as follows: (1) If unmarried at the time of the injury, \$30; (2) if with wife or invalid husband, but no child under 16 years, \$35; if the husband is not an invalid, the sum is \$30; (3) if married or a widow or widower with a child or children under 16 years, \$6 additional to the provision under (2) above, for each child until 16 years of age; the total monthly payments not to exceed \$50.
- (c) For temporary total disability, the above payments apply during disability, increased 50 per cent for first 6 months, but in no case to exceed 60 per cent of monthly wages.
- (d) For partial, temporary disability, a proportionate amount, corresponding to loss of earning power for not exceeding 2 years.
- (e) For certain specified injuries (mutilations, etc.), monthly payment of \$25 per month payable for fixed periods. A lump sum at the option of the injured person is provided in some cases.

Partial lump sum payments to any beneficiary may be substituted at the discretion of the commission.

*Revision of benefits.* The rate of compensation may be readjusted either upon the application of the beneficiary or by the State Industrial Accident Commission upon its own initiative.

*Insurance.* Insurance is effected through the State Industrial Accident Fund, under supervision of the State Industrial Accident Commission.

*Security of payments.* Insurance under State control.

*Settlement of disputes.* Any decision of the commission is subject to review by the circuit court, and appeals lie from the circuit court as in other civil cases.

## RHODE ISLAND.

*Date of enactment.* April 29, 1912; in effect October 1, 1912; amended by act of April 29, 1913.

*Injuries compensated.* Personal injuries by accidents arising out of and in the course of employment causing incapacity for earning full wages for a period of more than 2 weeks, or death, except where the injury resulted from the willful intention of the injured person to injure himself or another, or from intoxication.

*Industries covered.* All industries except domestic service and agriculture if the employer elects. Defenses in suits for damages are not abrogated unless more than 5 persons are employed.

*Persons compensated.* Private employment: All employees in establishments covered by this act in absence of contrary election, casual employees and those earning above \$1,800 a year excepted. Public employment: Not mentioned.

*Burden of payment.* Entire cost rests upon the employer.

*Compensation for death.*

- (a) To persons wholly dependent, a weekly payment equal to one-half the average weekly earnings of the deceased employee, but not less than \$4 nor more than \$10 per week, for a period of 300 weeks.
- (b) If only partial dependents survive, a sum proportionate to the amount which the annual contributions bore to the annual earnings of the deceased, for not exceeding 300 weeks.
- (c) If no dependents, the expense of the last sickness and burial of the deceased employee, not exceeding \$200.

Payments to children cease on their reaching the age of 18 years unless they are physically or mentally incapacitated.

*Compensation for disability.*

- (a) The necessary medical and surgical care and hospital services for the first 2 weeks after the injury.
- (b) For total incapacity, a weekly payment equal to one-half the wages, but not less than \$4 nor more than \$10 per week, during such incapacity, but not for a longer period than 500 weeks.
- (c) For partial incapacity, a weekly payment equal to one-half the loss of earning power, but not exceeding \$10 per week, during such incapacity, and not for a longer period than 300 weeks.
- (d) For certain specified injuries (mutilations, etc.), in addition to the above, one-half the wages, weekly payments to be not less than \$4 nor more than \$10 per week, for fixed periods.

Lump sum payments may be substituted by order of the superior court after compensation has been paid for six months for either death or injury.

*Revision of benefits.* Amount payable may be reviewed and modified by the superior court at any time within 2 years, if the time for payments has not expired.

*Insurance.* Approved schemes or insurance plans may be substituted, but the employer must meet all cost unless added benefits are provided corresponding to any contributions made by employees.

*Security of payments.* Claims for compensation under this act, and under any substitute scheme, shall be entitled to a preference over the unsecured debts of the employer hereafter contracted to the same amount as the wages of labor are now preferred.

*Settlement of disputes.* Disputes are settled by the superior court on a petition in the nature of a petition in equity, filed by any party in interest. Appeals may be carried to the supreme court by any aggrieved person.

## TEXAS.

*Date of enactment.* April 16, 1913; in effect September 1, 1913.

*Injuries compensated.* Personal injury sustained in the course of employment causing incapacity to earn full wages for at least one week, or death.

*Industries covered.* Excluded from the act are domestic and farm labor, railways operated as common carriers, and cotton ginning; also establishments in which not more than 5 persons are employed. Applies to other industries if the employer subscribes to the State insurance fund.

*Persons compensated.* Private employment: All employees in industries included, except casual. Public employment: No provision.

*Burden of payment.* The entire cost rests upon the employer.

*Compensation for death.*

- (a) To the legal beneficiary of the deceased employee, a weekly payment equal to 60 per cent of his wages, not less than \$5 nor more than \$15 for a period of 360 weeks, distributed according to law governing property distribution.
- (b) If no beneficiaries or creditors are left, the expenses of the last sickness and in addition a funeral benefit not to exceed \$100.
- (c) If the deceased leaves no beneficiaries but leaves creditors, the insurance association is liable to the creditors for such debts in an amount not exceeding that which would be due beneficiaries.

*Compensation for disability.*

- (a) Medical and hospital care for the first week.
- (b) For total incapacity, a compensation equal to 60 per cent of the average weekly wages of the injured person, but not less than \$5 nor more than \$15 per week during such disability, but not exceeding a period of 400 weeks.
- (c) For partial incapacity, a compensation equal to 60 per cent of the loss of earning power during such disability, but not exceeding 300 weeks, in no case to exceed \$15 per week.
- (d) For certain specified injuries (mutilations, etc.), an additional compensation equal to 60 per cent of the average weekly wages of the injured person for fixed periods, not less than \$5 nor more than \$15 per week.

A lump sum payment may be substituted for weekly payments in cases of death or total permanent disability, subject to the approval of the industrial accident board.

*Revision of benefits.* The industrial accident board may call for medical examination as often as may be reasonably ordered.

*Insurance.* Insurance may be effected through the Texas Employers' Insurance Association, under State control, or in any company admitted to do business in the State.

*Security of payments.* Association is under State control.

*Settlement of disputes.* Disputes are referable to the industrial accident board, whose decisions are subject to appeal to any court of competent jurisdiction.

## WASHINGTON.

*Date of enactment.* March 14, 1911; in effect October 1, 1911; amended, 1913.

*Injuries compensated.* Injuries causing disability of 5 per cent, or death, to a person whether received upon the premises or at the plant or in the course of employment while away from the establishment, except injuries brought about intentionally.

*Industries covered.* All extrahazardous employment, including mills, factories and workshops where machinery is used; blast furnaces, mines, quarries, and wharves; engineering works; logging, lumbering, and shipbuilding; building trades; telegraph, telephone, electric light or power plants or lines; steamboats, tugs, and ferries; railroads except as governed by Federal statute; State, county, and municipal undertakings involving extrahazardous work in which persons are employed for wages.

*Persons compensated.* Private employment: All employees in industries covered by the act; any working employer or salaried employee on the pay roll at a rate not greater than the average named in such pay roll. Public employment: All employees in industries covered by the act.

*Burden of payment.* The entire burden rests upon the employer.

*Compensation for death.*

- (a) Expenses of burial not exceeding \$75.
- (b) To widow or invalid widower, a monthly payment of \$20; to each child under 16, \$5 per month, the total not to exceed \$35.
- (c) If no parent survives, a monthly payment of \$10 to each child under 16 years of age, the total not to exceed \$35.
- (d) To other dependents, if none of the above survive, a monthly payment to each equal to 50 per cent of the average amount previously contributed to the dependent, the total not to exceed \$20.
- (e) To the parent or parents of an unmarried minor a monthly payment of \$20 until the time he would have been 21. In case of dependence, payments to parents of minors are governed by (d).

Payments to a widow or widower continue until death or remarriage, and to a child until reaching the age of 16 years. If a widow remarries she receives a lump sum of \$240.

*Compensation for disability.*

- (a) For permanent total disability, payments as follows: (1) If unmarried at time of the accident, \$20 per month; (2) if with a wife or invalid husband, but no child under 16 years of age, \$25 a month; if the husband is not an invalid, \$15 per month; (3) if married, or a widow or widower with a child or children under 16 years, \$5 a month additional for each child, the total not to exceed \$35.
- (b) For total temporary disability, payments as for permanent total disability during disability, increased by 50 per cent for first six months, but in no case to exceed 60 per cent of monthly wages.
- (c) For temporary partial disability, the payment as for total disability continues in proportion to the loss of earning power, provided this shall exceed 5 per cent.
- (d) For permanent partial disability, a lump sum not to exceed \$1,500; if the injured person is a minor, the parents receive an additional sum, equal to 10 per cent of the award to the injured person.

Monthly payments may be converted into lump sum payments in case of death or permanent total disability.

*Revision of benefits.* Revision may be had upon application of the beneficiary or upon the motion of the department.

*Insurance.* Insurance is required in a State accident fund.

*Security of payments.* Accident fund under State control.

*Settlement of disputes.* By industrial insurance department whose decisions are subject to review by the superior court, from which appeal lies as in other civil cases.

## WEST VIRGINIA.

*Date of enactment.* February 22, 1913; in effect October 1, 1913.

*Injuries compensated.* All personal injuries not the result of willful misconduct or intoxication of the injured employee, or self-inflicted, causing incapacity for more than one week, or death.

*Industries covered.* All except domestic or agricultural labor, if the employer becomes a member of the State insurance fund.

*Persons compensated.* Private employment: All employees in industries covered, including aliens, except persons casually employed, and the officers of corporations. Public employment: No provision.

*Burden of payment.* Employer, 90 per cent; employees, 10 per cent.

*Compensation for death.*

- (a) Reasonable funeral expenses, not to exceed \$75.
- (b) To the widow or invalid widower, \$20 per month and \$5 per month additional for each child under the age of legal employment, the total not to exceed \$35 per month.
- (c) To other persons wholly dependent, if no widow, invalid widower, or child under the age of legal employment is left, 50 per cent of the average monthly support received from the deceased during the preceding year, not exceeding \$20 per month, for 6 years.
- (d) If the deceased was a single minor, to a dependent parent, 50 per cent of the earnings, not to exceed \$6 per week, until the time he would have become 21.
- (e) If only partial dependents survive, a compensation computed as in (c), with the same maximum.

Payments to a widow or widower cease on remarriage, and to children on reaching the legal age for employment [14 years].

*Compensation for disability.*

- (a) Medical, nurse, and hospital services, not exceeding \$150.
- (b) For "temporary or partial" disability, beginning with the eighth day, during such disability, 50 per cent of loss of his earning capacity, not less than \$4 nor more than \$8 per week, not exceeding 26 weeks, except that for certain maimings the period may be 156 weeks.
- (c) For permanent total disability, beginning with the eighth day, 50 per cent of the average weekly wages, during life, not less than \$3 nor more than \$6 per week.

Lump-sum payments may be substituted for periodic payments in case of either injury or death.

*Revision of benefits.* Awards may be modified at any time.

*Insurance.* Insurance is effected through a State fund under the control of the public service commission. The commission may reinsure all or any part of any class or risk in any authorized insurance company.

*Security of payments.* Insurance is under State control.

*Settlement of disputes.* Disputes are settled by the commission; limited appeal to the supreme court.

## WISCONSIN.

*Date of enactment.* May 3, 1911; in effect same date; amended June 26, 1913; July 30, 1913; August 9, 1913.

*Injuries compensated.* Personal injury by accident causing disability of at least one week, or death, while performing service growing out of and incidental to the employment, not intentionally self-inflicted.

*Industries covered.* All, if the employer elects. Compulsory as to State and its municipalities.

*Persons compensated.* Private employment: All employees except casual, including aliens, in the absence of contrary election. Public employment: All employees of the State or its political subdivisions.

*Burden of payment.* Entire cost rests upon the employer.

*Compensation for death.*

(a) To persons wholly dependent, a sum equal to 4 years' earnings, but which when added to any prior compensation for permanent total disability shall not exceed 6 years' earnings.

(b) If only partial dependents survive, a sum not to exceed 4 times the amount provided for their support during the preceding year.

(d) If no dependents, the reasonable expense of burial, not exceeding \$100.

All payments are to be made in weekly installments equal to 65 per cent of the average weekly earnings.

Dependence of children ceases at 18, unless physically or mentally incapacitated.

*Compensation for disability.*

(a) Medical, surgical, and hospital treatment for not exceeding 90 days, or the reasonable expenses therefor.

(b) For total disability, 65 per cent of average weekly earnings during such disability, but if the injured person requires the assistance of a nurse, then 100 per cent of earnings for first 90 days of disability.

(c) For partial disability, 65 per cent of loss of earning power.

(d) For certain specific injuries (mutilations, etc.), a sum equal to 65 per cent of average weekly earnings for fixed periods.

(e) For serious permanent disfigurement, a lump sum may be allowed, not exceeding \$750.

In case of temporary or partial disability the aggregate compensation for a single injury shall not exceed 4 years' earnings, and for permanent disability 6 years' earnings, nor may the disability period exceed 15 years from the date of the accident.

Lump sum payments may be substituted at any time after 6 months from the date of injury.

*Revision of benefits.* The commission may modify or change its order or award within 10 days if a mistake is discovered; or a review by the court may be had on appeal within 20 days. The commission may call for a medical examination at any time it deems necessary.

*Insurance.* Insurance in approved companies is permitted, but the liability of the employer may not be reduced.

*Security of payments.* The employer must give proof of financial ability or insure risks. Claims for compensation are preferred above other unsecured debts thereafter contracted.

*Settlement of disputes.* Disputes are settled by the industrial commission, subject to a limited review by the courts.



## UNITED STATES.

*Date of enactment.* May 30, 1908; in effect August 1, 1908; amended February 24, 1909; March 4, 1911; March 11, 1912; and July 27, 1912.

*Injuries compensated.* Injuries in the course of employment resulting in incapacity for work lasting more than 15 days, or death, unless injury is due to the negligence or misconduct of the employee injured.

*Industries covered.* Manufacturing establishments of the United States, arsenals, navy yards, construction of river and harbor or fortification work or work in the reclamation of arid lands; work under the Isthmian Canal Commission, under the Bureau of Mines, under the Forestry Service, and under the Lighthouse Service.

*Persons compensated.* Private employment: Not included. Public employment: Artisans or laborers employed by the United States (a) in any of its manufacturing establishments, arsenals, navy yards, or in the construction of river and harbor or fortification work; or (b) in hazardous employment on construction work in the reclamation of arid lands or the management and control of the same; (c) any person in hazardous employment under the Bureau of Mines, the Forestry Service, or the Lighthouse Service; (d) all employees under the Isthmian Canal Commission.

*Burden of payment.* Cost is on the branch of the service in which the injured person was employed.

*Compensation for death.*

To the widow, children, or dependent parents, a sum equal to the wages the deceased person would have received for one year had he continued to be employed.

Payments to children cease on their reaching the age of 16.

*Compensation for disability.*

A sum equal to the same pay the injured employee would have received if he continued to be employed during the period of disability, not to exceed one year.

*Revision of benefits.* Payments are made in such portions and under such regulations as the Secretary of Labor may prescribe.

*Insurance.* No provision.

*Security of payments.* Compensation is paid from annual appropriation for the support of the service.

*Settlement of disputes.* All questions as to right of compensation are decided by the Secretary of Labor, except as to the rights of employees of the Isthmian Canal Commission, which are determined by the chairman of that commission.

## CANAL ZONE.

*Date of enactment.* August 24, 1912. Executive Order February 26, 1913; in effect March 1, 1913. [Suspended.]

*Injuries compensated.* Personal injuries causing disability of over 5 days, or death, provided the injury is not intentionally brought about nor the result of intoxication.

*Industries covered.* The construction, maintenance, operation or sanitation of the Canal, Panama Railroad, or auxiliary canals, locks or other subsidiary enterprises.

*Persons compensated.* Private employment: Employees of the Panama Railroad Company directly engaged in the work named above. Public employment: Employees of the United States employed in the Canal Zone in the work named above.

*Burden of payment.* The entire burden rests upon the employer.

*Compensation for death.*

- (a) To widow or widower wholly dependent, there being no dependent child, 35 per cent of the monthly wages of the deceased for a period of 6 years; after 6 years not less than 20 nor more than 30 per cent. If partly dependent, a proportionate compensation.
- (b) In addition to the above, 10 per cent for each child, the total not to exceed 50 per cent for 6 years, thereafter 25 to 40 per cent.
- (c) If no parent is left, to one child 25 per cent and 10 per cent additional for each child, not exceeding in the aggregate 50 per cent of the wages. After 6 years the compensation shall not exceed 25 to 40 per cent.
- (d) To parents, no widow, widower, or child being left, when one only is wholly dependent, 25 per cent; when both are dependent, 20 per cent each, payable for a period of 8 years.
- (e) To brothers, sisters, grandchildren and grandparents, no dependent spouse, child or parent being left, 20 per cent if one is wholly dependent, and 30 per cent if more than one. If no one is wholly dependent but one or more are partly so, 10 per cent divided among them.

Payments cease on the death or marriage of a beneficiary, on parents ceasing to be dependent, or on a child reaching the age of 18, if capable of self-support.

*Compensation for disability.*

- (a) Reasonable medical, surgical, and hospital services and supplies.
- (b) For total disability, a monthly payment beginning with the sixth day equal to 50 per cent of pay, for not more than 6 years; thereafter a monthly payment not less than 25 nor more than 40 per cent of such wages.
- (c) For partial disability, a monthly payment equal to 50 per cent of the loss of earning capacity, for not longer than 6 years. If disability continues, a monthly payment not less than 25 nor more than 40 per cent of such loss.

Conversion to lump sum payments is provided for in certain cases.

*Revision of benefits.* The governor of the Panama Canal Zone may at any time review the compensation previously fixed.

*Insurance.* No provision.

*Security of payments.* Under Government control.

*Settlement of disputes.* The governor of the Canal Zone decides all questions arising under this order or in regard to the interpretation thereof.

## UNITED STATES.

## COMPENSATION FOR EMPLOYEES OF RAILROADS ENGAGED IN INTERSTATE COMMERCE.

(Bill in 63rd Congress (S. 959) based on the Report of the Federal Commission.)

*Injuries compensated.* Personal injuries due to accidents arising out of and in the course of employment causing disability for more than 14 days, or death, unless caused by the willful intention of the employee to bring about the injury or death of himself or another or by his intoxication.

*Industries covered.* All common carriers by rail, including express companies, in the District of Columbia or engaged in interstate or foreign commerce.

*Persons compensated.* Private employment: All employees, including apprentices, but excluding casual employees. Public employment: Not included.

*Burden of payment.* The entire cost rests upon the employer.

*Compensation for death.*

- (a) To the widow alone, 40 per cent of monthly wages of the deceased; if any child or children (male under 16 or female under 20), 50 per cent.
- (b) To any child or children, no widow being left, if one child, 25 per cent of the wages, and 10 per cent additional for each child more than one, not to exceed 50 per cent in all.
- (c) If no widow or children entitled to compensation, then to a parent or parents who are partially dependent, 15 per cent; if one is wholly dependent 25 per cent, and if both, 40 per cent of such wages.
- (d) If none of the foregoing, then to any wholly dependent brother, sister, grandparent, or grandchild, 20 per cent if one; or 30 per cent if more than one; if only partly dependent, then 10 per cent of such wages.

Beneficiaries not actual residents of the United States or contiguous countries receive no benefits, except that a widow or child where there is no resident dependent widow or child, shall be paid a sum equal to one year's wages of decedent.

- (e) A funeral benefit of \$75, if the monthly payments for death are not more than \$15. If no monthly payments are payable, a reasonable funeral benefit not exceeding \$150.

All compensation payments cease in 8 years, or, in the case of a widow, upon prior remarriage; except that payments to children cease at 16 if a male or 20 if a female, unless dependent thereafter.

*Compensation for disability.*

- (a) Medical and surgical aid, including hospital service, as may be reasonably required during the first 14 days, and thereafter in an amount not to exceed \$200.
- (b) For total disability, 50 per cent of monthly wages during its continuance, for life if permanent.
- (c) For certain specified injuries (mutilations, etc.) causing permanent partial disability, 50 per cent of monthly wages for fixed periods.
- (d) For temporary partial disability, 50 per cent of his wages during any period of reduced earning capacity, but for a period not longer than would be paid for a permanent disability of the same character, nor after refusal to accept work at the same or better wages than he was receiving at the time of injury.

*Revision of benefits.* A review of any agreement, award, findings or judgment may be had within two years from the date of accident, and before the expiration of the period for which compensation has been fixed, upon application of either party.

*Insurance.* No provision.

*Security of payments.* In cases of insolvency, liability for compensation constitutes a lien upon all property of the employer paramount to all other claims or liens except for wages and taxes.

*Settlement of disputes.* Any employer and his employees may organize and constitute one or more committees for the purpose of settling disputes, or questions may be referred to an adjuster appointed by the court, with appeals to the courts.

It is obvious that no fixed form of analysis or summary presentation can give in complete detail the provisions of the laws under consideration. They include questions relating not only to the compensation of accidents, but also to accident reporting, safety provisions, the enforcement of safety laws, the establishment of insurance systems, premium rates, investments, the scale of payments in cases of certain forms of negligence or their increase under certain conditions, procedure in arbitration, forms of appeal, and a great variety of subjects on which it would be impossible to generalize, and which can be discovered only by a reading of the individual statutes, though the use of the index to the laws will aid in this. The acceptance by a few States of laws generally similar can be clearly recognized, but it is obvious that at the present time it can not be said that any one type of law is predominantly approved. Admitting that the question of State insurance is open to discussion, it can not be denied that some form of security of payments is desirable; and while constitutional limitations may appear to stand in the way of compulsory compensation systems, it is none the less certain that the welfare of both employer and employee, as well as the public interest generally, would be served by the general adoption of uniform laws, just and certain in their operations, and not dependent for their acceptance on the personal views or interests of individuals or groups of individuals. What has appeared possible to the courts will be shown in the section following, in which are discussed the constitutionality and construction of statutes, while under the heading, "Experience under the laws," will be given some idea of the effect of the statutes enacted.

### CONSTITUTIONALITY AND CONSTRUCTION OF STATUTES.

Especially in the early commission reports great stress was laid on the question of constitutionality, as the laws under consideration were obviously wide departures from the principles that had been applied theretofore. Until the decisions of the courts of several States passing upon the constitutionality of the laws of such States were available, there was nothing of controlling authority to which reference could be made as directly supporting laws of this class. There were, however, carefully worked out arguments presented in the report of the New York commission, as well as in those of Minnesota and Ohio, others devoting less space to this subject. In all these it was necessary to proceed on the basis of analogies, and it was not until the compulsory statute of New York (ch. 674, Acts 1910) was considered by the courts of that State that there was any direct judicial ruling on the points involved in compensation statutes. This, of course, is excluding from consideration the Maryland statute of 1902, which, as already pointed out, was a cooperative insurance

law applicable only to a very limited class of employments. This law was held unconstitutional by the court of first instance on the ground that it deprived the parties of their right of trial by jury, and as conferring judicial or at least quasi judicial functions on an executive officer. The case was not carried up, so that no opinion of a higher court was ever secured. The recentness of the enactment of the laws precludes any extensive body of judicial opinion, though the number of points that may be considered by the courts is large, and current cases in which they are discussed are now being passed upon by the courts of last resort with considerable frequency.

The State itself was active in securing early determinations as to constitutionality in Massachusetts, where the State senate submitted a bill to provide compensation to injured workmen to the supreme court of the State, for a prior determination of its constitutionality; in Ohio, where the treasurer of the State refused to pay the expenses of the State liability board of awards on the ground that the law under which such board was created was unconstitutional; and in Washington, where the law was brought before the supreme court of the State by practically the same method as in Ohio. In Montana, New Jersey, New York, and Wisconsin cases were brought to the respective supreme courts in regular course by parties affected by the law. In all these cases the case turned directly on questions of constitutionality, while questions of construction and various details of the law were also necessarily considered in most instances, as well as in almost a score of cases in which opinions have been delivered since the beginning of the year 1913.

#### DUE PROCESS OF LAW.

Naturally, in the case of such wide departure from established procedure, doing away with trial by jury, questions of negligence, contributory negligence, and liability generally, the claim was made that the new system contemplating practically automatic compensation, and placing the burden of industrial accidents on the industry rather than on any particular member of it, raised the question as to violations of the constitutional guaranties of due process of law. As to what constitutes due process of law the Ohio supreme court said: (*State v. Creamer*, 85 Ohio St. 349, 69 N. E., 602).

Perhaps no exact definition of due process of law has been agreed on. Judge Story defines it in his work on the Constitution, section 1935: "The right to be protected in life and liberty, and in the acquisition of property under equal and impartial laws, which govern the whole community. This puts the State upon its true foundation for the establishment and administration of general justice, justice of law, equal and fixed, recognizing individual rights and not impairing them."

In Cooley on Constitutional Limitations, section 356, it is said: "Due process of law in each particular case means such an exercise of of the government as the settled maxims of the law permit and sanction, and under such safeguards for the protection of individual rights as those maxims prescribe for the classes of cases to which the one in question belongs."

The court then adverted to the case of *Ives v. South Buffalo R. Co.* (201 N. Y. 271, 94 N. E. 431), in which the compulsory law of New York had been held unconstitutional by the court of appeals of that State. Of this the Ohio court said:

The [New York] court held the law invalid, as imposing the ordinary risks of a business (which under the common law the employee was held to assume) on the employer. The court states one of the premises on which it proceeds as follows: "When our constitutions were adopted it was the law of the land that no man who was without fault or negligence could be held liable in damages for injuries sustained by another." But that rule was not of universal application. At common law one may sustain such relation to the inception of an undertaking that he will be held liable for negligence in the progress of the enterprise, even though he has no part or connection with the negligent act itself which caused the injury. \* \* \* The position in the line of causation which employers sustain in modern industrial pursuits is, of course, the basic fact on which employers' liability laws rest.

The Ohio statute was an elective one, differing in this respect from the law of New York, and while the acceptance of the compensation provisions involved the surrender of other forms of defense or relief, the court held that this act in no way violated due process of law.

The elective laws of Massachusetts and Wisconsin were likewise upheld by the supreme courts of the respective States as against the charges that they had violated this principle, the Massachusetts court (In re Opinion of Justices, 96 N. E. 308) laying particular stress on the voluntary features or noncompulsory features of the law, and holding that there was nothing unconstitutional in its proposals and requirements; while the Wisconsin court (*Borgnis v. Falk Co.*, 147 Wis. 327, 133 N. W. 221) considered the nature of the administration of the law by a board and not by a court and the limitations of the powers of such board as contributing to keep the law within constitutional limits. In the principal opinion in this case it was pointed out that the law in question was enacted in response to an urgent public opinion in an attempt "to solve certain very pressing problems which have arisen out of the changing industrial conditions of our time." While declaring that constitutional commands and prohibitions must be implicitly obeyed so long as they exist, it was held that in the absence of an express provision conditions prevailing at the time of the adoption of the Constitution and subsequent changes in social and economic affairs should be compared and weighed, and that no

attempt should be made to hold back the legislation needed for present conditions by reason of earlier constructions and interpretations.

The Supreme Court of Washington had a different problem to meet, in that the law under consideration was one which proposed an exclusive remedy, the question of acceptance being determined by the statute and not left to the option of the employer. Under this act every employer to whom it applies is required to contribute to a fund from which payment is to be made for the injuries of employees of persons engaged in similar industries, such payments to be made without reference to the fault of the employer or the negligence of the employee, and also without reference to the fact that no workman in a contributing employer's establishment may be injured during the entire period for which the contributions are made. The court (*State ex rel. Davis-Smith Co. v. Clausen*, 65 Wash. 156, 117 Pac. 1106) conceded that on first impression the objections contained in these facts constituted a persuasive argument against the validity of the act, but added that these conditions do not furnish an absolute test of such validity.

The test of the validity of such a law is not found in the inquiry Does it do objectionable things? but is found rather in the inquiry Is there no reasonable ground to believe that the public safety, health, or general welfare is promoted thereby? \* \* \* It is not meant here to be asserted that this [police] power is above the Constitution, or that everything done in the name of the police power is lawfully done. It is meant only to be asserted that a law which interferes with personal and property rights is valid only when it tends reasonably to correct some existing evil or promote some interest of the State, and is not in violation of any direct and positive mandate of the Constitution. The clause of the Constitution now under consideration was intended to prevent the arbitrary exercise of power or undue, unjust, and capricious interference with personal rights; not to prevent those reasonable regulations that all must submit to as a condition of remaining a member of society.

The court then cited a number of authorities as supporting the principles above laid down, many of the cases being those that had been mentioned in the earlier briefs presented in the commission reports already referred to.

The Montana statute was also a compulsory one, and the court in considering it (*Cunningham v. Northwestern Improvement Co.*, 44 Mont. 180, 119 Pac. 562) cited and followed the Washington opinion and reached the conclusion that the general scheme of the act under consideration was well within the police power of the State. "If the people, represented by their legislature, are of opinion that the public interests demand that industrial insurance ought to be substituted, in whole or in part, for actions in wrongs, this court certainly can not say that they are in error."

Later than the above is the discussion of this subject by the Supreme Court of New Jersey in its consideration of the elective compensation law of that State (*Sexton v. Newark District Telegraph Co.*, 86 Atl. 451). This statute being elective its operation can only follow from the choice of the persons affected by it, so that under the act neither the employer nor the employee is bound to accept its provisions unless he chooses to do so. "If he does not he certainly is not deprived of property without due process of law. If he does, then he has given the consent which the prosecutors contend he must give in order to be bound by the provisions of the second [compensation] section."

With the exception of the Court of Appeals of New York, therefore, the seven courts of last resort which have passed upon the constitutionality of compensation acts have held that they did not violate the constitutional rule as to due process of law. The same view was held by the Supreme Court of New York in its opinion in the *Ives* case, quoting from the opinion of the Supreme Court of the United States in the case *Holden v. Hardy* (169 U. S. 366, 18 Sup. Ct. 383):

While the cardinal principles of justice are immutable, the methods by which justice is administered are subject to constant fluctuation; and the Constitution of the United States, which is necessarily and to a large extent inflexible and exceedingly difficult of amendment, should not be so construed as to deprive the States of the power to so amend their laws as to make them conform to the wishes of the citizens as they may deem best for the public welfare without bringing them into conflict with the supreme law of the land.

On appeal, however, the foregoing opinion was rejected by the court of appeals. As to the liability fixed by the New York compulsory statute, it was said that it plainly constitutes a deprivation of liberty and property under the Federal and State constitutions which would not be valid unless justifiable under the police power. The economic argument was considered and the defects of the present system were recognized.

We have already admitted the strength of this appeal to a recognized and widely prevalent sentiment; but we think it is an appeal which must be to the people and not to the courts. The right of property rests not upon philosophical or scientific speculations, nor upon the commendable impulses of benevolence or charity, nor yet upon the dictates of natural justice. The right has its foundation in the fundamental law. That can be changed by the people, but not by legislatures. \* \* \* If such economic and sociological arguments as are here advanced in support of this statute can be allowed to subvert the fundamental idea of property, then there is no private right entirely safe, because there is no limitation upon the absolute discretion of legislatures, and the guaranties of the constitution are a mere waste of words.



It was further said that—

The argument that the risk to an employee should be borne by the employer because it is inherent in the employment may be economically sound, but it is at war with the legal principle that no employer can be compelled to assume a risk which is inseparable from the work of the employee and which may exist in spite of a degree of care by the employer far greater than may be exacted by the most drastic law. \* \* \* In its final and simple analysis that is taking the property of A and giving it to B, and that can not be done under our constitutions.

The cases cited in the commissions' briefs, and subsequently in the Washington and other opinions, were referred to and distinguished as not supporting the claims made for them. The opinions, therefore, in this case and in that given out by the Washington supreme court are in direct conflict. In referring to the New York opinions the Washington court said:

The act the [New York] court there had in review is dissimilar in many respects to the act before us and is perhaps less easily defended on economic grounds. The principle embodied in the statutes is, however, the same, and it must be conceded that the case is direct authority against the position we have here taken. We shall offer no criticism of the opinion. We will only say that, notwithstanding the decision comes from the highest court of the first State of the Union and is supported by a most persuasive argument, we have not been able to yield our consent to the view there taken.

#### JURY TRIAL.

A contention made in connection with the question of due process of law, but as a specific point, was that the system of awards proposed was an abrogation of the right of trial by jury in violation of constitutional guaranties. The Supreme Court of New Jersey in speaking of this point said: "This contention totally misconceives the proper construction and effect of the constitutional provision in question. The language with respect to this mode of trial is that it shall remain inviolable, not that it shall be unalterable. It is therefore a privilege which may be waived by either party and not an absolute right which is not the subject of such a waiver." It was pointed out that there had been for a number of years provisions for the waiver of the right of jury trials, and that provisions of this sort had been uniformly held to be entirely constitutional, citing a number of cases.

In the foregoing case it is obvious that the matter of election or option was of the essence of the opinion. In Washington, however, the subject of a fixed rule was before the court, and it was objected that "the legislature can not fix a procrustean rule for the admeasurement of damages arising from injuries received by one in the employment of another," as both parties were entitled to have the

question of right and amount submitted to a jury. The court having held, however, that for the privilege of engaging in businesses of certain sorts the State might properly require contributions to a benefit fund, it concluded that it might also require employees entering into contract relations with employers of the foregoing class to receive a given sum for such injuries as they might incur during employment. In this view the legislature would be authorized to provide that if a workman was injured while so engaged he should receive a "sure award in a limited sum as compensation for his injury and in lieu thereof shall forego his common-law action in damages therefor. \* \* \* The desirability of this substitution is unquestioned, and we believe that the legislature had the power to make it without violating any principle of the fundamental law."

A similar conclusion was reached by another line of argument, the court saying that "the right of trial by jury accorded by the Constitution, as applicable to civil cases, is incident only to causes of action recognized by law." If, therefore, the legislature is able to take away the cause of action on the one hand and the ground of defense on the other and merge both into a statutory indemnity, the right to sue has fallen and with it, of necessity, the right of jury trial.

In the Montana case it was pointed out, first, that the Constitution of the United States does not guarantee a trial by jury in a civil action in a State court, citing a decision by the Supreme Court of the United States. It was said, further, that the provision of the State constitution that the right of trial by jury shall be secured to all and remain inviolate had been construed by the court as applying only to those cases wherein a right of trial by jury existed at the date of the adoption of the constitution.

It was held therefore that such guarantee would have no reference to claims against an indemnity fund such as are provided for by the act in question, since the adjustment of claims under the act is administrative and not judicial, nor does due process of law necessarily require a jury trial, citing *Montana Co. v. St. Louis Min. Co.*, 152 U. S. 160, 14 Sup. Ct. 506.

#### LIABILITY WITHOUT FAULT.

Perhaps the ground on which the New York court of appeals most strongly condemned the compulsory law of that State was that it charged the employer with a liability without fault. The point was argued at considerable length and the cases offered in support of such liability were examined and held to be inapplicable to the questions under consideration by the court, and the conclusion was therefore reached that the law in question contained no justifying provision that would warrant the imposition of such liability.

It contains not a single provision which can be said to provide for the safety, health, or morals of the employees therein specified, nor to impose upon the enumerated employers any duty or obligation designed to have that effect. It does not affect the status of employment at all, but reads into the contract between the employer and employee without the consent of the former, a liability on his part which never existed before and to which he is permitted to interpose practically no defense, for he can only escape liability when the employee is injured through his own willful misconduct.

The Supreme Court of Washington, on the other hand, held with equal vigor that the valuable ends in view and the reasonable provisions of the law for the securing of those ends warranted the imposition of such liabilities as were enforced by the law of that State, so that in the exercise of the police power for the promotion of the welfare of the State a sufficient warrant existed for the fixing of the liability in question, citing in this connection an extended list of cases, some of which the New York court had noted and distinguished.

In a case decided by the Supreme Court of Wisconsin (*City of Milwaukee v. Miller*, 144 N. W. 188), in discussing the nature of compensation laws, the court referred to the old rule of liability as being based on "the common-law principle that he who tortiously injures another in his person or his property incurs a legal liability to make good to that other all the loss which is directly and naturally caused thereby, regardless of any element of reasonable anticipation of consequences." The court then said: "This extreme and rather harsh rule is characterized by a penal element, grounded on the moral turpitude of the wrongful act. Under the statutory system for dealing with personal injury losses incident to performance of the duties of an employer, they are regarded as mutual misfortunes to be charged up, as directly as practicable, to the cost of production. The right to have the employer regarded as an agency to make payment to the employee and absorb the same as an expense of the industry, regardless of whether the loss is attributable to any human fault, is a legislative creation within the constitutional exercise of the police power to legislate for the public welfare."

#### ABROGATION OF EMPLOYERS' DEFENSES.

In a number of cases the question was raised as to the power of the legislature to abolish the defenses of fellow service, contributory negligence, and assumption of risks, as was done in most of the laws providing for compensation. There was, however, little disagreement by the courts on this point, the New York court of appeals saying that the power of the State to make changes in methods of procedure and in subsequent law was clearly recognized. "We have said enough to show that the statutory modifications of the 'fellow-servant' rule and the law of 'contributory negligence' are clearly

within the legislative power. These doctrines, for they are nothing more, may be regulated or even abolished. This is true to a limited extent as to the assumption of risk by the employee." (*Ives v. R. Co.*, supra.)

The Massachusetts court, speaking on this point, said that the rules of law relating to these three defenses were established by the courts, not by the constitution, and that the legislature may change them or do away with them altogether as defenses. The courts of Wisconsin, New Jersey, and Ohio agree with the opinion of the Massachusetts court, the Ohio court saying that as to the right to abolish the defense of assumption of risks the great weight of authority is against the position of the New York court, holding that it is subject to the same complete legislative control as the other defenses made.

#### CLASSIFICATION OF INDUSTRIES.

In a number of the statutes under consideration distinction is made between industries or occupations as hazardous and nonhazardous. Opponents of the laws seized upon these provisions as points for attacking the constitutionality of the laws as being repugnant to the provision of the fourteenth amendment to the Federal Constitution, which guarantees to all citizens the equal protection of the laws. In discussing the New York statute which applied only to designated dangerous employments, the court noted the contention that the classification was fanciful and arbitrary, but from its examination it concluded that "all the occupations enumerated in the statute are more or less inherently dangerous to a degree which justifies such legislative regulation as is properly within the scope of police power." The Massachusetts court also found nothing unconstitutional in the provision of the proposed law in that State excluding from its application domestic servants and farm laborers. The Supreme Court of Washington, in passing upon this objection to the law of that State, held that "it is well settled that neither the clause of the State constitution prohibiting class legislation nor the clause of the fourteenth amendment to the Constitution of the United States relating to the equal protection of the laws, takes from the State power to classify in the adoption of police regulations."

The Wisconsin court, in discussing the provision of the law which preserves to employers who elect to come under the law the right to use these defenses in suits by employees who elect not to come under the law, while it takes away the same defenses from employers who do not so elect, held that this was a classification which meets the essential requirements of the constitution. The test prescribed was that the classification must be based on substantial distinctions which make real differences, must be germane to the purposes of the law, and must not be limited to existing conditions only and must apply

equally to each member of the class. It was also held in the same opinion that it was not necessary to make a distinction between hazardous and nonhazardous employments as a basis for abrogating the employers' common-law defenses.

Similar was the ruling of the Ohio supreme court to the objection that the statute of that State makes an unjust and arbitrary classification and does not affect all who are within its reason as required by the constitution of the State, the law in question exempting employers of less than five workmen from its operation. The court held this classification to be reasonable and proper, since "in the nature of the case the risks of any regular employment are less and the opportunity for avoiding them better where an employee is one of four than when the number is larger," citing from the decision in the Wisconsin case in which it was said that the difference in the situation is not merely fanciful but is real.

The Wisconsin statute abrogates defenses when employers of four or more employees fail to come within the act, and this provision was held to be controlling in *Cavanaugh v. Morton Salt Co.*, 140 N. W. 53, so as to bar the defense of fellow service in a workman's suit for damages.

#### EQUAL PROTECTION OF THE LAW.

An objection that was found fatal to the Montana statute was its failure to provide equal protection, not as between different classes of employers or of employees, but as between the employers and workmen to whom the act applied. The law in question was a compulsory cooperative insurance statute, requiring the payment of contributions to a State fund by the employer in his own behalf and in behalf of his employees, permitting him to recoup himself in part by withholding from the employees' wages fixed amounts as their contribution to the fund. Designated amounts were provided as benefits for injured workmen to be paid from this fund, but the workmen were given the option of suing the employer in an action to recover damages for injuries received. This resulted in the compulsory maintenance of a fund by the employers' contributions and a second liability to an action in damages after having made such contribution. This provision of the statute, not essential to its general scheme (which had been declared constitutional by the court), was held to be inequitable and unjust so as to clearly invalidate the law as charging the employer with a double liability and not affording to him the equal protection of the laws. It may be noted that in the local law of Maryland applying to Allegany and Garrett counties, a similar option is permitted employees to accept benefits from the funds maintained by contributions or to sue the employer

for damages. The difficulty which invalidated the Montana law is avoided, however, by permitting the employers to reimburse themselves by withholding from subsequent contributions such an amount as will equal the judgment and costs incurred in the action.

#### EXERCISE OF JUDICIAL POWERS.

A number of the laws in question provide for their administration and the settlement of disputes by boards or commissions, and these provisions were made the grounds of attack on their constitutionality as conferring judicial powers upon nonjudicial officers. In no case was this contention admitted.

The Montana law conferred certain duties upon the State auditor, which were held by the supreme court of that State to be administrative and not judicial, while the suggestion that he might in certain cases be called upon to exercise judicial power was said to be of no persuasive force, since such procedure would be altogether voluntary on his part and he might resort to the courts if he so desired.

The industrial commission provided for in the Wisconsin statute was said by the court of that State not to be a court, and they construed the act as not vesting in this commission judicial powers within the meaning of the constitution. "It is an administrative body or arm of the Government, which in the course of its administration of a law is empowered to ascertain some questions of fact and apply existing law thereto, and in so doing acts quasi-judicially; but it is not thereby vested with judicial power in the constitutional sense."

It was held that the act made no attempt to confer on the board power to consider and determine its own jurisdictional authority, but that courts were open for appeals from its findings on any one of three grounds, first, that the board acted without or in excess of its powers; second, that the award was procured by fraud; and third, that the findings of fact do not support the award. In view of these provisions the court held that there was no violation of the constitution in conferring such powers on the commission as it was authorized to exercise.

Similar considerations were involved in the discussion of the Ohio statute, and similar conclusions were reached by the court in this case. It was said that the board of awards created by the act was purely an administrative agency with duties referring to the creation and administration of the insurance fund, and the fact that it is empowered to classify persons to come under the law and to ascertain facts as to the application of the fund does not invest it with judicial power within the constitutional sense.

Of the Massachusetts law, it was said by the supreme judicial court of the State that for certain purposes the commission on arbitration and the industrial accident board, provided for by the compensation law of the State, should be classed as a court in certain respects, though the members are not judicial officers within the constitution. However, as they have power to summon witnesses, administer oaths, make rulings, and render decisions they are in a sense courts, in which proceedings may be had which correspond to actions. (*Pigeon v. Emp. Liab. Assurance Corp.*, 102 N. E. 932.)

#### FREEDOM OF CONTRACT.

The compulsory laws of New York and Washington were by their nature required to submit to scrutiny on the ground that they interfered unconstitutionally with the freedom of contract, and in the New York case it was held that this was unwarrantably done, reading into the contract between the employer and employee, and without the employer's consent, a new liability to which he can interpose practically no defense. In the Washington case it was remarked that personal rights such as the right of contract are not absolute; "on the contrary, it has been many times said that there is no absolute right to do as one will, to assume any calling one desires, or contract as one chooses; that the term 'liberty' means absence of arbitrary restraint, not immunity from reasonable regulations and prohibitions imposed in the interests of the community;" citing *Frisbie v. United States* (157 U. S. 160, 15 Sup. Ct. 586). Other opinions cited were *Holden v. Hardy* (169 U. S. 366, 18 Sup. Ct. 383), in which the Supreme Court, speaking of the power to limit the hours of labor a workingman may be employed in underground mines, said: "This right of contract, however, is itself subject to certain limitations which the State may lawfully impose in the exercise of its police powers"; and *State v. Buchanan* (29 Wash. 602, 70 Pac. 52), in which a law limiting the number of hours of labor that women might be employed in a day was held constitutional although requiring the yielding of individual rights.

The Supreme Court of Massachusetts in discussing the law of that State found no difficulty in disposing of the question of freedom of contract because of the elective or optional feature of the law by reason of which employers and employees were alike at liberty to choose whether or not they would accept the provisions of the statute. As to the Wisconsin law it was contended that while it in form presented to employers and their workmen a free choice as to acceptance or rejection of its terms, it was in fact coercive, since the employer is constrained by the abolition of his defenses to accept the act, while the employee will feel himself obliged to come within

its provisions for fear of discharge if he does not accept. The court assumed that certain employers would feel themselves able to adequately safeguard their workmen and carry their own risks under the liability laws of the State, even with the defenses abrogated, since under the circumstances of their establishments they would consider that preferable to assuming the burdens of the compensation law. So also it was argued that in all probability a great body of workmen, especially the unskilled classes, would be glad to secure a certain compensation in case of injury instead of accepting the uncertainties of a lawsuit. This phase of the subject was dismissed as being speculative and conjectural, since no one could say what the practical operation of the law would be. "It is enough for our present purpose that no one can say with certainty that it would operate to coerce either employer or employee."

The same situation was developed in the Ohio opinion, in which it was said that "it is urgently insisted that while the law is apparently permissive and leaves its operation to the election of the employer and employees, it is really coercive." The law in question deprived the employer of certain defenses if he failed to elect, election by the employee being presumed if he continued in service, but he might sue in certain cases of the employer's negligence. The system thus provided was held by the court not to be coercive on account of the common law and statutory rights still preserved to the parties. "As was said in the Wisconsin case, 'Laws can not be set aside upon mere conjecture or speculation. The court must be able to say with certainty that an unlawful result will follow.' We do not see how such a thing could be said here."

The New Jersey supreme court took the same view, holding that no coercion was exercised upon either party to the contract of hire. There are two principal parts to the law—one a stringent liability law, and the other a compensation statute—and both parties are free to choose under which of them the employment is to stand. It is provided that in the absence of notice of rejection acceptance of the compensation system is presumed. It was said that it would have been quite as competent for the legislature to have adopted other alternatives, but in its wisdom the particular choice made was the one adopted. "Really, the matter comes down to a question of presumption or burden of proof, which it is entirely within the control of the legislature to regulate so long as the parties are left entirely free to make whatever contract they choose, as they are in this case. We are therefore of the opinion that, as against the objections taken, section 2 is constitutional."



## STATUS OF BENEFIT FUNDS.

An objection was urged against the constitutionality of the statute of Washington in its provision for the maintenance of a fund to be formed of premiums or contributions by employers, on the ground that this was a violation of the provisions of the constitution requiring equal and uniform taxation of property for public purposes. It was held that while the fund was a charge laid on persons engaged in the industries named, imposed by public authority as are taxes, it was not in the meaning of the constitution a tax, as "no acquisition to the public revenue, general or local, is authorized or aimed at. It is to be used, not to meet the current expenses of government, but to recompense employees of the industries on whom the burden is imposed for injuries received by them while engaged in the pursuit of their employment. It is the consideration which owners of the industries pay for the privilege of carrying them on. It is therefore in the nature of a license tax, and can be justified on the principle of law that justifies the imposition and collection of license taxes generally." Cases were then cited showing the power of the legislature to levy such taxes in the State, the conclusion being reached that the sums might be considered as partaking of the nature of a license for both revenue and regulation, but in neither aspect was there anything inimical to either the State or Federal constitutions.

The Montana statute was likewise compulsory in the matter of contributions to the general fund. It was held here that as the act in question was a scheme calculated to result to the public welfare it was a proper corollary conclusion that the contributions to the fund were of the nature of a tax imposed for a public purpose; or the procedure might be justified if the act abolished suits at law for personal injuries and death on the theory that the State had given a quid pro quo to the employer. The court concluded, however, that it was not required to accept either of these arguments, but that it was within the police power of the State to levy such an impost as an employment tax upon the occupation covered by the act. "It is not at all necessary to justify the imposition of such a tax that the business itself should particularly require police supervision, although as we have seen, extrahazardous enterprises may demand restraint and regulation. Such a tax may be imposed, either for regulation or revenue, or for both. Property and occupation are alike legitimate objects of taxation."

A somewhat different aspect of this question is involved in the Wisconsin statute, since while no general fund is maintained, compensation is compulsory as to the State and its municipalities. It follows therefore that public funds raised by taxation are used for the payment of the benefits contemplated by the act, and on this

ground the constitutionality of the law was challenged as compelling municipalities to levy taxes for other than public purposes. As to this point the supreme court of the State said:

We have not been quite able to perceive the force of this point, and we find no argument upon it in the brief. We shall only say that the manner in which the State or the public shall treat its workmen is peculiarly a matter for the legislature to determine. No one is compelled to work for the public, and, if he does, he takes the situation on the terms which the public gives. We know of no reason why the public, acting by its law-making power may not provide that its employees shall have as part of their compensation certain indemnities in case of accidental injury in the public service. When the law does so provide, the raising of the funds to discharge those indemnities becomes plainly a proper public purpose.

The Ohio supreme court likewise considered this question, the point being made that the law directed the State to use public funds for private purposes, contributions to the insurance fund being made by both employers and employees, while the State itself assumed the expense of administration. The court in this case assumed that the ends in view were of a nature to justify the action of the State in its power to secure peace, safety, and the best interests of the Commonwealth, and quoted from the opinion of the Supreme Court in the case of *Noble State Bank v. Haskell*, (219 U. S. 104, 31 Sup. Ct. 186), in which the constitutionality of a statute of Oklahoma, authorizing the establishment of a guarantee fund for deposits by a levy on the banks of the State, was under consideration. The quotation is as follows:

The substance of the plaintiff's argument is that the assessment takes private property for private use without compensation. \* \* \* Nevertheless, notwithstanding the logical form of the objection, there are more powerful considerations on the other side. In the first place it is established by a series of cases that an ulterior public advantage may justify a comparatively insignificant taking of private property for what, in its immediate purpose, is a private use. \* \* \*

It may be said in a general way that the police power extends to all the great public needs. It may be put forth in aid of what is sanctioned by usage or held by the prevailing morality or strong and preponderant opinion to be greatly and immediately necessary to the public welfare.

The objection on this ground was therefore overruled.

#### POLICE POWER.

As to whether or not the acts under consideration properly fall within the police power of the State is a question to be answered according to the views taken as to the scope and purpose of the laws themselves. With the exception of the New York court, the laws were regarded as tending to meet existing needs in a legitimate manner and as being within the police power of the State. The Supreme

Court of Ohio quoted with approval from the discussion of Prof. Freund in his work on the subject, as follows: "The term 'police power' has never been circumscribed. It means at the same time a power and function of Government, a system of rules, and an administrative organization and force."

Prof. Freund is further quoted as saying that a consideration of the subject "will reveal the police power not as a fixed quantity, but as the expression of social, economic, and political conditions. As long as these conditions vary, the police power must continue to be elastic, i. e., capable of development."

This court regarded the law in question as a proper exercise of the police power of the State in view of the objects to be gained by its enforcement. So also of the Washington court, which said: "In fine, when reduced to its ultimate and final analysis, the police power is the power to govern." The insurance law of the State having, as this court held, "a reasonable relation to the protection of the public health, morals, safety, or welfare, it is not to be set aside because it may incidentally deprive some person of his property without fault or take the property of one person to pay the obligation of another."

The Montana statute was opposed on the ground that it was not designed to prevent the evils growing out of and incident to the present system of actions for fault, because it does not abolish such actions. In passing the court remarked that if the act has a reasonable tendency to accomplish the desired result it ought to be upheld as within the police power. Aside from the humanitarian features of the law which provided prompt and certain relief for injured workmen, which might be regarded as a matter of private benefit, this opinion considered the view that the act might be fairly construed as an attempt to prevent persons injured in coal mines and their dependents from becoming public charges.

Any measure which tends to minimize indigency of necessity raises the general standard of the people; any statute which has a tendency to reduce the present enormous expense of operating our courts would seem to be presumptively a proper exercise of the police power. \* \* \* In our judgment the general scheme of this act is well within the police power of the State. If the people, represented by their legislature, are of opinion that the public interests demand that industrial insurance ought to be substituted, in whole or in part, for actions for wrongs, this court certainly can not say that they are in error.

Other opinions reached the same conclusions by practically the same arguments; the laws being regarded as calculated to serve the public welfare. The New York court, however, says: "We have tried to make it clear that in our judgment this statute is not a law of regulation. It contains not a single provision which can be said to make for the safety, health, or morals of the employees therein speci-

fied, nor to impose upon the enumerated employers any duty or obligation designed to have that effect." The recent decisions by the Supreme Court relied upon in other opinions as supporting the views adopted as to the police power (*Noble State Bank v. Haskell*, 219 U. S. 104, 31 Sup. Ct. 186; *Assaria State Bank v. Dolley*, 219 U. S. 121, 31 Sup. Ct. 189) were referred to, but of them it was said: "We can not recognize them as controlling of our construction of our own constitution."

The Supreme Court of Washington (*State v. Mountain Timber Co.*, 135 Pac. 645), called upon to reconsider its earlier decision on the constitutionality of the industrial insurance law of that State, had before it objections on the ground that the act violated article 4, section 4, of the Constitution of the United States, which guarantees for the State a republican form of government; that it violated the fourth amendment to the Constitution, which secures all persons against unreasonable searches and seizures of their persons and effects; that it violated the fifth and seventh amendments in depriving the plaintiff of property without due process of law, and for a public use without just compensation, and also without the right of trial by jury; and lastly, that it violated the fourteenth amendment in granting privileges and immunities, and depriving the plaintiff of property without due process of law, and also depriving him of equal protection of the laws.

The court recognized that not all these points had been considered in detail in the case, *State ex rel. Davis-Smith Co. v. Clausen*, but said, "When we say that we sustain a law by reference to the police power that might otherwise be in conflict with some provision of the Constitution, it would seem that every incident to that law, as well as all methods necessary to make it effective, are likewise exempted from the prescriptions and limitations of the Constitution. The legislature has adopted the idea of industrial insurance, and seen fit to make that idea a workable one by putting its execution, as well as its administrative features, in the hands of a commission."

The court then cited a number of cases on the subject of the police power, quoting therefrom to show its development and application under the conditions. "Having in mind the sovereignty of the State, it would be folly to define the term. To define is to limit that which, in the nature of things, can not be limited, and which is rather to be adjusted to conditions touching the common welfare, when covered by legislative enactment. The police power is to the public what the law of necessity is to the individual. It is comprehended in the maxim, *Salus populi suprema lex*. It is not a rule; it is an evolution."

It was further said that "To hold the idea of industrial insurance to be constitutional, and to hold its incidents and machinery when

molded into law to be inoperative because of some constitutional limitation, would lead to absurd results." The court then unanimously upheld the judgment from which the appeal was taken, declaring that the power to provide for the execution and administration of the law had been sustained in a previous decision, *Davison v. Walla Walla* (52 Wash. 453, 100 Pac. 981), and cases cited; that the constitutional provision as to the right to a trial by jury has no application in the State courts or to prosecutions for the violation of State laws, citing *State v. McDowell* (61 Wash. 398, 112 Pac. 521), and that the contention that the industrial insurance law is in violation of a republican form of government needs no discussion, citing *Pacific States Telephone & Telegraph Co. v. Oregon* (223 U. S. 118, 32 Sup. Ct. 224) and *Kieman v. Portland* (223 U. S. 151, 32 Sup. Ct. 231). In their concluding paragraph the court said, "We recognize that this case is appealed to this court in order to bring it to the future attention of the Supreme Court of the United States," and concluded with citations of the decisions of the various courts sustaining compensation laws and other decisions bearing on points of law of like nature.

#### PARTICULAR PROVISIONS OF THE LAWS.

**ARISING OUT OF AND IN THE COURSE OF EMPLOYMENT.**—A number of points presented by the phraseology of the laws, involving matters of less general effect, have been discussed in cases before the courts of last resort. Thus, in the case *Bryant v. Fissell* (86 Atl. 458), the Supreme Court of New Jersey considered the effect of the words "arising out of and in the course of employment" as limiting accidents to be compensated. In this case Bryant was a workman employed by Fissell as a journeyman carpenter at work on a building on which an independent contractor was engaged in connection with the ironwork. Bryant's death was caused by the falling of a piece of metal upon him through the action of an employee of such other contractor, and Fissell claimed that the injury was not one that arose out of and in the course of his employment. The phrase is one that occurs in the British compensation law, and the court in construing it cited a number of English cases. Following these citations the court said: "We conclude, therefore, that an accident arises 'in the course of the employment' if it occurs while the employee is doing what a man so employed may reasonably do within the time during which he is employed and at a place where he may reasonably be during that time. That the findings of fact in the present cases justify the conclusion that the accident to Bryant occurred 'in the course of' his employment is beyond dispute."

Further discussions and citations referred to the meaning of the words "out of," after which the court said: "We conclude, therefore,

that an accident arises 'out of' the employment when it is something the risk of which might have been contemplated by a reasonable person, when entering the employment, as incident to it. \* \* \* A risk is incidental to the employment when it belongs to or is connected with what a workman has to do in fulfilling his contract of service."

This doctrine was later held to cover the case of a workman who was killed while crossing railroad tracks on the way from the place of his employment to the toilet customarily used by persons in his employer's service. (*Zabriskie v. Erie R. Co.*, 88 Atl. 824.)

The Supreme Court of Michigan construed as within this provision of the law of that State the action of a man who was fatally injured in an attempt to descend from a roof by means of a rope instead of the ladder provided for the purpose, when summoned to partake of a lunch provided by his employer. (*Clem v. Chalmers Co.*, 144 N. W. 848.)

A case involving this point came before the Supreme Judicial Court of Massachusetts (*In re Employers' Liability Assurance Corporation*, 102 N. E. 697), the court saying that the injury must rest upon both conditions. The claim was for a death caused by blows and kicks of a fellow workman who was "in an intoxicated frenzy of passion." It appeared that the habit of this workman to become intoxicated and his quarrelsome disposition were known to the employers, and it was said that while "it may be that upon the facts here disclosed a liability on the part of the defendant for negligence at common law or under the employers' liability act might have arisen, this decision does not rest upon that ground, but upon the causal connection between the injury of the deceased and the conditions under which the defendant required him to work." As to the effect of the words "arising out of and in course of," the court said:

"It is not easy nor necessary to the determination of the case at bar to give a comprehensive definition of these words which shall accurately include all cases embraced within the act and with precision exclude those outside its terms. It is sufficient to say that an injury is received 'in the course of' the employment when it comes while the workman is doing the duty which he is employed to perform. It arises 'out of' the employment, when there is apparent to the rational mind upon consideration of all the circumstances, a causal connection between the conditions under which the work is required to be performed and the resulting injury. Under this test, if the injury can be seen to have followed as a natural incident of the work and to have been contemplated by a reasonable person familiar with the whole situation as a result of the exposure occasioned by the nature of the employment, then it arises 'out of' the employment. But it excludes an injury which can not fairly be traced to the employment as a contributing proximate cause and which comes from a hazard to which the workmen would have been equally exposed

apart from the employment. The causative danger must be peculiar to the work and not common to the neighborhood. It must be incidental to the character of the business and not independent of the relation of master and servant. It need not have been foreseen or expected, but after the event it must appear to have had its origin in a risk connected with the employment and to have flowed from that source as a rational consequence."

Applying these principles to the case in hand, the court held that the injury of the deceased arose out of and in the course of his employment, so that his beneficiaries were entitled to an award under the act.

The same court held a workman to have been in the course of employment in a case in which a horse which he was driving ran away and killed him while on the way to a watering trough where he was to water the horse in accordance with instructions, even though he intended afterwards to ride on to his home to get dinner, which would not have been an act in the course of employment. (*Pigeon v. Employers' Liab. Assurance Corp.*, 102 N. E. 932.)

**WILLFUL MISCONDUCT.**—The Wisconsin statute provides for compensation to employees "where the injury is proximately caused by accident and is not so caused by willful misconduct." In a case (*Nekoosa-Edwards Paper Co. v. Industrial Commission*, 141 N. W. 1013) in which the State industrial commission had allowed compensation for the death of a workman, the company charged the claimant with intoxication and contested the award on the ground that the board had erred in finding that the deceased was not guilty of willful misconduct. The court held that while there was evidence that the deceased was slightly intoxicated, he was able to take care of himself and drive his team when last seen alive. It was conceded that if the court were authorized to review the evidence a different conclusion might be reached, but within the limited field of their action under the statute this was not within their powers. "The industrial board has jurisdiction to decide whether or not the intoxication which caused the death or injury was willful, consequently it did not act in excess of its powers in deciding in the negative in the instant case." It was said that becoming intoxicated might be called willful misconduct, if one intentionally put himself into such a condition of intoxication that he would be unable by reason of his condition to care for his own safety or for the safety of others. A distinction was drawn between such intoxication as would be a misdemeanor under a statute prohibiting intoxication in a public place so as to disturb others or to jeopardize safety, and such intoxication as would be willful misconduct within the meaning of the compensation act. "The intoxication might under such circumstances be the proximate cause of an accident resulting in injury or death and yet not have reached that degree specified in this statute." There was a

strong dissenting opinion, concurred in by three members of the court.

**SAFE PLACE.**—The duty of employers to provide a safe place for their workmen is affected by the compensation acts of some of the States, and the question of the effect of such provisions in the Wisconsin statute was considered in a case, *Tallman v. Chippewa Sugar Co.* (143 N. W. 1054). The law requires "such freedom from danger to the life, health, or safety of the employees or frequenters as the nature of the employment will reasonably permit." The court declared this to be a statutory rule which should receive a liberal construction in favor of life, health, and limb, but declined to attempt to determine the extent to which the statute added to the common law. In the case in hand the injured man had sued for damages, and it was held that the presence of wet pulp on the floor of a beet-sugar factory was, if not a necessary, at least a usual incident of employment, so that the employer was not guilty of negligence in failing to keep the floor clear of wet pulp, so that no damages could be allowed.

Another case that may be noted here is one that was brought under the Ohio statute in a Federal court, *McWeeny v. The Standard Boiler & Plate Co.* (charge to the jury furnished by the clerk of the court). The compensation law of Ohio provides certain benefits for injuries, with the condition that if the employer has paid his premiums into the State insurance fund and otherwise complied with the law he shall not be liable in an action for injuries or death; but if injury arises through his willful act or the failure of himself or his agents to comply with the safety statutes of the State, then the employee may either take compensation under the law or sue for damages. In this case the workman had been injured by the falling of a derrick which he and other employees had complained of to their foreman as unsafe, but in spite of warnings the men had been ordered to continue its use without any repairs being made. In his charge to the jury the judge stated that if it appeared simply that the defendant failed to exercise ordinary care in reference to the derrick and the workmen, there could be no recovery in damages, as such case would come under the compensation law. If, however, the action should be such recklessness as to indicate utter disregard of the consequences which might probably follow, then the action of the foreman would be a willful act within the meaning of the law. The defendant company sought to have a charge given to the jury to the effect that the foreman must have done some act or acts "with the purpose and intention and direct object in view of inflicting injury upon the men, or some one or more of them," before there could be a charge of willful act. This instruction was refused, and on the instructions given the jury returned a verdict of damages for the plaintiff.



**LIABILITY OF THIRD PERSONS.**—In the case of *Bryant v. Fissell* (86 Atl. 458), already noticed, the negligence of the independent contractor whose employee caused the death by dropping the piece of metal on the workman below, was offered as a reason why Bryant's employer should not be held as the responsible party. The Supreme Court of New Jersey said on this point that when there has been an acceptance of the elective compensation system provided by the act, it is expressly stated that compensation shall be made by the employer without regard to his negligence. "The fact, if it be a fact, that the representative of the decedent has also a right of action against a third party in no wise militates against the present action. The act under which this suit is brought, and which at best provides only for partial compensation, nowhere provides specifically or by implication that an employee shall be deprived of his right to compensation thereunder merely because the accident gives rise to a right of recovery against a third party."

Another phase of this general question was discussed in a case arising under the law of Washington (*Meese v. Northern Pacific Ry. Co.*, 206 Fed. 222). An action had been brought in the district court of the United States to recover from a railway company for an injury caused by the alleged negligence of its employees in moving cars in a brewery yard, causing a fatal injury to an employee of the brewery. This action was in damages as against a third person. The compensation law of the State provides that all claims against employers for injuries to workmen shall be determined in accordance with the provisions of this act, and civil suits for damages are abolished, with some exceptions. The statute provides that if an injury to a workman occurs away from the plant of his employer, and is due to the negligence or wrong of a third person, action may be brought against the third person or a claim made under the compensation law, at the option of the injured workman or his survivors. In the case at hand the injury did not occur away from, but at the plant of his employer, and the court held that as the right of action for fatal injuries was entirely a statutory one, it was within the power of the legislature to make the provisions that it had, and that it was the evident intent to abolish private controversies and civil actions except as specifically provided for, the case in hand not coming within the exception. Since, therefore, the provision of the law was thus clear, the remedy by a claim for compensation was held to be exclusive, and the action against the railway company was dismissed.

**WHO ARE EMPLOYERS.**—The California compensation law of 1911 was an elective statute requiring affirmative action on the part of the employer. Employers were defined as including the State and each county, city and county, city, etc., and the question arose in

the case of *Miller v. Pillsbury* (128 Pac. 327) as to the right of an employee of the State to secure compensation under the law. Miller's claim was based on the foregoing classification of the State and its municipalities as employers under the law, and also on the contention that while private employees had the option of rejecting the compensation system after their employers had elected it, there was no such option provided for employees of the State. The supreme court passing on the law as it then stood observed that no provision had been made for the State to make its election, if the law was elective as to it, nor was there any officer named to receive service of notices mentioned in the act, nor any machinery supplied whereby the services of the industrial accident board might be invoked by the State, nor anyone authorized to represent the State in requesting examinations of employees or the hearing of any controversy. The statute was therefore construed as simply setting up a law under which the State might at some time elect to place itself when suitable provisions therefor should be provided by legislation adapted to the purpose.

The legislature of 1913 enacted a new law, compulsory in form, and providing the necessary machinery for the State to participate in its provisions.

**ACTIONS AND PARTIES.**—The nature of the proceedings under compensation acts received consideration incidentally in a number of cases, necessarily chiefly of interest as construing the particular laws. Thus it was decided by the Supreme Court of New Jersey that the provisions of the law of that State that cases under the compensation act could be decided in the courts of common pleas in the county was not complied with by referring the case to the "court of small causes" (*Parrow v. New York, S. & W. R. Co.*, 88 Atl. 825). In *Hoey v. Superior Laundry Co.* (88 Atl. 823), an award in favor of an infant was contested on two grounds, one, that the statutory presumption that any contract of hiring is made with reference to the provisions of the act in the absence of express provisions to the contrary could not be binding on a minor. The court held that the common-law disability of a minor was properly cared for by the statute, and furthermore that infancy was a personal privilege to be taken advantage of by the infant himself, if desired, and that no other party was entitled to bring the matter into consideration.

The provision of the statute that where there is a dispute over claims the matter may be referred by petition to the judge of the court of common pleas, with the necessary facts in the case, who shall proceed to hear and decide the matter in a summary manner, was held to have the same effect as the determination of an ordinary suit at law for damages.

**ACT IN EFFECT.**—In a case before the Supreme Court of New Jersey (*Sexton v. Newark District Telegraph Co.*, 86 Atl. 451) the point was raised that the statute impaired the obligation of a preexisting contract. The principal law was approved April 4, 1911, to take effect July 4 of the same year. On May 2, 1911, a supplemental law was approved providing that all contracts of hiring then existing or made or implied prior to the time limit for the act to take effect should be presumed to continue after such date, but subject to the provisions of the principal statute unless notice to the contrary was given in prescribed form; the supplement was also to take effect on July 4. The contract of employment of the deceased workman in this case was made on May 23, 1911, and the court held that with the elective privilege extended in the law there was no interference with the contract, nor should the contract be classed as a preexisting one.

Although the supplement provided that it should take effect on July 4, it made ample provision whereby either Sexton or the prosecutor [employer], in entering into the contract of May 23, 1911, might prevent it from becoming subject to the provisions of section 2 [the compensation law], either by so providing in the contract itself, or by giving notice to that effect prior to the occurrence of an accident, and that they did not do. \* \* \* We think it may be fairly said that although the supplement did not become effective until July 4, 1911, it had a potential existence from the date of its approval, and that for a period of upwards of two months both employers and employees were put on notice of the presumption of the act and what it was necessary for them to do if it was desired that the presumption should not apply.

Inasmuch as the accident causing the death occurred on the afternoon of the first day on which the act became effective, it was claimed that the giving of notice of rejection was impossible, since the provision for terminating agreements called for a notice of 60 days prior to the occurrence of any accident. It was pointed out by the court, however, that the supplement only called for written notice prior to the accident; and as no such notice was given at any time, the contract necessarily operated under the provisions of the compensation law, which operation was solely due to the failure of the employer to give notice, as he might, of his unwillingness to accept its provisions.

This question arose also in a case under the Washington statute in which contractors with the city of Seattle intervened in an action by the city to oppose the payment of premiums to the State insurance fund (*State v. City of Seattle*, 132 Pac. 45). The contracts in question were entered into after the passage of the act, but before it went into effect. The work was begun also before the law became operative, but not completed until after that time. It was contended that the

act violated the obligations of the contracts in question. As to this, however, the court held that the act being a valid exercise of the police power of the State all contracts were subject to it, even though the effect of such legislation as might be enacted would be to render less valuable certain contracts between individuals or even to totally abrogate them. "If the principle were not sound, the result would be that individuals and corporations could, by private contract between themselves, in anticipation of legislation, render of no avail the police regulations of the State, no matter how vital or necessary such regulations might prove to be for the public good."

Another point involved in this case was as to the method of collection of the premiums, the law providing for an advance payment to be "preliminarily collected upon the pay roll of the last preceding three months of operation." As a matter of fact no preliminary collection was made, the commission waiting until the completion of the work and collecting on actual pay rolls during the period of the operation of the law. This the court held to be not in violation of the law, there being no waiver of the right to collect by failing to collect in advance of the actual work.

**COMPENSATION.**—The determination of the amount of compensation was a question that arose in several cases. The law of New Jersey fixes a schedule of benefits for designated injuries, and provides that other injuries shall be proportionately compensated. Under these provisions the supreme court reversed a judgment allowing more for a stiffened ankle than the schedule allowance for an amputation between the knee and the ankle, leaving for the trial judge to decide on reconsideration whether the award should equal such amount, or be less. (*Rakiec v. D., L. & W. R. Co.*, 88 Atl. 953.).

In the case of *Nitram Co. v. Creagh* (86 Atl. 435) an employee was injured by the crushing of certain fingers of his hand, causing a temporary total disability of approximately six months, and also a partial but permanent disability due to the injury to the fingers. The law provides for compensation for total temporary disability at a rate based on the injured employee's earnings, and, in another clause, for compensation in amounts determined on the basis of a percentage of the employee's wages payable for fixed periods of time for different specific injuries. Under the law of New Jersey, awards, if not otherwise agreed upon, are made by the judges of the courts of common pleas. In the case in hand the award for total disability for the term of its continuance was made, and in addition to this the award under the subsequent clause for permanent disability partial in character. To this the employer objected that compensation could be awarded only under a single clause, which

contention the supreme court rejected, sustaining the principle of a combined award, one for total disability during its continuance and one for the partial disability that remains after any degree of maiming.

Much the same question was involved in the case of *George W. Helme Co. v. Middlesex Common Pleas* (87 Atl. 72), in which an injury involving several fingers was compensated for under provisions of the law which designate the amount to be paid for each separate injury. The injury consisted in the loss of parts of the second and fourth fingers and all of the third finger, and separate awards were made according to the schedule for each finger. It was claimed by the employer that as all three fingers were injured in the same accident, the time should run concurrently, so that during the first 15 weeks there would be a total computed compensation of \$13.20, reduced to \$10 per week by the maximum limitation of the statute, while for the succeeding weeks during which any compensation was allowed there would be the concurrent operation of awards for the designated injuries. This contention was denied in the trial court and on appeal in the Supreme Court of New Jersey.

On this point the court said: "The fallacy consists in regarding these statutory awards for permanent-injury payments for the employee's time as though the disability were temporary only, whereas they are in reality a statutory method of ascertaining the damages by a specified multiple of the weekly wage, payable normally in weekly installments and reduced to present value if commuted to a lump sum." The award did not designate the order in which the weekly payments are to be made, and the supreme court suggested that it would be proper to direct that the principal injury should first be compensated for and the two minor injuries in succession thereafter. It may be noted that the law of this State was this year amended so as to make benefit payments consecutive and not concurrent, allowing first for the temporary total disability and subsequently for such payments as are awarded as compensation for partial permanent disability.

The law of this State provides for no benefits during the first two weeks' duration of a disability except medical and surgical attendance; it also fixes the compensation for the loss of an index finger at 50 per cent of the daily wages during 35 weeks. It was claimed in the case of *James A. Banister Co. v. Kriger* (85 Atl. 1027) that the effect of these two provisions was to require medical attendance, etc., for two weeks, this period to be deducted from the term of compensation payments. This contention the court rejected, saying: "This is not the language of the statute, and we think is not the intent of section 13. It is more probable that the intent of that section was to exclude allowance for compensation in the case of a temporary disability

lasting less than two weeks except for medical and hospital services and medicines."

The statute involved in this case provided that "the loss of the first phalange of the thumb or any finger shall be considered to be equal to the loss of one-half of such thumb or finger, and compensation shall be one-half the amounts above specified." It also provided for a minimum benefit of \$5 per week. The claimant's wages were but \$8.50 per week, 50 per cent of which would be less than \$5, the prescribed minimum. The court held that the minimum provision controlled, and awarded compensation at the rate of \$5 per week for 35 weeks, to which the employer objected, claiming that the actual amount paid should be but half the amount that would have been paid for the loss of the entire finger. The court held, however, that the award had been properly made under the law and that the solution of the difficulty suggested by the employer's attorneys, that the minimum rate per week might be paid but for one-half the number of weeks as for the loss of an entire finger, was held to be not in accordance with the terms of the law. It may be noted here also that an amendment of 1913 accepts the construction placed upon the act by the court as to the controlling effect of the provision for a minimum, but provides that for the loss of a single phalange the payment shall be for one-half the number of weeks as for the whole finger.

Another point involved in the foregoing case was as to the calculation of lump-sum payments, the trial judge having simply multiplied the weekly minimum by the number of weeks for which payments were to be made. The supreme court ordered the calculation to be made so as to determine the present value of future payments as the basis of a cash settlement.

The New Jersey statute provides for the award of a lump sum in lieu of periodical payments when such commutation is "in the interest of justice," but this is "to be allowed only when it clearly appears that some unusual circumstances warrant such a departure." Under this provision, and that requiring the conclusions of the trial judge to be in writing and to contain a statement of the facts determined by him, it was held by the supreme court of the State (*New York Shipbuilding Co. v. Buchanan*, 87 Atl. 86) that a general award unsupported by specific findings of fact did not afford a legal basis for a lump-sum payment.

Similar defects appeared in *Long v. Bergen County Court of Common Pleas* (86 Atl. 529), since the trial judge merely stated that the facts in the petition were true, that the claimant was permanently partially disabled, and that his damages were assessed at a named fixed sum. This was held by the supreme court to come short of the

requirements of the statute, since it offered nothing as a basis of consideration by the reviewing court and did not state the award in the terms of admeasurement prescribed by the act.

Under the Wisconsin statute benefits are payable for partial disability at the rate of 65 per cent of the weekly loss of wages during the period of such partial disability. This weekly loss of wages is to be computed so as to fairly represent the "proportionate extent of the impairment of his earning capacity in the employment in which he was working at the time of the accident," to be determined in view of the nature and extent of the injury. In the case *Mellen Lumber Co. v. Industrial Commission of Wisconsin* (142 N. W. 187), a shingle sawyer employed by the company lost by accident the thumb and index finger of his left hand, totally incapacitating him from again following the occupation of shingle sawyer. It was held that the act warranted a payment as for a total disability without deductions for the recognized fact that at some occupations the injured man might be employed at a lower rate of earnings, the conclusion being based on the provision of the law that his earning capacity in the employment in which he was working at the time of the accident was terminated. The court admitted that it was not very probable that it was intended to give an injured employee who lost a thumb and finger the same compensation as if he had been totally incapacitated for any kind of work, but held that the remedy was with the legislature and not with the court. The amending statute of 1913 adopts a schedule of compensation for specified maimings, so that the award becomes proportional to the injury and the difficulty in the foregoing case can not recur.

The determination of benefits payable to survivors of deceased employees was the subject of several cases arising under the New Jersey statute, which in its original form did not make a clear provision for the various classes of survivors. Thus in the case of a dependent mother where the deceased employee left no widow (*Blanz v. Erie R. Co.*, 85 Atl. 1030), it was held by a judge of the common pleas that the failure to make a specific provision for a case of this kind left applicable only that section of the law which allows benefits in the amount of \$200 in cases in which there are no dependents surviving.

The mother appealed, and the supreme court took the view that the object of the law was clearly to award compensation to actual dependents, and while it made no specific stipulation for a mother alone, it contained no language expressly excluding her if there is no widow, provided, of course, that she is an actual dependent. The basis of compensation was found in the provision that if there should be a widow alone the award would be 25 per cent of the workman's wages, and if a widow and father or mother, 50 per cent. It was

therefore decided that the legislature intended to allow compensation in the amount of 25 per cent where there was a mother alone or a father alone, and the record was returned to the court below for further proceedings in accordance with this conclusion.

The circumstances and conclusion are identical in the case *Quinlan v. Barber Asphalt Paving Co.* (87 Atl. 127) and the case *McFarland v. Central R. Co.* (87 Atl. 144), except that in the *Quinlan* case there were brothers and sisters of the deceased who were not, however, dependent. In the case *Tischman v. Central R. Co. of New Jersey* (87 Atl. 144) the judge of the court of common pleas had allowed 50 per cent of decedent's wages in a case in which there was no widow, but both parents survived and were dependent. This allowance was held by the supreme court to be excessive, and was reduced to 25 per cent on the basis of the reasoning in the *Blanz* case. On this point also the law has been amended so as to make specific provision for dependents of the various classes.

In the case *Boyd v. Pratt* (130 Pac. 371) the construction of the Washington statute as to the duration of benefit payments where the deceased employee was a minor on whose earnings his mother was dependent was the question before the court. The deceased was 19 years of age, and on the occurrence of his death by accident an order was made providing for payments to his dependent mother until such time as he would have arrived at the age of 21 years. From this order of the industrial insurance department an appeal was taken to the court, where the order of the department was reversed and a new order entered allowing monthly payments as long as dependency should continue. The statute in question provides that dependents shall receive during dependency 50 per cent of the average monthly support received during the preceding 12 months, but not in excess of \$20 per month. It also provides that in the case of the death of unmarried minors their parents shall receive \$20 per month for each month after the death until the time at which the deceased would have arrived at the age of 21 years. The Supreme Court of Washington construed the latter clause as being based on the parents' right to the earnings of a minor and not involving the question of dependence. Where, however, there was actual dependence, as in the case in hand, the question of minority was not controlling, and the case would come under the general provision relating to dependence. The judgment of the lower court was therefore affirmed.

Still another phase of the question of the computation of benefits was considered by the Supreme Judicial Court of Massachusetts in a case, *Gillen v. Ocean Accident and Guarantee Corporation* (102 N. E. 346). In this case the claimant was a longshoreman employed by a company which was insured with the insurance corporation named.



His employment being irregular, the question arose as to the amount of compensation payable under the Massachusetts law, the basis provided by the statute being the average weekly wages, for the determination of which various methods are indicated. Owing to the circumstances of the company's business, Gillen while working for it received not more than \$8 weekly, while in employments at other jobs his average earnings were \$13 per week, which was the average weekly wage earned by other longshoremen in the same class of employment and in the same district. Benefits payable being 50 per cent of the average wages, the insurance company contended that they were liable only to the amount of \$4 per week, while the plaintiff Gillen claimed \$6.50 per week as being one-half his average weekly earnings as longshoreman from all sources. The latter view was the one adopted by the lower court and sustained by the supreme judicial court, this court holding that the law does not restrict consideration of what constitutes weekly wages to a single employer, but took into consideration the custom of the employment and had regard for all the wages which the employee received. It was held that this was a case where the condition of the workman is one of continuous labor in regular employment with different employers. "The loss of his capacity to earn, as demonstrated by his conduct in such regular employment, is the basis upon which his compensation should be based."

The question of the expense of medical and surgical services was involved in the case *City of Milwaukee v. Miller* (144 N. W. 188). The statute of Wisconsin provides that such medical and surgical treatment, supplies, etc., as may be reasonably required during the first 90 days of disability shall be provided by the employer. In case of his neglect or refusal seasonably to do so, he is to be liable for the reasonable expense incurred by the employee in securing such treatment for himself. This was held by the supreme court not to warrant the allowance of a claim for services rendered by a physician employed by the claimant, Miller, who gave no notice to the city of his desire for medical attendance, and continued the employment of his physician after the city had voluntarily offered the services of a competent physician. The time during which the claimant could properly employ a physician was held to be limited to such reasonable time as necessarily intervened between his injury and reasonable opportunity, after due notice, for the city to exercise its privilege of furnishing a physician. The injury was a comparatively slight one, and the industrial commission had regarded the charges as quite large, but accepted the attending physician's evidence as controlling in the matter, on account of his greater experience as compared with the city's physician, who had testified that practically one-fourth the amount of the claim would have been adequate as the

cost of medical attendance. As to balancing the evidence in such a case the court said that where there were great doubts as to the amount, and the truth of the matter rested solely on the word of the interested party, opposed by the evidence of a competent witness who had little or no interest in the result, there should be much hesitation and generally a refusal to decide the matter wholly against the defendant, adding that one who, by reason of special knowledge, might be competent to give opinion evidence might deal in such exaggerations, especially when they favor his selfish interests, as in this case, as to render his evidence of little or no value; it was also said that it did not devolve upon the city to exercise active vigilance to discover the necessities of injured employees, since the language, "neglect or refusal seasonably to do so," was held to necessarily imply that reasonable notice should be given of the employee's needs and of his desire for treatment.

It was held, therefore, that the act did not authorize the payment of medical and surgical costs incurred under the circumstances, and the compensation awarded was confirmed only as to the actual compensation benefits approved by the industrial commission, plus the cost of bandages and supplies.

The effect of deferring consent to a serious surgical operation was considered in a case (*Jendrus v. Detroit Steel Products Co.*, 144 N. W. 563). The Michigan statute provides for medical treatment to be furnished by the employer, and the physician employed in this case urged an immediate operation as offering the only opportunity for saving the injured man's life. Assent was refused at first, but given the next day. The injury was to the intestines, and peritonitis had set in at the time the advice to operate was first given. Vomiting followed, becoming fecal in its nature. Pneumonia next developed, caused, as claimed by all the surgeons who testified, by the entrance into the lungs of this fecal matter. The operation was apparently followed by a measure of favorable results, but death ensued in a few days, chiefly due to the pneumonia.

Under these circumstances the employer contended that the action of the injured man in delaying the operation was so unreasonable and persistent as to defeat the claim to compensation made by his widow. In affirming an award of the arbitration committee, approved by the industrial accident board, the court took into consideration the fact that the injured man was a foreigner, little able to understand what was being said, in great pain, and unacquainted with his surroundings, and decided that it could not be held, as a matter of law, either that the conduct of Jendrus was so unreasonable and persistent as to defeat the claim for compensation by his widow, or that in his delay in assenting to the operation he was guilty of intentional and willful misconduct.

**DEPENDENCE.**—It follows from the decision in the case of *Blanz v. Erie R. Co.*, already noted, that where dependence is actual and the law clearly contemplates compensation to actual dependents, specific statutory provision is not necessary. In another case before the same court (*Miller v. Public Service R. Co.*, 85 Atl. 1030), the question arose under the law of New Jersey as to the amount payable in a case where the decedent left a childless widow and a father, brothers, and a sister. As already noted, the widow was entitled under the law to a benefit of 25 per cent of her deceased husband's wages, while if there was also a dependent parent, the compensation would be 50 per cent. The court below made an award of 50 per cent of the deceased workman's wages on the ground that besides a childless widow there was a father surviving. This ruling was held by the Supreme Court of New Jersey to be erroneous, the mere fact of relationship not being controlling, but a showing of actual dependence. So under the law of Rhode Island, where a son had lived with his father and contributed to the family earnings, compensation for dependence was not allowed on a showing that after the son's death the family was supported by the father's earnings, with a margin of weekly savings. (*Dazy v. Apponaug Co.*, 89 Atl. 160.)

In another case (*Reardon v. P. & R. R. Co.*, 88 Atl. 970), the employer contested an award under the law of New Jersey for the death of an unmarried workman. The court held, however, that since the father had been dependent on his son's earnings an award in his behalf was valid. Another case before the Supreme Court of New Jersey (*Batista v. West Jersey & S. R. Co.*, 88 Atl. 954) resulted in reversing a judgment which awarded compensation to a widow who had been abandoned some years before her husband's death, the latter having lived unlawfully with another woman whom he had supported and who had borne him children.

The question of dependence was also involved in a case arising under the Wisconsin statute (*Northwestern Iron Co. v. Industrial Commission of Wisconsin*, 142 N. W. 271.) In this case the beneficiary was a nonresident alien, widow of the deceased workman. The deceased workman had made two remittances to his wife during the time of his employment, at intervals of three months, having made the statement that if he did not send money every three months, his wife could not make a living. On the facts the industrial commission ruled that the husband and wife were living together within the meaning of the statute, and that she was therefore an actual dependent entitled to the benefits provided by the law for such persons. The employing company appealed from this ruling and it was set aside by the circuit court as being in excess of the powers of a commission and contrary to the facts. The supreme court considered the language of the law which provides for a conclusive presumption

of the dependence of a wife upon a husband with whom she is living at the time of his death. Speaking on this point, the court said: "Proof of total dependency is dispensed with under the statute where the husband and wife are 'living together' at the time of the death of the injured employee. It seems, therefore, quite obvious that the legislature intended by the use of the words to include all cases where there is no legal or actual severance of the marital relation, though there may be physical separation of the parties by time and distance. The 'living together' contemplated by the statute, we think, was intended to cover cases where no break in the marriage relation existed and therefore physical dwelling together is not necessary, in order to bring the parties within the words 'living together'." The judgment of the circuit court was therefore reversed and the award of the industrial commission directed affirmed.

The Massachusetts law declares a presumption in favor of the dependence of the widow of a deceased workman and of "a child or children under the age of 18 years \* \* \* upon the parent with whom he is or they are living at the time of the death of such parent, there being no surviving dependent parent." Under this provision of the act it was held that a divided award to a widow and to a child under 18 years of age residing with her was not in accordance with the terms of the law, since the child would be a beneficiary only in case there was no surviving dependent parent, the widow in the present instance being entitled to the entire amount of the benefits (In re Employer's Liability Assurance Corporation, 102 N. E. 697).

Another case under the law of Massachusetts (*Coakley v. Coakley*, 102 N. E. 930) involved the correlative rights of a dependent daughter of a deceased workman and his widow and children by a second marriage. It was held that the daughter was entirely orphaned and a dependent to share equally with the widow, even though there were also dependent children of the deceased dependent on her, the widow and the orphaned daughter representing a case in which "there is more than one person wholly dependent," between whom the law provides that the death benefit should be equally divided.

**SCOPE OF LAWS.**—The effect of the compensation law of New Jersey on contracts entered into in another State but performed within the boundaries of the former State was considered in a case that was before the appellate division of the Supreme Court of New York (*Pensabene v. F. & J. Auditore Co.*, 140 N. Y. Supp. 266). The company was a New York corporation with power to conduct its business in any of the States, "but always subject to the laws thereof." The business of the company was that of loading and unloading vessels in the harbor in and around the city of New York, and in the case in hand work was being done within the limits of the State of

New Jersey. The injury was a fatal one and action was brought by the administrator to recover under the provisions of the workmen's compensation law of New Jersey. The court held that the law applied only where a contract of hire was made in the State itself. The contention was made that the New York court had jurisdiction on the theory that a foreign law not contrary to the public policy of the State or to abstract justice or pure morals, or calculated to injure the State or its citizens, should be recognized and enforced in the State of New York if its courts had jurisdiction of the necessary parties, and procedure could be had consistently with the forms of law of the State. Conceding this rule to be of application in the proper circumstances, the court held that there was in the State of New York no valid statute "which in any manner resembles the New Jersey act here under consideration." Considering the case as it stood, the court ruled that "the plaintiff would have no cause of action under the same or substantially the same state of facts, and upon the theory which he presents, were the entire transaction confined to the State of New York, and it is not the province of the courts of this State to take jurisdiction to enforce the special policy of the State of New Jersey, and the act in question is, under the doctrine of the Ives case [*Ives v. South Buffalo R. Co.*, 201 N. Y. 271, holding the compulsory law of New York unconstitutional], open to objections of attempting to take property without due process of law, both under the constitution of this State, and the fourteenth amendment of the Constitution of the United States."

The question of extraterritorial jurisdiction was before the Supreme Judicial Court of Massachusetts in the case, *In re American Mutual Liability Insurance Co.* (102 N. E. 693). In this case the parties in interest were residents of the State of Massachusetts and had accepted the provisions of the compensation law of the State. The death, however, occurred while the workman was rendering service to his employer in the State of New York, his employment occasionally leading him to service in that State and in other States. The industrial accident board of the State found that the insurance company had been paid by the employer for insuring all injuries received by its employees in the course of their employment, whether within or without the Commonwealth. The supreme court, however, declined to accept this fact as binding, and held that the scope of the law itself must determine, and from a consideration of all its terms it was decided that the law had no effect as to injuries outside the State and that the company was not liable in the case in hand.

The question arose as to the application of the statute of Washington to the case of a seaman injured while employed in interstate commerce. Owing to diversity of citizenship, action was brought in

a district court of the United States, the plaintiff suing to recover damages in an action at law (*Stoll v. Pacific Coast S. S. Co.*, 205 Fed. 169). The company raised the point that the employment in which the plaintiff was engaged was covered by the compensation statute of the State. The plaintiff objected, claiming that he had a right to have his case decided in a United States court on account of the diversity of citizenship. To this the court replied that that might be true if the right of action remained, but that the compensation law of the State had abolished suits for damages as against employers. Another contention was that the law was not applicable to employment in interstate commerce. On this point the act provides that its provisions "shall apply to employers and workmen engaged in intrastate and also interstate or foreign commerce, for whom a rule or liability or method of compensation has been or may be established by the Congress of the United States only to the extent that their mutual connection with intrastate work may and shall be clearly separable and distinguishable from interstate or foreign commerce." The court held that taking the law as it stood in all its points it was intended to legislate for all persons engaged in the extrahazardous employments enumerated in the act, and that Congress having in no way legislated in the particular premises, the State had the right to enact laws incidentally affecting such commerce. It was held, therefore, that any right of recovery which the plaintiff might have would be by way of a claim under the compensation law of the State.

In another case arising in the same State (*Peet v. Mills*, 136 Pac. 685) a railway employee sought to hold the president of a railway company personally liable for his injuries, claiming that though actions against the employing company were abrogated, the president could be sued on an individual liability. This the court denied, emphasizing its ruling as to the constitutionality of the law given in the case *State v. Clausen* (65 Wash. 156, 117 Pac. 1101), and declaring the new remedy to be exclusive. A provision of the same statute permitting employees to sue an employer who is delinquent in premium payments was held not to warrant such a suit where the delinquent employer makes good his shortage within the period allowed by the rules of the State insurance commission for such payments after notice of delinquency. (*Barrett v. Grays Harbor Commercial Co.*, 209 Fed. 95.)

Various other points of minor importance, involving procedure and the powers of the different boards under their specific limitations, were discussed in a number of cases. It has already appeared that the final form for legislation of this class has not been arrived at, cases having been cited in which the construction of the courts was subsequently adopted in amendatory legislation. This agrees

with the remark of the court in the case *Nitram Co. v. Creagh*, *supra*, in which it was contended that an absurd result would follow from the construction put upon the law by the court. In affirming the judgment of the court below the court said that both the language and the spirit of the act apparently favor the construction put upon it by the trial judge; "if the act works unscientifically, absurdly, or unjustly, that is for the legislature to correct." So also the Washington supreme court in the case *Davis-Smith v. Clausen* held that the mere wisdom of a statute was a question which the courts would be slow to inquire into, and if the administration of a law was unduly costly or cumbersome it was for the legislature to make the proper changes in the light of practice. In accordance with such views, both as worked out by the courts and as arising from the experience under the laws, it may be confidently expected that satisfactory systems of compensation will be developed, certainly corresponding far more closely to the present-day needs than does the system of employers' liability or negligence.

### EXPERIENCE UNDER THE ACTS.

Reference to the chart facing page 48 will disclose the date on which each of the laws on this subject came into effect, and it is apparent that no large amount of experience has been had under them up to the present time. Also in only a few States is there any central office to which reports must be made, so that statistical data can not be expected in a number of cases. There is at hand, however, a sufficient amount of material to indicate something of the scope and results of the laws in operation, and this material will be taken up for each State in alphabetical order, omitting, of course, those States for which no information is available.

#### CALIFORNIA.

The law of California contained a provision for an industrial accident board to which disputes were to be referred, and which was charged with general powers in connection with the administration of the law, its decisions being subject to appeal to courts. It was not required that all accidents or settlements be reported to this board, so that no statistics are available. The board has furnished, however, a number of rulings and tentative suggestions as to the application of the law. These are of less value at the present time on account of the enactment of an entirely new law by the legislature of 1913, in accordance with the authority granted by an amendment to the constitution authorizing a compulsory system. The name of the administrative board is changed to industrial accident commission, and its powers are considerably enlarged.

## MARYLAND.

The compensation law of Maryland enacted in 1912 can hardly be described as any more than a law permitting insurance on compliance with certain conditions, after which the employer is to be relieved from his liability in actions at law. The law provides for an elective system, and in the month of July, 1913, it was reported that no employer had come within the act, since during its passage through the legislature the bill was so amended as to depart from its original purpose and "to become unworkable in practice." A commission appointed by the governor is charged with the preparation of a bill on this subject to be submitted to the State legislature in 1914.

## MASSACHUSETTS.

The law of Massachusetts came into effect July 1, 1912, so that the first year of operations thereunder has been completed at the date of this publication. Statistical data, however, are not yet available for the full period, though a bulletin of the date of February, 1913, makes a tentative report for the first four months of operations. The act is elective as to compensation features but requires the reporting of accidents from all employers, and it was estimated by the industrial board charged with the administration of the act that between 60 and 70 per cent of the employers in the State are now insured under the statute. While exact knowledge of the number of employees covered by the system would not be available before the end of the first year, 500,000 was named as a safe minimum. While it was recognized that certain summaries and comparisons would be impossible until a full year had been completed, the board decided to attempt to secure exact figures showing the experience of four months for a variety of occupations collected to represent the principal industries of the State, including not less than 25,000 employees. Data were secured for 25,803 employees.

Under this act insurance may be carried in an approved insurance company or in the Massachusetts Employees' Insurance Association. Most of the companies whose employees are included in the number under consideration were insured in regular companies at the regular schedule rate. An urban railroad was insured in the employees' insurance association at the premium charge of \$1.50 per \$100 of pay roll, or about 22 per cent of the regular stock-company premium rate of \$6.75 per \$100 of pay roll. The accident rate for the four months under consideration was unusually heavy for this company and absorbed 63.4 per cent of the premiums actually charged, amounting to \$41,495.13. If the regular stock company's premiums had been collected, it would have amounted to



\$180,037, of which but 14 per cent would have been required to meet the compensation demands.

The following table gives, by establishments, the total number of employees under consideration, the number of accidents, and the per cent of employees injured by accidents, the premiums and benefits paid, etc.:

ACCIDENTS, PREMIUMS, AND COMPENSATION PAYMENTS TO 25,803 EMPLOYEES, UNDER THE MASSACHUSETTS COMPENSATION LAW, FOR FOUR MONTHS, JULY 1 TO OCTOBER 31, 1912.

| Name of company.                     | Number of employees. | Wages paid.  | Accidents. |                        | Premiums.  |                      | Compensation payments. |                       | Amount paid in wages for each \$1 of compensation. |
|--------------------------------------|----------------------|--------------|------------|------------------------|------------|----------------------|------------------------|-----------------------|--|
|                                      |                      |              | Number.    | Per cent of employees. | Amount.    | Per cent of payroll. | Amount.                | Per cent of premiums. |  |
| Walworth Manufacturing Co.....       | 1,153                | \$291,606.51 | 369        | 32.0                   | \$3,406.66 | 1.16                 | \$550.50               | 16.00                 | \$529.71   |
| Pacific Mills.....                   | 6,062                | 932,152.00   | 241        | 3.9                    | 8,971.66   | .90                  | 1,031.64               | 11.40                 | 903.56   |
| Mount Tom Sulphite Pulp Co.....      | 172                  | 45,135.21    | 14         | 8.0                    | 1,137.46   | 2.50                 | 76.70                  | 6.70                  | 588.00   |
| Dennison Manufacturing Co.....       | 2,023                | 413,632.50   | 36         | 1.7                    | 3,737.50   | .90                  | 339.94                 | 9.00                  | 1,216.78   |
| Edison Electric Illuminating Co..... | 1,500                | 490,227.65   | 107        | 7.1                    | 9,000.00   | 1.80                 | 4,254.83               | 47.20                 | 115.21   |
| Boston Elevated Railway Co.....      | 9,844                | 2,667,216.78 | 945        | 9.5                    | 41,495.13  | 1.50                 | 26,336.05              | 63.40                 | 101.27   |
| Fred T. Ley & Co.....                | 1,300                | 255,000.00   | 97         | 7.4                    | 8,000.00   | 3.10                 | 5,429.24               | 67.80                 | 46.96  |
| Rice & Hutchins.....                 | 3,749                | 689,094.43   | 45         | 1.2                    | 5,226.76   | .75                  | 560.14                 | 10.71                 | 1,230.21   |

Reference to the foregoing table discloses that of the amount paid in premiums, percentages ranging from 67.8 to 6.7 were required to meet the compensation payments for the period. These payments included not only compensation for time lost but also medical and hospital bills. As already indicated, the premium rates charged are in accordance with a schedule submitted to the State insurance department by the companies admitted to operate within the State, the rates becoming effective only after approval by such department. A meeting of representatives of the insurance companies held the last of January, 1913, unanimously recommended an average reduction of 25 per cent from the existing rates by manual classifications, subject to the approval of the insurance department. It was estimated that this would effect a saving of over \$750,000 to the employers in Massachusetts.

An important subject within the scope of the action of the industrial accident board is that of considering accidents reported, together with their causes and the possibility of prevention, and the board finds that while "many employers have been aroused to the necessity for the installation of safety devices and the prevention of accidents," there is a conflict of interests in the competition of stock insurance companies. Thus one company will urge employers in-

sured with it to install safety devices, while a competing company will offer to accept the risk without requiring such installation. The board, therefore, recommended that it be given authority to recommend and cause the adoption of necessary safety devices. Such action seems, however, not to have been taken up to the present time.

According to the original purpose of the framers of the Massachusetts law, the Massachusetts Employees' Insurance Association was to have a monopoly of insurance under the act, but it was changed to give employers the right to insure either in this or any other liability company authorized to write business in the State. This company, therefore, writes only a portion of the business of this class, but it writes no other form, so that all items relate to the insurance of compensation risks. The company is mutual in form, was incorporated January 1, 1912, and commenced business July 1 of the same year. A report of its operations for the first six months is contained in the report of the insurance commissioner of Massachusetts for the year 1912, and its principal features are reproduced in the following table:

REPORT OF THE MASSACHUSETTS EMPLOYEES' INSURANCE ASSOCIATION, JULY 1 TO DECEMBER 31, 1912.

| Income.                   |                | Disbursements                                   |                |
|---------------------------|----------------|---|----------------|
| Net premiums written..... | \$619,257      | Losses paid.....                                | \$22,759       |
| Interest.....             | 5,950          | Investigation and adjustment of claims.....     | 2,866          |
|                           |                | Salaries, etc., of employees.....               | 21,753         |
|                           |                | Inspections, other than medical and claims..... | 2,307          |
|                           |                | Rents, printing, and stationery.....            | 5,157          |
|                           |                | Legal expenses.....                             | 1,750          |
|                           |                | Furniture and fixtures.....                     | 2,449          |
|                           |                | Other disbursements.....                        | 5,886          |
|                           |                | Total.....                                      | 64,907         |
|                           |                | Balance.....                                    | 560,300        |
| <b>Total.....</b>         | <b>625,207</b> | <b>Total.....</b>                               | <b>625,207</b> |

  

| Assets.                                     |           | Liabilities                        |          |
|---|-----------|------------------------------------|----------|
| Bonds (book value).....                     | \$463,949 | Losses and claims.....             | \$69,825 |
| Cash in office and on deposit.....          | 70,036    | Unearned premiums.....             | 357,938  |
| Premiums in course of collection.....       | 2,769     | Accrued salaries and expenses..... | 1,254    |
| Premium notes.....                          | 23,546    | Taxes due or accrued.....          | 7,392    |
| Accrued interest.....                       | 3,210     |                                    |          |
| Market value of bonds above book value..... | 801       |                                    |          |
| Gross assets.....                           | 564,311   | Total.....                         | 436,409  |
| Less premiums overdue.....                  | 386       | Surplus to policyholders.....      | 127,516  |
| Admitted assets.....                        | 563,925   | Total liabilities.....             | 563,925  |

It must be kept in mind that the foregoing data represent business operations for the first six months, and certain expenses, as printing, stationery, furniture, and fixtures, are doubtless disproportionately large, as they involve the inauguration of business. The current relations of income and disbursements would not be fixed in the

short period covered, as claims could be received and considered only after the lapse of some time. Thus, while losses paid amounted to but \$22,759—only \$1,006 in excess of the salaries, etc., of officers and office employees—the liabilities show \$69,825 losses and claims in addition.

The total premiums written during the year amounted to \$619,809, of which the sum of \$1,348 was reported as expired and canceled, leaving \$618,461 in force at the end of the year. Of this amount, \$357,938 are reported as unearned premiums, the difference between this sum and the net premiums written being \$261,319. Counting as administration expenses all disbursements other than losses paid, the amounts expended on this account would total \$42,148, or 16.1 per cent of the premiums earned, and 6.8 per cent of the net premiums written. Investigation and adjustment amounted to 12.6 per cent of the sum paid out for losses, but as payments on many of the claims determined will continue without proportionate added cost for those objects, it can not be said that this will be the relation between those two items

#### MICHIGAN.

The Industrial Accident Board of Michigan receives reports of all accidents which result in disability continuing for more than one full working day. The bulletin of the board reports for the period of the operation of the act, from September 1, 1912, to June 1, 1913, a total of 14,088 accidents, of which 306 were fatal, 1,526 involved amputations, and 5,188 others were classed as major, leaving 7,068 classed as minor accidents. No attempt is made in the bulletin to give an account of the amount of compensation.

The act is an elective one, and the number of employers operating under the act as of June 1, 1913, is reported as 8,326, having 434,109 employees. Of this number, 651 employers and 8,363 employees came under the act during the month of May. The employees are classified as to division of industry in eight groups, as follows: Manufacturing, 240,239; transportation, 42,462; public utilities, 5,260; realty and management, 5,785; mining, 40,460; merchandising, 40,028; publishing, 7,761; and construction, 50,083. The total number of employees given does not include those engaged in the service of the public, who are automatically brought within the operations of the act and who, if classified, would increase the total to nearly 550,000.

The law of this State permits four options as to the method of carrying the risk by employers. Thus employers may insure in stock companies, may become members of a State insurance committee, may form mutual insurance companies, or may, if able to satisfy the board of their ability to meet the demands likely to be placed upon them by the law, carry the risks themselves. According

to the bulletin above quoted the number of employers insured in stock companies was 7,320, those insured in the State insurance department were 273 in number, those in mutual insurance companies 180, while 553 were carrying their own risks.

The agreements executed under the law up to the date of the report were 7,946. Disputes under this act are settled by arbitration, a member of the industrial accident board acting as chairman. During the first six months 93 applications were filed for arbitration proceedings, 57 being heard and 11 dismissed; in 49 cases awards were granted, and in 8 they were refused, 25 cases being pending at the date of the report. These proceedings in arbitration cost the State \$888.02. The number of applications filed by employees was 88, only 5 being filed by the employers.

#### NEW JERSEY.

Under the New Jersey law an election may be made to accept the compensation system provided in section 2 of the act, or employers may remain outside this provision and operate under the provisions of section 1 of the same law, which allows for suits for damages with certain common law defenses abrogated. An employers' liability commission was created in 1911 to observe the operations of the act, and employers were ordered to report to this commission accidents occurring in their establishments, with certain facts relating thereto, and to report any compensation paid under the act. The compensation law came into effect July 4, 1911, and the commission made a report in January, 1913, covering the fiscal year November 1, 1911, to October 31, 1912. According to this report, 6,635 accidents were reported to the commission, of which 6,271, or 94.5 per cent, occurred to persons under the compensation system, leaving but 364, or 5.5 per cent of the total as possible claimants under the liability law. The statute provides for medical aid during the first two weeks not exceeding \$100 in value. Of the accidents reported, 2,365 were classed as trivial and not requiring medical aid; the average cost of medical aid for cases of less than two weeks' duration was \$4.04, while for cases receiving compensation the average cost of medical aid was \$21.17. Of the 4,300 cases requiring medical aid, such aid was supplied in 3,691 cases, or 85.8 per cent of the total, leaving 609 cases, or 14.2 per cent, in which such aid was not received, though the injured persons were legally entitled thereto. Of the number of cases reported, 2,303 were entitled to compensation and 2,139, or 92.9 per cent of the total, were reported as receiving such compensation, while 164, or 7.1 per cent, did not receive it; 445, or 19.3 per cent, received compensation not in agreement with the terms of the act.

Of the fatal cases for which accounts were closed, 91 involved dependents, and in 87 such cases compensation was due, though it was paid in but 78 cases. In 13 cases burial expenses not required by the statute were voluntarily paid at an average cost of \$166.92. Of the 78 cases in which compensation was paid 35 received commutations to lump-sum payments, while in 43 the payments were made weekly.

The amounts of payments were calculated for 37 of the foregoing cases, the average weekly payment being \$6.97. The total number of dependents in these cases was 74, the average payment per week for each dependent was \$2.54, and the total payments at the end of 300 weeks were computed to average \$2,091.

In 46 fatal cases there were no dependents, and in 43 of these burial expenses were required by the law. The number in which such expenses were actually met was 37, the average cost being \$135.30.

While the percentage of persons receiving compensation is much larger under the compensation law than under the old liability system, the commission felt the necessity of some plan being devised for guaranteeing payments when due, but was unable with their present experience to make any recommendation. It was shown, however, that as compared with conditions under the liability laws of New York the law of New Jersey presented great advantages to employees under it. Thus of 103 fatal accidents occurring in Erie County, N. Y., 78 per cent of the dependent families received no substantial support, the compensation ranging from nothing (received by 37 per cent of the cases) to \$500. Under the New Jersey law beneficiaries would have received at the end of 300 weeks \$2,091 if weekly payments were received, while for commuted cases the amount averaged \$1,258, and 89 per cent of all the cases received these substantial benefits.

A careful calculation of 164 fatal cases where full information was obtainable, under old conditions, shows the average amount received per case was \$475. Under the operation of the workmen's compensation act of this State the dependent families received on the average about three and one-half times as much. Another significant fact in this connection is that the payments in the various cases are in a measure uniform as to amount, while under the old conditions the amounts varied extremely.

#### NEW YORK.

The elective compensation law of New York provides for the affirmative action of employers and employees to bring themselves within the provisions of the law. This consists in filing with the county clerk written agreements between the employer and each employee who agrees to the plan signed and acknowledged by both in the same manner required in the conveyance of real property. While the law does

not specify that each employee must make such separate agreement, its words are such that they seem practically to necessitate such formality. This is far removed from the simple election provided for in other laws and still further from the presumed election requiring disaffirmance provided for in several of the statutes. Whether the cumbersomeness of the plan has led to its neglect, or whether there are other reasons, it is evident that the law is of no practical effect as a factor in adjusting claims for damages, since but a single firm in the State has taken advantage of the provisions of the law, and of the 440 shop hands which it employed in 1910 but 36 consented to accept the compensation provisions. This action was taken March 16, 1910, and up to July 10, 1913, no other firm had taken any steps to come within the law.

#### OHIO.

The Ohio law provides for the operation of a State insurance fund under a State liability board of awards (after October 1 a State industrial commission), and as annual reports are required on or before November 15 a report is available for the period January 1, 1912, to November 15, 1912.

At the date of the report there were 22,774 operatives protected by the insurance system, with an estimated pay roll of \$8,429,412. The average rate per \$100 of pay roll was \$1.25, the average premium payment per employer \$227.54, and the average number of employees protected in each establishment was 49.

The number of injuries reported as of November 15, 1912, was 796, besides 3 deaths. Awards were granted in 502 cases, were waived by the employee in 14 cases, and were disallowed in 5 cases, making 521 cases finally disposed of, leaving 278 pending for consideration.

The amount of premiums received during the year was \$107,857.74. The earned premium to date was \$56,008.70, less a 10 per cent contingent reserve amount of \$5,600.86, leaving a total net earned premium of \$50,407.84 and a working balance of \$57,449.90. The net earned premium is distributed as follows: To awards, \$12,067.02; deferred awards, \$6,372.52; unsettled claims (estimated), \$11,340.99, which, with the contingent reserve fund of 10 per cent, leaves a total net balance of \$20,627.31.

An interesting feature of this report is the one relating to medical attendance. The law provides for medical and hospital service in each case in an amount not exceeding \$200. A difficulty that has been practically uniformly reported on in the administration of compensation laws in which medical services are furnished by the State or by the employer is the excessive charge of medical practitioners in cases of simple injury. The chief medical examiner of the board prepared the following table to show the costs for medical and hospital

service, etc., showing both the amounts claimed and the amount granted for the different classes of expenses:

MEDICAL, ETC., SERVICES, JANUARY 1, 1912, TO NOVEMBER 15, 1912.

|                     | Medical service. | Medicines. | Hospital. | Nurse. | Ambulance. | Under-taker. |
|---------------------|------------------|------------|-----------|--------|------------|--------------|
| Amount claimed..... | \$4,636.20       | \$138.40   | \$190     | \$48   | \$9.10     | \$622.55     |
| Amount granted..... | 3,800.70         | 87.40      | 170       | .....  | 9.10       | 450.00       |

The above figures are approximate in some cases and can not be made exact. According to the statements made, the amounts saved by the scrutiny of the board amounted to \$906.50 in the 521 cases passed upon, and the average cost for medical attendance was \$7.85 per case, including all items. The cost of administration, if all employers in the State were contributors, is estimated at not more than 7 per cent.

WASHINGTON.

The most detailed report yet published on the subject of the operations of a State law is that of the industrial insurance department of Washington, covering the year from October 1, 1911, to September 30, 1912. The report is a volume of 516 pages, in which are presented a discussion of the general idea of compensation, a history of the legislation of the State on this subject, the organization of the commission and its policy and problems, and the subject of accident prevention and safety education. There are more than 100 pages of statistical results and comparisons, and 35 pages are given over to the report of the chief medical adviser. Alleged defects and suggested amendments, recommendations, and appendixes presenting related matter complete the volume.

Reports of accidents cover their nature, the month, day, and hour of occurrence, the sex, age, and nativity of the injured person, the days survived (if the injury subsequently proved fatal), the number of beneficiaries, the relationship and benefits paid to them, the industry, occupation, and daily wage of the injured workman, and a brief description of the accident; also summary tables of costs, causes, duration of disability, etc.<sup>1</sup>

The statute is a compulsory one, intended to cover all the industrial activities of the State, and the rates of premiums to be contributed are fixed in the law itself for the 48 classes of industry into which the industries of the State are grouped. In the eleventh class, however, the legislature placed no employments, while in administration the State board construed classes 26, 27, 28, 32, and 36 to be overlapping,

<sup>1</sup> The report for the year ending Sept. 30, 1913, was received too late for more than a very limited use.

and they were therefore omitted. In the remaining classes there were, on September 30, 1912, 138,084 employees; accidents reported numbered 11,896, but for 1,703 of these the files were incomplete, leaving 10,193 cases for consideration. Of this number 6,356 were for total temporary disability; and 378 were rejected for cause. Claims were suspended in 1,552 cases, in which the injuries were trivial and the workmen presented no claims, while in 348 cases the board was unable to locate any claimants. Total permanent disability pensions were allowed in 2 cases; 257 accidents were fatal; monthly benefits for temporary disability were allowed in 314 instances; payments on account of reduced earning power or partial payments were made in 33 cases; while 953 cases were in process of adjustment.

For the year ending September 30, 1913, there were 12,380 injuries, causing 340,728 days of temporary total disability, and receiving awards amounting to \$460,498. The total number of awards made during the year was 14,536, aggregating \$1,377,271.

The following table gives the condition of the funds for the various classes of occupations at the close of the 12 months ending September 30, 1912; also the number of employees in each class and the number of accidents. The table has been condensed somewhat in the following presentation by reducing the amounts of money to the nearest dollar:

STATEMENT OF CONDITION OF ACCIDENT FUND, STATE OF WASHINGTON, AT CLOSE OF 12 MONTHS ENDING SEPTEMBER 30, 1912.

| Industry.                         | Class. | Number of employees. | Number monthly premium calls. | Total amount paid in. | Number of accidents. | Claims paid. | Reserve on approved claims. | Balance in fund. | Per cent unexpended. | Rate per \$100 of pay roll. |           |           |
|-----------------------------------|--------|----------------------|-------------------------------|-----------------------|----------------------|--------------|-----------------------------|------------------|----------------------|-----------------------------|-----------|-----------|
|                                   |        |                      |                               |                       |                      |              |                             |                  |                      | Basic.                      | Assessed. | Required. |
| Sewers.....                       | 1      | 2,571                | (1)                           | \$22,114              | 84                   | \$6,867      | .....                       | \$15,247         | 69                   | (?)                         | .....     | .....     |
| Bridge and tower.                 | 2      | 2,048                | (1)                           | 19,362                | 61                   | 4,304        | \$4,503                     | 10,555           | 54                   | (?)                         | .....     | .....     |
| Pile driving.....                 | 3      | 530                  | (1)                           | 6,669                 | 39                   | 1,795        | .....                       | 4,875            | 73                   | (?)                         | .....     | .....     |
| House wrecking.....               | 4      | 429                  | (1)                           | 2,023                 | 12                   | 1,431        | .....                       | 592              | 29                   | (?)                         | .....     | .....     |
| General construction.             | 5      | 10,601               | (1)                           | 78,514                | 327                  | 22,824       | 25,024                      | 30,666           | 39                   | (?)                         | .....     | .....     |
| Power-line installation.....      | 6      | 4,147                | (1)                           | 56,047                | 145                  | 11,106       | 5,993                       | 38,888           | 69                   | .....                       | .....     | .....     |
| Railroads.....                    | 7      | 11,215               | (1)                           | 96,549                | 304                  | 34,921       | 21,523                      | 39,806           | 41                   | \$5.00                      | \$5.00    | \$2.90    |
| Street grading.....               | 8      | 11,790               | (1)                           | 35,035                | 142                  | 10,569       | 3,553                       | 20,913           | 42                   | (?)                         | .....     | .....     |
| Shipbuilding.....                 | 9      | 949                  | 3                             | 6,376                 | 43                   | 3,826        | .....                       | 2,550            | 40                   | (?)                         | .....     | .....     |
| Lumbering, mill-<br>ing, etc..... | 10     | 42,164               | 7                             | 324,103               | 2,748                | 206,147      | 117,366                     | 590              | .....                | 2.50                        | 1.46      | 1.46      |
| Dredging.....                     | 12     | 441                  | 4                             | 6,576                 | 17                   | 1,895        | .....                       | 4,681            | 71                   | 5.00                        | 1.67      | .48       |
| Electric systems.....             | 13     | 1,064                | 6                             | 18,273                | 49                   | 3,335        | 11,532                      | 3,406            | 18                   | 4.00                        | 2.00      | 1.02      |
| Street railway.....               | 14     | 3,701                | 3                             | 26,729                | 153                  | 6,731        | 1,264                       | 18,734           | 70                   | 3.00                        | .75       | .23       |
| Telephone and<br>telegraph.....   | 15     | 830                  | 3                             | 4,311                 | 23                   | 1,470        | 691                         | 2,151            | 50                   | 3.00                        | .75       | .38       |
| Coal mining.....                  | 16     | 4,277                | 6                             | 82,399                | 509                  | 40,817       | 28,041                      | 13,541           | 16                   | 3.00                        | 1.50      | 1.23      |
| Quarries.....                     | 17     | 2,171                | 4                             | 15,355                | 75                   | 5,500        | 2,330                       | 7,524            | 49                   | 4.00                        | 1.33      | .68       |
| Smelters.....                     | 18     | 831                  | 4                             | 6,369                 | 73                   | 4,939        | .....                       | 1,430            | 21                   | 3.00                        | 1.00      | .77       |
| Gas works.....                    | 19     | 937                  | 6                             | 7,138                 | 27                   | 917          | 2,923                       | 3,298            | 46                   | 3.00                        | 1.50      | .80       |
| Steamboats.....                   | 20     | 169                  | 6                             | 1,252                 | 1                    | 405          | .....                       | 847              | 67                   | 3.00                        | 1.50      | .48       |
| Grain elevators.....              | 21     | 1,923                | 3                             | 3,335                 | 65                   | 4,781        | .....                       | 3,605            | 43                   | 2.00                        | .50       | .29       |
| Laundries.....                    | 22     | 3,184                | 3                             | 7,671                 | 35                   | 2,543        | .....                       | 5,128            | 67                   | 2.00                        | .50       | .17       |
| Waterworks.....                   | 23     | 553                  | 6                             | 5,037                 | 13                   | 845          | 2,739                       | 1,453            | 29                   | 2.00                        | 1.00      | .70       |
| Paper mills.....                  | 24     | 734                  | 9                             | 8,085                 | 71                   | 5,975        | .....                       | 2,109            | 26                   | 2.00                        | 1.50      | .74       |

<sup>1</sup> Continuous.

<sup>2</sup> Various.



STATEMENT OF CONDITION OF ACCIDENT FUND, STATE OF WASHINGTON, AT  
CLOSE OF 12 MONTHS ENDING SEPTEMBER 30, 1912—Concluded.

| Industry.                           | Class. | Number of employees. | Number monthly premium calls. | Total amount paid in. | Number of accidents. | Claims paid. | Reserve on approved claims. | Balance in fund. | Per cent unexpended. | Rate per \$100 of pay roll. |           |           |
|-------------------------------------|--------|----------------------|-------------------------------|-----------------------|----------------------|--------------|-----------------------------|------------------|----------------------|-----------------------------|-----------|-----------|
|                                     |        |                      |                               |                       |                      |              |                             |                  |                      | Basic.                      | Assessed. | Required. |
| Garbage works.....                  | 25     | 163                  | 6                             | \$1,489               | 5                    | \$403        | .....                       | \$1,086          | 73                   | \$2.00                      | \$1.00    | \$0.27    |
| Woodworking.....                    | 29     | 4,304                | 5                             | 28,352                | 267                  | 20,174       | \$1,151                     | 6,987            | 24                   | 2.50                        | 1.04      | .79       |
| Asphalt manufacturing.....          | 30     | 261                  | 3                             | 971                   | .....                | .....        | .....                       | 971              | 100                  | 2.50                        | .62       | .....     |
| Cement manufacturing.....           | 31     | 981                  | 6                             | 8,966                 | 39                   | 1,763        | 4,061                       | 2,602            | 29                   | 2.50                        | 1.25      | .89       |
| Fish canneries.....                 | 33     | 3,687                | 3                             | 11,289                | 37                   | 2,090        | .....                       | 9,200            | 81                   | 3.00                        | .75       | .14       |
| Steel manufacturing, foundries..... | 34     | 4,488                | 6                             | 29,627                | 226                  | 17,120       | 3,153                       | 9,324            | 31                   | 2.00                        | 1.00      | .70       |
| Brick manufacturing.....            | 35     | 1,703                | 3                             | 6,216                 | 35                   | 1,806        | .....                       | 4,411            | 71                   | 2.00                        | .50       | .13       |
| Breweries.....                      | 37     | 1,045                | 6                             | 9,970                 | 37                   | 2,251        | 3,311                       | 4,407            | 44                   | 2.00                        | 1.00      | .56       |
| Textile manufacturing.....          | 38     | 1,573                | 3                             | 3,813                 | 22                   | 1,185        | .....                       | 2,627            | 68                   | 1.50                        | .38       | .12       |
| Foodstuffs.....                     | 39     | 1,308                | 3                             | 2,656                 | 15                   | 597          | .....                       | 2,059            | 77                   | 1.50                        | .38       | .09       |
| Creameries.....                     | 40     | 552                  | 3                             | 2,150                 | 12                   | 267          | .....                       | 1,883            | 87                   | 1.50                        | .38       | .06       |
| Printing.....                       | 41     | 1,966                | 3                             | 6,519                 | 31                   | 1,346        | .....                       | 5,174            | 79                   | 1.50                        | .38       | .07       |
| Longshoring.....                    | 42     | 6,849                | 6                             | 12,966                | 122                  | 6,808        | 3,917                       | 2,242            | 17                   | 3.00                        | 1.50      | 1.25      |
| Packing houses.....                 | 43     | 824                  | 6                             | 7,010                 | 24                   | 2,624        | .....                       | 4,386            | 62                   | 2.50                        | 1.25      | .45       |
| Ice manufacturing.....              | 44     | 298                  | 3                             | 1,444                 | 16                   | 782          | .....                       | 662              | 45                   | 2.00                        | .50       | .27       |
| Theater-stage employees.....        | 45     | 130                  | 3                             | 445                   | .....                | .....        | .....                       | 445              | 100                  | 1.50                        | .37       | .....     |
| Powder works.....                   | 46     | 196                  | 6                             | 463                   | 9                    | 2,039        | .....                       | 1,576            | .....                | .....                       | .....     | .....     |
| Croosoting works.....               | 47     | 137                  | 3                             | 632                   | 4                    | 187          | .....                       | 446              | 70                   | 2.50                        | .61       | .18       |
| Nonhazardous elective.....          | 48     | 310                  | .....                         | 1,092                 | 4                    | 84           | .....                       | 1,008            | 91                   | 1.35                        | .34       | .03       |
| Total.....                          | .....  | 133,084              | .....                         | 980,446               | 5,921                | 2,445,528    | 2,243,985                   | 290,933          | .....                | .....                       | .....     | .....     |

1 Deficit.

2 These totals do not agree with the items, but are given as presented in the report.

It will be observed that in all but two classes there is an unexpended balance ranging from 16 to 100 per cent of the premiums collected. In one class, that of powder works, a single accident early in the history of the operation of the act involved costs in excess of \$8,000, while the principal contributor to this class refused to pay premiums assessed, and the question involved had not been decided at the time of the publication of the report.

In the cases of the first eight classes, it may be noted that premiums were collected monthly, these employments being in the nature of contractors' work, so that it was considered unfair to establish a general fund from the contributions of those contractors who might happen to be at work at any given time and use the accumulations to meet the costs of accidents occurring to the workmen of contractors not then employed. In the other classes of occupations the number of assessments varies from three to nine, except in the last class, nonhazardous elective, in which the initial payments appear to have been adequate to establish a sufficient fund.

As indicated in a foregoing statement, there were 257 fatal accidents reported and disposed of during the year, besides which there were 22 in which the accident reports were incomplete. The classes

in which these fatalities occurred and the cost to the industry are shown in the following table:

NUMBER AND COMPENSATION COST TO INDUSTRY OF FATAL ACCIDENTS REPORTED DURING YEAR ENDING SEPTEMBER 30, 1912, BY INDUSTRY CLASSES, STATE OF WASHINGTON.

| Industry class. | Fatal accidents reported. | Cost to industry (burial plus reserve). | Industry class. | Fatal accidents reported. | Cost to industry (burial plus reserve). | Industry class. | Fatal accidents reported. | Cost to industry (burial plus reserve). |
|-----------------|---------------------------|---|-----------------|---------------------------|---|-----------------|---------------------------|---|
| Class 1.....    | 5                         | \$337                                   | Class 14.....   | 7                         | \$2,846                                 | Class 31.....   | 4                         | \$5,207                                 |
| Class 2.....    | 5                         | 8,051                                   | Class 15.....   | 2                         | 3,726                                   | Class 33.....   | 2                         | .....                                   |
| Class 3.....    | 4                         | 150                                     | Class 16.....   | 23                        | 36,171                                  | Class 34.....   | 1                         | 3,672                                   |
| Class 4.....    | 1                         | 4,075                                   | Class 17.....   | 7                         | 6,832                                   | Class 35.....   | 2                         | 150                                     |
| Class 5.....    | 11                        | 26,381                                  | Class 19.....   | 1                         | 3,208                                   | Class 37.....   | 2                         | 4,075                                   |
| Class 6.....    | 18                        | 10,159                                  | Class 20.....   | 1                         | .....                                   | Class 42.....   | 1                         | 4,075                                   |
| Class 7.....    | 23                        | 20,033                                  | Class 21.....   | 1                         | 2,823                                   | Class 46.....   | 8                         | 8,259                                   |
| Class 8.....    | 6                         | 4,181                                   | Class 23.....   | 1                         | 1,644                                   | Not under act   | 5                         | .....                                   |
| Class 10.....   | 129                       | 172,240                                 | Class 24.....   | 3                         | 4,150                                   | Total...        | 1,279                     | 351,307                                 |
| Class 13.....   | 7                         | 17,606                                  | Class 29.....   | 3                         | 1,256                                   |                 |                           |   |

<sup>1</sup> The items aggregate 282, but the total as given corresponds with statements made elsewhere in the report.

The cost of administration is borne by the State, and this with the premiums levied on employers forms the total income of the commission. The total receipts for the year amounted to \$1,088,-313.83, of which the claims paid in cash amounted to 40.9 per cent, the reserve fund to guarantee pensions amounted to 22.4 per cent, the expense of administration amounted to 9.9 per cent, leaving an unawarded balance on hand of 26.8 per cent. Attention is called in the report to the fact that the expense element for administration amounts to practically 3 per cent lower than is shown by the German experience, the German statistics for 1908 showing a rate of 12.8 per cent for administration. It is pointed out that nearly 1.9 per cent of its administration expense was for equipment which will not require duplication, so that the actual expense of administration is reduced to 8.09 per cent of the total funds handled.

The report for the second year states that the total expense from June 1, 1911, to September 30, 1913, amounted to 8.13 per cent of the total contributions to the accident fund.

### WISCONSIN.

The act of this State came into effect on May 3, 1911, being elective as to ordinary employers, but compulsory as to the State and its municipalities. Inasmuch as the settlements are made between the parties at interest with appeals to the industrial commission only in case of dispute, there are no reports as to costs or awards, but as election is made in writing filed with the industrial commission, it is possible to show the extent of the acceptance of the law, together

with some details as to its operation, since the law requires the reporting of accidents to the industrial commission, which may also require such other data to be furnished as it thinks best.

A brief summary of the operations of the act is issued by this commission as of the date of June 1, 1913, covering practically two years' operations. This shows that on the date named there were 1,706 employers with 125,606 employees under the act. Of all the accidents reported during the month of May, 55.4 per cent were under compensation. The claims under the act for the 23 months amounted to 4,603; for these, 3,353 settlements were made by the parties themselves without appeal to the commission, 60 decisions having been made by the commission on appeal. Four appeals were taken from the commission to the supreme court, in all of which the commission was sustained. In 584 cases it is stated that no claim was submitted, while 465 cases were reported as pending. The statistician for the commission reports that an apparent discrepancy of approximately 200 cases is made up of State, county, and municipal employees, the details of whose claims were not available at the date of the report. An unofficial dispatch of date of August 6, 1913, reports the number of employers under the act at that date at approximately 2,550 and the number of employees at 175,000.

Inasmuch as the first acceptance under the act was on July 14, 1911, its actual operations date from that month, and in the following table the figures show the growth of acceptance of the act during its first year.

ACCEPTANCES UNDER WISCONSIN WORKMEN'S COMPENSATION ACT FROM JULY 1, 1911, TO JUNE 30, 1912.

| Month.         | Number of acceptances. | Number of employees. | Places of employment. |
|----------------|------------------------|----------------------|-----------------------|
| July.....      | 17                     | 834                  | 17                    |
| August.....    | 44                     | 16,478               | 59                    |
| September..... | 35                     | 13,348               | 38                    |
| October.....   | 22                     | 5,826                | 27                    |
| November.....  | 31                     | 6,446                | 43                    |
| December.....  | 39                     | 4,017                | 53                    |
| January.....   | 25                     | 2,226                | 32                    |
| February.....  | 84                     | 3,206                | 94                    |
| March.....     | 20                     | 2,158                | 21                    |
| April.....     | 57                     | 4,460                | 73                    |
| May.....       | 37                     | 2,099                | 59                    |
| June.....      | 24                     | 2,630                | 30                    |
| Total.....     | 435                    | 63,728               | 546                   |

All accidents causing disability for more than one week, not including railroad accidents, are required to be reported to the commission. The growth of the adoption of the compensation system is indicated no less by the increased number of acceptances, as appears from a comparison of the above totals with the summary statement for June, 1913, than by the fact that during the first year but 25.4 per cent of the accidents reported to the commission were

under the compensation system, while during the month of May, 1913, the percentage was 55.4.

An important activity of the industrial commission relates to the matter of safety and the prevention of accidents, the law creating the commission having given it authority to make investigations and prescribe safeguards, issue orders, and establish rules and regulations for the enforcement of standards of safety to be fixed by it. Acting within the scope of this power, the commission made investigations of a number of manufacturing plants, held conferences, and secured the advice of experts and persons interested, after which it issued orders or regulations relative to safeguards applicable, some to all industries, and others to special industries or machinery. The union of authority by which the same board administers the compensation law and is also able to correct defective conditions as to safety and to establish standards strongly impressed the industrial insurance department of Washington as a most admirable and promising means of accomplishing the desirable result of prevention, which it considered as of greater desirability even than compensation.

UNITED STATES.

The Federal statute of May 30, 1908, is of limited application, relating only to certain classes of employees in designated establishments or classes of work. The number of persons actually affected by it can only be estimated, but the report of the Department of Commerce and Labor on cases arising from accidents occurring between August 1, 1908, and June 30, 1911, estimates that, with the amendments which added the Bureau of Mines, the Forestry Service, and the Lighthouse Service, approximately 95,000 persons were included under the law, or about one-fourth of the civilian employees of the United States. While the scope of the law is thus limited and no compensation can be paid under it for injuries not causing death or disability of more than 15 days, the effort has been made to secure reports of all accidents to civilian employees causing disability of one day or longer. In the following table there are shown the number of accidents reported, the claims for compensation, and the amount of compensation paid during the three years covered by the act:

NUMBER OF ACCIDENTS REPORTED, CLAIMS FOR COMPENSATION, AND AMOUNT OF COMPENSATION PAID FOR THE FISCAL YEARS 1908-9,<sup>1</sup> 1909-10, AND 1910-11.

| Fiscal year.              | Accidents reported (all departments). | Number of claims— |          |             | Compensation paid. |
|---------------------------|---------------------------------------|-------------------|----------|-------------|--------------------|
|                           |                                       | Received.         | Allowed. | Disallowed. |                    |
| 1908-9 <sup>1</sup> ..... | 4,887                                 | 1,818             | 1,692    | 126         | \$242,937.05       |
| 1909-10.....              | 6,987                                 | 2,654             | 2,529    | 125         | 336,348.78         |
| 1910-11.....              | 9,159                                 | * 3,153           | 2,903    | 216         | 380,330.49         |

<sup>1</sup> Eleven months.

\* Including 34 claims on which action taken was not reported.

The report is a detailed one, making full use of the accident data furnished, so that causes, duration, nature of injury, etc., are presented in statistical form with considerable detail. While only about 25 per cent of the civilian employees of the United States are included, by far the larger portion of hazardous employments, so called, are embraced within the provisions of the law, the principal exceptions being in connection with the Railway Mail Service, Life-Saving Service, and Rural Free Delivery. As to the first two of these, it may be said that there are independent laws providing a system of compensation for persons injured therein.

The figures in the brief table above show a great increase in the number of accidents reported from year to year. This is said by the report to accord with the experience of other countries which have adopted an accident-reporting system, as it is commonly found that a fair degree of accuracy and completeness in reporting accidents is obtained only after some years of experience and familiarity with a new law. The number of claims increases also, but not in the same ratio, the ratio being slightly greater for the second year than for the first year, with a considerable decrease for the third year, the percentages of claims as compared with accidents being for the first year 37.2, for the second year 38.0, and for the third year 34.4. A comparatively small number of the claims made were rejected, approvals for the first year amounting to 93.1 per cent of all claims, to 95.3 per cent in the second year, and 93.1 per cent in the third year. The great difference between the number of accidents and the number of claims is accounted for chiefly by the exclusion of accidents causing disability of not over 15 days, the number of such accidents being 47.1 per cent of the total for the first year, 49.1 per cent for the second year, and 57.9 per cent for the third year.

In the case of fatal accidents other reasons must be found for the failure to make claim, if such failure appears. During the first year but little more than one-third (39.9 per cent) of the fatalities led to claims, while in the second year 53.7 per cent resulted in claims, and during the third year 70.9 per cent. But few of these occurred to persons not covered by the act, the greater number of failures to make claim being apparently due to the remoteness or nonexistence of dependent relatives or ignorance of the law. These reasons would operate particularly in the Canal Zone and were evidently influential in keeping down the number of claims for fatal cases.

The distribution of approximately \$900,000 paid out to beneficiaries under the act during the three years covered by this report by the principal branches of service coming within the law is shown in the following table:

AMOUNT AND PER CENT OF COMPENSATION PAID IN SPECIFIED DEPARTMENTS AND BRANCHES OF SERVICE FOR THE FISCAL YEARS 1908-9, 1909-10, AND 1910-11.

| Departments and branches of service. | Compensation paid.  |                   |                   |                     |              |              |
|--------------------------------------|---------------------|-------------------|-------------------|---------------------|--------------|--------------|
|                                      | Amount.             |                   |                   | Per cent of total.  |              |              |
|                                      | 1908-9 <sup>1</sup> | 1909-10           | 1910-11           | 1908-9 <sup>1</sup> | 1909-10      | 1910-11      |
| Isthmian Canal Commission....        | \$100,400.60        | \$156,340.30      | \$170,252.17      | 41.3                | 46.5         | 44.8         |
| Navy Department.....                 | 78,317.71           | 92,097.72         | 109,389.03        | 32.2                | 27.4         | 28.8         |
| Engineer Department (War)...         | 24,498.39           | 37,918.71         | 40,948.92         | 10.1                | 11.3         | 10.8         |
| Arsenals.....                        | 8,754.34            | 11,982.05         | 14,289.97         | 3.6                 | 3.6          | 3.8          |
| Reclamation Service.....             | 19,990.16           | 27,932.67         | 26,705.72         | 8.2                 | 8.3          | 7.0          |
| All other.....                       | 10,975.85           | 10,077.33         | 18,744.68         | 4.5                 | 3.0          | 4.9          |
| <b>Total.....</b>                    | <b>242,937.05</b>   | <b>336,348.78</b> | <b>380,330.49</b> | <b>100.0</b>        | <b>100.0</b> | <b>100.0</b> |

<sup>1</sup> 11 months.

The average cost per case is subject to great fluctuation in different departments, due to the differences in the wage scale as well as in the gravity of injury and duration of disability. In fatal accidents the average compensation on the Isthmian Canal was \$640.74 in the 11 months of 1908-9 and was \$537.71 in 1910 and \$515.31 in 1911; in the War Department it was \$648.71 in the 11 months of 1908-9 and was \$682.40 in 1910 and \$567.93 in 1911; in the Navy Department it was \$850.63 in the 11 months of 1908-9 and was \$616.75 in 1910 and \$827.88 in 1911; and in the Reclamation Service it was \$1,051.56 in the 11 months of 1908-9 and was \$1,043.71 in 1910 and \$1,073.65 in 1911.

### PREMIUM RATES.

In connection particularly with the reports under the Ohio and Washington laws it will be of interest to notice the rates provided under the State insurance laws of Nevada, Ohio, and Washington, and the rates charged in certain States by stock insurance companies. The table that is reproduced below was for the most part presented in the report of the Ohio Liability Board of Awards, their table presenting the list of representative employments used, the Ohio State rates, and the company rates here shown. The Nevada and Washington rates were taken from the laws of the respective States and closely correspond, the Nevada law apparently largely following the Washington law in this respect. The rates charged are per \$100 of the pay roll.

It should be recalled in this connection that the Ohio rates were fixed by the State commission under authority of the law, and that the administrative officers in Nevada and Washington have authority to modify in effect the rates in those States by omitting assessments when the fund on hand seems to them to warrant such action

or for other reasons. Indeed, the Nevada law speaks of the rates as "initial rates," while the table showing the experience under the Washington act shows that the number of monthly calls was less than the number of months of operation of the law in all cases except for contracting work. While these facts diminish the value of the table as a basis for comparison, particularly as between the rates for Ohio and other insurance States, it is still evident that the State insurance rates are in almost every instance, and in most cases very strikingly, below the rates charged for compensation insurance by stock companies.

The table follows:

PREMIUM RATES PER \$100 OF PAY ROLL CHARGED UNDER STATE INSURANCE SYSTEMS AND BY STOCK COMPANIES IN CERTAIN STATES.

| Representative employments.                      | State insurance rates. |        |             | Company rates. |             |            |
|--|------------------------|--------|-------------|----------------|-------------|------------|
|  | Nevada.                | Ohio.  | Washington. | Illinois.      | New Jersey. | Wisconsin. |
| Confectionery manufacturers.....                 |                        | \$0.50 |             | \$2.00         | \$1.50      | \$2.10     |
| Acid manufacturers.....                          |                        | .85    |             | 4.05           | 3.00        | 4.20       |
| Car manufacturers, railroad.....                 | \$2.00                 | 1.30   | \$2.50      | 4.70           | 3.50        | 4.90       |
| Coal miners.....                                 | 3.00                   | 1.50   | 3.00        | 15.00          | 6.00        | 8.40       |
| Carpenter contractors.....                       | 3.50                   | 2.30   | 3.50        | 4.50           | 3.75        | 5.25       |
| Mason contractors.....                           | 5.00                   | 3.00   | 5.00        | 6.30           | 5.25        | 7.35       |
| Electric light and power companies.....          | 1 2.50                 | 3.10   | 4.00        | 7.20           | 6.00        | 8.40       |
| Harness and saddle manufacturers.....            | 1.50                   | .55    | 1.50        | 1.65           | 1.25        | 1.75       |
| Sawmills.....                                    | 2.00                   | 1.45   | 2.50        | 5.60           | 4.50        | 6.30       |
| Planing mills and lumberyards.....               | 2.00                   | 1.05   | 2.50        | 4.05           | 3.25        | 4.55       |
| Meat packing and stockyards.....                 | 2.50                   | .90    | 2.50        | 3.35           | 2.25        | 3.50       |
| Machine shops.....                               | 2.00                   | .70    | 2.00        | 2.50           | 2.00        | 2.80       |
| Machine shops with foundry.....                  | 2.00                   | .80    | 2.00        | 3.10           | 2.50        | 3.50       |
| Foundry, iron.....                               | 2.00                   | 1.05   | 2.00        | 3.40           | 2.75        | 3.85       |
| Boiler makers.....                               | 2.00                   | 1.65   | 2.00        | 4.25           | 3.50        | 4.90       |
| Flour mills.....                                 | 1.50                   | .80    | 1.50        | 2.70           | 2.00        | 2.80       |
| Mining (except coal), clay.....                  | 2.50                   | 1.50   | 2.50        | 8.10           | 6.00        | 8.40       |
| Ice, artificial, manufacturers.....              | 2.00                   | .80    | 2.00        | 3.35           | 2.50        | 3.50       |
| Street railway, electric, interurban.....        | 2.50                   | 2.00   | 4.00        | 10.80          | 8.00        | 11.20      |
| Street railway, electric, not interurban.....    | 3.00                   | 1.40   | 3.00        | 6.75           | 5.00        | 7.00       |
| Oil, fish, lard, and tallow manufacturers.....   | 1.50                   | .55    | 1.50        | 3.00           | 2.25        | 3.15       |
| Blast furnaces.....                              | 3.00                   | 2.00   | 3.00        | 8.10           | 6.00        | 8.40       |
| Iron smelters.....                               | 3.00                   | 2.00   | 3.00        | 8.10           | 6.00        | 8.80       |
| Paper mills (no saw or bark mills).....          | 2 2.00                 | 1.15   | 2 2.00      | 3.35           | 2.50        | 3.50       |
| Cardboard manufacturers (no pulp mill).....      | 1.50                   | .35    | 1.50        | 2.70           | 2.00        | 2.80       |
| Writing paper manufacturers.....                 | 1.50                   | .90    | 1.50        | 1.65           | 1.25        | 1.75       |
| Glass manufacturers (no plate or window).....    |                        | .30    |             | 1.65           | 1.25        | 1.75       |
| Printers.....                                    | 1.50                   | .30    | 1.50        | 1.55           | 1.25        | 1.75       |
| Rubber manufacturers.....                        | 1.50                   | .65    | 1.50        | 3.00           | 2.25        | 3.15       |
| Freight handlers, stevedores.....                |                        | 1.45   | 3.00        | 8.00           | 4.00        | 5.60       |
| Lime quarries, including blasting, crushing..... | 2 2.50                 | 2.65   | 2 4.00      | 8.10           | 6.00        | 7.00       |
| Cement manufacturers (no quarry).....            | 2.00                   | 2.25   | 2.50        | 5.40           | 4.05        | 5.60       |
| Clothing manufacturers.....                      | 4 1.50                 | .20    | 4 1.50      | .75            | .60         | .84        |
| Mattress manufacturers (no spring or wire).....  |                        | .30    |             | 1.85           | 1.50        | 2.10       |
| Tobacco manufacturers, chewing, smoking.....     |                        | .35    |             | 1.00           | .75         | 1.05       |
| Great Lakes steamers.....                        | 5 3.00                 | 1.25   | 5 3.00      | 1.80           | 3.00        | 3.50       |
| Scrap-iron dealers, shop or yard.....            |                        | 2.55   |             | 8.10           | 6.00        | 8.40       |
| Storage, cold or grain.....                      | 2.00                   | 1.35   | 2.00        | 3.38           | 2.50        | 3.50       |
| Furnace manufacturers.....                       |                        | .75    |             | 2.00           | 1.00        | 2.80       |
| Wood turners.....                                | 2.00                   | .75    | 2.50        | 2.80           | 2.25        | 3.15       |

<sup>1</sup> Operation and repair; construction work, \$5.

<sup>2</sup> Paper or pulp mills.

<sup>3</sup> Rate is for "quarries."

<sup>4</sup> Working in cloth or textiles not otherwise specified.

<sup>5</sup> Steamboats, tugs, ferries.

**EXPERIENCE OF A STOCK COMPANY WRITING COMPENSATION INSURANCE.**

In concluding this section of this article it will be of interest to consider briefly a report of the Insurance Department of the State of New York, based on an examination of the United States branch of the London Guarantee and Accident Co. (Ltd.), of London, England. This investigation was made as of date of December 31, 1912, and shows the financial operations of the company for the year with its status at the close. The company in question is an important one, transacting business in 31 States of the Union and the Territory of Hawaii. It writes accident, health, liability, workmen's compensation, steam boiler, burglary, credit, auto and teams property damages, and workmen's collective insurance. The table presented herewith gives only those items of income, expenditure, etc., which relate to liability and workmen's compensation insurance. These items are not always separated, but the data given are as presented in the report.

It is stated that of the total premiums received covering liability and workmen's compensation, amounting to \$2,967,477, 44 per cent represents premiums on employers' liability, 33 per cent on other forms of liability insurance, and 23 per cent on workmen's compensation insurance. The items therefore in the first column must be considered as relating, as to approximately 57 per cent of their amount, to employers' liability insurance, and the remainder to other forms of liability insurance.

The table follows:

REPORT OF THE INSURANCE DEPARTMENT OF NEW YORK AS TO THE FINANCIAL OPERATIONS AND CONDITION OF THE LONDON GUARANTEE & ACCIDENT CO.

| Items.  | Liability.  | Workmen's compensation. | Total.      |
|---|-------------|-------------------------|-------------|
| Net premiums received.....                    | \$2,296,503 | \$680,974               | \$2,967,477 |
| Net losses paid.....                          | 1,333,243   | 68,872                  | 1,402,115   |
| Expenses of investigation and adjustment..... | 421,566     | 6,873                   | 428,439     |
| Commissions or brokerage.....                 | (1)         | (1)                     | 735,429     |
| Premiums in course of collection.....         | 731,149     | -----                   | 731,149     |
| Reserve for unpaid losses.....                | 1,088,093   | -----                   | 1,088,093   |
| Commissions or brokerage unpaid.....          | (1)         | (1)                     | 138,071     |
| Underwriting income.....                      | (1)         | (1)                     | 2,719,091   |
| Underwriting losses and expenses.....         | (1)         | (1)                     | 2,951,137   |
| Loss from underwriting.....                   | (1)         | (1)                     | 232,046     |

<sup>1</sup> Not separately reported.

As to the operations of the company with reference to workmen's compensation insurance, the report says:

This company is writing workmen's compensation insurance in the following States, viz: California, Illinois, Massachusetts, Michigan, New Jersey, Rhode Island, and Wisconsin. An investigation has



been made during the course of this examination of the method of settling claims arising under compensation policies. The following schedule will show the number of claims for compensation made prior to December 31, 1912:

| State.             | Total number of claims. | Claims on which indemnity paid or outstanding. | Disabled less than statutory period. | Deaths. | Loss of leg, hand, or eye. | Permanent partial disability. |
|--------------------|-------------------------|--|--------------------------------------|---------|----------------------------|-------------------------------|
| Illinois.....      | 5,682                   | 1,063  | 4,619                                | 27      | 10                         | 5                             |
| Michigan.....      | 533                     | 95   | 438                                  | 5       | 1                          | .....                         |
| Massachusetts..... | 892                     | 179  | 713                                  | 2       | 1                          | .....                         |
| New Jersey.....    | 696                     | 99   | 587                                  | 4       | .....                      | .....                         |
| Rhode Island.....  | 5                       | 2  | 3                                    | .....   | .....                      | .....                         |
| Wisconsin.....     | 55                      | 5  | 50                                   | .....   | .....                      | .....                         |
| California.....    | 1                       | 1  | .....                                | 1       | .....                      | .....                         |
| Total.....         | 7,854                   | 1,444  | 6,410                                | 39      | 12                         | 5                             |

On claims where the disability lasts less than the period during which no compensation is paid, the company is required to furnish medical attention.

\* \* \* \* \*

In our investigation we find that the compensation is paid promptly in all cases where the law of the State shows clearly that compensation is due. The laws of some of the States are indefinite and uncertain as to the amount of compensation to be paid and in what cases it should be paid. In order to determine its liability, the company is required in some cases to appeal to an arbitration board or a State industrial board. When the liability of the company is determined, the benefits are promptly paid. Any delay in making settlements or disputes that have arisen can in practically all cases be blamed on the failure of the laws of the various States to clearly prescribe the amount of benefit due the workman.

Many requests for lump-sum settlements in death cases are made to the company. It is the policy of the company to discourage lump-sum payments. And further many of the laws do not prescribe the method to be adopted in computing the amount to be paid in a lump-sum settlement. All such settlements must be approved either by a court or by an industrial-accident board and where such settlements have been made the proper procedure has been taken.

We find that compensation claims, especially those where any dispute arises as to the amount, are settled much more expeditiously and satisfactorily in those States which have industrial accident boards whose duty it is to approve the claim settlements. It is the function of members of such boards to determine the amount due under the compensation law and to issue rulings as to their interpretation of its provisions, and as an almost general rule the company abides by such rulings. As the members of the industrial accident boards devote all their time to the subject of workmen's compensation, it is evident that the ruling of such a board is of more value than that of an arbitration board selected promiscuously. As the injured workman selects one arbitrator and the assured another, these two

selecting a third, it devolves upon such third member in most cases to decide the disputed question. It is also true that in but few instances, if any, does the same arbitration board act.

It is believed that in all States there should be some one board or authority which will make a uniform interpretation of disputed questions arising under the law. It can readily be seen that otherwise the insurance companies or arbitration boards will make different decisions as to the benefits to be paid on claims arising under the same provision of the law and a similar state of facts. There are a surprising number of questions arising in the various States as to the benefits to be paid under the compensation acts, and it is important that all the workmen injured be given a fair and impartial hearing before a competent board whose opinions will be respected by the workmen, insurance companies, and courts.

In Illinois we find that the injured workman has in some cases, even though the amount of the compensation is absolutely certain, placed his claim with an attorney. The files of the company show many liens for attorneys' fees served on the company, the fees in some cases being as much as 50 per cent of the benefit to be paid. It is the policy of the company, whenever possible, to induce the attorney to accept a smaller fee. There is nothing to show that the services of attorneys are required in any cases except those arbitrated or appealed to the courts, and such cases comprise but a very small proportion of the whole number.

It is also found that the medical fees charged by the doctors are in many cases exorbitant. The payment of such fees will, of course, increase the cost of compensation insurance. The company endeavors to be fair to the doctors, but does in many cases persuade them to accept a reduction from their bills. In Chicago and vicinity some of the doctors are compensated by a fixed percentage of the premiums written within a prescribed territory.

The summaries of experience under the acts given in the foregoing pages are necessarily brief and the data can not be considered as more than suggestive. While in a few reports some elaboration on classifications of accidents as to cause, duration, costs, etc., has been attempted, it is clear that with the limited experience under the laws such data are of comparatively small value; and as to some of the subjects considered, it may be said that but little new light could be added even if the data were more extensive, since they have received extensive and prolonged investigation in European countries, so that the facts in connection with them may be said to be fairly established.

The rapid growth of the compensation idea, as indicated by the numerous activities of legislation and investigation, is evidence of the fact that the old liability system is recognized as completely outgrown, while the honest contentions of those who hold conflicting views as to types of laws and the modes of achieving the desired ends suggest the necessity for well-considered action in providing for a system of compensation. The amount of information now available,

however, seems sufficient to warrant the preparation of an adequate law to meet any industrial conditions. The amount of litigation that has reached the courts of last resort, which is the only authentic test that the Bureau of Labor Statistics can use to determine the extent to which the courts have been resorted to in connection with the compensation laws, indicates the importance of careful wording and full provision to carry out the intentions of the legislatures. That this litigation has not been without profit is evident from the number of amendments that have been adopted incorporating court constructions or otherwise meeting the points raised in the actions at law.

## WORKMEN'S COMPENSATION LAWS OF FOREIGN COUNTRIES.<sup>1</sup>

BY CHAS. H. VERRILL.

The principle of systematic compensation for losses due to industrial accident has been known in Europe for over a century, the earliest examples being found in the mining industries, especially in Germany and Austria. As these industries were the first to be operated on a large scale with large numbers of employees whose life and safety depended on the care and skill of the manager and of the fellow workmen, and, in addition, had a higher danger rate, it was but natural that attempts should be made to provide in a definite manner for the relief of the distress caused by accidental injuries or other physical disability of employees. The industry of navigation possessed similar characteristics and also developed at an early date comparatively well-defined systems of relief for disability arising from the operations of vessels. The next industry to be operated on a large scale, an industry which had at the same time a high trade risk, was that of railway transportation, and in the States of the present German Empire we find early efforts to make provision for railway employees on a more liberal scale than that prevailing in the manufacturing industries.

With the introduction of the factory system, the development of large-scale industries, and the more extensive use of power machinery there was an increase in the trade risk of the industries so affected. Previous to the development of large-scale production a system of compensation for industrial accidents prevailed in practically all countries of the world, based on the idea that a workman suffering an injury from industrial accident should be compensated by the person or persons at fault in causing the accident. The relief provided under the civil code in continental Europe was more readily obtainable than that permitted under the English common law, but in each case the person liable was supposed to have committed some fault, and it was necessary for the plaintiff to begin suit and to prove such fault or negligence according to the rules of evidence prevailing in the courts of each country.

To distinguish them from employers' liability laws, the term "workmen's compensation laws" is used to designate those acts which

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<sup>1</sup> This article is a revision and extension of similar articles published under the title "Summary of foreign workmen's compensation acts" in Bulletin No. 74 (January, 1908) and Bulletin No. 90 (September, 1910) of the United States Bureau of Labor. It is believed that it covers all legislation to the end of 1913.

provide for the award of fixed sums to employees injured by industrial accidents, without the necessity of litigation and without reference to the question of negligence upon which employers' liability acts are based. It is provided in most such laws, however, that gross negligence on the part of the injured person will bar his right to compensation, while, on the other hand, such negligence on the part of the employer sometimes gives rise to a right to increased compensation.

The first country to adopt a comprehensive system of accident compensation on a national scale was Germany in 1884. Austria followed in 1887, and since then practically all industrial foreign countries have adopted this plan, with greater or less modifications. Disregarding early acts affecting only selected groups of workmen, the order in which the various countries (41 in number) have passed laws providing national systems of accident compensation is shown as follows:

DATES OF ENACTMENT OF FOREIGN COMPENSATION LAWS.

| Country.   | Date of enactment of original law. | Country.                     | Date of enactment of original law. |
|--|------------------------------------|------------------------------|------------------------------------|
| Germany.....   | 1884                               | Queensland.....              | 1905                               |
| Austria.....   | 1887                               | Venezuela (mining only)..... | 1906                               |
| Norway.....  | 1894                               | Mexico—Nuevo Leon.....       | 1906                               |
| Finland.....   | 1895                               | Hungary.....                 | 1907                               |
| Great Britain.....   | 1897                               | Transvaal.....               | 1907                               |
| Denmark.....   | 1898                               | Newfoundland.....            | 1908                               |
| Italy.....   | 1898                               | Alberta.....                 | 1908                               |
| France.....  | 1898                               | Bulgaria.....                | 1908                               |
| Spain.....   | 1900                               | Quebec.....                  | 1909                               |
| New Zealand.....   | 1900                               | Manitoba.....                | 1910                               |
| South Australia.....                                       | 1900                               | Nova Scotia.....             | 1910                               |
| Netherlands.....   | 1901                               | Liechtenstein.....           | 1910                               |
| Greece (mining, quarrying, metallurgy,<br>etc., only)..... | 1901                               | Servia.....                  | 1910                               |
| Sweden.....  | 1901                               | New South Wales.....         | 1910                               |
| Western Australia.....                                     | 1902                               | Tasmania.....                | 1911                               |
| Luxemburg.....   | 1902                               | Peru.....                    | 1911                               |
| British Columbia.....                                      | 1902                               | Montenegro.....              | 1911                               |
| Russia.....  | 1903                               | Japan.....                   | 1911                               |
| Belgium.....   | 1908                               | Switzerland.....             | 1912                               |
| Cape of Good Hope.....                                     | 1905                               | Roumania.....                | 1912                               |
|  |                                    | Portugal.....                | 1913                               |

The industries usually covered by the acts are manufacturing, mining and quarrying, transportation, building and engineering work, and in some countries agriculture, forestry, and navigation. In Venezuela only mining is covered and in Greece only mining, quarrying, and metallurgy. In Belgium and Great Britain the laws apply to practically all employments.

The persons subject to compensation within the industries covered in Austria, Belgium, Denmark, Finland, Germany, Italy, Luxemburg, Netherlands, Norway, Spain, and Sweden are wage earners only, and in some cases those exposed to the same risks, such as overseers and technical experts. On the other hand, in France,

Great Britain, the British colonies, Hungary, and Russia the laws apply to salaried employees and workmen equally.

Overseers, technical experts, and employees earning more than a prescribed amount are excluded in some countries, as Belgium (\$463), Denmark (\$643), Germany (\$1,190), Great Britain (\$1,217), Italy (\$1.35 a day), Luxemburg (\$724), Manitoba (\$1,200), New Zealand (\$1,265), and Transvaal (\$2,433). Employees of the State, provincial, and local administrations usually come within the provisions of the acts.

It will thus be seen that even in the countries which were earliest in accepting the principles of workmen's compensation the systems of insurance do not in most cases cover all wage earners. The German Imperial Insurance Office in December, 1912, published an estimate presenting, so far as the data were available, the number of wage earners in the population and the number of wage earners covered by the accident compensation insurance.

NUMBER OF WAGE EARNERS IN THE POPULATION AND NUMBER OF PERSONS COVERED BY ACCIDENT COMPENSATION INSURANCE.

[From Die Sozialversicherung in Europa nach dem gegenwärtigen Stande der Gesetzgebung in de verschiedenen Staaten. Ergänztter Neudruck (Januar, 1913) der Sonderbeilage zum Reichs-Arbeitsblatte Nr. 12, 1912.]

| Country.           | Year of statistics. | Population. | Wage earners. | Persons insured. |
|--------------------|---------------------|-------------|---------------|------------------|
| Austria.....       | 1909                | 27,800,000  | 10,000,000    | 3,710,000        |
| Belgium.....       | 1910                | 7,400,000   | 2,100,000     | .....            |
| Denmark.....       | 1911                | 2,800,000   | 500,000       | .....            |
| Finland.....       | 1909                | 3,000,000   | 500,000       | .....            |
| France.....        | 1911                | 40,000,000  | 10,000,000    | 4,250,000        |
| Germany.....       | 1911                | 65,000,000  | 16,700,000    | 24,600,000       |
| Great Britain..... | 1911                | 45,200,000  | 14,000,000    | 13,000,000       |
| Greece.....        | 1910                | 2,700,000   | .....         | .....            |
| Hungary.....       | 1909                | 21,000,000  | 3,200,000     | 1,160,000        |
| Italy.....         | 1911                | 34,700,000  | 10,500,000    | 1,800,000        |
| Luxemburg.....     | 1910                | 260,000     | 55,000        | 40,000           |
| Netherlands.....   | 1909                | 5,900,000   | 1,500,000     | 500,000          |
| Norway.....        | 1910                | 2,400,000   | 400,000       | 380,000          |
| Roumania.....      | 1911                | 7,070,000   | 250,000       | 180,000          |
| Russia.....        | 1910                | 145,600,000 | 6,500,000     | 2,400,000        |
| Servia.....        | 1910                | 2,900,000   | 58,000        | .....            |
| Spain.....         | 1910                | 20,000,000  | 7,000,000     | .....            |
| Sweden.....        | 1910                | 5,500,000   | 1,000,000     | 650,000          |
| Switzerland.....   | 1910                | 3,800,000   | 800,000       | 700,000          |

The laws in every case fix the compensation to be paid, and with but one or two unimportant exceptions the compensation is based upon the wages received by the injured person. It consists of allowance for temporary disability and annual pensions or lump-sum payments for permanent disability or death, to which are added frequently the expenses of medical and surgical treatment and the funeral benefit.

The laws of the various countries are not all equally liberal in providing for compensation in the case of minor accidents, regardless of the period of resulting disability. Eight countries grant com-

compensation for all injuries involving any loss of working time, most important among these being Italy, Russia, and Spain. In most countries, however, a "waiting time" is fixed, beyond which disability must extend in order to entitle the injured workman to compensation. This waiting time varies greatly, from 2 days, for example, in the Netherlands and Switzerland up to 60 days in Sweden and 13 weeks in Denmark. These variations in waiting time, it may be noted, are important as measuring the completeness with which accident disabilities are compensated under the various systems, and must be borne in mind in a study of accident statistics whenever such statistics are based upon the accidents compensated, as is the practice in some countries.

In the following statement is shown for each country the length of disability necessary under the law to entitle the injured workman to compensation. In this statement no note is made of provisions for benefits in the form of medical treatment, medicines, etc.

*Length of accident disability necessary to entitle injured employees to benefits.*

|                         |                             |
|-------------------------|-----------------------------|
| All injuries:           | At least 1 week:            |
| Italy.                  | Great Britain. <sup>2</sup> |
| Liechtenstein.          | Newfoundland.               |
| Mexico—Nuevo Leon.      | New Zealand.                |
| Peru.                   | South Australia.            |
| Portugal.               | Tasmania.                   |
| Russia. <sup>1</sup>    | Over 1 week:                |
| Servia. <sup>1</sup>    | Belgium.                    |
| Spain.                  | Quebec (over 7 days).       |
| Venezuela.              | Transvaal.                  |
| Over 2 days:            | At least 2 weeks:           |
| Netherlands.            | Alberta.                    |
| Switzerland.            | British Columbia.           |
| More than 3 days:       | Queensland.                 |
| Austria. <sup>1</sup>   | Western Australia.          |
| Cape of Good Hope.      | New South Wales.            |
| Germany. <sup>1</sup>   | More than 2 weeks:          |
| Hungary. <sup>1</sup>   | Manitoba.                   |
| Luxemburg. <sup>1</sup> | Nova Scotia.                |
| Norway. <sup>1</sup>    | Roumania. <sup>1</sup>      |
| More than 4 days:       | More than 60 days:          |
| Greece.                 | Sweden.                     |
| Five or more days:      | Over 13 weeks:              |
| France.                 | Denmark.                    |
| More than 6 days:       |                             |
| Finland.                |                             |

In some of the countries compensation during the early part of the disability period is paid out of sickness insurance funds established under systems of compulsory sickness insurance. Where such provision is made full account has been taken of the fact in making up

<sup>1</sup>Including benefits paid out of compulsory sickness insurance funds during early part of disabilities due to accident, as explained in the text.

<sup>2</sup>See also next page.

the above statement. The countries in which a system of compulsory sickness insurance exists and the periods during which disabilities resulting from accident are compensated out of sickness funds are as follows:

- Austria, first 4 weeks.
- Germany, fourth to ninety-first day.
- Hungary, first 10 weeks.
- Great Britain, beginning with fourth day.<sup>1</sup>
- Luxemburg, first 13 weeks.
- Norway, first 4 weeks.
- Roumania, first 2 weeks.
- Russia, first 13 weeks.
- Servia, first 13 weeks.

In a considerable number of other countries systematic provision is made for voluntary sickness insurance, but inasmuch as all such systems are entirely voluntary, with membership depending on the initiative of the workman himself, they are properly omitted from a statement such as the above.

The entire burden of the accident compensation cost rests upon the employer in all but nine countries: Austria, Bulgaria, Germany, Greece, Hungary, Luxemburg, Montenegro, Roumania, and Russia. In these countries named the employees bear a part of the expense.

The acts of nearly all of the countries are framed with the view of obviating the necessity for instituting legal proceedings. If disputes arise the acts specify the necessary procedure for settlement by special arbitration tribunals or by ordinary law courts.

In most countries the adoption of the law carried with it the abrogation of all rights under liability laws for the persons concerned; in some countries the injured employee retains the right to sue under the general liability laws in cases of gross negligence on the part of the employer; while in a few cases the older liability laws are left undisturbed with the right to choose either method of compensation.

So far as the method of organization of insurance is concerned, the countries may be divided into two large groups, according to whether insurance is compulsory or voluntary.

## I. COMPULSORY INSURANCE.

Two forms of compulsory insurance are differentiated—compulsory insurance and compulsion to insure; one enforcing compulsory insurance in prescribed institutions, the other enforcing the obligation to insure, but leaving free the choice of the insurance institution.

### *A. Compulsory insurance in prescribed institutions.*

#### 1. In a Government institution with a monopoly of insurance:

Norway, one State insurance bureau for all industries.

Switzerland, a national accident insurance fund, maintained by the Confederation.

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<sup>1</sup> National Insurance Act has provisions to limit duplication of sickness and compensation benefits.



2. In employers' compulsory mutual associations, controlled by the State:
  - a. Organized on territorial lines.
    - (1) Luxemburg, one institution, for all industries.
    - (2) Hungary, two institutions—one for Hungary and one for Croatia-Slavonia, including all industries.
    - (3) Austria, seven institutions, the whole country being divided into seven districts for all industries, in addition to which there are separate institutions for railroads and mining.
    - (4) Russia.
  - b. Organized on industry lines.
    - (1) Germany, 66 industrial institutions, each covering the entire country for one group of industries, except that some industries have several associations, each covering a specified area; in addition there are 48 agricultural institutions.
    - (2) Greece, where the law applies to mines, quarries, and metallurgical establishments only, has a special miners' fund.

*B. Compulsory insurance with choice of insurance institution.*

1. Private companies or mutual associations with State institutions competing:
  - a. Italy has the National Industrial Accident Insurance Institution; except that for navigation and for the Sicilian sulphur mines, compulsory mutual associations have been created by special legislation.
  - b. Netherlands has the Royal Insurance Bank. The employers may insure in private insurance companies or may be permitted to carry their own insurance, but all compensation is paid by the Royal Insurance Bank, which deals with the employer or insurance company.
2. Private companies or mutual associations without State institution competing:
 

Finland, except that for seamen a special compulsory employers' mutual association under strict Government control has been established by special law.

## II. VOLUNTARY INSURANCE.

*A. Private companies or mutual associations with State institution competing.*

1. Sweden, with State Insurance Institute.
2. France, with National Accident Insurance Fund, which, however, is not permitted to provide against temporary disability. Compulsory insurance is provided for seamen in a special Government institution.

*B. Private companies or mutual associations without State competition.*

1. Belgium, while the law specifies that the National Retirement Fund must provide accident insurance, this provision of the law has never been put into operation.
2. Denmark, where insurance is voluntary, except that the law requires compulsory insurance of seamen, either in mutual associations or in insurance companies, and where a State institution exists for voluntary insurance of fishermen and seamen not covered by the compulsory law.
3. Great Britain and the British colonies.
4. Spain.

Wherever there is compulsory insurance in prescribed institutions controlled by the State, there is of course no question as to the security of payments. Such is the case in Norway, where a Government bureau provides the insurance, and in Switzerland, where the National Accident Insurance Fund is maintained by the Confederation. In Germany, Austria, Hungary, Luxemburg, the Netherlands, and Russia the law either specifically states or implies the guarantee of the solvency of the institutions providing the insurance. In Netherlands the injured workman is protected by the equivalent of insurance in the Royal Insurance Bank, irrespective of the institution in which the employer carries the insurance; the uninsured employer and the private insurance companies are required to give satisfactory guarantees to the Royal Insurance Bank. In Greece the payments are guaranteed by the national miners' fund.

The second method of State guarantee is by a special national fund, from which the compensation is paid in cases of insolvency, either of the employer or of the insurance carrier. The sources of revenue of these funds show considerable differences. In Italy, notwithstanding the system of compulsory insurance, a fund has been organized under the supervision of the Government Bank of Deposits and Loans, supported by fines for noncompliance with requirement to insure, or other fines, and by the compensation due in fatal cases but not paid because of absence of survivors. In France the guarantee fund is managed by the National Old Age Retirement Fund and is supported by special taxes upon all employers covered by the act, but this fund guarantees pension payments only, while compensation for temporary disability is secured by a preferred claim on the assets of the employer. In Belgium the guarantee fund is managed by the National Retirement Fund and is supported by a tax levied only upon those employers who do not carry insurance.

Where no State guaranty exists guaranties must be exacted from insurance companies or from the individual employer. Wherever insurance is either voluntary or there is a choice of insur-

ance institutions, the Government protects the insured employee by requiring the insurance company to maintain proper reserves or to make guarantee deposits with the Government, or by both methods combined.

In the case of uninsured employees, their interests are usually protected by giving them a preferred claim upon the assets of the employer. In certain countries, where there is no compulsory insurance, the employer is not permitted to carry the liability for continuous payment of pensions in cases of death or permanent disability, but must provide for such payments through insurance institutions.

In Belgium both reserves and guarantee deposits are exacted; in addition, the capitalized value of pensions must be deposited in the National Retirement Fund. There is, therefore, no necessity for giving the injured employee a preferred claim on the assets of the employer.

Finland requires the payment of the capitalized value of the pension to an insurance company in cases where no insurance has been taken. The guarantee of the pension payments of the uninsured employer is limited to a preferred claim upon his assets in case of insolvency in the following countries: Denmark, Great Britain, Sweden, and the British colonies.

In Spain both reserves and deposits are required from insurance carriers, but in case of uninsured employers no special provision is made in case of insolvency.

#### **ANALYSIS OF PRINCIPAL FEATURES OF THE LAWS.**

Compensation laws have been enacted in 41 foreign countries, and are summarized in the following pages. The law of New Brunswick, covering compensation for industrial accidents, is not here included because, while very much broader than the former laws of negligence, it is still an employers' liability law rather than a workmen's compensation law.

## ALBERTA.

*Date of enactment.* March 5, 1908; in effect January 1, 1909.

*Injuries compensated.* Injuries by accident arising out of and in the course of the employment which cause death or disable a workman for at least two weeks from earning full wages at the work at which he was employed. Compensation is not paid when injury is due to serious and willful misconduct of the workman, unless the injury results in death or permanent disablement.

*Industries covered.* Railways, factories, mines, quarries, engineering work, construction, repair and demolition of buildings, either over 30 feet in height, or with the use of mechanical power.

*Persons compensated.* Any person employed in manual labor, and other employees whose remuneration does not exceed \$1,200 a year.

*Government employees.* Government employees are covered by this act if employed in establishments or undertakings to which the law applies.

*Burden of payment.* Entire cost of compensation rests upon employer.

*Compensation for death.*

- (a) To those entirely dependent on earnings of deceased, a sum equal to three years' earnings, but not less than \$1,000, nor more than \$1,800.
- (b) To those partially dependent on earnings of deceased, a sum less than above amount, to be agreed upon by the parties or fixed by arbitration.
- (c) Temporary payments previously made to be deducted from the above amounts.
- (d) If deceased leaves no dependents, reasonable expenses of medical attendance and burial, but not to exceed \$200.

*Compensation for disability.* (1) A weekly payment of not more than 50 per cent of employee's weekly earnings, but not exceeding \$10 a week, for employees 21 years and over, or earning \$10 a week and over; (2) 100 per cent of employee's earnings, but not exceeding \$7.50 a week for employees under 21 years of age and earning less than \$10.

For partial disability, such weekly payment "as may appear proper" with regard to the difference between employee's average weekly earnings before the accident and average weekly amount which he is earning or able to earn after the injury, but not to exceed the amount of that difference.

A lump sum may be substituted for the weekly payments after six months, on the application of the employer, the amount to be settled by agreement or by the courts.

*Revision of compensation.* Weekly payments may be revised at request of either party.

*Insurance.* Employers may make contracts with employees for substitution of a scheme of compensation benefit or insurance in place of the provisions of the act, if the attorney general certifies that the scheme is not less favorable to the workmen and their dependents than the provisions of the act, and that a majority of the workmen are favorable to the substitute. The employers are then liable only in accordance with the provisions of the scheme.

*Security of payments.* In case of employer's bankruptcy, the amount of compensation due under this act, up to \$500 in any individual case, is classed as a preferred claim, or when an employer has entered into a contract with insurers in respect of any liability under the act to any workman, such rights of the employer, in case he becomes bankrupt, are transferred to and vested in the workman.

*Settlement of disputes.* (33) Disputes arising under the act are settled by arbitration, either by an arbitration committee representing employer and employees, or by an arbitrator, or, in absence of agreement, by the court. The attorney general may confer upon such arbitration committee any or all of the powers of courts in connection with the act.

## AUSTRIA.

*Date of enactment.* Dec. 28, 1887; in effect Nov. 1, 1889. Amendatory and supplementary acts, Mar. 30, 1888, Apr. 4 and July 28, 1889, Jan. 17, 1890, Dec. 30, 1891, Sept. 17, 1892, July 20, 1894, July 12, 1902, Aug. 9, 1908, Feb. 8, 1909, Apr. 29, 1912, and Feb. 11, 1913.

*Injuries compensated.* All injuries causing death, or disability for more than three days received in the course of employment, unless caused intentionally.

*Industries covered.* Mining, quarrying, stonecutting, manufacturing, building trades, railways, transportation on inland waters, storage, theaters, chimney sweeping, street cleaning, building, cleaning, sewer cleaning, dredging, well digging, structural iron working, etc.; agricultural and forestry establishments using machinery; operating motor vehicles, when not training for or taking part in racing; marine navigation and fishing on the high seas.

*Persons compensated.* All workmen and technical officials regularly employed, but in agriculture and forestry only employees exposed to machinery.

*Government employees.* Act applies to Government employees unless an equal or more favorable compensation is provided by other laws.

*Burden of payment.* Medical and surgical treatment for twenty weeks and compensation for four weeks of disability paid by sick funds, to which employers contribute one-third and employees two-thirds. Compensation for disability after fourth week, and for death, paid by territorial insurance associations, to which employees contribute 10 per cent and employers 90 per cent. In marine navigation and fishing on the high seas the entire burden is on the employer.

*Compensation for death.*

(a) Funeral expenses not to exceed 25 florins (\$10.15).

(b) Pensions to members of family, not to exceed 50 per cent of earnings of deceased, to—

Widow, 20 per cent until death or remarriage; in the latter case a lump sum equal to three annual payments; to dependent widower, 20 per cent during disability.

Each legitimate child, 15 years of age or under, 15 per cent when one parent survives and 20 per cent when neither survives; to each illegitimate child, 15 years of age or under, 10 per cent; pensions of widow (or widower) and children reduced proportionately if they aggregate over 50 per cent.

(c) When pensions to above heirs do not reach 50 per cent, dependent heirs in ascending line receive pensions, not to exceed 20 per cent of earnings of deceased, parents taking precedence over grandparents.

(d) In computing pensions, the excess of the annual earnings over 1,200 florins (\$487.20) is not considered.

*Compensation for disability.*

(a) Medical and surgical attendance for 20 weeks, paid by sick benefit fund.

(b) For total temporary or permanent disability, 60 per cent of average daily wages of insured workmen in the locality, paid by sick benefit funds, from first to twenty-eighth day; and 60 per cent of average annual earnings of injured persons, after twenty-eighth day, paid by territorial accident insurance institutions.

(c) For partial, temporary, or permanent disability, benefits consist of a portion of above allowance, but may not exceed 50 per cent of average annual earnings.

(d) In computing payments, the excess of annual earnings over 1,200 florins (\$487.20) is not considered.

*Revision of compensation.* Reconsideration of the case may be undertaken by the insurance association of its own will, or upon petition.

*Insurance.* Payments are met by mutual insurance associations of employers in which all employees are required to be insured. The country is divided into districts, with a separate association for each district.

*Security of payments.* Operations of the insurance associations are conducted under the supervision of the minister of interior, who may increase the assessments.

*Settlement of disputes.* Disputes are settled by arbitration courts composed of a judicial officer appointed by the minister of justice, two experts appointed by the minister of the interior, and one representative each of the employers and the employees.

## BELGIUM.

*Date of enactment.* December 24, 1903; in effect July 1, 1905.

*Injuries compensated.* All injuries by accident to employees in the course of and by reason of the execution of the labor contract, causing death, or disability for over one week, unless intentionally brought on by the person injured.

*Industries covered.* Practically all establishments in mining, quarrying, forestry work, manufacturing, building and engineering work, transportation, and telephone and telegraph services; establishments using mechanical motive power; industrial establishments employing five or more persons; agricultural and commercial establishments employing three or more persons; industries designated by royal decree as dangerous. Other industries at option of employer.

*Persons compensated.* Workmen and apprentices, and salaried employees exposed to the same risks as workmen whose annual salaries do not exceed 2,400 francs (\$463.20).

*Government employees.* Act covers employees of any public establishment engaged in industries enumerated above.

*Burden of payment.* Entire cost of compensation rests upon employer.

*Compensation for death.*

(a) Funeral benefit of 75 francs (\$14.48).

(b) A sum representing value of an annuity of 30 per cent of annual earnings of deceased, calculated upon basis of his age at death, to be distributed to—  
Dependent widow or widower, whole amount if no other heirs, four-fifths if one child under 16 years of age or one or more dependent heirs, three-fifths if two or more children.

Children under 16 years of age, the residue.

Dependent heirs in ascending line and descending line under 16 years of age, in absence of widow or widower or children under 16 years of age.

Dependent brothers and sisters under 16 years of age in absence of heirs above enumerated.

(c) Allowances in case of annual wages of 2,400 francs (\$463.20) or more, or of 365 francs (\$70.45) or less, are based upon those amounts, respectively.

(d) Payments to widow and heirs in ascending line are converted into life pensions, those to other heirs into pensions expiring at age of 16 years. Heirs may require one-third of capital value of life pensions to be paid in cash and pension reduced accordingly.

*Compensation for disability.*

(a) Expense of medical and surgical treatment for not over six months.

(b) If totally disabled, an allowance of 50 per cent of daily wages, beginning with day after accident.

(c) If partially disabled, an allowance of 50 per cent of loss of earning power, beginning with day after accident.

(d) If after three years disability is permanent, temporary allowance is replaced by life annuity. Victim may require one-third of capital value of pension to be paid in cash and pension reduced accordingly.

(e) Allowances in case of annual wages of 2,400 francs (\$463.20) or more, or of 365 francs (\$70.45) or less, are based upon these amounts, respectively.

*Revision of compensation.* Revision of compensation because of aggravation or diminution of disability, or death of victim, may be made within three years.

*Insurance.* Employers may transfer burden of payment of compensation to establishment funds or approved insurance companies or to general savings and retirement fund. They may also transfer burden of payment of temporary allowances to mutual aid societies.

*Security of payments.* Employers who have not relieved themselves of liability by insurance must make deposits of cash or securities or give real-estate mortgages to secure pension payments. To secure temporary disability payments of uninsured employers a state guaranty fund is maintained by a tax levied upon such employers.

*Settlement of disputes.* The local justice of the peace has sole jurisdiction as a court of first resort over disputes arising under the act, and his judgment is final in all cases involving 300 francs (\$57.90) or less.

## BRITISH COLUMBIA.

*Date of enactment.* June 21, 1902; in effect May 1, 1903.

*Injuries compensated.* Injuries by accident arising out of and in the course of the employment which cause death or disable a workman for at least two weeks from earning full wages at the work at which he was employed, unless the injury is "attributable solely to the serious and willful misconduct or serious neglect" of the injured workman.

*Industries covered.* Railways, factories, mines, quarries, engineering work, and buildings which exceed 40 feet in height and are being constructed or repaired by means of a scaffolding or being demolished or on which machinery driven by mechanical power is used for construction, repair, or demolition.

*Persons compensated.* All persons engaged in manual labor or otherwise.

*Government employees.* Act applies to civilian employees in the service of the Crown, to whom it would apply if the employer were a private person.

*Burden of payment.* Entire cost of compensation rests upon employer.

*Compensation for death.*

- (a) A sum equal to three years' earnings, but not less than \$1,000 nor more than \$1,500, to those wholly dependent on earnings of deceased.
- (b) A sum less than above amount if workman leaves persons partially dependent on his earnings, the amount to be agreed upon by the parties or to be fixed by arbitration.
- (c) Reasonable expenses of medical attendance and burial not exceeding \$100 if deceased leaves no dependents.

*Compensation for disability.*

- (a) A weekly payment during disability after second week, not exceeding 50 per cent of employee's average weekly earnings during the previous twelve months, such weekly payments not to exceed \$10 and total liability not to exceed \$1,500.
- (b) A weekly payment during partial disability after second week to be fixed with regard to the difference between employee's average weekly earnings before the accident and average weekly amount which he is earning or able to earn after the injury.
- (c) A lump sum may be substituted for the weekly payments, after six months, on the application of the employer, the amount to be settled, in default of agreement, by arbitration under the act.

*Revision of compensation.* Weekly payments may be revised at request of either party.

*Insurance.* Employers may contract with their employees for the substitution of a scheme of compensation, benefit, or insurance in place of the provisions of the act if the attorney general certifies that the scheme is on the whole not less favorable to the general body of employees and their dependents than the provisions of the act. In such case the employer is liable only in accordance with this scheme.

*Security of payments.* When an employer becomes liable under the act to pay compensation and is entitled to any sum from insurers on account of the amount due to a workman under such liability, then in the event of the employer becoming bankrupt, such workman has a first claim upon the amount so due, and a judge of the supreme court may direct the insurers to pay such sum into any chartered bank of Canada to be invested or applied to payment of compensation.

*Settlement of disputes.* Disputes arising under the act are settled by arbitration of existing committees representative of employers and employees, or, if either party objects, by a single arbitrator agreed upon by the parties, or, in the absence of agreement, by an arbitrator appointed by a judge of the supreme court. An arbitrator appointed by a judge of the supreme court has all the power of a judge of the supreme court. Questions of law may be submitted by the arbitrator for the decision of a judge of the supreme court.

**BULGARIA.**

According to the act of March 7, 1909, certain industrial undertakings (i. e., those enjoying certain advantages conferred by this act) are bound to provide a special fund for the insurance of their workpeople against accidents or to insure them with one of the insurance companies of this country. The manner of providing such funds is to be fixed by the minister of commerce and agriculture. The workpeople also contribute to the fund by means of deductions from their wages.



## CAPE OF GOOD HOPE.

*Date of enactment.* June 6, 1905; in effect September 1, 1905; amended August 31, 1906.

*Injuries compensated.* All injuries to employees arising out of and in the course of the employment causing death or necessitating absence from work for more than three days and not being caused by or through the gross carelessness of the injured employee.

*Industries covered.* Any trade, business, or public undertaking, on land or upon or within the territorial waters of the colony, except domestic, messenger, or errand service or employment in agriculture.

*Persons compensated.* Employees, whether engaged in manual work or otherwise.

*Government employees.* Act applies to civilian persons employed by or under the Crown to whom it would apply if employer were a private person.

*Burden of payment.* Employer and every principal are jointly and severally liable for the compensations required under the act.

*Compensation for death.* When death results from an injury for which a lump sum has not already been paid on account of permanent disability—

- (a) A lump sum not exceeding three years' wages of deceased, nor more than £400 (\$1,946.60), to those wholly dependent upon the workman's earnings.
- (b) A lump sum not exceeding £200 (\$973.30) to those partially dependent upon the workman's earnings; in the absence of persons totally dependent, the sum not to exceed the value of the support which they were receiving from the deceased, calculated for two years.
- (c) Temporary payments previously made not to be deducted from above sums unless they have continued longer than three months.
- (d) Reasonable expenses of medical attendance and burial not exceeding £40 (\$194.66) in case deceased leaves no dependents.

*Compensation for disability.*

- (a) A sum not exceeding three years' wages, less any payments received under a provisional order of court, but not exceeding £600 (\$2,919.90) in case of permanent total disability, and a smaller sum in proportion to loss of earning power and not exceeding £300 (\$1,459.95) in case of permanent partial disability.
- (b) A payment made, by order of the local magistrate, at the same intervals as the customary wage payments, not exceeding 50 per cent of wages received at time of the injury, nor £2 (\$9.73) per week if the injury causes temporary disability lasting more than three days.

*Revision of compensation.* The provisional order may be set aside or altered by the magistrate, upon request of either party, if justified by a further examination of the injured person or by production of additional evidence.

*Insurance.* Employers may insure in a company or association against personal injury to the workmen employed by them or in their behalf. If the employer contributes toward a benefit society of which the injured or deceased person is a member, allowance is made for such contribution by the court in its order or judgment fixing amount of compensation to be paid.

*Security of payments.* When an employer or principal is adjudged or admits liability under the act and is entitled to any sum from any insurers on account of such liability, then, in the event the employer becomes insolvent, the worker or his dependents have a first claim upon such sum.

*Settlement of disputes.* Compensation in cases of disability is fixed provisionally for not more than six months by the local magistrate after receiving a physician's certificate of disability and holding an inquiry. No appeal can be taken from this preliminary order except against a finding on the question of gross carelessness and then only upon leave granted by the superior court. In case the injury results in death or permanent disability, the claimants have a right of action in the local magistrate's court for the amounts due under the law. In fixing the amount the court is required in every case to have regard to the workman's or the dependent's necessities.

## DENMARK.

*Date of enactment.* January 7, 1898; in effect January 15, 1899; amended May 15, 1903; May 27, 1908. Sickness insurance, April 12, 1892.<sup>1</sup>

*Injuries compensated.* All injuries by accident occasioned by the trade or its conditions, and causing either death or disability lasting over 13 weeks,<sup>2</sup> unless brought on intentionally or through gross negligence of the victim.

*Industries covered.* Practically all establishments in mining, quarrying, manufactures, building and engineering work, transportation, telephone and telegraph services, diving and salvage, establishments using mechanical power which makes them subject to factory inspection, agriculture, dairying, forestry, and horticulture, provided the estate has a value of 6,000 crowns (\$1,608) or over; other industrial establishments designated by the minister of the interior.

*Persons compensated.* All workmen in mechanical and technical departments, including those in supervisory capacity whose annual earnings do not exceed 2,400 crowns (\$643.20); 1,500 crowns (\$402) in agriculture, etc.

*Government employees.* Act applies to all employees of State and the communal governments in industries above indicated.

*Burden of payment.* Entire burden of payment rests upon employer, except in agriculture, etc., where one-half is paid from the public treasury.

*Compensation for death.*

(a) Funeral benefit of 50 crowns (\$13.40).

(b) A lump sum equal to four times annual earnings of deceased, but not over 3,200 crowns (\$857.60) nor less than 1,200 crowns (\$321.60), to—

Widow whole amount, if she survives.

Child whole amount, if it be the only heir.

Children, according to decision of insurance council, when there is no widow.

If neither widow nor children, insurance council decides whether and how far other heirs receive compensation.

*Compensation for disability.*

(a) From end of thirteenth<sup>2</sup> week after accident until end of treatment, or until disability is declared permanent, a daily compensation of 60 per cent of earnings, but not less than 1 crown (27 cents) nor over 2 crowns (54 cents) for total disability, and a proportionate compensation for partial disability.

(b) In case of permanent disability an indemnity of six times annual earnings, but not less than 1,800 crowns (\$482.40) nor over 4,800 crowns (\$1,286.40) for total permanent disability, and proportionate payments for partial permanent disability.

(c) If employee suffering from permanent disability is a male between 30 and 55 years of age, he may demand purchase of an annuity. For men of other ages, or of unsound mind, or women and children, the insurance council may substitute an annuity.

A scale of compensation differing from industrial occupations is provided for agriculture, etc., accidents.

*Revision of compensation.* Determination of degree of permanent disability must be made as soon as possible after one year from date of injury. If this be not possible, a temporary determination may be made, but a redetermination may be demanded within two years following.

*Insurance.* Employers may transfer obligation imposed by the law, by insuring their employees in authorized insurance companies or mutual employers' insurance associations.

*Security of payments.* Where liability under the law has not been transferred by insurance, indemnity for disability is a preferred claim upon assets of employer.

*Settlement of disputes.* Disputes concerning compensation, unless settled by mutual consent, must be referred to insurance council. Appeals may be had to the minister of interior.

<sup>1</sup> Foreign workmen are covered by a special law of Apr. 1, 1912; seamen by act of 1905; fishermen by act of 1908.

<sup>2</sup> Voluntary sickness insurance law, Apr. 12, 1892, provides benefits for first 13 weeks for accidents causing disability.

## FINLAND.

*Date of enactment.* December 5, 1895; in effect January 1, 1898; supplementary act, October 9, 1902.

*Injuries compensated.* All injuries by accident during work, causing death or disability for more than six days, except when brought on intentionally or through gross negligence of victim, intentionally by any other person than the one charged with supervision of the work, or caused by some other occurrence utterly independent of the nature or conditions of work.

*Industries covered.* Mines, quarries, metallurgical establishments, factories, sawmills, industrial establishments using mechanical power, construction of churches and buildings over one story high; construction and operation of water, gas, electric power plants, and operation of railroads; and maritime navigation.

*Persons compensated.* All persons actually employed at work, but not those supervising only.

*Government employees.* Act applies to employment on the State and communal construction works and State railways.

*Burden of payment.* Entire burden of payment rests upon employer.

*Compensation for death.* In addition to any prior payments on account of disability, pensions to dependent heirs, from day of death, not exceeding 40 per cent of annual earnings of deceased, to—

- (a) Widow, 20 per cent, until death or remarriage; in latter case a final sum equal to two annual payments.
- (b) Each child until the age of 15 years, 10 per cent, if one parent survives, and 20 per cent if neither parent survives.
- (c) In computing pension, earnings of workman to be considered not over 720 marks (\$138.96) nor under 300 marks (\$57.90); but no adult employee to receive a pension greater than his actual earnings.

*Compensation for disability.*

- (a) A pension equal to 60 per cent of employee's earnings for total disability, or a pension proportionate to the degree of incapacity for partial disability, to be paid from day of recovery from illness due to injury, or after 120 days have elapsed since injury.
- (b) Pension may by mutual consent be replaced by single payment, if it does not exceed 20 marks (\$3.86) annually.
- (c) In computing pension, earnings of workman to be considered not over 720 marks (\$138.96) nor under 300 marks (\$57.90); but no adult employee to receive a pension greater than his actual earnings.
- (d) In cases of temporary disability (including all cases of disability for 120 days after injury) daily compensation of 60 per cent of earnings, beginning with seventh day after accident, for complete temporary disability, and a proportionate compensation for partial disability; but not more than 2.50 marks (48 cents) per diem.
- (e) Until recovery, injured employee may be given treatment in a hospital in lieu of other compensation; during such treatment his wife and children get a compensation equal to pension in case of death.

*Revision of compensation.* Demands for revision of compensation may be made by either party before proper court.

*Insurance.* Employers are required to transfer the burden of payment of compensation to a governmental insurance office, private insurance company, mutual employers' insurance association, or approved foreign insurance company, unless unable to obtain such insurance or released from this obligation on presentation of satisfactory guarantees.

*Security of payments.* When exempted from the duty of insuring his employees, or unable to obtain insurance, the employer must guarantee payment of pension to the injured workman or his family by arrangement with a private insurance company.

*Settlement of disputes.* In case of absence of insurance or dissatisfaction with decision of insurance company, injured employee or his dependent may carry the case into the inferior court of the locality.

## FRANCE.

*Date of enactment*, April 9, 1898; in effect July 1, 1899; amendatory and supplementary acts March 22, 1902, March 31, 1905, April 12, 1906, July 18, 1907, and March 26, 1908.<sup>1</sup>

*Injuries compensated*. All injuries by accident to workmen or salaried employees during or on account of labor causing death, or disability for five or more days, unless produced intentionally by the victim. If due to inexcusable fault of victim or of employer, compensation may by a court order be decreased or increased, but not exceeding actual earnings of victim.

*Industries covered*. Building trades, factories, workshops, shipyards, transportation by land and water, public warehouses, mining and quarrying, manufacture or handling of explosives, agricultural and other work using mechanical power, and mercantile establishments; other industries on request of both parties.

*Persons compensated*. All workmen and salaried employees.

*Government employees*. Law applies to State, departmental, and communal establishments when engaged in industries enumerated above.

*Burden of payment*. Entire cost of compensation falls upon employer.

*Compensation for death*.

(a) Funeral expenses not exceeding 100 francs (\$19.30).

(b) Pensions to dependent heirs not exceeding 60 per cent of annual wages of deceased, distributed to—

Widow or widower, 20 per cent until death or remarriage, in which latter case a final sum equal to three annual payments.

Children under 16 years of age if one parent survives—15 per cent if there is but one child; 25 per cent if there are two children; 35 per cent if there are three children; 40 per cent if there are four or more children.

Each child under 16 years of age if neither parent survives, 20 per cent.

Each ascendant and each descendant under 16 years of age dependent upon deceased, if no widow or children survive, 10 per cent, the aggregate not to exceed 30 per cent.

(c) If annual wages exceed 2,400 francs (\$463.20), only one-fourth of the excess is considered in computing pensions.

*Compensation for disability*.

(a) Expenses of medical or surgical treatment.

(b) If permanently disabled, a pension of 66 $\frac{2}{3}$  per cent of annual wages for total disability and of one-half loss of earning capacity for partial disability; or if demanded, one-fourth the capital value of pension in cash, the pension to be reduced accordingly.

(c) If temporarily disabled, an allowance of 50 per cent of daily wages, beginning with fifth day, and including Sundays and holidays, unless disability lasts more than ten days, when payments become due from the first day.

(d) If annual wages exceed 2,400 francs (\$463.20), only one-fourth of the excess is considered in computing pensions.

(e) Payments of pensions of not over 100 francs (\$19.30) per annum may, by mutual consent when beneficiary is of age, be replaced by a cash payment.

*Revision of compensation*. Revision of compensation because of aggravation or diminution of disability of victim may be made within three years.

*Insurance*. Employers may transfer burden of payment of compensation to approved mutual aid, accident insurance, or guaranty associations, or in case of pensions, to national accident insurance or national old-age pension funds.

*Security of payments*. The State guarantees against loss of pension payments on account of insolvency of employers or insurance organizations, and is reimbursed by a special tax on employers within scope of the act. For temporary disability payments, medicines and medical or surgical attendance, and funeral expenses the victim, his creditors, or representatives have a preferred claim on property of employer.

*Settlement of disputes*. Disputes as to pensions or involving more than 300 francs (\$57.90) may be carried into higher civil courts. Judgment of local justice of the peace is final in other cases.

<sup>1</sup> Special law covering seamen (December 29, 1905; amended July 13, 1911) provides different system and scale of compensation from that above.

## GERMANY.

*Date of enactment.* Code of July 19, 1911; in effect January 1, 1913, replacing previous laws (July 6, 1884; supplementary acts of May 28, 1885, May 5, 1886, July 11 and July 13, 1887; and a codification enacted June 30, 1900).

*Injuries compensated.* Injuries by accident in the course of the employment, causing death, or disability for more than three days, unless caused intentionally by the injured and his survivors. Compensation may be refused or reduced if injury was received while committing an illegal act.

*Industries covered.* Mining, salt works, quarrying, and allied industries, factories, manufacture of explosives, production or distribution of electric power, shipyards, smelting works, building trades, breweries, pharmacies, tanneries, bathing establishments, chimney sweeping, window cleaning, butchering, fish culture, ice cutting, transportation, expressing, hauling, and storage, agriculture, forestry, and fisheries.

*Persons compensated.* All workmen and apprentices; those establishment officials whose annual earnings are less than 5,000 marks (\$1,190). With the approval of the Federal Council the law may be extended to other classes.

*Government employees.* Act covers Government employees in postal, telegraph, and railway services and in industrial enterprises of Army and Navy, unless otherwise provided for.

*Burden of payment.* Medical and surgical treatment for 91 days and benefit payments from beginning of fourth to ninety-first day are provided by sick-benefit funds, to which employers contribute one-third and employees two-thirds; from beginning of twenty-ninth to ninety-first day payments are increased by one-third at expense of employer in whose establishment accident occurred; after ninety-first day, and in case of death from injuries, expense is borne by employers' associations supported by contributions of employers.

*Compensation for death.*

- (a) Funeral benefits of one-fifteenth of annual earnings of deceased, but not less than 50 marks (\$11.90).
- (b) Pensions to dependent heirs not exceeding 60 per cent of annual earnings of the deceased, as follows: Widow, 20 per cent of annual earnings until death or remarriage; in latter case a final sum equal to three annual payments; dependent widower, 20 per cent of annual earnings; each child 15 years of age or under, 20 per cent; payments to consort and to children to be reduced proportionately if the total would exceed 60 per cent; dependent heirs in ascending line, 20 per cent or less, if there is a residue after providing for above heirs; orphan grandchildren, 20 per cent or less, if there is a residue after providing for above heirs.
- (c) If annual earnings exceed 1,800 marks (\$428.40), only one-third of excess is considered in computing pensions.

*Compensation for disability.*

- (a) Free medical and surgical treatment paid first 13 weeks by sick benefit funds and afterwards by employers' associations.
- (b) For temporary or permanent total disability, 50 per cent of daily wages of persons similarly employed, but not exceeding 3 marks (71 cents), paid by sick benefit funds from beginning of fourth day to end of fourth week; from fifth to end of thirteenth week, above allowance by sick benefit fund, plus 16 $\frac{2}{3}$  per cent contributed by employer direct; after 13 weeks, 66 $\frac{2}{3}$  per cent of average annual earnings of injured person paid by employers' associations.
- (c) For complete helplessness necessitating attendance, payments may be increased to 100 per cent of annual earnings.
- (d) For partial disability, a corresponding reduction in payments.
- (e) If annual earnings exceed 1,800 marks (\$428.40), only one-third of excess is considered in computing pensions.

*Revision of payments.* Whenever a change in condition of injured person occurs, a revision of benefits may be made.

*Insurance.* Payments are met by mutual insurance associations of employers, in which all employees are required to be insured at the expense of employers. Separate associations have been organized for each industry.

*Security of payments.* Solvency of employers' association is guaranteed by the State.

*Settlement of disputes.* Disputes are settled by the "superior insurance offices," composed of Government officials and an equal number of representatives of employers and employees.

## GREAT BRITAIN.

*Date of enactment.* December 21, 1906; in effect July 1, 1907, replacing acts of August 6, 1897, and July 30, 1900.

*Injuries compensated.* Injuries by accident arising out of and in the course of the employment which cause death or disable a workman for at least one week from earning full wages at the work at which he was employed. Compensation is not paid when injury is due to serious and willful misconduct, unless it results in death or serious and permanent disablement.

*Industries covered.* "Any employment."

*Persons compensated.* Any person regularly employed for the purposes of the employer's trade or business whose compensation is less than £250 (\$1,216.63) per annum; but persons engaged in manual labor only are not subject to this limitation.

*Government employees.* Act applies to civilian persons employed under the Crown to whom it would apply if the employer were a private person.

*Burden of payment.* Entire cost of compensation rests upon employer.

*Compensation for death.*

- (a) A sum equal to three years' earnings, but not less than £150 (\$729.98) nor more than £300 (\$1,459.95), to those entirely dependent on earnings of deceased.
- (b) A sum less than above amount if deceased leaves persons partially dependent on his earnings, amount to be agreed upon by the parties or fixed by arbitration.
- (c) Reasonable expenses of medical attendance and burial, but not to exceed £10 (\$48.67) if deceased leaves no dependents.

*Compensation for disability.*

- (a) A weekly payment during incapacity of not more than 50 per cent of employee's average weekly earnings during previous twelve months, but not exceeding £1 (\$4.87) per week; if incapacity lasts less than two weeks no payment is required for the first week.
- (b) A weekly payment during partial disability, not exceeding the difference between employee's average weekly earnings before injury and average amount which he is earning or is able to earn after injury.
- (c) Minor persons may be allowed full earnings during incapacity, but weekly payments may not exceed 10 shillings (\$2.43).
- (d) A sum sufficient to purchase a life annuity through the Post-Office Savings Bank of 75 per cent of annual value of weekly payments may be substituted, on application of the employer, for weekly payments after six months; but other arrangements for redemption of weekly payments may be made by agreement between employer and employee.

*Revision of compensation.* Weekly payments may be revised at request of either party, under regulations issued by the secretary of state.

*Insurance.* Employers may make contracts with employees for substitution of a scheme of compensation, benefit, or insurance in place of the provisions of the act, if the registrar of friendly societies certifies that the scheme is not less favorable to the workmen and their dependents than the provisions of the act, and that a majority of the workmen are favorable to the substitute. The employer is then liable only in accordance with the provisions of the scheme.

*Security of payments.* In case of employer's bankruptcy, the amount of compensation due under the act, up to £100 (\$486.65) in any individual case, is classed as a preferred claim; or where an employer has entered into a contract with insurers in respect of any liability under the act to any workman, such rights of the employer, in case he becomes bankrupt, are transferred to and vested in the workman.

*Settlement of disputes.* Questions arising under the law are settled either by a committee representative of the employer and his workmen, by an arbitrator selected by the two parties, or, if the parties can not agree, by the judge of the county court, who may appoint an arbitrator to act in his place.

## GREECE.

*Date of enactment.* February 21 (March 6), 1901; in effect (retroactively) December 20, 1900 (January 2, 1901).

*Injuries compensated.* All injuries by accidents during or because of the employment and causing death or disability lasting more than four days, unless brought on intentionally by the injured person.

*Industries covered.* Mines, quarries, and metallurgical establishments.

*Persons compensated.* All workmen and subordinate salaried persons.

*Government employees.* No mention of Government employees is made in the law.

*Burden of payment.* Employer carries full burden of payment of indemnities during first three months; after three months half the payments of pensions are contributed by the miners' fund, which is mainly supported by a tax on the mines and metallurgical establishments, but partly by contributions from the workmen's mutual aid societies in these establishments and some minor sources.

*Compensation for death.*

- (a) If death occurs immediately or within three months: (1) Funeral expenses amounting to 60 drachmas (\$11.58); (2) pensions to heirs aggregating pension paid for total disability.
- (b) If death occurs three months after injury or later, pensions to heirs aggregating 75 per cent of pension paid during life of the injured.
- (c) All pensions to heirs are distributed as follows: Equal share to widow and children, or, in absence of widow and children, equal share to father and mother.
- (d) Pension to widow ceases on her remarriage; to male children at 16 years of age; to female children on their marriage, with payment of one year's pension as a dowry.
- (e) If only one heir survives, he is entitled to only one-half of original pension.

*Compensation for disability.*

- (a) Free medical and surgical treatment.
- (b) An allowance of 50 per cent of earnings of injured employee during first three months.
- (c) If permanently disabled, a pension of 50 per cent of earnings in case of total disability (including loss of a hand or foot); in case of partial disability, a pension of 33 $\frac{1}{3}$  per cent of earnings, pension payments to begin after end of third month.
- (d) Pension may not exceed 100 drachmas (\$19.30) per month plus 25 per cent of the excess of computed pension over 100 drachmas (\$19.30).
- (e) In computing pension of apprentices and children, no wage is to be considered less than 2.50 drachmas (48 cents) per day.

*Revision of compensation.* Injured employee may present a new petition, or the council of the miners' fund may order a new examination, whenever there is reason to believe that changes have occurred in the degree of disability.

*Insurance.* No provision is made by the law for the transfer of the burden of payment of compensation by insurance.

*Security of payments.* The miners' fund guarantees payment of pensions and other allowances, and has preferred claim upon employer's assets in cases of dissolution or forced sale of establishments, and also in case of voluntary transfer, unless the new proprietor assumes the obligations under the law.

*Settlement of disputes.* Amount of pension is settled by the council of the miners' fund, and appeals against its decisions may be carried into the ordinary courts.

## HUNGARY.

*Date of enactment.* April 9, 1907; in effect July 1, 1907.

*Injuries compensated.* Injuries by accident in the course of the employment causing death, or disability for more than three days. Injuries caused intentionally are not compensated unless fatal.

*Industries covered.* All factories subject to inspection, mines, quarries, metallurgical establishments, building trades, lumbering, construction work, shipbuilding, slaughterhouses, pharmacies, sanatoria, theaters, institutes of art and science.<sup>1</sup>

*Persons compensated.* All employees in industries enumerated.

*Government employees.* Act covers Government employees in State, municipal, and communal industries enumerated above.

*Burden of payment.* All benefits and cost of treatment for first ten weeks provided by sick funds to which employers and employees contribute equally. Beginning with eleventh week entire cost is defrayed by employers through the accident fund.

*Compensation for death.*

- (a) Funeral benefit of twenty times average daily wages.
- (b) Pensions to heirs not exceeding 60 per cent of annual earnings of deceased, as follows—
  - Widow, 20 per cent of annual earnings until death or remarriage; in latter case a final sum equal to 60 per cent of annual earnings; or to dependent widower 20 per cent during disability.
  - Each child 16 years of age or under, 15 per cent if one parent survives, 30 per cent if neither survives; payments to consort and children reduced proportionately if they aggregate more than 60 per cent.
  - Dependent parents and grandparents if there is a residue after providing for above heirs, 20 per cent or less.
  - Dependent orphan grandchildren 15 years of age or under, if there is a residue after providing for above heirs, 20 per cent or less.
- (c) Where both parties were insured and both die as result of accident the pension is based on the earnings of the one receiving the highest wages.
- (d) In computing pensions the excess of annual earnings above 2,400 crowns (\$487.20) is not considered.
- (e) Pension is allowed after the child has completed the sixteenth year if needed to enable him to complete his education.

*Compensation for disability.*

- (a) Free medical and surgical treatment provided first ten weeks by sick fund, and afterward by accident fund.
- (b) For temporary or permanent total disability, 50 per cent of average daily wages but not exceeding 4 crowns (81 cents) for first ten weeks, provided by sick fund; beginning with eleventh week, 60 per cent of average annual earnings, provided by accident fund.
- (c) For complete helplessness necessitating attendance payments may be increased to 100 per cent of annual earnings.
- (d) For partial disability a corresponding portion of full pension.
- (e) In computing pensions the excess of annual earnings above 2,400 crowns (\$487.20) is not considered.

*Revision of compensation.* Whenever a change in condition of injured person occurs the accident fund or the injured person may ask for a revision of the benefits.

*Insurance.* Payments are met by a State insurance institution, in which all employees are required to be insured at the expense of employers.

*Security of payments.* Guaranteed by the State.

*Settlement of disputes.* Disputes are settled by arbitration courts, consisting of a presiding judge and an equal number of representatives of workmen and employers.

<sup>1</sup> Employers in certain industries, agriculture, domestic service, and certain small landholders, each having an income of not over 1,000 crowns (\$203) may take out voluntary insurance under the act.



## ITALY.

*Date of enactment.* March 17, 1898; in effect September 17, 1898. Amended June 29, 1903. Promulgated in codified form January 31, 1904. Supplementary acts, July 11, 1904, December 14, 1905, and July 14, 1907.

*Injuries compensated.* All injuries sustained by workmen or salaried employees during or on account of labor. If due to wilful misconduct, employer may be reimbursed through criminal action.

*Industries covered.* Mines (including sulphur mines), quarries, building trades; light, heat, and power plant; arsenals; maritime construction work; transportation; industries requiring the use or handling of explosives; all industrial or agricultural work in proximity to power machinery; where more than five persons are employed in engineering construction work; operation for protection against landslides, floods, hailstorms; logging and timber rafting, and shipbuilding; maritime navigation.

*Persons compensated.* All workmen and apprentices and overseers receiving not more than 7 lire (\$1.35) per day and paid at intervals of one month or less.

*Government employees.* Act applies to employment in State, provincial, and communal industries enumerated above unless specially provided for, to work performed for a Government institution under contract or concession, and to officials and workmen employed in the postal and telegraph service and the telephone service.

*Burden of payment.* Entire cost of compensation rests upon employer.

*Compensation for death.* If within two years after the accident, five times annual wages of deceased workman, with a maximum of 10,000 lire (\$1,930), distributed to—

- (a) Surviving consort two-fifths of indemnity if there are children; one-half of indemnity if there are dependent ascendants; three-fifths of indemnity if only dependent brothers or sisters; entire indemnity in absence of heirs enumerated.

Children, amounts sufficient to purchase an annuity of equal amount for each child under 12 years of age, and one-half of such annuity for each child from 12 to 18 years of age.

Each dependent parent or grandparent, if there are no children, annuity of equal amount for life.

Dependent brothers or sisters less than 18 years of age or incapable of performing labor by reason of a mental or physical defect, if there are no children or dependent ascendants, annuities distributed upon same principle as in case of children.

- (b) In absence of heirs indemnity is turned into a special fund for immediate aid to injured, payment of indemnities for insolvent employers, and prevention of accidents.

*Compensation for disability.*

- (a) Cost of first medical and surgical treatment.

- (b) An indemnity in case of permanent disability of six times annual earnings, but not less than 3,000 lire (\$579) if totally disabled, and six times the loss of annual earning capacity if partially disabled, earnings in latter case to be considered as not less than 500 lire (\$96.50).

- (c) A daily allowance in case of temporary disability of one-half the wages of injured workman, payable for not more than three months, if totally disabled, and equal to one-half the reduction in wages occasioned by the injury, if partially disabled.

*Revision of compensation.* Both workman and insurer may ask for a revision of compensation within two years after accident.

*Insurance.* Employers must insure their employees in (a) the National Accident Insurance Fund, (b) an authorized insurance company, (c) an association of employers for mutual insurance against accidents, or (d) a private employers' insurance fund.

*Security of payments.* Payments are guaranteed by State.

*Settlement of disputes.* In cases of dispute concerning temporary disability payments, the council of prudhommes or the pretor of the locality in which the accident occurred has authority to sit in final judgment if amount involved does not exceed 200 lire (\$38.60). Disputes involving larger amounts are referred for settlement to the local magistrates.

**JAPAN.**

According to the factory act of March 28, 1911, where any workman, through no serious fault of his own, is injured, falls ill, or dies in the course of his work, it shall be the duty of the owner of the factory to maintain him or his family in accordance with provisions to be issued by imperial decree. This act and orders in conformity therewith is to apply also to State enterprises and factories.

## LIECHTENSTEIN.

*Date of enactment.* April 30, 1910; in effect January 1, 1911.

*Injuries compensated.* All injuries resulting from accidents causing death or disability.

*Industries covered.* All undertakings in which more than 10 persons are employed who are especially exposed to danger, and in particular in quarries, building enterprises, and others in which engines or steam boilers are used.

*Persons compensated.* The whole staff of working people.

*Government employees.* No mention is made of Government employees in the law.

*Burden of payment.* The entire burden of payment rests upon the employer.

*Compensation for death.*

- (a) A sum equal to 1,000 times daily wage, payable to dependents (widow, widower, children under 16 years of age or permanently incapable of self-support). If the deceased leaves no widow or children a sum equal to 500 times the daily wage shall be paid to the dependent father or mother.
- (b) In special circumstances a lump sum may be converted into a corresponding pension payable to the dependents.

*Compensation for disability.*

- (a) Funeral benefit of 40 crowns (\$8.12) payable to dependents.
- (b) Free medical treatment and medicines from date of injury; a weekly allowance, not to exceed 20 weeks, equal to 50 per cent of the average wages over a period of 8 weeks, but not less than 1.20 crowns (24.4 cents) per day for male adults, 1 crown (20.3 cents) per day for adult female persons, and 0.80 crown (16.2 cents) per day for young persons, or free treatment and nursing in hospital. In such case one-half the benefits are paid to the family of the injured person. A pension of 90 per cent of wages payable during treatment may be substituted.
- (c) A lump sum equal to 1,000 times the daily wages of the injured person if totally incapacitated, or a proportionately smaller one if partially incapacitated.
- (d) The lump-sum payment may be converted into a corresponding pension.

*Revision of payments.* There is no specific provision in the law for any revision of payments.

*Insurance.* Insurance may be effected with any approved domestic or foreign institution.

*Security of payments.* Every insurance company accepting this class of risk must be approved in Liechtenstein.

## LUXEMBURG.

*Date of enactment.* April 5, 1902; in effect April 15, 1903. Amendatory acts, December 23, 1904, and April 21, 1908. Sick insurance law enacted July 31, 1901.

*Injuries compensated.* All injuries by accident during or because of the employment resulting in death, or disability for more than three days, unless caused intentionally by the victim or during the commission of an illegal act.

*Industries covered.* Mines, quarries, manufactories, metallurgical establishments; gas and electric works; transportation and handling; building and engineering construction; and certain artisans' shops having at least five employees regularly and using mechanical motive power. By administrative order other establishments may become subject to the law if regarded dangerous.

*Persons compensated.* All workmen; those supervising and technical officials whose annual earnings are less than 3,750 francs (\$723.75). Certain other classes of persons may be voluntarily insured.

*Government employees.* Act applies to Government telegraph and telephone services, public works conducted by public agencies, and other governmental industrial establishments, unless other provisions are made for pensioning employees. Penal institutions are not included.

*Burden of payment.* Benefits and cost of treatment first thirteen weeks provided by sick-benefit funds, to which employers contribute one-third and employees two-thirds, if injured person is insured against sickness; if not, because employed less than one week, by an accident insurance association, supported by contributions of employers; if not insured for other reasons, by the employer direct; all benefits and treatment after thirteen weeks paid by accident insurance association.

*Compensation for death.*

- (a) Funeral expenses, one-fifteenth of the annual earnings, but not less than 40 francs (\$7.72) nor more than 80 francs (\$15.44).
- (b) Pensions, not to exceed 60 per cent of earnings of deceased, to—
  - Widow 20 per cent until death or remarriage; in the latter case a lump sum equal to 60 per cent; same payment to a dependent widower.
  - Each child 20 per cent until 15 years of age, even if father survives, provided he abandoned them, or the mother who was killed was their main support.
  - Dependent heirs in an ascending line, 20 per cent.
  - Dependent orphan grandchildren, 20 per cent until 15 years of age.
  - Widow and children have the preference over other heirs.
- (c) If annual earnings exceed 1,500 francs (\$289.50) only one-third of excess is considered in computing pensions.

*Compensation for disability.*

- (a) Entire cost of medical and surgical treatment.
- (b) For temporary or permanent total disability, from third day to end of fourth week, 50 per cent, and from fifth to end of thirteenth week, 60 per cent of wages of persons similarly employed; after thirteen weeks, 66 $\frac{2}{3}$  per cent of annual earnings of injured person. If requiring personal attention or care, 100 per cent during such disability.
- (c) For partial disability a portion of above (depending upon degree of disability), which may be increased to full amount, as long as injured employee is without employment.
- (d) Lump-sum payments may be substituted for pensions when degree of disability is not greater than 20 per cent.
- (e) If annual earnings exceed 1,500 francs (\$289.50), only one-third of excess is considered in computing pensions.
- (f) Special treatment, if earning capacity would be increased by it.
- (g) Special relief to injured person, or his dependents, when hospital treatment is necessary.

*Revision of compensation.* Demands for change of amount of compensation may be made within three years.

*Insurance.* Payments are met by mutual accident insurance association of employers, in which all employees must be insured at expense of employers.

*Security of payments.* Insurance association conducted under State supervision.

*Settlement of disputes.* Appeals from the decisions of the association may be carried within forty days to a justice of the peace, who is required to invite two delegates, representing employer and employee, to assist in an advisory capacity. Further appeals may be taken to the higher courts.

## MANITOBA.

*Date of enactment.* March 16, 1910; in effect January 1, 1911.

*Injuries compensated.* Those arising out of and in the course of employment, or while attempting to rescue a fellow workman in danger while on employer's premises, causing death or disability for more than two weeks. Excepted are injuries due to drunkenness of the employee and those caused by gross negligence or intention resulting in incapacity. In case of permanent disability or death a claim for compensation shall not be disallowed because of such serious or willful misconduct alone.

*Industries covered.* All trades or business employing five or more persons in the one establishment at the time of the accident, or usually so doing. Agriculture and domestic service not included.

*Persons compensated.* Any person employed in any employment to which this act applies, excluding those employed at other than manual labor who have annual earnings exceeding \$1,200 or who are casual laborers. Apprentices, whether at manual labor or in a clerical position, are included.

*Government employees.* State and municipal employees are included in the insurance.

*Burden of payment.* The employer bears the entire cost of compensation, but if there are contractors, then on such contractors and principal jointly and severally.

*Compensation for death.*

- (a) To persons entirely dependent upon the deceased workman, a sum not exceeding \$1,500, less any weekly payments made in accordance with this act and any lump sum paid in redemption thereof.
- (b) To persons partly dependent, in default of persons entirely dependent, such sum as may be agreed upon or decided by arbitration to be reasonable and proportionate to the injury suffered, but not more than \$1,500.
- (c) In case no dependents entitled to compensation reside in the Province, the reasonable expenses of medical attendance and burial, not exceeding \$100.

*Compensation for disability.* For total or partial incapacity of a journeyman working at his trade a weekly payment after the first two weeks not exceeding 50 per cent of the average wages lost, average wages to be average of preceding 12 months or shorter period; one not a journeyman working at his trade shall only be entitled to 25 per cent of such loss if the accident occurs during the first month of his employment, 40 per cent if during the second, and 50 per cent thereafter.

No compensation for disability to exceed \$10 per week for adults, \$6 per week to an apprentice, and total compensation not to exceed \$1,500 in any one case.

A lump sum may be substituted for the weekly payments after six months, on the application of the employer, the amount to be determined by the court, but no such sum shall exceed \$1,500, including amount already paid as weekly payments.

*Revision of compensation.* Weekly payments may be revised at the request of either party.

*Insurance.* The employer may contract for insurance in any scheme of insurance granting equal benefits, or one granting equivalent additional voluntary insurance made by reason of contributions paid by employees, providing a majority of the employees assent and the attorney general certifies the competency of the scheme.

*Security of payments.* In case of employer's bankruptcy the amount of compensation due under the act, up to \$500 in any individual case, is a first claim, or, when an employer has entered into a contract with any insurers in respect of any liability under the act to any workman, such rights of the employer shall be transferred to and vested in the workman.

*Settlement of disputes.* Disputes, if not settled by agreement or by the arbitration committee, shall be settled by a single arbitrator agreed on by the parties. If no arbitrator is agreed upon or no agreement reached, the dispute is settled by the court.

## MEXICO: NUEVO LEON.

*Date of enactment.* November 9, 1906.

*Injuries compensated.* Injuries to employees and workmen in specified enterprises arising in the course of or out of their employment. Injuries caused by force majeure, gross carelessness, serious misconduct, or intentionally by injured person are not compensated.

*Industries covered.* Factories, workshops, and industrial enterprises employing mechanical power; mines and quarries; construction, repairing, and maintenance of bridges, canals, waterworks, embankments, rail, tram, and underground railways, etc.; building trades, smelting and engineering works; loading and unloading; industries in which injurious, poisonous, explosive, or inflammable substances are manufactured; agricultural works where mechanical power is used; cleaning of wells and sanitary appliances and sewers; gas, electrical, telephone and telegraph enterprises; and all other similar enterprises.

*Persons compensated.* All employees and workmen.

*Government employees.* Government employees are not mentioned in the law.

*Burden of payment.* Cost of compensation rests entirely upon the employer, unless a third person is proved liable, in which case the employer may recover from the third party.

*Compensation for death.*

- (a) Costs of medical treatment and medicine, not exceeding 6 months, to be deducted from survivors' benefits when death intervenes, and funeral expenses.
- (b) To survivors (husband or wife, descendants under 16 years of age, also parents, grandparents, great grandparents, etc., if dependent) whole amount of the deceased's wages, as follows:
  - (1) For two years if deceased leaves a husband or wife and children or grandchildren.
  - (2) For 18 months if deceased leaves children or grandchildren.
  - (3) For one year if deceased leaves husband or wife only, but in case of the husband when incapacitated only.
  - (4) For 10 months if the deceased leaves parents, grandparents, or great grandparents.

If the widow or widower remarry, the compensation ceases, but in that case the children or grandchildren shall receive compensation till the expiration of the prescribed period (18 months). If the widow survives she shall be paid compensation for one year in respect of any children or grandchildren who complete their sixteenth year within that period.

*Compensation for disability.*

- (a) Medicine and medical treatment for injured person for 6 months.
- (b) For temporary total incapacity, compensation amounting to full wages from date of accident and during such incapacity.
- (c) For temporary partial incapacity compensation according to circumstances, at 20 to 40 per cent of such wages during incapacity.
- (d) For permanent total incapacity full wages during a period of 2 years.

*Revision of compensation.* No revision of compensation is provided for.

*Insurance.* No provision is made by the law for the transfer of the burden of payment of compensation by insurance.

*Security of payments.* There is no guaranty provided by the law.

*Settlement of disputes.* Every judge of the first instance is authorized to take cognizance of claims for compensation, and appeals from the judgment may be taken to the final court of appeals.

**MONTENEGRO.**

An act relating to concessions to national trade and for the promotion of industry under date of February 18 (March 3), 1911, provides that any industry desirous of receiving the benefit of the enumerated concessions shall be required to establish a workers' fund to which the workers shall contribute 65 per cent of the funds necessary, and the employers 35 per cent. The proper minister has supervisory control over this fund.

## NETHERLANDS.

*Date of enactment.* January 2, 1901, in effect June 1, 1901. Other acts February 3 and December 8, 1902; amended January 13, 1908, February 13, June 12 and 30, July 1, 1909, July 15, 1910, and February 11, 1911.

*Injuries compensated.* All injuries caused by accident in the course of the employment and causing death or disability for over two days, unless brought on intentionally. If due to intoxication, compensation is reduced one-half, and if death results no compensation is paid.

*Industries covered.* Practically all manufacturing, mining, quarrying, building, engineering construction, and transportation; fishing in internal waters; establishments using mechanical motive power, or explosive or inflammable materials, and mercantile establishments handling such materials.

*Persons compensated.* All workmen, including apprentices.

*Government employees.* All State, provincial, and communal employees are included when engaged in any of the industries enumerated.

*Burden of payment.* The entire expense rests upon the employer.

*Compensation for death.*

(a) Funeral benefit of thirty times average daily earnings of deceased.

(b) Pensions to heirs of not over 60 per cent of earnings of deceased, distributed to—

Widow, 30 per cent of earnings, until death or remarriage, in latter case two years' payments as a settlement; or to dependent widower, a pension equal to cost of support, but not over 30 per cent of earnings of deceased.

Each child under 16 years of age, 15 per cent if one parent survives, and 20 per cent if both are dead.

Dependent parents, and in their absence to grandparents, not over 30 per cent.

Orphan grandchildren, not over 20 per cent.

Dependent parents-in-law, not over 30 per cent.

Widow and children to be preferred over all other heirs, and their respective shares to be reduced proportionately when aggregating over 60 per cent.

(c) In computing pensions, wages higher than 4 florins (\$1.61) per day are to be considered as of that amount.

*Compensation for disability.*

(a) Free medical and surgical treatment, or its cost.

(b) From day after injury until forty-third day, an allowance of 70 per cent of daily earnings, excluding Sundays and holidays.

(c) From forty-third day a pension of above amount during total disability and a smaller pension in proportion to loss of earning power if partially disabled.

(d) In computing pensions, wages higher than 4 florins (\$1.61) per day are to be considered as of that amount.

*Revision of compensation.* An examination of condition of victim may be made whenever the Royal Insurance Bank so desires.

*Insurance.* Employers may insure their employees in the Royal Insurance Bank (a State institution), in a private company or association operating under State supervision, or they may carry the burden themselves. If not insured in the Royal Insurance Bank, a sufficient guarantee must be deposited with the latter. Employers must bear a proportionate share of the expense of administration of the Royal Insurance Bank, whether they insure in it or not.

*Security of payments.* Compensation payments are guaranteed by the State.

*Settlement of disputes.* Appeals may be taken from decisions of the Royal Insurance Bank to local arbitration councils, in which employers and employees are equally represented, and from them to a central arbitration council whose decisions are final.



## NEWFOUNDLAND.

*Date of enactment.* February 18, 1908; in effect July 1, 1908.

*Injuries compensated.* All injuries caused by accident arising out of and in the course of employment causing death, or disability for at least one week, except when due to serious and willful misconduct of the workman injured.

*Industries covered.* Railways, factories, mines, quarries, engineering work, erection or repair of buildings over 25 feet in height, by means of scaffolding, or by use of mechanical power.

*Persons compensated.* All employees.

*Government employees.* All employees of the State to whom the law would apply if they were under private employment.

*Burden of payment.* Entire cost rests upon the employers.

*Compensation for death.*

(a) A sum equal to three years' earnings, but not less than \$750 nor more than \$1,500, to those entirely dependent on earnings of deceased.

(b) A sum not in excess of \$1,500, as may be agreed upon or determined to be reasonable and proportionate, to those partially dependent.

(c) Reasonable expenses of medical attendance and burial not exceeding \$50 if deceased leaves no dependents.

*Compensation for disability.* A weekly payment, including the first week of disability if disability lasts two weeks or over, not exceeding 50 per cent of employee's earnings during the previous 12 months, but not exceeding \$5 per week.

After six months, upon application of the employer, a lump sum may be substituted for weekly payments, to be determined in default of agreement by the court.

*Revision of compensation.* Weekly payment may be reviewed at the request of either party.

*Insurance.* Employers may make contracts with employees for substitution of an officially approved scheme of compensation benefits or insurance in place of the provisions of this act, provided the scheme is not less favorable to the employees than the provisions of this act, and a majority of the workmen are favorable to such substitution.

*Security of payments.* In case of employer's bankruptcy the amount of compensation due under this act is classed as a preferred claim, or when an employer has entered into a contract with insurers in respect to any liability under the act to any workman, such rights of the employer, in case he becomes bankrupt, are transferred to and vested in the workman.

*Settlement of disputes.* In case of disagreement, proceedings are taken in courts.

## NEW SOUTH WALES.

*Date of enactment.* November 5, 1900; in effect January 1, 1901; amended December 28, 1901; scale of compensation increased by governor on July 28, 1905, in accordance with power given by the act; August 19, 1910; in effect January 1, 1911.

*Injuries compensated.* Personal injuries by accident arising out of and in course of employment causing death, or disability for at least two weeks, except when due to serious or willful misconduct on the part of the workman.

*Industries covered.* Any railway, tramway, factory, workshop, mine,<sup>1</sup> quarry, wharf, vessel, engineering, or building work, building used for dumping or storing wool, carried on by the employer as a part of his business; any other employment declared dangerous by proclamation.<sup>2</sup>

*Persons compensated.* All persons employed at manual labor, under contract with an employer, except casual labor, or otherwise than for the purpose of the employer's trade or business.

*Government employees.* The law applies to all workmen in any employment by or under the State to which the law would apply in case the employer were a private person.

*Burden of payment.* Entire cost of compensation rests upon the employer; but if there are contractors, then on such contractors and the principal, jointly and severally.

*Compensation for death.*

- (a) A sum equal to three years' earnings, but not less than £200 (\$973.30) nor more than £400 (\$1,946.60) to those entirely dependent upon the earnings of the deceased. Weekly payments or lump sums paid under this law are deducted from such sum.
- (b) A sum not exceeding the above amount, as may be agreed upon or determined as being reasonable and proportionate to the loss or damage suffered by those partly dependent.
- (c) If no dependents are left, the expenses of medical attendance and burial, but not exceeding £12 (\$58.40), unless such expenses are payable by a friendly society to which the workman belonged.

*Compensation for disability.*

- (a) A weekly payment after the second week not exceeding 50 per cent of average weekly earnings, but no such payment shall exceed £1 (\$4.87), with a total liability of £200 (\$973.30).
- (b) In case of partial incapacity the weekly payment shall in no case exceed one-half of the loss of earning capacity.  
In fixing the weekly payment consideration must be given to any financial assistance given by the employer to the injured during incapacity.
- (c) A lump sum may be substituted for weekly payments after six months, on application of the employer; the amount to be agreed upon, in default of agreement, to be determined by the court.

*Revision of compensation.* Weekly payments may be revised at the request of either party.

*Insurance.* Employers may contract with their employees for substitution of a scheme of compensation, benefit, or insurance in place of the provisions of the act, if the scheme is officially certified to be not less favorable to the employees and their dependents than the provisions of the act. In such case the employer is liable only in accordance with the scheme.

*Security of payments.* When the employer becomes liable under the act to pay compensation, and is entitled to any sum from insurers on account of the amount due to a worker under such liability, then in the event of his becoming insolvent such workman has a first claim upon this sum for the amount so due.

*Settlement of disputes.* Disputes arising under the act are heard and determined by a police magistrate, unless the claim is for more than £30 (\$146). When in excess of that amount proceedings are taken in the district court.

<sup>1</sup> Act of Aug. 19, 1910, includes only mines, employees in which are not included under the special compensation and protective law covering mines, viz, Miners' Accident Relief Act, 1900, and amendments 1901 and 1910.

<sup>2</sup> Seamen are compensated under a Commonwealth law of December 28, 1911

## NEW ZEALAND.

*Date of enactment.* October 10, 1908, in effect January 1, 1911. Amended October 28, 1911.

*Injuries compensated.* All injuries to workmen arising out of and in the course of the employment causing death, or disability for at least one week, except when due to serious and willful misconduct of the workman injured.

*Industries covered.* Any trade, business, or work carried on by or on behalf of the employer; mining, quarrying, excavating, cutting standing timber, cutting scrub and clearing land of stumps and logs; building operations; manufacture of explosives; using machinery driven by mechanical power, driving a vehicle moved by horse or mechanical power, domestic service, when period of engagement is not less than seven days; any occupation in which a worker incurs a risk of falling a greater distance than 12 feet; navigation in New Zealand waters on board New Zealand ships.

*Persons compensated.* All workmen, including apprentices, exclusive of other than manual laborers whose annual earnings exceed £260 (\$1,265.29).

*Government employees.* Act applies to work carried on by or on behalf of the Government or any local authority if it would, in case of a private employer, be an employment to which the act applies.

*Burden of payment.* Entire cost of compensation rests upon employer; but if there are contractors, then on such contractors and the principal, jointly and severally.

*Compensation for death.*

- (a) A sum equal to three years' earnings, but not less than £200 (\$973.30) nor more than £500 (\$2,433.25), to those wholly dependent upon earnings of deceased.
- (b) A sum less than above if dependents were partly dependent upon deceased, to be agreed upon by the parties or fixed by a magistrate or by the arbitration court.
- (c) Reasonable expenses of medical attendance and burial, not exceeding £20 (\$97.33).
- (d) Amounts previously paid are deducted from final compensation payable on death.

*Compensation for disability.*

- (a) Medical and surgical aid not to exceed £1 (\$4.87).
- (b) A weekly payment during disability not exceeding 50 per cent of employee's average weekly earnings during the previous 12 months, but not to exceed £2 10s. (\$12.67) nor to fall below £1 (\$4.87) where employee's ordinary rate of pay at time of accident was not less than 30 shillings (\$7.30) per week. Total liability of employer is limited to £500 (\$2,433.25). No payment is made for first week if disability does not continue for a longer period than two weeks. Weekly payments not to extend beyond six years.
- (c) For certain permanent injuries (mutilations, etc.) a fixed per cent of the compensation paid above for partial and total disability.

A lump sum may be substituted for weekly payments, capitalized at 5 per cent compound interest, for permanent total or partial disability, to be agreed on by the parties, or, in default of agreement, determined by the court of arbitration.

*Revision of compensation.* Weekly payments may be revised at request of either party.

*Insurance.* Employers may contract with their employees for substitution of a scheme of compensation, benefit, or insurance in place of the provisions of the act if the scheme is shown to be not less favorable to the general body of employees and their dependents than the provisions of the act. In such case the employer is liable only in accordance with the scheme.

*Security of payments.* When an employer becomes liable under this act to pay compensation, and is entitled to any sum from insurers on account of the amount due to a workman under such liability, then in the event of his becoming insolvent such workman has a first claim upon this sum. Compensation for injuries sustained in the course of employment in or about a mine, factory, building, or vessel is deemed a charge upon the employer's interest in such property and has priority over all charges other than those lawfully existing at the time of the commencement of the act.

*Settlement of disputes.* Disputes arising under the act are settled by the court of arbitration under the industrial arbitration act.

## NORWAY.

*Date of enactment.* July 23, 1894; in effect July 1, 1895. Amended December 23, 1899, June 12, 1906, June 30, 1908, June 9, 1911; sickness insurance laws September 18, 1909, April 1, 1911.<sup>1</sup>

*Injuries compensated.* All injuries by industrial accidents, causing death or disability for more than three days, or requiring treatment after that period, unless intentionally brought about by the injured person.

*Industries covered.* Practically all factories and workshops using other than hand power; mines and quarries; the handling of ice, explosives, or inflammables; building and engineering construction, electric work, transportation, salvage and diving, chimney sweeping, and fire extinguishing; forestry, to a limited extent; employment about dams, canals, and sluices. Employees in other industries may avail themselves of this insurance system.

*Persons compensated.* All workmen, including apprentices, and salaried employees.

*Government employees.* Act covers employees in government or communal service, when engaged in any of the industries enumerated above, unless at least equal compensation is provided by special regulation.

*Burden of payment.* Cost of compensation rests upon employer.

*Compensation in case of death.*

- (a) Funeral benefit of 50 crowns (\$13.40).
- (b) Pensions to heirs not exceeding 50 per cent of earnings to be distributed to—
  - Widow, 20 per cent of earnings until death or remarriage; in the latter case a lump sum equal to three annual payments; or dependent widower, 20 per cent of annual earnings of deceased while disability lasts.
  - Each child, 15 per cent of annual earnings till age of 15 years, if one parent survives, 20 per cent if neither survives, 15 per cent for each parent to each child when both parents have died as result of injuries.
  - Dependent relatives in ascending line if there is a residue after providing for above-mentioned heirs, a pension of 20 per cent of earnings until death or cessation of need, to be divided equally; but living parents exclude grandparents from participation.
- (c) In computing pensions the excess of annual earnings over 1,200 crowns (\$321.60) is not considered.
- (d) Pension payments are in addition to prior allowances granted for disability.

*Compensation for disability.*

- (a) Free medical and surgical treatment, or cost of same, after four weeks.
- (b) If employee is totally disabled for more than four weeks, an allowance of 60 per cent of the earnings, but not less than 0.50 crown (13 cents) per diem or 150 crowns (\$40.20) per annum; and a proportionate allowance in case of partial disability, all to continue during disability.
- (c) If injured employee is forced to stay in a hospital, dependents receive allowances during that time equal to the pensions granted in cases of death.
- (d) If injured employee is not a member of a sick insurance fund, he is entitled to receive from employer directly sick benefits and free medical treatment from first day of injury; otherwise, from the fund.
- (e) In computing allowances the excess of annual earnings over 1,200 crowns (\$321.60) is not considered.

*Revision of compensation.* Compensation is subject to revision upon demand of either the beneficiary or the insurance office.

*Insurance.* A State central insurance office is established for the entire Kingdom, in which all employees subject to the law must be insured by employer, unless he is, for special reasons, relieved by royal order from the obligation of insurance.

*Security of payments.* Insurance office is guaranteed by the State.

*Settlement of disputes.* Appeals from decisions of insurance office may be entered within six weeks with the special insurance commission.

<sup>1</sup>Fishermen are covered by the law of Aug. 8, 1908, amended Aug. 18, 1911; seamen by law of Aug. 18, 1911.

## NOVA SCOTIA.

*Date of enactment.* April 22, 1910; in effect February 1, 1911.

*Injuries compensated.* Personal injury by accident arising out of and in the course of employment to a person to whom this act applies.

*Industries covered.* Railways, including street railways, factories, laundries worked by steam, water, or mechanical power; mines, quarries, engineering work, loading and unloading a vessel; building operations using scaffolding or mechanical power; provided 10 or more workmen are employed in an undertaking. (Certain designated establishments in which workmen's relief funds are already established are excepted.)

*Persons compensated.* All workmen or clerks whose annual earnings do not exceed \$1,000.

*Government employees.* These are within the act if the employment itself is covered by the law.

*Burden of payment.* The entire cost of compensation rests upon the employer.

*Compensation for death.*

- (a) To those wholly dependent upon his earnings a sum equal to three years' earnings but not less than \$1,000 nor over \$1,500, less any sum paid under this act as weekly compensation for injury.
- (b) To those dependent, such sum not exceeding \$1,500 as may be agreed upon, or in default of agreement determined by arbitration.
- (c) If no dependents are left the reasonable expenses of medical attendance and burial, not exceeding \$200.

*Compensation for disability.* A weekly payment during disability after the second week of a sum not exceeding 50 per cent of weekly wages earned during the preceding year. In fixing the amount of compensation, consideration must be given to the loss in earning capacity and to any sums other than wages which the injured person may have received from his employer during incapacity. The weekly compensation shall not exceed \$7, nor shall the total amount payable exceed \$1,500.

A lump sum may be substituted for the weekly payments after six months, on the application of the employer, the amount to be settled by agreement, or, failing in this, by arbitration.

*Revision of compensation.* Either party may request a revision of payments

*Insurance.* If after investigation the governor in council certifies that any scheme of compensation, benefit or insurance is equivalent in its provisions to those of this act the employer may contract with the employees for the substitution of that scheme, and the employer thereafter shall be liable only in accordance with that scheme. Should the certificate be revoked any moneys or securities held for the purpose of the scheme shall be distributed as may be arranged between employer and workmen, or determined by the governor in council.

*Security of payments.* In respect of any liability under this act to any workman by an employer who has entered into a contract with an insurance scheme, and who becomes bankrupt or who liquidates or retires from business, the workman entitled to compensation shall have priority of claim upon such sum as is due the employer on account of such insurance.

*Settlement of disputes.* In default of agreement between the interested parties, any question may be settled (a) by a committee representing the employer and the employees; (b) by a single arbitrator agreed upon; or (c) by an arbitrator appointed by a county court judge.

## PERU.

*Date of enactment.* January 20, 1911.

*Injuries compensated.* The employer is responsible for any accidents, unless intentionally brought about by the injured person, which occur to his workmen and employees in the course of or directly occasioned by their work.

*Industries covered.* Production and transmission of power; electric and gaslight production and installation; telegraph and telephone; naval construction; transportation, land, river, and marine, employing power; agricultural operations involving use of mechanical power; loading and unloading; mines and quarries where more than 35 workmen are employed; ore-reduction work, etc.; factories using mechanical power, and building trades.

*Persons compensated.* All workmen and employees whose annual earnings do not exceed £120 (\$583.98). Elective for those receiving higher compensation.

*Government employees.* These are subject to the act if the employment itself comes within the scope of the law.

*Burden of payment.* The entire cost of compensation rests upon the employer.

*Compensation for death.*

- (a) A funeral benefit equal to two months' earnings of the deceased, even though his remuneration exceeded £120 (\$583.98) per annum and without regard to number of employees.
- (b) To the widow, a life annuity equal to 11 per cent of annual earnings of the deceased.
- (c) To the children, legitimate, or acknowledged illegitimate, an annuity, equally divided, of 22 per cent of such earnings until 16 years of age, or, if incapacitated for work, an equal annuity for life.
- (d) In default of children, to direct descendants entirely dependent on the deceased, the compensation under (c).
- (e) Should there be neither widow, children, nor other dependents, to ascendants who would have been dependent on the deceased, a life annuity of 15 per cent to each, but not in excess of 30 per cent of such wages, and where more than two, such annuity to be equally distributed.
- (f) Should there be no widow, her portion of the annuity is added to that of the children.

*Compensation for disability.*

- (a) Medical and surgical aid during disability.
- (b) For total permanent disability a life annuity of 33 per cent of annual earnings.
- (c) For partial permanent disability a life annuity of 33 per cent of loss of earning capacity.
- (d) For total temporary disability a compensation during disability of 22 per cent of earnings.
- (e) For partial temporary disability a compensation of 50 per cent of the loss of earning capacity until complete recovery.

An increase of 50 per cent in the compensation is made if the accident occurs in default of prescribed protective apparatus on the part of the employer or by reason of his inexcusable fault. It is proportionately reduced if through inexcusable fault of the injured.

If the accident causing injury is the result of an unlawful act of the employer, the injured person shall be entitled to indemnity for all damages and injuries, as determined at common law.

*Revision of compensation.* Demands for revision of compensation may be made by either party within three years.

*Insurance.* Employers may transfer burden of compensation by insuring their employees in authorized insurance companies.

*Security of payments.* In case of insolvency compensation payments become preferred claims, and any funds deposited with the Government bank for the purpose of paying allowances are available for the payment of such claims.

*Settlement of disputes.* Disputes arising under this act go before the magistrate or justice of the peace, subject to review by the judge of the court, and finally subject to an appeal to the superior court.

## PORTUGAL.

*Date of enactment.* July 24, 1913; in effect July 27, 1913.

*Injuries compensated.* Accidents causing death or injury, not brought about fraudulently, arising in the course of employment unless proved not to have arisen out of the employment.

*Persons compensated.* All operatives and employees, including apprentices, engaged in industries covered by the act.

*Industries covered.* Factories and workshops employing other than human power; mines and quarries; iron works; building trades; manufacture of explosives and inflammable and poisonous materials; railway and waterway construction; sewers and waterworks; transportation by land or water; storage, handling, and the like; agriculture and forestry, if mechanical power is used (covering only such accidents as are caused by such power machinery); herding and tending wild cattle; theaters; administration of public security; gas and electrical works; telegraph and telephone systems; fishing, if not a cooperative enterprise.

*Government employees.* These are included if engaged in industries covered by the acts and if higher compensation is not otherwise provided by law.

*Burden of payment.* The entire burden rests upon the employer; if there are contractors and subcontractors, then upon such contractors.

*Compensation for death.*

- (a) Funeral expenses not exceeding 15 times the daily wage.
- (b) To surviving consort, 20 per cent of annual earnings of employee until death or remarriage; lump sum of 60 per cent of annual earnings paid at time of remarriage.
- (c) To legitimate child under 14 years of age, 15 per cent of annual earnings, 25 per cent if 2 children, 35 per cent if 3, and 40 per cent if 4 or more. If left orphans, each child receives 20 per cent of annual earnings, with a maximum of 60 per cent.
- (d) If there are no children, then to any dependent parents or grandparents, or descendants under 14 years of age, 10 per cent of annual earnings to each such dependent, but in no case over 40 per cent of annual earnings.
- (e) In calculating annual earnings the maximum wage considered is 400 milreis (\$432), plus any excess to the extent of one-half.

*Compensation for disability.*

- (a) Necessary medical and surgical expenses.
- (b) For total permanent disability, two-thirds of annual earnings.
- (c) For total temporary disability, two-thirds of the daily wage during each working day lost.
- (d) For partial disability, one-half the loss of earning power.
- (e) All compensation is paid from the beginning of disability.
- (f) In calculating annual earnings the maximum wage considered is 400 milreis (\$432), plus any excess to the extent of one-half.

*Revision of compensation.* No provision is made in the law.

*Insurance.* Employers may transfer burden of payment to recognized establishment funds, mutual aid associations, or approved insurance companies. They may also insure with the State Insurance Council.

*Security of payments.* The obligations contracted under the law, in the event of bankruptcy, have special precedence over all debts of the employer. Risk classes and reserves are determined by the State Insurance Council.

*Settlement of disputes.* Disputes are settled by special tribunals of arbitrators composed of employers, employees, and medical officers having deliberative votes, and of representatives of the insurance companies having consultative votes.

## QUEBEC.

*Date of enactment.* May 29, 1909; in effect January 1, 1910.

*Injuries compensated.* All injuries happening to workmen by reason of or in the course of their work causing death, or disability lasting over seven days. Injuries intentionally caused by the person injured are not compensated.

*Industries covered.* Building, manufacturing, transportation, engineering, and construction work, mining, quarrying; stone, wood, and coal yards; any industrial enterprise using machinery operated by power. Agriculture and sailing vessels are excluded.

*Persons compensated.* Workmen, apprentices, and employees earning not more than \$1,000 per annum. Foreign workmen or their representatives are compensated only if and so long as they reside in Canada.

*Government employees.* Government employees are not mentioned in the act.

*Burden of payment.* The entire expense rests upon the employer.

*Compensation for death.*

(a) Medical and funeral expenses not in excess of \$25, unless same are provided by an association of which the deceased was a member.

(b) Four times average yearly wages, but not less than \$1,000 nor more than \$2,000 payable to surviving consort, to children under 16 years of age, and dependent ascendants, shares to be agreed upon or determined by court.

All amounts may be decreased or increased by court on account of inexcusable fault of employee or employer.

Payments made for disability before death are deducted.

*Compensation for disability.*

(a) For permanent total disability, a pension equal to 50 per cent of the yearly wages (including the maximum and minimum amounts).

(b) For permanent partial incapacity, a pension equal to 50 per cent of the amount by which the wages have been reduced because of the injury.

(c) For temporary incapacity lasting over seven days, compensation equal to one-half the daily earnings received at the time of the accident, beginning with the eighth day.

(d) In computing pensions only one-fourth the excess of the annual earnings between \$600 and \$1,000 is considered; the capital of any pension shall not exceed \$2,000, unless higher because of accidents due to inexcusable fault of the employer.

*Revision of compensation.* Demands for change of amount of compensation may be made within four years.

*Insurance.* No reference concerning the insurance of risks under the law is contained in the act, except as to the payment of pensions due, which may be transferred to insurance companies. No release from liability is obtained by the employer by such transfer.

*Security of payments.* Claims for compensation or pensions form a lien on the real and personal property of the employer so long as they remain unpaid.

*Settlement of disputes.* Superior and circuit courts have jurisdiction over all disputes arising under this act. All proceedings are summary, no trial by jury being allowed.



## QUEENSLAND.

*Date of enactment.* December 20, 1905; in effect March 31, 1906.

*Injuries compensated.* All injuries by accident, arising out of and in the course of the employment, which cause death or disable a workman for at least two weeks from earning full wages at the work at which he was employed, except when the injury is directly attributable to his serious and willful misconduct or when it occurs while proceeding to or from his place of work.

*Industries covered.* Industrial, commercial, manufacturing, building, agricultural, pastoral, mining, quarrying, engineering, or hazardous work carried on by or on behalf of the employer as a part of his trade or business.<sup>1</sup>

*Persons compensated.* All persons under contract with an employer.

*Government employees.* Act applies to any work carried on by or on behalf of the government or any local authority if it would, in case of a private employer, be an employment to which the act applies.

*Burden of payment.* Entire cost of compensation rests upon employer, but if there are contractors, then on such contractors and the principal, jointly and severally.

*Compensation for death.*

- (a) A sum equal to three years' earnings, but not less than £200 (\$973.30) nor more than £400 (\$1,946.60), to those wholly dependent upon earnings of deceased; but aged and infirm employees may agree in advance to accept a reduced amount.
- (b) A sum less than above if heirs are only partly dependent.
- (c) Reasonable expenses of medical attendance and burial, not exceeding £30 (\$146), if deceased leaves no dependents.

*Compensation for disability.*

- (a) A weekly payment during disability after second week, not exceeding 50 per cent of employee's average weekly earnings during the previous twelve months, such weekly payments not to exceed £1 (\$4.87), and total liability not to exceed £400 (\$1,946.60); except that aged and infirm employees may agree in advance to accept a reduced amount.
- (b) A weekly payment during partial disability after second week, not exceeding one-half of difference between the employee's average weekly earnings before the accident and the average weekly amount which he is earning or able to earn after injury.
- (c) Minors may be allowed full earnings during incapacity, not exceeding 10 shillings (\$2.43) weekly.
- (d) A lump sum may be substituted for weekly payments after three months, on application of employer, the amount to be agreed upon or, in default of agreement, to be determined by a police magistrate.

*Revision of compensation.* Weekly payments may be revised by a police magistrate at request of either party.

*Insurance.* Employers may contract with their employees for substitution of a scheme of compensation, benefit, or insurance in place of the provisions of the act if the scheme is officially certified to be not less favorable to the employees and their dependents than the provisions of the act. In such case the employer is liable only in accordance with the scheme.

*Security of payments.* When an employer becomes liable under the act to pay compensation, and is entitled to any sum from insurers on account of the amount due to a worker under such liability, then in the event of his becoming insolvent, such workman has a first claim upon this sum for the amount so due.

*Settlement of disputes.* Disputes arising under the act are heard and determined by a police magistrate, whose decision is final, except that either party may appeal from this decision on any point of law with the latter's leave if the claim does not exceed £50 (\$243.33), or without his leave if it exceeds that amount.

<sup>1</sup>Seamen are compensated under a Commonwealth law of Dec. 28, 1911.

## ROUMANIA.

*Date of enactment.* January 25 (February 7), 1912. (Includes sickness insurance.)  
*Injuries compensated.* Injuries resulting from accidents without investigation as to whether caused by force majeure or fault of the injured. Accident caused intentionally shall be submitted to the central office for investigation. No sick money benefits paid if the illness or accident was due to drunkenness.

*Industries covered.* Industries and handicrafts using machinery operated by motor power of all kinds, building undertakings, earthworks, mines, quarries, sawmills; agricultural machinery, forestry, mills, tramways and railroads of all classes; inland and sea navigation, transportation in so far as loading and unloading merchandise are concerned. Other industries may be added by order of the central office.

*Persons compensated.* All workers and helpers.

*Government employees.* The law covers employees of the State, districts, and communes in occupations otherwise under the act.

*Burden of payment.* Burden of payment rests entirely upon the employer after first two weeks; medical treatment and sick benefits paid from sick relief funds supported by its members (employers and employees) who contribute on the basis of a certain wage classification from 0.05 leu (1 cent) to 0.60 leu (11.6 cents) per week.

*Compensation for death.*

- (a) A death benefit amounting to 100 lei (\$19.30).
- (b) To a widow without children one-fifth of the average wages of the deceased until her death or remarriage; to each child under 16 years of age, including illegitimate child of mother dying as result of injury, one-fifth of such earnings. In no case shall the aggregate pensions exceed three-fifths of annual earnings.
- (c) If the deceased was a female person the same pensions are payable to her children and to her husband if he had been incapacitated for a considerable time.
- (d) If the deceased leaves dependent persons in the ascending line, a pension of one-fifth of such earnings shall be paid them, with preference in favor of the parents over grandparents.

*Compensation for disability.*

- (a) Medical treatment at home or in a hospital, medicines, and therapeutical appliances, supplied by sick funds for first two weeks.
- (b) Beginning with the third week the injured person, if totally incapacitated, shall be allowed during the entire period of incapacity two-thirds of his wages, and if partially disabled a correspondingly reduced allowance, payable from the General Trade Association for Accident Insurance.
- (c) In case the person is so injured as to require the attention of another the allowance may be increased to full wages.

If the wages exceed 5 lei (96.5 cents) per day, that sum plus one-third the excess is considered in computing pensions.

*Revision of compensation.* No provision is made for revision of compensation.

*Insurance.* Every employer in the enterprises covered by the law must insure his employees in the General Trade Association. Insurance is effected in the General Trade Association for Accident managed by an Administrative Council appointed by royal decree.

The State does not become a member of the General Trade Association, but itself insures its employees.

*Security of payments.* The association fixes the amount of contribution from employers to cover the amounts to be paid as benefits and pensions.

*Settlement of disputes.* All disputes as to right to and amount of assistance or benefits shall be decided by the arbitration courts, with a right of appeal to the administrative council of the central office.

## RUSSIA.

*Date of enactment.* June 23 (July 6), 1913; in effect January 1, 1914, replacing act of June 2 (15), 1903.

*Injuries compensated.* Injuries from accidents in the course of or arising out of employment, causing incapacity for work, or death, except such are caused intentionally by the injured.

*Industries covered.* Factories, mines, iron and steel works, local railways, tramways, and inland navigation, making use of motor power and regularly employing 20 workpeople or more. Enterprises employing 30 or more workpeople, whether using motor power or not. Other industries may be added by the insurance council.

*Persons compensated.* All persons (other than casual workers) irrespective of age or sex, employed for wages or salary. Those having annual earnings in excess of 1,500 rubles (\$772.50) may sue under ordinary liability law.

*Government employees.* The law excludes employees on State owned undertakings and the main railway systems; zemstvos and village establishments are included.

*Burden of payment.* Medical treatment for persons, including hospital treatment, medicine, bandages and medical appliances, and sick pay, for persons insured in the sick fund, for the first 13 weeks of disability will be paid from that fund to which the employees contribute three-fifths and the employers two-fifths. From the ninety-first day compensation is paid by the accident insurance association in which the injured person is insured at the cost of the employers.

*Compensation for death.*

- (a) Funeral benefits, fixed at an amount varying between 20 and 30 days' pay of the insured person.
- (b) To widow one-third of annual earnings until death or remarriage; to each child under 15 years of age one-sixth in case of survival of one parent; otherwise, one-fourth; to each dependent relative, one-sixth. The total annuity in no case in excess of two-thirds of the annual earnings of the deceased.
- (c) A lump sum payment may be substituted for annuity not in excess of 36 rubles (\$18.54) plus 15 per cent of annual earnings of the deceased.
- (d) The maximum annual earnings for purpose of calculating insurance are 1,500 rubles (\$772.50).

*Compensation for disability.*

- (a) For total disability during the first 13 weeks from two-thirds (for male persons) to full amount (for women) of daily wages. After the ninety-first day two-thirds of the injured person's earnings.
- (b) For total permanent incapacity an annuity of two-thirds annual earnings, and for partial permanent incapacity a proportionately smaller annuity.
- (c) The annuity may be increased to full pay in case of resulting insanity, loss of both hands or both limbs, or such disablement as requires constant care by another person.

*Revision of compensation.* On request of either party within three years reexamination may be made to adjust pension to any change in working capacity.

*Insurance.* Insurance is effected through employers' associations established by the order of the Minister of Commerce and Industry, with a prescribed district for each association. An insurance association may transfer its liability for payment of insurance to the government savings bank, by a deposit equal to the capitalized value of the pension.

*Security of payments.* The insurance associations are under direct State supervision.

*Settlement of disputes.* In case the decision of the insurance board is unsatisfactory, a rehearing is granted and from the decision rendered on this second hearing an appeal may be carried to the ordinary courts.

## SERVIA.

*Date of enactment.* June 29 (July 12), 1910; in effect July 1 (14), 1911.

*Injuries compensated.* Insurance of workmen relates to cases of illness, accident, disablement, old age, and death when it can not be proved that accident occurred owing to the fault of the injured workman.

*Industries covered.* All handicrafts and commercial undertakings in which are employed in the one workshop or in one place more than 15 workers where motor power is used, and more than 25 workers where motor power is not used.

*Persons compensated.* All workmen, including apprentices, in handicrafts and commercial establishments under the law; voluntary insurance for others provided annual earnings do not exceed 2,000 dinars (\$386).

*Government employees.* Relief funds in the case of mines, and insurance funds in case of State and private works which shall be in existence at the time this act comes in force, may be placed on an equal footing with the local associations under the same conditions as agreed with the national insurance fund.

*Burden of payment.* Accident insurance premiums shall be paid by the employers alone.

*Compensation for death.*

- (a) A funeral benefit in proportion to the insured monthly wages of the deceased, fixed by the local workmen's insurance associations.
- (b) A sum equal to 30 per cent of the allowance to which the insured person shall have had claim to be paid the widow, so long as she remains unmarried, and 5 per cent in addition for each child up to the time of completing their fourteenth year. Should the widow remarry she may be granted three years' allowance.
- (c) Should the children be orphans, the eldest shall receive 20 per cent of the allowance, and the second, third, and fourth children 10 per cent each, and each additional child 5 per cent of the total allowance.
- (d) Up to the time when this insurance becomes payable, medical attendance for the injured and his family, medicine and similar assistance, nurses in hospitals and health resorts for workmen and families and daily relief money not less than half the daily wages of the insured person.

*Compensation for disability.*

- (a) Medical and surgical aid.
- (b) Pecuniary benefit not less than 5 per cent of wages of injured, according to disability.
- (c) In the event of permanent total disability, maximum may be equal to full wages.

*Revision of compensation.* No special provision is made in the law.

*Insurance.* Insurance is effected in local workmen's insurance associations, which form a National Union of Workmen's Insurance Associations. Certain relief and insurance funds are recognized when meeting required conditions. Accident and sickness insurance obligatory.

*Security of payments.* The State makes each year a grant not less than 100,000 dinars (\$19,300) to the insurance fund.

*Settlement of disputes.* Appeals are allowed from the decision of the local associations to the national union, and a further appeal to the minister of political economy, whose decision shall be final.

## SOUTH AUSTRALIA.

*Date of enactment.* December 14, 1911; in effect January 1, 1912, replacing act of 1900 and amendatory act of 1904.

*Injuries compensated.* All injuries to workmen arising out of and in the course of the employment causing death, or disability for at least one week, except when due to serious and willful misconduct of the workman injured.

*Industries covered.* "Any employment," including agricultural work employing mechanical power, and navigation in domestic waters on South Australian vessels, but excluding home work, domestic service, and clerical work.<sup>1</sup>

*Persons compensated.* All workmen including apprentices, engaged in manual labor or otherwise, provided weekly earnings do not exceed £5 (\$24.33).

*Government employees.* Act applies to civilian persons employed under the Crown to whom it would apply if the employer were a private person.

*Burden of payment.* Entire cost of compensation rests upon employer; but if there are contractors, then either upon such contractors or the principal, provided contractors for agricultural work included in the act must bear the burden alone.

*Compensation for death.*

(a) A sum equal to three years' earnings, but not less than £200 (\$973.30) nor more than £300 (\$1,459.95), to those wholly dependent upon earnings of deceased.

(b) A sum not exceeding above amount if dependents were partly dependent upon deceased, to be agreed upon by the parties or fixed by arbitration.

(c) Reasonable expenses of medical attendance and burial not exceeding £20 (\$97.33), if deceased leaves no dependents.

*Compensation for disability.*

(a) A weekly payment during disability not exceeding 50 per cent of employee's average weekly earnings during the previous 12 months, such weekly payments not to exceed £1 (\$4.87) nor, in case of total incapacity of workmen under 21 years and receiving under 20s. (\$4.87) a week, to be less than 10s. (\$2.43) per week, and total liability not to exceed £300 (\$1,459.95).

(b) A weekly payment during partial disability to be fixed with regard to difference between employee's average weekly earnings before the accident and average weekly amount which he is earning or able to earn after injury.

(c) A lump sum may be substituted for weekly payments after six months on application of either party, the amount to be settled by arbitration under the act in default of agreement.

In any case, if disability lasts less than two weeks, no compensation is paid for the first week.

*Revision of compensation.* Weekly payments may be revised at request of either party.

*Insurance.* Employers may contract with their employees for substitution of a scheme of compensation, benefit, or insurance in place of the provisions of the act, if the public actuary certifies that the scheme is on the whole not less favorable to general body of employees and their dependents than the provisions of the act. In such case employer is liable only in accordance with the scheme.

*Security of payments.* In event of employer's insolvency the amount of compensation due under act, up to £100 (\$486.65) in any individual case, becomes a preferred claim; or where an employer has entered into a contract with insurers in respect of any liability under this act to any workman such rights of the employer, in the event of insolvency, are transferred to and vested in the workman.

*Settlement of disputes.* Disputes arising under the act are settled by the arbitration of existing committees of employers and employees, or, if either party objects, by a single arbitrator agreed on by the parties, or, in absence of agreement, by a special magistrate. An arbitrator appointed by the magistrate has all the powers of a local court.

<sup>1</sup> Seamen are compensated under a Commonwealth law of Dec. 28, 1911.

## SPAIN.

*Date of enactment.* January 30, 1900; in effect July 28, 1900.

*Injuries compensated.* All injuries by accidents to employees in the course of and by reason of the employment causing death or disability. Compensation may be reduced if injured person was engaged in an illegal act.

*Industries covered.* Manufacturing, mines, quarries, metallurgical establishments, construction work, industries injurious to health, transportation, gas and electric works, street cleaning, theaters, and agricultural and forestry establishments using power machinery.

*Persons compensated.* Workmen performing manual labor, including helpers and apprentices.

*Government employees.* Act applies to employees of State factories and other Government establishments, to labor accidents in war and naval departments, and to establishments of provincial and communal governments.

*Burden of payment.* Entire cost of compensation rests upon employer.

*Compensation for death.* In addition to any prior benefits paid for disability—

(a) Funeral expenses, not exceeding 100 pesetas (\$19.30).

(b) A lump sum equal to two years' earnings, if widow, and children or dependent orphan grandchildren under 16 years survive; eighteen months' earnings if only children or orphan grandchildren survive; one year's earnings if only widow survives; ten months' earnings to dependent parents or grandparents over 60 years of age, in absence of widow or children, if two or more survive; seven months' earnings if only one parent or grandparent survives.

(c) For these lump-sum payments, by mutual consent, the following pensions may be substituted: 40 per cent of annual earnings when widow and children or grandchildren survive; 20 per cent of annual earnings when only widow survives; 10 per cent to each dependent parent or grandparent over 60 years of age, when no widow or children survive, but not over 30 per cent in the aggregate; compensation to widow ceases on her remarriage, and to children on their attaining the age of 16 years.

(d) In these cases, the daily earnings to be considered as not less than 1.50 pesetas (29 cents).

(e) All of these compensations are increased by 50 per cent if the establishment is lacking in the required safety provisions.

*Compensation for disability.*

(a) Free medical and surgical treatment during disability.

(b) Fifty per cent of daily earnings, including Sundays and holidays, from day of injury to day of recovery from disability, but not over one year, after which case is treated as one of permanent disability.

(c) In case of permanent disability, in addition to the foregoing, a sum equal to two years' earnings for total disability.

Eighteen months' earnings, if total disability extends only to former trade.

One year's earnings in cases of partial permanent disability for usual employment, unless the employer agrees to employ injured workmen at some other work at old rate of wages.

(d) In these cases the daily earnings to be considered as not less than 1.50 pesetas (29 cents).

(e) Compensations are increased by 50 per cent if the establishment is lacking in the required safety provisions.

*Revision of compensation.* No special provision is made in the law.

*Insurance.* Employers may contract with authorized insurance companies to assume obligations imposed by law.

*Security of payments.* No special provision is made in the law.

*Settlement of disputes.* Disputes concerning compensation under the law may be carried to special permanent labor tribunals consisting of representatives of the State, employers, and employees.

## SWEDEN.

*Date of enactment.* Approved July 5, 1901; in effect January 1, 1903; amended June 3, 1904. Supplementary act, October 2, 1908.

*Injuries compensated.* Injuries by accidents to workmen resulting from the employment, and causing death, or disability for more than sixty days,<sup>1</sup> unless due to the willful act or gross negligence of the victim or to the willful act of a third person who has neither the supervision nor the direction of the work.

*Industries covered.* Practically all establishments engaged in forestry work, mining, quarrying, furl and ice cutting and handling, manufacturing, chimney sweeping, rafting, fishing, railway and tramway service, handling goods, building trades, conduit, road and other construction work, and electricity, gas, and water distribution. Employers in other industries may insure their employees in the State Insurance Institute and thereby be placed under provisions of the act. Employees in other industries may secure the protection of the act by insuring themselves in the State Insurance Institute.

*Persons compensated.* Workmen and foremen.

*Government employees.* Act applies to employees in the State and communal services when engaged in any of the industries enumerated above.

*Burden of payment.* Entire cost of compensation rests upon employer, except that fishermen under the act contribute a flat annual rate, and the State makes up any deficit.

*Compensation for death.* When death results from the injury within two years—

(a) Funeral benefit of 60 crowns (\$16.08).

(b) Annual pensions not exceeding in the aggregate 300 crowns (\$30.40), to be distributed to widow, until remarriage 120 crowns (\$32.16); each child under 15 years of age 60 crowns (\$16.08).

*Compensation for disability.*

(a) If permanently disabled, annual pension of 300 crowns (\$30.40) in case of total disability, and a smaller sum corresponding to loss of earning power in case of partial disability, pension to begin with sixty-first day of disability, or later if permanent character of the disability was not then established.

(b) If temporarily disabled for more than sixty days, 1 crown (27 cents) per day, beginning with sixty-first day.

*Revision of compensation.* Suit may be brought in a court of first instance by injured employee for a revision of compensation within two years from the date of the fixing of the same.

*Insurance.* If an injured person receives an allowance or pension from an organization which is supported entirely or in greater part by the employer, or if the victim is insured in a private organization by his employer, the amounts received from such a source may be deducted from payments required of employer under the act. Employers may transfer burden of payment of compensation by insuring in the State Insurance Institute, created for this purpose by the act, or in individual cases purchase annuities for pensioners from this institution. Other arrangements may be made between employers and employees if the State Insurance Institute finds upon examination that they are not unfavorable to the employees.

*Security of payments.* An employer may be required to furnish adequate security for the payment of the pension to cover the contingency of his neglecting to pay the same, of his retiring from business or leaving the country, or of his becoming insolvent. If he fails to furnish security he may be required to pay a lump sum equal to the capital value of the pension plus the payments and interest due, which amount, in the case of an injured employee, must be invested in the purchase of an annuity from the State Insurance Institute.

*Settlement of disputes.* Disputes may be settled either by arbitration or by bringing suit in a court of first instance. The demand for arbitration must be made or the suit brought within two years after the accident or in case of fatal accidents within two years after the death of the victim. If the action is against the State Insurance Institute, one year more is allowed.

<sup>1</sup> Voluntary sickness insurance laws, Oct. 30, 1891, July 4, 1910, provide benefits up to 90 days for accidents causing disability of over 3 days.

## SWITZERLAND.

*Date of enactment.* June 13, 1911, accepted by referendum February 4, 1912.

*Injuries compensated.* Every bodily injury suffered by an injured person in the course of work performed under direction of the director, or his agent, of the insured enterprise, or service undertaken in the interest of the enterprise, or during interruption of work, before or after work, if the insured person is on the premises, or in the danger zone, without fault on his part. All insured persons contracting an occupational disease due to the action of injurious substances used in the establishment.

*Industries covered.* Railway and postal services, steam vessels, factories, building trades, transportation by land and water, rafting, telegraph and telephone lines, engineering works, excavating, mines, quarries, manufacture of explosives.

*Persons compensated.* All employees, laborers, apprentices, laborers without pay, and probationers.

*Government employees.* No special provision is mentioned in the law.

*Burden of payment.* In the case of occupational accident insurance, premiums are paid by the employers; in nonoccupational accident insurance, three-fourths by the insured person and one-fourth by the Confederation.

*Compensation for death.*

(a) A funeral benefit of 40 francs (\$7.72).

(b) To widow or dependent widower or a widower who shall become infirm or incapacitated within 5 years after the death of the wife, an annuity of 30 per cent of annual wages of the insured. On the remarriage of a widow she is allowed a lump sum equivalent to her annuity of 3 years.

(c) To each child until the completion of 16 years of age an annuity of 15 per cent of said annual earnings, 25 per cent if orphaned of both parents; if upon the completion of 16 years said child is permanently incapacitated, annuity to continue till 70 years of age.

(d) Ascendants in a direct line are entitled during life, and brothers and sisters until 16 years of age, to a total annuity of 20 per cent, equally distributed.

The total annuities payable shall not exceed 60 per cent of the earnings of the insured persons.

*Compensation for accident.*

(a) Free medical attendance, medicine, surgical apparatus, and necessary traveling expenses.

(b) Indemnity for loss of time payable beginning with third day after the accident, equal to 80 per cent of earnings. If treatment in a hospital is necessary the fund may retain, in the case of a person without family, three-fourths, and, with a family, one-half of the loss of time indemnity.

Loss of time payments are based on daily earnings not exceeding 14 francs (\$2.70).

(c) An annuity for total disability equal to 70 per cent of annual earnings. For partial disability a proportionate rate. Annuities are based on annual earnings not exceeding 4,000 francs (\$772).

(d) When medical treatment if instituted may reasonably be expected to improve the earning capacity of the persons, the annuity may be replaced by such treatment payable in the same manner as loss of time and hospital treatment.

(e) A lump-sum payment not exceeding in value an annuity for 3 years may be made to any person in whose condition no reasonable improvement may be expected from medical treatment, and who will probably recover his capacity for labor.

*Revision of compensation.* Revision of annuity may be had at any time within 3 years from its establishing, provided the degree of disability undergoes any essential change. After that time revision may be had only at the expiration of the sixth and ninth years.

*Insurance.* Compulsory in a National fund against accidents, occupational and non-occupational; and voluntary insurance of all persons 14 years of age and over, and heads of establishments who have themselves and their laborers insured, may insure such other persons against accidents for which they are civilly responsible.

*Security of payments.* Under Government control.

*Settlement of disputes.* Cantonal courts decide in the first instance subject to appeal to the Federal Insurance Court.



## TASMANIA.

*Date of enactment.* January 13, 1911; in effect July 1, 1911.

*Injuries compensated.* Personal injury by accident arising in the course of employment, causing disability from earning full wages for at least one week, or death, except injuries attributable to insobriety, or serious and willful misconduct, or breach of law, or gross negligence, and those occurring while proceeding to or from place of work.

*Industries covered.* Railroads, factories, mines, quarries, engineering work, or any other industry so declared by a resolution of parliament.<sup>1</sup>

*Persons compensated.* Any worker, except casual, employed in manual labor whose annual earnings do not exceed £156 (\$759.17).

*Government employees.* Act applies to workers in Government service to whom it would apply if the employer were a private person.

*Burden of payment.* The entire cost rests upon the employer, but if there are contractors, then upon such contractors and the principal jointly and severally.

*Compensation for death.*

- (a) To those wholly dependent a sum equal to three years' earnings of the deceased employee, but not less than £100 (\$486.65) nor more than £200 (\$973.30).
- (b) To those partially dependent a sum proportionate to the loss to such dependents, but not larger than above amount, to be determined by agreement or arbitration.
- (c) If deceased leaves no dependents, reasonable expenses of medical attendance and burial, but not to exceed £30 (\$146), provided he is unable to meet such expenses.

*Compensation for disability.*

- (a) A weekly payment during incapacity of not more than 50 per cent of employee's average weekly earnings during previous 12 months, but not exceeding 30 shillings (\$7.30), and a total liability not exceeding £200 (\$973.30). If incapacity lasts less than two weeks, no payment is required for the first week. Aged and infirm employees may agree in advance to accept reduced amounts.
- (b) Minor persons may be allowed full earnings during incapacity, but weekly payments may not exceed 10 shillings (\$2.43).
- (c) For certain permanent injuries (mutilations, etc.) a fixed per cent of the compensation paid above for partial and total disability.

A lump sum may be substituted for the weekly payments after two weeks.

*Revision of compensation.* Weekly benefits may be revised at the request of either party.

*Insurance.* Employers may contract with their employees for substitution of a scheme of compensation, benefit, or insurance in any approved company in place of the provisions of the act if the scheme is shown to be not less favorable to the general body of employees and their dependents than the provisions of the act. In such case the employer is liable only in accordance with such scheme.

*Security of payments.* In case of the employer's insolvency, the amount of compensation due under the act, up to £100 (\$486.65) in any individual case, is classed as a preferred claim; or, where an employer has entered into a contract with insurers in respect of any liability under the act to any workman, such rights of the employer, in the event of his insolvency, are transferred to and vested in the workman.

*Settlement of disputes.* Questions arising under the act are settled by agreement of the parties or by arbitration before a special commissioner according to ordinary rules of court.

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<sup>1</sup> Seamen are compensated under a Commonwealth law of Dec. 28, 1911.

## TRANSVAAL.

*Date of enactment.* August 20, 1907; in effect April 1, 1908.

*Injuries compensated.* Injuries by accident arising out of and in the course of the employment which cause the workman's death or necessitate his absence from work for over one week. Compensation is not paid when injury is due to serious and willful misconduct.

*Industries covered.* Employment at or about any trade, industry, business, or public undertaking, including agriculture, but excluding domestic service.

*Persons compensated.* Any white person regularly employed for the purposes of the employers' trade or business whose annual earnings do not exceed £500 (\$2,433.25), but exclusive of home workers and subcontractors.

*Government employees.* All civil government employees are covered by this act if employed in establishments or undertakings to which the law applies, provided that when other pension provisions have been made the injured employee or his surviving dependents have the right to choose between the two methods of compensation.

*Burden of payment.* Entire cost of compensation rests upon employer.

*Compensation for death.*

- (a) A sum equal to two years' wages, but not more than £500 (\$2,433.25), to those dependent upon earnings of the deceased, to be distributed among the dependents, either by agreement or by order of the local courts.
- (b) Temporary payments previously made for over three months shall be deducted from the above amounts.
- (c) If deceased left no dependents, reasonable expenses of medical attendance and burial, not exceeding £60 (\$291.99).

*Compensation for disability.*

- (a) A weekly payment during disability of 50 per cent of the wages at the time of injury.
- (b) In case of total permanent disability, an amount equal to three years' wages, minus the amount paid in weekly compensation, but not over £750 (\$3,649.88).
- (c) In case of partial disability, an amount equal to probable loss of earning power for three years, minus the amount paid out in weekly compensation, but not over £375 (\$1,824.94).
- (d) In case of minors suffering total permanent disability the courts may increase the compensation to £300 (\$1,459.95) if three years' wages are less than this amount, and if suffering from partial permanent disability the court may increase the compensation to £150 (\$729.98).

*Revision of compensation.* Employer may apply for revision or setting aside of order to pay weekly compensation on the ground of recovery of the employee or his willful retardation of recovery or refusal to undergo medical examinations or if lack of notice of accident or subsequent proof of serious and willful misconduct. Injured employee has right to make a new application if compensation is denied and injury subsequently proves more serious than expected.

*Insurance.* Right of insurance against the obligations of this act is not regulated. No release from liability is affected by such insurance.

*Settlement of disputes.* Orders for granting benefits are given by local magistrates, after holding an inquiry. Appeals may be had to the magistrate himself, and from him to the supreme court.

**VENEZUELA.**

*Date of enactment.* February 23, 1906.

*Injuries compensated.* Death, injury, or total disability resulting from an accident.

*Industries covered.* Mining.

*Persons compensated.* Any miner suffering injury as a result of an accident.

*Government employees.* The law makes no provision for compensation of government employees.

*Burden of payment.* Not stated in the law.

*Compensation.* Amount to be determined by agreement or by a committee composed of one person appointed by each party and one by the highest civil authority.

*Revision of compensation.* No scheme of revision is provided.

*Insurance.* No plan for transfer of burden to insurance company or otherwise is provided.

*Settlement of disputes.* The committee above provided for.

## WESTERN AUSTRALIA.

*Date of enactment.* December 21, 1912; in effect on a date fixed by the governor by order in council.

*Injuries compensated.* All injuries caused to a workman arising out of and in the course of the employment causing death, or disability for at least one week, except when due to serious and willful misconduct of the workman injured.

*Industries covered.* Railways, waterworks, tramways, electric-light plants, factories, mines, quarries, engineering and building work, cutting standing timber, cutting scrub and clearing land; manufacture and use of explosives; using machines driven by mechanical power; driving vehicles moved by horse or mechanical power; any occupation in which worker incurs risk of falling any distance, if injury or death results; navigation on Western Australian ships in territorial waters.<sup>1</sup>

*Persons compensated.* All persons engaged under contract in any employment, except casual workers, outworkers, and those having annual earnings in excess of £300 (\$1,459.95).

*Government employees.* Act applies to all persons employed under the Crown to whom it would apply if employer were a private person.

*Burden of payment.* Entire cost of compensation rests upon employer, but if there are contractors and subcontractors, then upon such jointly and severally.

*Compensation for death.*

- (a) A sum equal to three years' earnings, but not less than £300 (\$1,459.95) nor more than £400 (\$1,946.60), to those wholly dependent upon earnings of deceased.
- (b) A sum less than above amount if dependents were partly dependent upon deceased, to be agreed upon by the parties or fixed by local court.
- (c) Reasonable expenses of medical attendance and burial not to exceed £100 (\$486.65), if deceased leaves no dependents.

*Compensation for disability.*

- (a) Reasonable expenses of medical and surgical aid, but not in excess of £1 (\$4.87).
- (b) A weekly payment during disability after second week, not exceeding 50 per cent of injured person's average weekly earnings during the previous twelve months, such weekly payment not to exceed £2 (\$9.73) and total liability not to exceed £400 (\$1,946.60).
- (c) In case of partial disability, regard is to be had to the difference between average weekly earnings before and after the accident, and to any payment other than wages made by employer on account of the injury.
- (d) For certain permanent injuries (mutilations, etc.) a fixed per cent of the compensation paid above for partial and total disability.

A lump sum may be substituted for weekly payments, after six months, on the application of the employer, the amount to be determined by the court in default of agreement.

*Revision of compensation.* Weekly payments may be revised by the court at request of either party.

*Insurance.* Employers may contract with their employees for substitution of a scheme of compensation, benefit, or insurance in place of the provisions of the act, if the registrar of friendly societies certifies that the scheme is on the whole not less favorable to the general body of employees and their dependents than the provisions of the act. In such case employer is liable only in accordance with this scheme.

*Security of payments.* When an employer becomes liable under the act to pay compensation, and is entitled to any sum from insurers on account of the amount due to a workman under such liability, then in the event of his becoming insolvent such workman has a first charge upon this sum for the amount so due. Compensation for injuries sustained in the course of employment in or about a mine, factory-building, or vessel is deemed a charge on the employer's interest in such property.

*Settlement of disputes.* Disputes arising under the act are settled by the local court of the district in which the injury is received.

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<sup>1</sup> Seamen are compensated under a Commonwealth law of Dec. 28, 1911.



# APPENDIX.

## TEXT OF WORKMEN'S COMPENSATION LAWS—UNITED STATES.

### ARIZONA.

#### CONSTITUTION.

##### ARTICLE XVIII.—*Employment of labor—Compensation for injuries to workmen.*

SECTION 8. The legislature shall enact a workmen's compulsory compensation law applicable to workmen engaged in manual or mechanical labor in such employments as the legislature may determine to be especially dangerous, by which compulsory compensation shall be required to be paid to any such workman by his employer, if in the course of such employment personal injury to any such workman from any accident arising out of, and in the course of, such employment is caused in whole, or in part, or is contributed to, by a necessary risk of danger of such employment, or a necessary risk or danger inherent in the nature thereof, or by failure of such employer, or any of his or its officers, agents, or employees, or employees, to exercise due care, or to comply with any law affecting such employment: *Provided*, That it shall be optional with said employee to settle for such compensation, or retain the right to sue said employer as provided by this constitution.

Compulsory compensation.

#### ACTS OF 1913.

##### CHAPTER VII.—*Compensation for injuries to workmen.*

SECTION 65. This chapter is a workman's compulsory compensation law as provided in section 8 of Article XVIII of the State constitution.

Title.

SEC. 66. Compulsory compensation shall be paid by his employer to any workman engaged in any employment declared and determined as in the next section hereof (as provided in sec. 8 of Article XVIII of the State constitution) to be especially dangerous, whether said employer be a person, firm, association, company, or corporation, if in the course of the employment of said employee personal injury thereto from any accident arising out of, and in the course of, such employment is caused in whole, or in part, or is contributed to, by a necessary risk or danger of such employment, or a necessary risk or danger inherent in the nature thereof, or by failure of such employer, or any of his or its officers, agents, or employees, or employees, to exercise due care, or to comply with any law affecting such employment.

Compensation to be paid, when.

SEC. 67. The employments hereby declared and determined to be especially dangerous (as provided in sec. 8 of Article XVIII of the State constitution) within the meaning of this chapter are as follows:

Especially dangerous employment.

1. The operation of steam railroads, electrical railroads, street railroads, by locomotives, engines, trains, motors, or cars of any kind propelled by a steam, electricity, cable, or other mechanical power, including the construction, use or repair of machinery, plants, tracks, switches, bridges, roadbeds, upon, over, and by which such railway business is operated.

2. All work when making, using or necessitating dangerous proximity to gunpowder, blasting powder, dynamite, compressed air, or any other explosive.

3. The erection or demolition of any bridge, building, or structure in which there is, or in which the plans and specifications require, iron or steel frame work.

4. The operation of all elevators, elevating machinery or derricks or hoisting apparatus used within or on the outside of any bridge, building or other structure for conveying materials in connection with the erection or demolition of such bridge, building or structure.

5. All work on ladders or scaffolds of any kind elevated twenty (20) feet or more above the ground or floor beneath in the erection, construction, repair, painting or alteration of any building, bridge, structure or other work in which the same are used.

6. All work of construction, operation, alteration or repair, where wires, cables, switchboards, or other apparatus or machinery are in use charged with electrical current.

7. All work in the construction, alteration or repair of pole lines for telegraph, telephone or other purposes.

8. All work in mines; and all work in quarries.

9. All work in the construction and repair of tunnels, subways and viaducts.

10. All work in mills, shops, works, yards, plants, and factories where steam, electricity, or any other mechanical power is used to operate machinery and appliances in and about such premises.

Alternative rights of employees.

SEC. 68. In case such employee or his personal representative shall refuse to settle for such compensation as provided in section 8 of Article XVIII of the State constitution, and chooses to retain the right to sue said employer (as provided in any law provided for in section 7, Article XVIII of the State constitution) he may so refuse to settle and may retain said right.

Failure to exercise due care.

SEC. 69. It is hereby declared and determined to be contrary to public policy that any employer conducting any especially dangerous industry, through any of his or its officers, agents, or employee or employees, shall fail to exercise due care, or fail to comply with any law affecting such employment, in such manner as to endanger the lives and safety of employees thereof, without assuming the burden of the financial loss through disability entailed upon such employees, or their dependents, through such failure; and it is further declared and determined to be contrary to public policy that the burden of the financial loss to employees in such dangerous employments, or to their dependents, due to injuries to such employees received through such accidents as are hereinbefore mentioned shall be borne by said employees without due compensation paid to said employees, or their dependents, by the employer conducting such employment, owing to the inability of said employees to secure employment in said employments under a free contract as to the conditions under which they will work.

Liability without fault.

SEC. 70. The common law doctrine of no liability without fault is hereby declared and determined to be abrogated in Arizona as far as it shall be sought to be applied to the accidents hereinbefore mentioned.

What injuries to be compensated.

SEC. 71. When, in the course of work in any of the employments described in section 67 of this title, personal injury by accident arising out of and in the course of such labor, service, or employment, is caused to or suffered by any workman engaged therein, by any risk or failure specified in section 66 hereof, then such employer shall be liable to and must make and pay compensation to the workman injured, and his personal representative, when death ensues, for the benefit of the estate of the deceased, for such injury at the rates and in the manner hereinafter set out in this chapter.

Waiting time.

*Provided*, That the employer shall not be liable under this chapter in respect of any injury which does not disable the workman for a period of at least two weeks after the date of the accident from earning full wages at the work at which he was employed at the time of the injury, and

*Provided, further*, That the employer shall not be liable under this chapter in case the employee refuses to settle for such compensation and retains his right to sue as provided in section 68 of this title.

Amount of compensation—

SEC. 72. When an injury is received by a workman engaged in any labor or service specified in section 67 of this title, and for which the

employer is made liable as specified in section 71 hereof, then the measure and amount of compensation to be made by the employer to such workman or his personal representative for such injuries, shall be as follows:

1. If the injury by accident does not result in death within six months from the date of the accident, but does produce or result in total incapacity of the workman for work at any gainful employment for more than two (2) weeks after the accident then the compensation to be made to such workman by his employer shall be a semimonthly payment commencing from the date of the accident and continuing during such total incapacity, of a sum equal to fifty (50) per centum of the workman's average semimonthly earnings when at work on full time during the preceding year, if he shall have been in the employment of such employer for such length of time; but if not for a full year, then fifty (50) per centum of the average wages, whether semimonthly, weekly, or daily, being earned by such workman during the time he was at work for his employer before and at the time of the accident. For total disability;

2. In case (1) the accident does not wholly incapacitate the workman from the same or other gainful employment; or (2) in case the workman, being at first wholly incapacitated, thereafter recovers so as to be able to engage at labor in the same or other gainful employment, thereby earning wages, then in each case the amount of the semimonthly payment shall be one-half of the difference between the average earnings of the workman at the time of the accident determined as above provided, and the average amount he is earning or is capable of earning, thereafter, semimonthly in the same or other employment—it being the intent and purpose of this chapter, that the semimonthly payment shall not exceed, but equal, from time to time one-half the difference between the amount of average earnings ascertained as aforesaid at the time of the accident, and the average amount which the workman is earning, or is capable of earning, in the same or other employment or otherwise, after the accident, and at the time of such semimonthly payment. Such payments shall cease upon the workman recovering and earning, or being capable of earning, in the same or other gainful employment or otherwise, wages equal to the amount being earned at the time of the accident. For partial disability;

*Provided, however,* That the payments shall continue to be made as herein determined to the workman so long as incapacity to earn wages in the same or other employment continues, but in no case shall the total amount of such payments as provided in subsections 1 and 2 of this section exceed four thousand (\$4,000) dollars.

3. When the death of the workman results from the accident within six months thereafter, and the workman, at the time of his death, leaves a widow, and a minor [minor] child, or children dependent on such workman's earnings for support and education, then the employer shall pay to the personal representative of the deceased workman for the exclusive benefit of such widow and child, or children, a sum equal to twenty-four hundred times one-half the daily wages or earnings of the decedent, determined as aforesaid, but in no event more than the sum of four thousand dollars (\$4,000). Such sum shall be paid in lump and held in trust by such representative for such widow and children and applied by him to the support of the widow while she remains unmarried, and to the support and education of the children so long as necessary, and until eighteen (18) years of age, in such way and manner as to him shall seem best and just, under and in accordance with the directions of the court having jurisdiction of the estate of the decedent; any balance remaining unapplied at the closing of the estate of the decedent shall be distributed to the decedent's widow (if still his widow), and the children or next of kin, as provided by the law of descents. The personal representative may pay out of said fund the reasonable and necessary expenses of medical attendance and burial of the decedent. If the workman leaves no widow or child, or children, but a father or mother or sister dependent on him for support, then said sum shall be for their benefit to be applied as above provided. If the deceased workman leaves no widow, children, or other dependents, then the employer shall pay the reasonable expenses of medical attendance upon the decedent and also provide and secure his burial. For death.



in a proper cemetery, which may be chosen by the friends of the decedent.

Medical exam-  
inations.

SEC. 73. Any workman claiming compensation under the provisions of this chapter shall, if requested by the employer, or upon written notice by him given to the employer, submit himself for bodily examination by some competent licensed medical practitioner or surgeon of the county in which the workman then resides, to ascertain and determine the nature, character, extent, and effect of the injury to such workman at the time of such examination for the purpose of ascertaining the semimonthly compensation then and thereafter to be made. The employer or the workman not having requested the examination may have present at the examination a medical representative, by him chosen. Each party shall pay his chosen representative the expenses of such examination. The said notice shall be given at least ten (10) days before the date fixed for the examination, and the place shall be convenient for the workman to be examined. In case the employer is a corporation, the notice may be served on any officer or agent thereof in the said county, and if none there, then elsewhere in the State. The examiner shall make a verified report in writing in duplicate within ten (10) days after the examination and furnish one copy to the employer and one to the workman. If any workman neglects or refuses to submit to an examination, his right to compensation, if any, shall be suspended until he notifies the employer in writing of his readiness to submit thereto. No persons other than the physicians and surgeons aforesaid shall attend any examination except by agreement of the parties. If the employer and the workman each have an examiner, and they shall agree upon and join in a report, the same shall be conclusive so long as it remains in force. If either the employer or the employee, having opportunity, fails to provide an examiner, then the report of the examiner making such examination shall likewise be conclusive so long as the same remains in force. If the workman and the employer each have an examiner present, and they disagree as to the nature, character, extent, or effect of the injury, and the degree of incapacity, if any, for labor on the part of the workman at the time of such examination, then they shall join in a written report stating the matters in which they agree, and in which they disagree, and mutually select some disinterested medical practitioner or surgeon of the county, to whom the same shall be referred, and who shall proceed promptly to make an examination of the workman as to the matters in disagreement, and the same shall be conclusive so long as such report remains in force, which report shall be made by such disinterested examiner and verified, and a copy thereof furnished to the employer and the workman. For making such examination, such examiner shall be entitled to a fee of ten dollars (\$10), to be paid one-half by the employer and one-half by the workman at the time of such examination. Such examination may be required by the workman or the employer at periods not shorter than three months from the date of the last examination. The report of any examination shall supersede all previous reports. When there is disagreement between the examiners aforesaid, and they can not agree upon a third person as above provided, then it shall be the duty of the chairman of the board of supervisors of the county, on written notice of either the workman or employer, to appoint some licensed medical practitioner or surgeon, who shall be a resident of the county, to make such examination, and said appointee shall be entitled to the same compensation.

Notice.

SEC. 74. Every workman seeking compensation under the provisions of this chapter, where the same is not fatal or does not render him incompetent to give the notice, shall, within two weeks after the day of the accident, give notice in writing to the employer, or his representative employing such workman, or to the foreman or other employee of the employer under whom he was working at the time of the accident, and before the workman has voluntarily left the service of the employer and during his disability. The notice shall state (1) the name and address of such workman, (2) the date and place of the accident, (3) and state in simple words the cause thereof, (4) the nature and degree of the injury sustained, (5) and that compensation is claimed under this chapter. The notice may be written and served personally by the workman or by

any one in his behalf on any person named above in this section, or by mail, postpaid, to such person, addressed to the office, place of business or residence of the person notified. No want or defect or inaccuracy of the notice shall be a bar to the right of the workman to claim and receive compensation under this chapter, or to maintain any proceeding to secure the same, unless the employer proves that he has been seriously prejudiced by such lack of notice. No compensation shall be claimed or allowed so long as such notice is not given. If the workman is killed, or otherwise rendered incompetent to give the notice, the same is not hereby required, nor is any notice required to be given by the personal representative of such deceased person. It shall be the duty of any one giving a notice as in this section provided, to mail a duplicate copy to the attorney general of this State.

SEC. 75. Any question which may arise between the employer and the workman or his personal representative, under this chapter, shall be determined either (1) by written agreement between the parties, or (2) by arbitration, or (3) by reference and submission to the attorney general of this State; and in case of a refusal or failure of the employer and workman, or such personal representative, to agree upon a settlement by either of the modes above provided, then by a civil action at law, showing such refusal or failure as a reason for suit. If any employer fails to make and pay compensation, as in this chapter provided, for a period of three months after the date of the accident, or for any two months or more after payment of the last monthly compensation, then the injured workman, if surviving, or the personal representative, in case of death, may bring an action in any court of competent jurisdiction to recover and enforce the compensation herein provided. Such action shall be conducted as near as may be in the same manner as other civil actions at law. The action shall be brought within one year after the happening of the accident, or after the nonpayment of any semimonthly installment theretofore fixed by agreement or otherwise; or within one year after the appointment of a personal representative of the decedent. The judgment in such action, when in favor of the plaintiff, shall be for a sum equal to the amount of payments then due and prospectively due under the provisions of this chapter. The judgment shall be for the total amount thereof and collectible without relief from valuation or appraisal laws. And the court awarding the judgment shall, by proper order, direct that the same shall be paid ratably to the workman, if living, in semimonthly installments until the determination of the periods provided in this chapter the same as if such payments were being made voluntarily or without suit in conformity with this chapter. The judgment by agreement, if it appears to the court to be for the best interests of the workman, may be paid in lump and not otherwise. The court rendering the judgment is hereby given power from time to time to make such orders touching the matter of payments as may appear best to provide for the maintenance and support of the workman and his family during his infirmity, and for his and their benefit and security. The employer shall have the right to stay the judgment in whole, whether the same is to be paid in lump sum or monthly installments, upon securing the same by one or more freehold sureties or a surety company, to be approved by the court rendering the judgment, who shall enter into a recognizance acknowledging themselves bound for the defendant for the payment of the judgment in lump or in partial payments as the same is, or shall be made, payable, together with interest and costs. On failure of any one or more of such payments by the employer, execution may issue out of said court and cause, against such defendant, and his bail from time to time leviable and collectible without relief from valuation or appraisal or stay laws. The recognizance shall be written upon the order book of the court and immediately following the entry of the judgment and signed by such bail and docketed in the judgment docket of the court against such defendant and bailors, which shall bind the property of the same in the same manner as the judgment binds the property of the employer. In an action by a personal representative of a deceased workman, the court shall determine the proportions of the judgment, whether in lump or in installments, to be distributed between the widow and child, or

Settlement of disputes.

Enforcement of claims.

Limitation.

Payments.

Distribution.

children, with power to alter and amend the proportionment from time to time on petition of any party interested as the court may deem best for the support, maintenance, and education of such widow and children.

**Attorney's fees.** In any action under this chapter the court shall fix and allow, at the time of entering the judgment against the employer, a reasonable fee to the workman's attorney, to be taxed against the employer as costs, and collectible in the same manner. From such allowance there shall be no right of appeal. Such attorney shall have no claim for compensation upon the judgment or its proceeds, other than as herein provided. But no allowance, or any fee payable by the workman to an attorney for services, or any fee payable by the workman to an attorney for services in securing a recovery or disbursement, shall ever exceed twenty-five (25) per centum of the principal of the sum recovered; and the same shall not be made a lien on the recovery of its proceeds, except as may be determined and allowed and fixed by the court.

**Payments are preferred claims.** **Sec. 76.** Any workman entitled to monthly or other payments from or to any judgment against any employer as above provided, as compensation shall have the same preferential claim therefor against the property and assets of the employer and any bailor, as now is allowed by law for unpaid wages or personal services. No judgment or any part thereof, nor monthly payments due, or coming due, under this chapter shall be assignable by the workman or subject to mortgage, levy, execution, or attachment. But the same shall stand as a continuing provision for the maintenance and support of such injured workman during his incapacity for the periods provided in this chapter.

**Mental incompetence.** **Sec. 77.** In case an injured workman, having a right of action under the provisions of this chapter, shall be mentally incompetent at the time when any right or privilege accrues thereunder to him, a guardian may be appointed by any court having jurisdiction, to secure and protect the rights of such workman; and the guardian may claim and exercise any and all of such rights or privileges with the same force and effect as if the workman himself had been competent and had claimed or exercised any such right or privilege; and no limitation of time provided in any of the foregoing sections shall run so long as said incompetent workman has no guardian.

**Effect of act.** **Sec. 78.** This chapter shall be construed as a continuation of the law contained in chapter 14 of the laws of the first legislature of the State of Arizona, second session. All workmen employed by an employer at manual and mechanical labor of the kinds defined in section 67 of this title shall be deemed and held in law to be employed and working subject to the provisions of this chapter, and the employer and the workman shall alike be bound by and shall have each and every benefit and right given in this chapter the same as if a mutual contract to that effect were entered into between the employer and the workman at any time before the happening of any accident. It shall be lawful, however, for the employer and workmen to disaffirm an employment under the provisions of this chapter by written contract between them, or by written notice by one to, and served upon the other to that effect before the day of the accident.

**Substitute schemes.** *Provided,* Such written contract does not provide for less compensation than as provided in this chapter. And in the absence of such written contract or written notice, served as above provided, it shall be taken and held that the employment and service is under this chapter; and the same shall be the sole measure of their respective rights and liabilities when and as provided in this chapter.

**Suits.** *Provided,* If, after the accident, either the employer or the workman shall refuse to make or accept compensation under this chapter or to proceed under or rely upon the provisions hereof for relief, then the other may pursue his remedy or make his defense under other existing statutes, the State constitution, or the common law, except as herein provided, as his rights may at the time exist. Any suit brought by the workman for a recovery shall be held as an election to pursue such remedy exclusively.

**Agreements.** **Sec. 79.** Any employer employing workmen to perform labor or services of other kinds than as defined in this chapter, and such workmen

and employees may, by agreement, at any time during the employment, accept and adopt the provisions of this chapter as to liability for accident, compensation, and the methods and means of paying and securing and enforcing the same. And in every such case the provisions of this chapter shall be taken in law and fact to bind the parties as fully as if they were specifically mentioned and embraced in the provisions of this chapter.

SEC. 80. This chapter is remedial in its purpose and shall be construed and applied so as to secure promptly and without burdensome expense to the workmen the compensation herein provided and apportioned so as to provide support during the periods named for the loss of ability to earn full wages.

SEC. 81. Nothing in this chapter shall be deemed or taken to repeal or affect in any way any other acts or laws passed by the first legislature of the State of Arizona, and as [sic] in so far as it refers to the same subject in other acts it shall be deemed to be cumulative only.

SEC. 82. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

SEC. 83. This act shall take effect and be in force from and after the first day of October, 1913.

Approved May 13, 1913.

Nature of act.

Construction.

Repealer.

Act in effect.

## CALIFORNIA.

### CONSTITUTION.

#### ARTICLE XX.—Miscellaneous—Compensation of workmen for injuries.

SECTION 21. The legislature may by appropriate legislation create and enforce a liability on the part of all employers to compensate their employees for any injury incurred by the said employees in the course of their employment irrespective of the fault of either party. The legislature may provide for the settlement of any disputes arising under the legislation contemplated by this section, by arbitration, or by an industrial accident board, by the courts, or by either any or all of these agencies, anything in this constitution to the contrary notwithstanding.

Amendment adopted October 10, 1911.

Compulsory laws authorized.

Settlement of disputes.

### ACTS OF 1913.

#### CHAPTER 176.—Compensation for injuries to employees—State insurance fund.

SECTION 1. This act shall be known, and may be cited, as the "Workmen's Compensation, Insurance and Safety Act" and shall apply to the subjects mentioned in its title.

SEC. 2. The following terms as used in this act shall, unless a different meaning is plainly required by the context, be construed as follows:

(1) The term "commission" means the Industrial Accident Commission of the State of California.

(2) The term "commissioner" means one of the members of the commission.

(3) The term "compensation" means compensation under this act and includes every benefit or payment conferred by sections twelve to thirty-six, inclusive, of this act upon an injured employee, or in the event of his death, upon his dependents, without regard to negligence.

(4) The term "damages" means the recovery allowed in an action at law as contrasted with compensation under this act.

(5) The term "person" includes an individual, firm, voluntary association or a corporation.

(6) The term "insurance carrier" includes the State Compensation Insurance Fund herein created and any private company, corporation or mutual association authorized under the laws of this State to insure employers against liability for compensation under this act.

Title.

Definitions.

(7) The phrase "compensation provisions of this act" means and includes sections twelve to thirty-five, inclusive, of this act.

(8) The phrase "safety provisions of this act" means and includes sections fifty-one to seventy-two, inclusive, of this act.

(9) Whenever in this act the singular is used the plural shall be included; where the masculine gender is used, the feminine and neuter shall be included.

Industrial Ac-  
cident Commis-  
sion.

SEC. 3. There is hereby created a board to consist of three members who shall be appointed by the governor from the State at large and which shall be known as the "Industrial Accident Commission" and shall have the powers, duties and functions hereinafter conferred. Within thirty days prior to the first day of January, 1914, the governor shall appoint the three members of said commission, one for the term of two years, one for the term of three years and one for the term of four years. Thereafter, the term of office of each commissioner shall be four years. Vacancies shall be filled by appointment in the same manner for the unexpired term. Each commissioner shall receive an annual salary of five thousand dollars. Each commissioner shall, before entering upon the duties of his office, take and subscribe the constitutional oath of office.

Organization.

SEC. 4. The commission shall organize by choosing one of its members as chairman. A majority of the commission shall constitute a quorum for the transaction of any business, for the performance of any duty, or for the exercise of any power or authority of the commission. A vacancy on the commission shall not impair the right of the remaining members to perform all the duties and exercise all the power and authority of the commission. The act of the majority of the commission, when in session as a commission, shall be deemed to be the act of the commission, but any investigation, inquiry or hearing, which the commission has power to undertake or to hold, may be undertaken or held by or before any member thereof or any referee appointed by the commission for that purpose, and every finding, order, decision, or award made by any commissioner or referee, pursuant to such investigation, inquiry or hearing, when approved and confirmed by the commission and ordered filed in its office, shall be deemed to be the finding, order, decision or award of the commission.

Seal.

SEC. 5. The commission shall have a seal, bearing the following inscription: "Industrial accident commission State of California, seal." The seal shall be affixed to all writs and authentications of copies of records and to such other instruments as the commission shall direct. All courts shall take judicial notice of said seal.

Office.

SEC. 6. The commission shall keep its principal office in the city and county of San Francisco, and shall also keep an office in the city of Los Angeles, and shall provide itself with suitable rooms, necessary office furniture, stationery and other supplies. For the purpose of holding sessions in other places, the commission shall have power to rent temporary quarters.

Powers.

SEC. 7. The commission shall have full power and authority—

(1) To appoint as its attorney an attorney at law of this State, who shall hold office at the pleasure of the commission. It shall be the right and the duty of the attorney to represent and appear for the people of the State of California and the commission in all actions and proceedings involving any question under this act or under any order or act of the commission and, if directed so to do by the commission, to intervene, if possible, in any action or proceeding in which any such question is involved; to commence, prosecute and expedite the final determination of all actions or proceedings, civil or criminal, directed or authorized by the commission; to advise the commission and each member thereof, when so requested, in regard to all matters in connection with the jurisdiction, powers or duties of the commission and members thereof; and generally to perform all duties and services as attorney to the commission which may be required of him.

(2) To appoint, and it shall appoint, a secretary, who shall hold office at the pleasure of the commission. It shall be the duty of the secretary to keep a full and true record of all the proceedings of the commission, to issue all necessary processes, writs, warrants and notices which the commission is required or authorized to issue, and generally to perform such other duties as the commission may prescribe. The

commission may also appoint such assistant secretaries as may be necessary and such assistant secretaries may perform any duty of the secretary, when so directed by the commission.

(3) To appoint a manager of the State Compensation Insurance Fund who shall hold office at the pleasure of the commission. It shall be the duty of such manager to manage, supervise and conduct, subject to the general direction and approval of the commission, the business and affairs of the State Compensation Insurance Fund and to perform such other duties as the commission may prescribe. Before entering on the duties of his office, he must give an official bond in the sum of \$50,000, and take and subscribe to an official oath. Said bond must be approved by the commission, by written indorsement thereon, and be filed in the office of the secretary of state.

(4) To appoint a superintendent of the department of safety, who shall hold office at the pleasure of the commission and who shall perform such duties as the commission shall prescribe.

(5) To employ such other assistants, officers, experts, statisticians, actuaries, accountants, inspectors, referees and other employees, as it may deem necessary to carry out the provisions of this act, or to perform the duties and exercise the powers conferred by law upon the commission.

Sec. 8. All officers and employees of the commission shall receive such compensation for their services as may be fixed by the commission and shall hold office at the pleasure of the commission and shall perform such duties as are imposed on them by law or by the commission. The salaries of the members of the commission, its attorney, secretary and assistant secretary, as fixed by law or the commission, shall be paid in the same manner as are the salaries of other State officers. The salary or compensation of every other person holding office or employment under the commission, as fixed by law or by the commission, shall be paid monthly, after being approved by the commission, upon claims therefor to be audited by the State board of control. All expenses incurred by the commission pursuant to the provisions of this act, including the actual and necessary traveling and other expenses and disbursements of the members thereof, its officers and employees, incurred while on business of the commission, either within or without the State, shall, unless otherwise provided in this act, be paid from the funds appropriated for the use of the commission, after being approved by the commission, upon claims therefor to be audited by the board of control: *Provided, however,* That no such expenses incurred outside of the State shall be allowed unless prior authorization therefor be obtained from the board of control.

Compensation.

Sec. 9. In all cases in which salaries, expenses, or outgoings of one department under the jurisdiction of the commission are expended in whole or in part on behalf of another department the commission may apportion the same between such departments.

Apportionment of expenses.

Sec. 10. The commission shall cause to be printed and furnished free of charge to any employer or employee, or other person, such blank forms as it shall deem requisite to facilitate or promote the efficient administration of this act; it shall provide a book in which shall be entered the minutes of all its proceedings, a book in which shall be recorded all awards made by the commission and such other books or records as it shall deem requisite for the proper and efficient administration of this act; all such records to be kept in the office of the commission.

Forms and records.

Sec. 11. The commission shall also have power and authority—

Additional powers.

(1) To charge and collect the following fees: For copies of papers and records not required to be certified or otherwise authenticated by the commission, ten cents for each folio; for certified copies of official documents and orders filed in its office or of the evidence taken on proceedings had, 15 cents for each folio.

(2) To publish and distribute in its discretion from time to time, in addition to its annual report to the governor of the State, such further reports and pamphlets covering its operations, proceedings and matters relative to its work as it may deem advisable.

(3) To fix and collect reasonable charges for publications issued under its authority.

(4) The fees charged and collected under this section shall be paid monthly into the treasury of the State to the credit of the "Industrial Accident Fund" and shall be accompanied by a detailed statement thereof.

Liability with-  
out negligence.

SEC. 12. (a) Liability for the compensation provided by this act, in lieu of any other liability whatsoever, shall, without regard to negligence, exist against an employer for any personal injury sustained by his employees by accident arising out of and in the course of the employment and for the death of any such employee if the injury shall proximately cause death, in those cases where the following conditions of compensation concur:

(1) Where, at the time of the accident, both the employer and employee are subject to the compensation provisions of this act.

(2) Where, at the time of the accident, the employee is performing service growing out of and incidental to his employment and is acting within the course of his employment as such.

(3) Where the injury is proximately caused by accident, either with or without negligence, and is not so caused by the intoxication or the willful misconduct of the injured employee.

(b) Where such conditions of compensation exist, the right to recover such compensation pursuant to the provisions of this act, shall be the exclusive remedy against the employer for the injury or death, except that when the injury was caused by the employer's gross negligence or willful misconduct and such act or failure to act causing such injury was the personal act or failure to act on the part of the employer himself, or if the employer be a partnership on the part of one of the partners, or if a corporation, on the part of an elective officer or officers thereof, and such act or failure to act indicated a willful disregard of the life, limb, or bodily safety of employees, any such injured employee may, at his option, either claim compensation under this act or maintain an action at law for damages.

(c) In all other cases where the conditions of compensation do not concur, the liability of the employer shall be the same as if this act had not been passed.

Who are em-  
ployers.

SEC. 13. The term "employer" as used in sections twelve to thirty-five, inclusive, of this act shall be construed to mean: The State, and each county, city and county, city, school district and all public corporations therein, and every person, firm, voluntary association, and private corporation (including any public service corporation), who has any person in service under any appointment or contract of hire, or apprenticeship, express or implied, oral or written, and the legal representatives of any deceased employer.

Employees.

SEC. 14. The term "employee" as used in sections twelve to thirty-five, inclusive, of this act shall be construed to mean: Every person in the service of an employer as defined by section thirteen hereof under any appointment or contract of hire or apprenticeship, express or implied, oral or written, including aliens and also including minors, but excluding any person whose employment is both casual and not in the usual course of the trade, business, profession or occupation of his employer, and also excluding any employee engaged in farm, dairy, agricultural, viticultural or horticultural labor, in stock or poultry raising or in household domestic service.

Compensation.

SEC. 15. Where liability for compensation under this act exists such compensation shall be furnished or paid by the employer and be as provided in the following schedule:

Medical, etc.,  
care.

(a) Such medical, surgical, and hospital treatment, including nursing, medicines, medical and surgical supplies, crutches and apparatus, as may reasonably be required at the time of the injury and within ninety days thereafter, to cure and relieve from the effects of the injury, the same to be provided by the employer, and in case of his neglect or refusal seasonably to do so, the employer to be liable for the reasonable expense incurred by or on behalf of the employee in providing the same.

Disability.

(b) 1. If the accident causes disability, a disability indemnity which shall be payable for one week in advance as wages on the fifteenth day after the injured employee leaves work as a result of the injury, and thereafter on the employer's regular pay day, but not less

frequently than twice in each calendar month, unless otherwise ordered by the commission, subject, however, to the following limitations:

(1) If the period of disability does not last longer than two weeks from the day the employee leaves work as the result of the injury, no disability indemnity whatever shall be recoverable.

Waiting time.

(2) If the period of disability lasts longer than two weeks from the day the employee leaves work as the result of the injury, no disability indemnity shall be recoverable for the first two weeks of such disability.

2. The disability indemnity payable shall be as follows:

(1) If the accident causes temporary total disability, sixty-five per cent of the average weekly earnings during the period of such disability;

Total disability.

(2) If the accident causes temporary partial disability, sixty-five per cent of the weekly loss in wages during the period of such disability;

Partial disability.

(3) If the temporary disability caused by the accident is at times total and at times partial, the weekly disability indemnity during the periods of each such total or partial disability shall be in accordance with paragraphs (1) and (2) of this subdivision respectively;

(4) Paragraphs (1), (2) and (3) of this subdivision shall be limited as follows: aggregate disability indemnity for a single injury causing temporary disability shall not exceed three times the average annual earnings of the employee, nor shall the aggregate disability period for such temporary disability in any event extend beyond two hundred forty weeks from the date of the accident.

(5) If the accident causes permanent disability, the percentage of disability to total disability shall be determined and the disability indemnity computed and allowed as follows: For a ten per cent disability, sixty-five per cent of the average weekly earnings for a period of forty weeks; for a twenty per cent disability, sixty-five per cent of the average weekly earnings for a period of eighty weeks; for a thirty per cent disability, sixty-five per cent of the average weekly earnings for a period of one hundred twenty weeks; for a forty per cent disability, sixty-five per cent of the average weekly earnings for a period of one hundred sixty weeks; for a fifty per cent disability, sixty-five per cent of the average weekly earnings for a period of two hundred weeks; for a sixty per cent disability, sixty-five per cent of the average weekly earnings for a period of two hundred forty weeks; for a seventy per cent disability, sixty-five per cent of the average weekly earnings for a period of two hundred forty weeks, and thereafter ten per cent of such weekly earnings during the remainder of life; for an eighty per cent disability, sixty-five per cent of the average weekly earnings for a period of two hundred forty weeks, and thereafter twenty per cent of such weekly earnings during the remainder of life; for a ninety per cent disability, sixty-five per cent of the average weekly earnings for a period of two hundred forty weeks and thereafter thirty per cent of such weekly earnings during the remainder of life; for a hundred per cent disability, sixty-five per cent of the average weekly earnings for a period of two hundred forty weeks and thereafter forty per cent of such weekly earnings during the remainder of life.

Permanent disability.

(6) The indemnity for permanent disabilities intermediate to those fixed by the foregoing schedule shall be computed and allowed as follows: If under seventy per cent, sixty-five per cent of the average weekly earnings for four weeks for each one per cent of disability; if seventy per cent or over, sixty-five per cent of the average weekly earnings for two hundred forty weeks and thereafter one per cent of such weekly earnings for each one per cent of disability in excess of sixty per cent to be paid during the remainder of life.

(7) In determining the percentages of permanent disability, account shall be taken of the nature of the physical injury or disfigurement, the occupation of the injured employee and his age at the time of such injury.

(8) Nothing contained in the foregoing schedule of permanent disability indemnity shall be held to limit the amount of compensation recoverable for any such permanent injury during any period of total incapacity due to illness resulting from that injury, but any sum so received shall be deducted from the compensation payable in accordance with the said schedule.



(9) The following permanent disabilities shall be conclusively presumed to be total in character: Loss of both eyes or the sight thereof; loss of both hands or the use thereof; an injury resulting in a practically total paralysis; an injury to the brain resulting in incurable imbecility or insanity. In all other cases, permanent total disability shall be determined in accordance with the fact.

Death following disability.

3. The death of the injured employee shall not affect the liability of the employer under subsections (a) and (b) of this section, so far as such liability has accrued and become payable at the date of the death, and any accrued and unpaid compensation shall be paid to the dependents, if any, without administration, or if there are no dependents, to the personal representatives of the deceased employee or other person entitled thereto, but such death shall be deemed to be the termination of the disability.

Compensation for death.

(c) If the accident causes death, either with or without disability, a death benefit which shall be payable in installments equal to sixty-five per cent of the average weekly earnings of the deceased employee, upon the employer's regular pay day, but not less frequently than twice in each calendar month, unless otherwise ordered by the commission, which death benefit shall be as follows:

Minimum and maximum earnings.

(1) In case the deceased employee leaves a person or persons wholly dependent upon him for support, the death benefit shall be a sum sufficient, when added to the disability indemnity which, at the time of death has accrued and become payable, under the provisions of subsection (b) hereof, to make the total disability indemnity and death benefit equal to three times his average annual earnings, such annual earnings to be taken at not less than three hundred and thirty-three dollars and thirty-three cents nor more than one thousand six hundred and sixty-six dollars and sixty-six cents.

(2) In case the deceased employee leaves no person wholly dependent upon him for support, but one or more persons partially dependent therefor, the death benefit shall be such percentage of three times such average annual earnings of the employee as the annual amount devoted by the deceased to the support of the person or persons so partially dependent bears to such average annual earnings: *Provided*, That the death benefit shall not be greater than a sum sufficient, when added to the disability indemnity which, at the time of the death, has accrued and become payable under the provisions of subsection (b) hereof to make the total disability indemnity and death benefit equal to three times his average annual earnings, such average annual earnings to be taken at not less than three hundred and thirty-three dollars and thirty-three cents nor more than one thousand six hundred and sixty-six dollars and sixty-six cents.

(3) If the deceased employee leaves no person dependent upon him for support, the death benefit shall consist of the reasonable expenses of his burial not exceeding one hundred dollars and such further death benefit as may be provided by law.

(d) Payment of compensation in accordance with the order and direction of the commission shall discharge the employer from all claims therefor.

Limitations.

SEC. 16. (a) Unless compensation is paid or an agreement for its payment made within the time limited in this section for the institution of proceedings for its collection, the right to institute such proceedings shall be wholly barred.

(b) The periods within which proceedings for the collection of compensation may be commenced are as follows:

(1) Proceedings for the collection of the benefit provided by subsection (a) of section fifteen or for the collection of the disability indemnity provided by subsection (b) of said section fifteen must be commenced within six months from the date of the accident, except as otherwise provided in this act.

(2) Proceedings for the collection of the death benefit provided by subsection (c) of said section fifteen must be commenced within one year from the date of death, and in any event within two hundred forty weeks from the date of the accident, and can only be maintained when it appears that death ensued within one year from the date of the accident, or that the accident causing death also caused disability

which continued to the date of the death and for which a disability indemnity was paid, or an agreement for its payment made, or proceedings for its collection commenced within the time limited for the commencement of proceedings for the recovery of the disability indemnity.

(c) The payment of the disability indemnity or death benefit, or any part thereof, or agreement therefor, shall have the effect of extending the period within which proceedings for its collection may be commenced, six months from the date of the agreement or last payment of such disability indemnity or death benefit or any part thereof.

(d) If an injured employee, or in the case of his death, one or more of his dependents, shall be a minor or incompetent at any time when any right or privilege accrues to such person under the provisions of this act, a general guardian, appointed by the court or a guardian ad litem or trustee appointed by the commission or a commissioner may, on behalf of any such person, claim and exercise any such right or privilege with the same force and effect as if no such disability existed; and no limitation of time provided by this act shall run against any such minor or incompetent unless and until such guardian or trustee is appointed.

Minor and incompetent beneficiaries.

(e) No compensation shall be payable in respect of the death or disability of an employee if his death is caused, or if and so far as his disability is caused, continued, or aggravated, by an unreasonable refusal to submit to medical treatment, or to any surgical treatment, the risk of which is, in the opinion of the commission, inconsiderable in view of the seriousness of the injury.

Refusing medical treatment.

(f) The fact that an employee has suffered a previous disability, or receives compensation therefor, shall not preclude him from compensation for a later injury, or his dependents from compensation for death resulting therefrom, but in determining compensation for the later injury, or death resulting therefrom, his average annual earnings shall be fixed at such sum as will reasonably represent his annual earning capacity at the time of the later injury.

Second injuries.

(g) Any payment, allowance or benefit received by the injured employee during the period of his incapacity, or by his dependents in the event of his death, which by the terms of this act was not then due and payable or when there is any dispute or question concerning the right to compensation, shall not, in the absence of any agreement, be construed to be an admission of liability for compensation on the part of the employer, or the acceptance thereof as a waiver of any right or claim which the employee or his dependents may have against the employer, but any such payment, allowance or benefit may be taken into account by the commission in fixing the amount of the compensation to be paid.

Payments not due.

Sec. 17. (a) The average weekly earnings referred to in section fifteen hereof shall be one fifty-second of the average annual earnings of the employee; in computing such earnings his average annual earnings shall be taken at not less than three hundred and thirty-three dollars and thirty-three cents, nor at more than one thousand six hundred and sixty-six dollars and sixty-six cents and between said limits shall be arrived at as follows:

Computing earnings.

(1) If the injured employee has worked in the same employment, whether for the same employer or not, during substantially the whole of the year immediately preceding his injury, his average annual earnings shall consist of three hundred times the average daily earnings, wage or salary which he earned as such employee during the days when so employed.

(2) If the injured employee has not so worked in such employment during substantially the whole of such immediately preceding year, his average annual earnings shall consist of three hundred times the average daily earnings, wage or salary which an employee of the same class, working substantially the whole of such immediately preceding year, in the same or a similar kind of employment, in the same or a neighboring place, earned during the days when so employed.

(3) In every case where for any reason the foregoing methods of arriving at the average annual earnings of the injured employee can not reasonably and fairly be applied, such annual earnings shall be taken

at such sum as, having regard to the previous earnings of the injured employee, and of other employees of the same or most similar class, working in the same or most similar employment, in the same or neighboring locality, shall reasonably represent the average annual earning capacity of the injured employee at the time of the injury in the kind of employment in which he was then working, or in any employment similar thereto.

(b) In determining such average weekly earnings, there shall be included the market value of board, lodging, fuel and other advantages received by the injured employee, as part of his remuneration and which can be estimated in money, but such average weekly earnings shall not include any sum which the employer paid to the injured employee to cover any special expenses entailed on him by the nature of his employment.

(c) If the injured employee is a minor, and his incapacity, whether total or partial, is permanent, his average weekly earnings shall be deemed, within the limits fixed, to be the weekly sum, that under ordinary circumstances he would probably be able to earn after obtaining the age of twenty-one years, in the occupation in which he was employed at the time of the injury, if he had not been injured.

Wage loss

SEC. 18. The weekly loss in wages referred to in section fifteen hereof shall consist of the difference between the average weekly earnings of the injured employee, computed according to the provisions of said section, and the weekly amount which the injured employee, in the exercise of reasonable diligence, will probably be able to earn during the disability, to be determined in view of the nature and extent of the injury. In computing such probable earnings due regard shall be had to the ability of the injured employee to compete in an open labor market.

Dependents.

SEC. 19. (a) The following shall be conclusively presumed to be wholly dependent for support upon a deceased employee:

(1) A wife upon a husband with whom she was living at the time of his death.

(2) A husband upon a wife upon whose earnings he is partially or wholly dependent at the time of her death.

(3) A child or children under the age of eighteen years (or over said age, but physically or mentally incapacitated from earning) upon the parent with whom he or they are living at the time of the death of such parent or for whose maintenance such parent was legally liable at the time of his death, there being no surviving dependent parent.

(b) In all other cases, questions of entire or partial dependency and questions as to who constitute dependents and the extent of their dependency shall be determined in accordance with the fact, as the fact may be at the time of the death of the employee.

(c) No person shall be considered a dependent of any deceased employee unless a member of the family of such employee or unless such person bears to such employee the relation of husband or wife, child, adopted child or stepchild, father or mother, father-in-law or mother-in-law, grandfather or grandmother, brother or sister, nephew or niece.

(d) 1. If there is one or more persons wholly dependent for support upon a deceased employee, such person or persons shall receive the entire death benefit, and any person or persons partially dependent shall receive no part thereof, unless otherwise ordered by the commission.

2. If there is more than one such person wholly dependent for support upon a deceased employee, the death benefit shall be divided equally among them, unless otherwise ordered by the commission.

3. If there is more than one person partially dependent for support upon a deceased employee, and no person wholly dependent for support, the amount allowed as the death benefit shall be divided among the persons so partially dependent in proportion to the relative extent of their dependency, unless otherwise ordered by the commission.

Payments to dependents.

(e) The death benefits shall be paid to such one or more of the dependents of the deceased, or to a trustee appointed by the commission, or a commissioner, for the benefit of the person or persons entitled, as may be determined by the commission, and the commission may, anything in this act contained to the contrary notwithstanding, apportion

such benefits among the dependents in proportion to their respective needs and as may be just and equitable, and may order payment to a dependent subsequent in right, or not otherwise entitled, upon good cause being shown therefor. The person to whom the death benefit is paid for the use of the several beneficiaries shall apply the same in compliance with the findings and directions of the commission.

SEC. 20. No claim to recover compensation under this act shall be maintained unless within thirty days after the occurrence of the accident which is claimed to have caused the injury or death, notice in writing, stating the name and the address of the person injured, the time and the place where the accident occurred, and the nature of the injury, and signed by the person injured or some one in his behalf, or in case of his death, by a dependent or some one in his behalf, shall be served upon the employer: *Provided, however,* That actual knowledge of such accident and injury on the part of such employer, or his managing agent or superintendent in charge of the work, upon which the injured employee was engaged at the time of the injury, shall be equivalent to such service: *And provided, further,* That the failure to give any such notice, or any defect or inaccuracy therein, shall not be a bar to recovery under this act if it is found as a fact in the proceedings for the collection of the claim that there was no intention to mislead or prejudice the employer, and that he was not in fact misled or prejudiced thereby.

Notices.

SEC. 21. (a) Whenever in case of injury the right to compensation under this act would exist in favor of any employee, he shall, upon the written request of his employer, submit from time to time to examination by a practicing physician, who shall be provided and paid for by the employer, and shall likewise submit to examination from time to time by any physician selected by the commission or any member or referee thereof.

Medical examinations.

(b) The request or order for such examination shall fix a time and place therefor, due regard being had to the convenience of the employee and his physical condition and ability to attend at the time and place fixed. The employee shall be entitled to have a physician provided and paid for by himself present at any such examination. So long as the employee, after such written request of the employer, shall fail or refuse to submit to such examination or shall in any way obstruct the same, his right to begin or maintain any proceeding for the collection of compensation shall be suspended, and if he shall fail or refuse to submit to such examination after direction by the commission, or any member or referee thereof, or shall in any way obstruct the same, his right to the weekly indemnity which shall accrue and become payable during the period of such failure, refusal or obstruction, shall be barred. Any physician who shall make or be present at any such examination may be required to testify as to the results thereof.

SEC. 22. Upon filing with the commission by any party in interest of an application in writing stating the general nature of any dispute or controversy concerning compensation, or concerning any right of liability arising out of, or incident thereto, jurisdiction over which is vested by this act in the commission, a time and place shall be fixed for the hearing thereof, which shall be not less than ten days nor more than forty days after the filing of such application. The person filing such application shall be known as the applicant and the adverse party shall be known as the defendant. A copy of said application, together with a notice of the time and place of hearing thereof, shall forthwith be served upon all adverse parties and may be served either as a summons in a civil action or in the same manner as any other notice that is authorized or required to be served under the provisions of this act. A notice of the time and place of hearing shall also be served upon the applicant.

References to commission.

SEC. 23. If any defendant desires to disclaim any interest in the subject matter of the claim in controversy, or considers that the application is in any respect inaccurate or incomplete, or desires to bring any fact, paper or document to the attention of the commission as a defense to the claim, or otherwise, he must within five days after the service of the application upon him, file with or mail to the commission his answer setting forth the particulars in which the application is inaccu-

Amendments.

- rate or incomplete, and the facts upon which he intends to rely. A copy of such answer must be forthwith served upon all adverse parties.
- Proceedings.** SEC. 24. (a) No pleadings, other than the application and answer, shall be required. The hearing on the application may be adjourned from time to time and from place to place in the discretion of the commission. Either party shall have the right to be present at any hearing, in person or by attorney or by any other agent, and to present such testimony as shall be pertinent under the pleadings, but the commission may, with or without notice to either party, cause testimony to be taken, or inspection of the premises where the injury occurred to be made, or the time books and pay roll of the employer to be examined by any commissioner or any referee appointed by the commission, and may from time to time direct any employee claiming compensation to be examined by a regular physician; the testimony so taken and the results of any such inspection or examination to be reported to the commission for its consideration.
- (b) The parties to a controversy may stipulate the facts relative thereto in writing and file such stipulation with the commission. The commission may thereupon make its findings and award based upon such stipulation, or may in its discretion set the matter down for hearing and take such further testimony or make such further investigations as may be necessary to enable it to completely determine the matter in controversy.
- Awards.** SEC. 25. (a) After final hearing by the commission, it shall, within thirty days, make and file (1) its findings upon all facts involved in the controversy and (2) its award which shall state its determination as to the rights of the parties.
- (b) The commission in its award may fix and determine the total amount of compensation to be paid and specify the manner of payment, or may fix and determine the weekly disability indemnity to be paid and order payment thereof during the continuance of such disability.
- (c) If, in any proceeding under sections twelve to thirty-five, inclusive, of this act, it is proved that an accident has happened for which the employer would be liable to pay compensation if disability had resulted therefrom, but it is not proved that any incapacity had resulted, the commission may, instead of dismissing the application, award a nominal disability indemnity, if it appears that disability is likely to result at a future time.
- Revision** (d) The commission shall have continuing jurisdiction over all its orders, decisions and awards made and entered under the provisions of sections twelve to thirty-five, inclusive, of this act and may at any time, upon notice, and after opportunity to be heard is given to the parties in interest, rescind, alter or amend any such order, decision or award made by it upon good cause appearing therefor. *Provided*, That no award of compensation shall be rescinded, altered or amended after two hundred forty-five weeks from the date of the accident. Any order, decision or award rescinding, altering or amending a prior order, decision or award shall have the same effect as is herein provided for original orders, decisions or awards.
- Filing awards in court.** SEC. 26. (a) Any party affected thereby may file a certified copy of the findings and award of the commission with the clerk of the superior court for any county, or city and county, and judgment must be entered by the clerk in conformity therewith immediately upon the filing of such findings and award.
- (b) The certified copy of the findings and award of the commission and a copy of the judgment shall constitute the judgment roll. The pleadings, all orders of the commission, its original findings and award, and all other papers or documents filed in the cause shall remain on file in the office of the commission.
- Stay.** (c) The commission, or any member thereof, may stay the execution of any judgment entered upon an award of the commission, upon good cause appearing therefor and upon such terms and conditions as may be imposed. A certified copy of such order shall be filed with the clerk entering such judgment.
- Entry of satisfaction.** (d) Satisfaction of a judgment entered upon the award of the commission may be entered in the manner provided by law for the satis-

faction of judgment. When a judgment is satisfied in fact, otherwise than upon an execution, the commission may, upon motion of either party or of its own motion, order the entry of satisfaction of the judgment to be made, and upon filing a certified copy of such order with said clerk, he shall thereupon enter such satisfaction.

SEC. 27. The orders, findings, decisions or awards of the commission made and entered under sections twelve to thirty-five, inclusive, of this act may be reviewed by the courts specified in sections eighty-four and eighty-five hereof and within the time and in the manner therein specified and not otherwise.

Court review.

SEC. 28. No fees shall be charged by the clerk of any court for the performance of any official service required by this act, except for the docketing of awards as judgments and for certified copies of transcripts thereof. In all proceedings under this act before the commission, costs as between the parties shall be allowed or not in the discretion of the commission, and the commission may in its discretion, where payments of compensation have been unreasonably delayed, allow the beneficiary thereof interest thereon, at not to exceed one and one half per cent per month, during such period of delay.

Fees.

SEC. 29. (a) No claim for compensation shall be assignable before payment, but this provision shall not affect the survival thereof, nor shall any claim for compensation, or compensation awarded, adjudged or paid, be subject to be taken for the debts of the party entitled to such compensation, except as hereinafter provided.

Assignment of claims.

(b) The commission may fix and determine and allow as a lien against any amount to be paid as compensation:

Liens.

(1) A reasonable attorney's fee for legal services pertaining to any claim for compensation or application filed therefor and the reasonable disbursements in connection therewith.

(2) The reasonable expense incurred by or on behalf of the injured employee and for which the employer is liable under the provisions of subsection (a) of section fifteen hereof.

(3) The reasonable burial expenses of the deceased employee, not to exceed the sum of one hundred dollars.

(c) If notice in writing be given to the employer setting forth the nature and extent of any claim, that may be allowed as a lien, the said claim shall be a lien against any amount thereafter to be paid as compensation, subject to the determination of the amount and approval thereof by the commission. The commission may, in its discretion, order the amount of such claim as fixed and allowed by it paid directly to the person entitled, either in a lump sum or in installments.

Claim a lien, when.

(d) No claim or agreement for the legal services or disbursements mentioned in paragraph (1) of subsection (b) hereof, or for the expense mentioned in paragraph (2) of said subsection (b), in excess of a reasonable amount, shall be valid or binding in any respect.

(e) A claim for compensation for the injury or death of any employee, or any award or judgment entered thereon, shall have the same preference over the other unsecured debts of the employer as is given by law to claims for wages. Such preference shall be for the entire amount of compensation to be paid, but this section shall not impair the lien of any previous award.

Preference.

SEC. 30. The liability of principals and contractors for compensation under this act, when other than the immediate employer of the injured employee, shall be as follows:

Principals and contractors.

(a) The principal, any general contractor and each intermediate contractor who undertakes to do, or contracts with another to do, or to have done, any work, shall be liable to pay to any employee injured while engaged in the execution of such work, or to his dependents in the event of his death, any compensation which the immediate employer is liable to pay.

(b) The person entitled to such compensation shall have the right to recover the same directly from his immediate employer, and in addition thereto the right to enforce in his own name, in the manner provided by this act, the liability for compensation imposed upon other persons by this section, either by making such other persons parties to the original application or by filing a separate application: *Provided, however,* That payment in whole or in part of such compensation by

either the immediate employer or other person shall, to the extent of such payment, be a bar to recovery against the other by any person entitled to such compensation.

(c) When any person, other than the immediate employer, shall have paid any compensation for which he would not have been liable independently of this section, he shall, unless he caused the injury, be entitled to recover the full amount so paid from the person primarily liable therefor.

(d) The liability imposed by this section upon such principal, general contractor and intermediate contractor shall be subject to the following limitations:

(1) Such liability shall exist only in cases where the injury occurred on or in or about the premises on which the principal, general contractor or intermediate contractor has undertaken to execute any work, or when such premises or work are otherwise under his control or management.

(2) Such liability shall not exist in the event that the immediate employer, or other person primarily liable for the compensation shall, previous to the happening of such accident, have taken out, and maintained in full force and effect, compensation insurance with any insurance carrier, covering his full liability for compensation to the injured person or his dependents.

(3) The commission may, in its discretion, order that execution against the principal, general contractor and any intermediate contractor, be stayed until execution against the immediate employer shall be returned unsatisfied.

Claim as assignment.

Sec. 31. The making of a lawful claim against an employer for compensation under this act for the injury or death of his employee shall operate as an assignment to the employer of any right to recover damages which the injured employee, or his personal representative, or other person, may have against any other party for such injury or death, and such employer shall be subrogated to any such right and may enforce in his own name the legal liability of such other party. The amount of compensation paid by the employer, or the amount of compensation to which the injured employee or his dependents is entitled, shall not be admissible in evidence in any action brought to recover damages, but any amount collected by the employer, under the provisions of this section, in excess of the amount paid by the employer, or for which he is liable, shall be held by him for the benefit of the injured employee or other person entitled.

Waivers.

Sec. 32. (a) No contract, rule or regulation shall exempt the employer from liability for the compensation fixed by this act, but nothing in this act contained shall be construed as impairing the right of the parties interested to settle, subject to the provisions herein contained, any liability which may be claimed to exist under this act on account of such injury or death, or as conferring upon the dependents of any injured employee any interest which such employee may not divert by such settlement or for which he, or his estate, shall, in the event of such settlement by him, be accountable to such dependents or any of them.

Settlements.

(b) The compensation herein provided shall be the measure of the responsibility which the employer has assumed for injuries or death that may occur to employees in his employment when subject to the provisions of this act, and no release of liability or settlement agreement shall be valid unless it provides for the payment of full compensation in accordance with the provisions of this act or until and unless it shall be approved by the commission.

(c) A copy of any such release or settlement agreement signed by both parties shall forthwith be filed with the commission. When such release or settlement agreement is filed with the commission and approved by it, the commission may of its own motion, or on the application of either party, without notice, enter its award based upon such release or settlement agreement.

(d) Every such release or settlement agreement shall be in writing, duly executed and attested by two disinterested witnesses, and shall specify the date of the accident, the average weekly wages of the employee, determined according to section seventeen hereof, the nature

of the disability, whether total or partial, permanent or temporary, the amount paid or due and unpaid to the employee up to the date of the release or agreement or death, as the case may be, and, if any, the amount of the payment or benefits then or thereafter to be made, and the length of time that such payment is to continue. In case of death there shall also be stated in such release or settlement agreement the date of death, the name of the widow, if any, the name and ages of all children, if any, and the names of all other dependents, if any, and whether such dependents be total or partial, and the amount paid or to be paid as a death benefit and to whom such payment is to be made.

SEC. 33. (a) At the time of making its award or at any time thereafter the commission on its own motion, either with or without notice, or upon application of either party with due notice to the other, may in its discretion, commute the compensation payable under this act to a lump sum, if it appears that such commutation is necessary for the protection of the person entitled thereto, or for the best interest of either party, or that it will avoid undue expense or hardship to either party, or that the employer has sold or otherwise disposed of the greater part of his assets, or is about to do so, or that the employer is not a resident of this State, and the commission may order such compensation paid forthwith or at some future time.

Lump sums.

(b) The amount of the commuted payment shall be determined in accordance with the following provisions:

(1) If the accident causes temporary disability, the commission shall estimate the probable duration thereof and the probable amount of the temporary disability indemnity payable therefor in accordance with the provisions of section fifteen hereof and shall fix the lump sum payment at such amount so determined.

(2) If the accident causes permanent disability or death, the commission shall fix the total amount of the permanent disability indemnity or death benefit payable therefor in accordance with the provisions of said section fifteen and shall estimate the present value thereof, assuming interest at the rate of six per centum per annum, disregarding the probability of the beneficiary's death in all cases except where the percentage of permanent disability is such as to entitle the beneficiary to a life pension, and then taking into consideration the probability of the beneficiary's death only in estimating the present value of such life pension.

(c) The commission in its discretion may order the lump-sum payment, determined as hereinbefore provided, paid directly to the injured employee or to his dependents, or deposited with any savings bank or trust company authorized to transact business in this State, that will agree to accept the same as a deposit bearing interest at not less than four per cent per annum, or the commission may order the same deposited with the State Compensation Insurance Fund. Any such amount so deposited, together with all interest thereon, shall thereafter be held in trust for the injured employee, or in the event of his death, for his dependents, who shall have no further recourse against the employer. Payments from said fund, when so deposited, shall be made by the trustee only in the same amounts and at the same times as fixed by the order of the commission and until said fund and interest thereon shall be exhausted. In the appointment of the trustee preference shall be given, in the discretion of the commission, to the choice of the injured employee or his dependents. Upon the making of such payment, the employer shall present to the commission a proper receipt evidencing the same, executed either by the injured employee or his dependents, or by the trustee, and the commission shall thereupon issue its certificate in proper form evidencing the same, and such certificate, upon filing with the clerk of the superior court in which any judgment upon an award may have been entered, shall operate as a satisfaction of said award and shall fully discharge the employer from any further liability on account thereof.

SEC. 34. (a) Nothing in this act shall affect the organization of any mutual or other insurance company, or any existing contract for insurance or the right of the employer to insure in mutual or other companies, in whole or in part, against liability for the compensation provided for by this act; or, to provide by mutual or other insurance, or by

Mutual, etc., insurance companies.



arrangement with his employees, or otherwise, for the payment to such employees, their families, dependents or representatives, of sick, accident, or death benefits, in addition to the compensation provided for by this act.

Liability not to be reduced.

(b) Liability for compensation shall not be reduced or affected by any insurance, contribution, or other benefit whatsoever due to or received by the person entitled to such compensation, except as otherwise provided by this act, and the person so entitled shall, irrespective of any insurance or other contract, except as otherwise provided in this act, have the right to recover such compensation directly from the employer, and in addition thereto, the right to enforce in his own name, in the manner provided in this act, either by making the insurance carrier a party to the original application or by filing a separate application, the liability of any insurance carrier, which may, in whole or in part, have insured against liability for such compensation: *Provided, however,* That payment in whole or in part of such compensation by either the employer or the insurance company shall, to the extent thereof, be a bar to recovery against the other of the amount so paid: *And provided, further,* That as between the employer and the insurance company, payment by either directly to the employee, or to the person entitled to compensation, shall be subject to the conditions of the insurance contract between them.

Direct liability.

(c) Every contract insuring against liability for compensation, or insurance policy evidencing the same, must contain a clause to the effect that the insurance carrier shall be directly and primarily liable to the employee and, in the event of his death, to his dependents, to pay the compensation, if any, for which the employer is liable; that, as between the employee and the insurance carrier, the notice to or knowledge of the occurrence of the injury on the part of the employer shall be deemed notice or knowledge, as the case may be, on the part of the insurance carrier; that jurisdiction of the employer shall, for the purpose of this act, be jurisdiction of the insurance carrier and that the insurance carrier shall in all things be bound by and subject to the orders, findings, decisions or awards rendered against the employer under the provisions of this act.

Employee's rights.

(d) Such policy must also provide that the employee shall have a first lien upon any amount which shall become owing on account of such policy to the employer from the insurance carrier and that in case of the legal incapacity or inability of the employer to receive the said amount and pay it over to the employee or his dependents, the said insurance carrier may and shall pay the same directly to the said employee or his dependents, thereby discharging to the extent of such payment the obligation of the employer to the employee, and such policy shall not contain any provisions relieving the insurance carrier from payment when the employer becomes insolvent or is discharged in bankruptcy, or otherwise, during the period that the policy is in operation or the compensation remains owing.

Employer relieved, when.

(e) 1. If the employer shall be insured against liability for compensation with any insurance carrier, and if after the happening of any accident such insurance carrier shall serve or cause to be served upon any person claiming compensation against such employer a notice that it has assumed and agreed to pay the compensation, if any, for which the employer is liable, and shall file a copy of such notice with the commission, such employer shall thereupon be relieved from liability for compensation to such claimant and the insurance carrier shall, without notice, be substituted in place of the employer in any proceeding theretofore or thereafter instituted by such person to recover such compensation, and the employer shall be dismissed therefrom. Such proceeding shall not abate on account of such substitution but shall be continued against such insurance carrier.

2. If at the time of the happening of an accident for which compensation is claimed, or may be claimed, the employer shall be insured against liability for the full amount of compensation payable, or that may become payable, the employer may serve or cause to be served upon any person claiming compensation on account of the happening of such accident and upon the insurance carrier a notice that the insurance carrier has, in its policy contract or otherwise, assumed and

agreed to pay the compensation, if any, for which the employer is liable, and may file a copy of such notice with the commission. If it shall thereafter appear to the satisfaction of the commission that the insurance carrier has, through the issuance of its contract of insurance or otherwise, assumed such liability for compensation, such employer shall thereupon be relieved from liability for compensation to such claimant and the insurance carrier shall, after notice, be substituted in place of the employer in any proceeding theretofore or thereafter instituted by such person to recover such compensation, and the employer shall be dismissed therefrom. Such proceeding shall not abate on account of such substitution, but shall be continued against such insurance carrier.

(f) Where any employer is insured against liability for compensation with any insurance carrier and such insurance carrier shall have paid any compensation for which the employer was liable, or shall have assumed the liability of the employer therefor, it shall be subrogated to all the rights and duties of the employer and may enforce any such rights in its own name.

Insurer's rights.

Sec. 35. (a) If any insurance policy shall be issued covering liability for compensation, which policy shall contain any limitation as to the compensation payable, such limitation shall be printed in the body of such policy in boldface type and in addition thereto the words "limited compensation policy" shall be printed on the top of the policy in bold-faced type not less than eighteen point in size.

Limited poli-  
cies.

(b) No insurance carrier shall insure against the liability of the employer for damages recoverable at law by the injured employee under the optional provisions contained in section twelve hereof, and any insurance carrier liable to any such injured employee for compensation upon the payment of the same shall have the same option given by said section twelve to such employee and shall be fully subrogated to his rights, and may enforce such liability for damages against the employer in its own name, anything in the insurance contract to the contrary notwithstanding.

Liability for  
damages.

Sec. 36. There is hereby created and established a fund to be known as the "State Compensation Insurance Fund," to be administered by the Industrial Accident Commission of the State, without liability on the part of the State beyond the amount of said fund, for the purpose of insuring employers against liability for compensation under this act and insuring to employees and other persons the compensation fixed by this act for employees and their dependents.

State insurance  
fund.

Sec. 37. (a) The State Compensation Insurance Fund shall be a revolving fund and shall consist of such specific appropriations as the legislature may from time to time make or set aside for the use of such fund, all premiums received and paid into the said fund for compensation insurance issued, all property and securities acquired by and through the use of moneys belonging to said fund and all interest earned upon moneys belonging to said fund and deposited or invested, as herein provided.

Same subject.

(b) Said fund shall be applicable to the payment of losses sustained on account of insurance and to the payment of the salaries and other expenses to be charged against said fund in accordance with the provisions contained in this act.

(c) Said fund shall, after a reasonable time during which it may establish a business, be fairly competitive with other insurance carriers, and it is the intent of the legislature that said fund shall ultimately become neither more nor less than self-supporting.

Sec. 38. (a) The commission is hereby vested with full power, authority and jurisdiction over the State Compensation Insurance Fund and may do and perform any and all things whether herein specifically designated, or in addition thereto, which are necessary or convenient in the exercise of any power, authority or jurisdiction over said fund in the administration thereof, or in connection with the insurance business to be carried on by it under the provisions of this act, as fully and completely as the governing body of a private insurance carrier might or could do.

Powers of com-  
mission.

(b) The commission shall have full power and authority, and it shall be its duty, to fix and determine the rates to be charged by the State

Compensation Insurance Fund for compensation insurance, and to manage and conduct all business and affairs in relation thereto, all of which business and affairs shall be conducted in the name of the State Compensation Insurance Fund, and in that name, without any other name or title, the commission may—

(1) Sue and be sued in all the courts of the State in all actions arising out of any act, deed, matter or thing made, omitted, entered into, done, or suffered in connection with the State Compensation Insurance Fund, the administration, management or conduct of the business or affairs relating thereto.

(2) Make and enter into contracts of insurance as herein provided, and such other contracts or obligations relating to the State Compensation Insurance Fund as are authorized or permitted under the provisions of this act.

(3) Invest and reinvest the moneys belonging to said fund as herein-after provided.

(4) Conduct all business and affairs, relating to the State Compensation Insurance Fund, whether herein specifically designated or in addition thereto.

(c) The commission may delegate to the manager of the State Compensation Insurance Fund, or to any other officer, under such rules and regulations and subject to such conditions as it may from time to time prescribe, any of the powers, functions or duties, conferred or imposed on the commission under the provisions of this act in connection with the State Compensation Insurance Fund, the administration, management and conduct of the business and affairs relating thereto, and the officer or officers to whom such delegation is made may exercise the powers and functions and perform the duties delegated with the same force and effect as the commission, but subject to its approval.

(d) The commission shall not, nor shall any commissioner, officer or employee thereof, be personally liable in his private capacity for or on account of any act performed or contract or other obligation entered into or undertaken in an official capacity, in good faith and without intent to defraud, in connection with the administration, management or conduct of the State Compensation Insurance Fund, its business or other affairs relating thereto.

Powers of manager.

SEC. 39. In conducting the business and affairs of the State Compensation Insurance Fund, the manager of the said fund or other officer to whom such power and authority may be delegated by the commission, as provided by subsection (c) of section thirty-eight hereof, shall have full power and authority:

(1) To enter into contracts of insurance, insuring employers against liability for compensation and insuring to employees and other persons the compensation fixed by this act.

(2) To sell annuities covering compensation benefits.

(3) To decline to insure any risk in which the minimum requirements of the commission with regard to construction, equipment and operation are not observed, or which is beyond the safe carrying of the State Compensation Insurance Fund, but shall not have power or authority, except as otherwise provided in this subdivision, to refuse to insure any compensation risk tendered with the premium therefor.

(4) To reinsure any risk or any part thereof.

(5) To inspect and audit, or cause to be inspected and audited the pay rolls of employers applying for insurance against liability for compensation.

(6) To make rules and regulations for the settlement of claims against said fund and to determine to whom and through whom the payments of compensation are to be made.

(7) To contract with physicians, surgeons, and hospitals for medical and surgical treatment and the care and nursing of injured persons entitled to benefits from said fund.

Rates.

SEC. 40. (a) It shall be the duty of the commission to fix and determine the rates to be charged by the State Compensation Insurance Fund for compensation insurance coverage as herein provided, and such rates shall be fixed with due regard to the physical hazards of each industry, occupation or employment and, within each class, so

far as practicable, in accordance with the elements of bodily risk or safety or other hazard of the plant or premises or work of each insured and the manner in which the same is conducted, together with a reasonable regard for the accident experience and history of each such insured, and the means and methods of caring for injured persons, but such rates shall take no account of the extent to which the employees in any particular establishment have or have not persons dependent upon them for support.

(b) The rates so made shall be that percentage of the pay roll of any employer which, in the long run and on the average, shall produce a sufficient sum, when invested at three and one-half per cent interest:

(1) To carry all claims to maturity; that is to say the rates shall be based upon the "reserve" and not upon the "assessment" plan;

(2) To meet the reasonable expenses of conducting the business of such insurance;

(3) To produce a reasonable surplus to cover the catastrophe hazard.

SEC. 41. The insurance contracts entered into between the State Compensation Insurance Fund and persons insuring therewith may be either limited or unlimited and issued for one year or, in the form of stamps or tickets or otherwise, for one month or any number of months less than one year, or for one day or any number of days less than one month, or during the performance of any particular work, job or contract: *Provided*, That the rates charged shall be proportionately greater for a shorter than for a longer period and that a minimum premium charge shall be fixed in accordance with a reasonable rate for insuring one person for one day. Nothing in this act shall be construed to prevent any person applying for compensation insurance from being covered temporarily until the application is finally acted upon, or to prevent the insured from surrendering any policy at any time and having returned to him the difference between the premium paid and the premium at the customary short term for the shorter period which such policy has already run. The State Compensation Insurance Fund may at any time cancel any policy, after due notice, upon a pro rata basis of premium repayment.

Contracts.

SEC. 42. The State Compensation Insurance Fund may issue policies, including with their employees, employers who perform labor incidental to their occupations, and including also members of the families of such employers engaged in the same occupation, such policies insuring to such employers and working members of their families the same compensations provided for their employees, and at the same rates: *Provided*, That the estimations of their wage values, respectively, shall be reasonable and separately stated in and added to the valuation of their pay rolls upon which their premium is computed. Such policies may likewise be sold to self-employed persons and to casual employees, who, for the purpose of such insurance, shall be deemed to be employees within the meaning of sections twelve to thirty-five, inclusive, of this act.

Who may be insured.

SEC. 43. The treasurer of the State shall be custodian of all moneys and securities belonging to the State Compensation Insurance Fund, except as otherwise provided in this act, and shall be liable on his official bond for the safe-keeping thereof. All moneys belonging to said fund collected or received by the commission, or the manager of the State Compensation Insurance Fund, under and by virtue of the provisions of this act, shall be delivered to the treasurer of the State or may be deposited to his credit in such bank or banks throughout the State as he may, from time to time, designate, and such moneys when so delivered or deposited shall be credited by the treasurer to the said fund and no moneys received or collected on account of such fund shall be expended or paid out of such fund without first passing into the State treasury and being drawn therefrom as provided in this act. In like manner there shall be delivered to the treasurer all securities belonging to said fund which shall be held by him until otherwise disposed of as provided in this act.

Custodian of fund.

SEC. 44. (a) The commission shall submit each month to the State board of control an estimate of the amount necessary to meet the current disbursements from the State Compensation Insurance Fund during each succeeding calendar month and, when such estimate shall be

Monthly estimates.

approved by the State board of control, the controller is directed to draw his warrant on said fund in favor of said commission for such amount, and the treasurer is authorized and directed to pay the same.

(b) At the end of each calendar month the commission shall account to the State board of control and the State controller for all moneys so received, furnishing proper vouchers therefor.

(c) During the months of January and of July of each year the State board of control or the commission shall cause a valuation to be made of the properties and securities which have been acquired and which are held for said fund, and shall report the results of the same to the State controller, whose duty it shall be to keep a special ledger account showing all of the assets pertaining to the State Compensation Insurance Fund. In the controller's general ledger this fund account may be carried merely as a cash account, like other accounts of funds in the State treasury, and therein only the actual cash coming into the State Compensation Insurance Fund shall be credited to such fund.

Investments.

Sec. 45. (a) The commission shall cause all moneys in the State Compensation Insurance Fund, in excess of current requirements, to be invested and reinvested, from time to time, in the securities now or hereafter authorized by law for the investment of funds of savings banks.

(b) The commission shall, from time to time, submit to the State board of control an estimate of the amount required by it for investment, which estimate shall be accompanied by a full description of the kind and character of the investments to be made and, when such estimate shall be approved by the State board of control, the controller is directed to draw his warrant on the State Compensation Insurance Fund in favor of the commission for such amount and the treasurer is authorized and directed to pay the same.

(c) At the end of each calendar month the commission shall account to the said board of control and the State controller for all moneys so received, furnishing proper vouchers therefor.

(d) All moneys in said fund, in excess of current requirements and not otherwise invested, may be deposited by the State treasurer from time to time in the banks authorized by law to receive deposits of public moneys under the same rules and regulations that govern the deposit of other public funds and the interest accruing thereon shall be credited to the State Compensation Insurance Fund.

Municipalities,  
etc.

Sec. 46. Each county, city and county, city, school district, or other public corporation within the State, may insure against its liability for compensation, with the State Compensation Insurance Fund and not with any other insurance carrier unless such fund shall refuse to accept the risk when the application for insurance is made, and the premium therefor shall be a proper charge against the general fund of each such political subdivision of the State.

Schedules of  
rates to be fur-  
nished.

Sec. 47. When the premium rates for insurance in the State Compensation Insurance Fund shall have been established the commission shall furnish schedule of rates and copies of the forms of policy to the commissioner of labor, to the clerk and to the treasurer of every county, city and county, and city in the State, and it shall be the duty of every public officer to whom the foregoing may be furnished to fill out and transmit to the manager of the State Compensation Insurance Fund applications for compensation insurance in such fund and to receive and transmit to said manager all premiums paid on account of any policy issued or applied for.

Reports.

Sec. 48. The commission shall each quarter make to the governor of the State, reports of the business done by the State Compensation Insurance Fund during the previous quarter, and a statement of the fund's resources and liabilities, and it shall be the duty of the State board of control to audit such reports and to cause an abstract thereof to be published one or more times in at least two newspapers of general circulation in the State. The commission shall likewise make to the State insurance commissioner all reports required by law to be made by other insurance carriers.

Misrepresenting  
pay rolls.

Sec. 49. Any employer who shall willfully misrepresent the amount of the pay roll upon which his premium under this act is to be based shall be liable to the State in ten times the amount of the difference

in premium paid and the amount the employer should have paid had his pay roll been correctly computed, and the liability to the State under this section shall be enforced in a civil action in the name of the State Compensation Insurance Fund and any amount so collected shall become a part of said fund.

SEC. 50. Any person who willfully misrepresents any fact in order to obtain insurance at less than the proper rate for such insurance, or in order to obtain any payments out of such fund, shall be guilty of a misdemeanor.

Misrepresentations.

SEC. 51. The following terms, as used in sections fifty-one to seventy-two, inclusive, of this act, shall, unless a different meaning is plainly required by the context, be construed as follows:

Definitions.

(1) The phrase "place of employment" shall mean and include every place, whether indoors or out or underground, or elsewhere, and the premises appurtenant thereto, where, either temporarily or permanently, any industry, trade, work or business is carried on, or where any process or operation directly or indirectly related to any industry, trade, work or business, is carried on, and where any person is directly or indirectly employed by another for direct or indirect gain or profit, but shall not include any place where persons are employed solely in farm, dairy, agricultural, viticultural, or horticultural labor, in stock or poultry raising or in household domestic service.

(2) The term "employment" shall mean and include any trade, work, business, occupation, or process of manufacture, or any method of carrying on such trade, work, business, occupation, or process of manufacture in which any person may be engaged, except where persons are employed solely in farm, dairy, agricultural, viticultural, or horticultural labor, in poultry or stock raising or in household domestic service.

(3) The term "employer" shall mean and include every person, firm, voluntary association, corporation, officer, agent, manager, representative or other person having control or custody of any employment, place of employment or of any employee.

(4) The term "employee" shall mean and include every person who may be required or directed by any employer, in consideration of direct or indirect gain or profit, to engage in any employment, or to go to work or be at any time in any place of employment.

(5) The term "order" shall mean and include any decision, rule, regulation, direction, requirement or standard of the commission or any other determination arrived at or decision made by such commission under the safety provisions of this act.

(6) The term "general order" shall mean and include such order made, under the safety provisions of this act, as applies generally throughout the State to all persons, employments or places of employment, or all persons, employments or places of employment of a class under the jurisdiction of the commission. All other orders of the commission shall be considered special orders.

(7) The term "local order" shall mean and include any ordinance, order, rule, or determination of any board of supervisors, city council, board of trustees or other governing body of any county, city and county, city or of any school district or other public corporation, or an order or direction of any other public official or board or department upon any matter over which the industrial accident commission has jurisdiction.

(8) The terms "safe" and "safety" as applied to an employment or a place of employment shall mean such freedom from danger to the life or safety of employees as the nature of the employment will reasonably permit.

(9) The terms "safety device" and "safeguard" shall be given a broad interpretation so as to include any practicable method of mitigating or preventing a specific danger.

SEC. 52. Every employer shall furnish employment which shall be safe for the employees therein and shall furnish a place of employment which shall be safe for employees therein, and shall furnish and use such safety devices and safeguards, and shall adopt and use such practices, means, methods, operations and processes as are reasonably adequate to render such employment and place of employment safe, and

Duties of employer as to safety.

- shall do every other thing reasonably necessary to protect the life and safety of such employees.
- Same subject.** Sec. 53. No employer shall require, permit or suffer any employee to go or be in any employment or place of employment which is not safe, and no such employer shall fail to furnish, provide and use safety devices and safeguards or fail to adopt and use methods and processes reasonably adequate to render such employment and place of employment safe, and no such employer shall fail or neglect to do every other thing reasonably necessary to protect the life and safety of such employees, and no such employer shall occupy or maintain any place of employment that is not safe.
- Construction.** Sec. 54. No employer, owner or lessee of any real property in this State shall construct or cause to be constructed any place of employment that is not safe.
- Removing guards.** Sec. 55. No employee shall remove, displace, damage, destroy or carry off any safety device or safeguard furnished and provided for use in any employment or place of employment, or interfere in any way with the use thereof by any other person, or interfere with the use of any method or process adopted for the protection of any employee in such employment, or place of employment, or fail or neglect to do every other thing reasonably necessary to protect the life and safety of such employees.
- Power of commission.** Sec. 56. The commission is vested with full power and jurisdiction over, and shall have such supervision of, every employment and place of employment in this State as may be necessary adequately to enforce and administer all laws and all lawful orders requiring such employment and place of employment to be safe, and requiring the protection of the life and safety of every employee in such employment or place of employment.
- Fixing standards.** Sec. 57. The commission shall have power, after a hearing had upon its own motion or upon complaint, by general or special orders, rules or regulations, or otherwise—
- (1) To declare and prescribe what safety devices, safeguards or other means or methods of protection are well adapted to render the employees of every employment and place of employment safe as required by law or lawful order.
  - (2) To fix such reasonable standards and to prescribe, modify and enforce such reasonable orders for the adoption, installation, use, maintenance and operation of safety devices, safeguards and other means or methods of protection, to be as nearly uniform as possible, as may be necessary to carry out all laws and lawful orders relative to the protection of the life and safety of employees in employments and places of employment.
  - (3) To fix and order such reasonable standards for the construction, repair and maintenance of places of employment as shall render them safe.
  - (4) To require the performance of any other act which the protection of the life and safety of employees in employments and places of employment may demand.
  - (5) To declare and prescribe the general form of industrial accidents reports, the accidents to be reported and the information to be furnished in connection therewith, and the time within which such reports shall be filed. Nothing in this act contained shall be construed to prevent the commission from requiring supplemental accident reports.
- Hearings.** Sec. 58. Upon the fixing of a time and place for the holding of a hearing for the purpose of considering and issuing a general safety order or orders as authorized by section fifty-seven hereof, the commission shall cause a notice of such hearing to be published in one or more daily newspapers of general circulation published and circulated in the city and county of San Francisco, and also in one or more daily newspapers of general circulation published and circulated in the county of Los Angeles, such newspapers to be designated by the commission for that purpose. No defect or inaccuracy in such notice or in the publication thereof shall invalidate any general order issued by the commission after hearing had.
- Orders.** Sec. 59. Whenever the commission, after a hearing had upon its own motion or upon complaint, shall find that any employment or place of

employment is not safe or that the practices or means or methods or operations or processes employed or used in connection therewith are unsafe, or do not afford adequate protection to the life and safety of employees in such employments and places of employment, the commission shall make and enter and serve such order relative thereto as may be necessary to render such employment or place of employment safe and protect the life and safety of employees in such employments and places of employment and may in said order direct that such additions, repairs, improvements or changes be made and such safety devices and safeguards be furnished, provided and used, as are reasonably required to render such employment or place of employment safe, in the manner and within the time specified in said order.

Sec. 60. The commission may, upon application of any employer, or other person affected thereby, grant such time as may reasonably be necessary for compliance with any order, and any person affected by such order may petition the commission for an extension of time, which the commission shall grant if it finds such an extension of time necessary.

Time for compliance.

Sec. 61. Whenever the commission shall learn or have reason to believe that any employment or place of employment is not safe or is injurious to the welfare of any employee it may, of its own motion, or upon complaint, summarily investigate the same, with or without notice or hearings, and after a hearing upon such notice as it may prescribe, the commission may enter and serve such order as may be necessary relative thereto, anything in this act to the contrary notwithstanding.

Investigations.

Sec. 62. Every employer, employee and other person shall obey and comply with each and every requirement of every order, decision, direction, rule or regulation made or prescribed by the commission in connection with the matters herein specified, or in any way relating to or affecting safety of employments or places of employment, or to protect the life and safety of employees in such employments or places of employment, and shall do everything necessary or proper in order to secure compliance with and observance of every such order, decision, direction, rule or regulation.

Compliance.

Sec. 63. The orders of the commission, general or special, its rules or regulations, findings and decisions, made and entered under the safety provisions of this act, may be reviewed by the courts specified in sections eighty-four and eighty-five of this act and within the time and in the manner therein specified and not otherwise.

Review by courts.

Sec. 64. Nothing contained in this act shall be construed to deprive the board of supervisors of any county, or city and county, the board of trustees of any city, or any other public corporation or board or department, of any power or jurisdiction over or relative to any place of employment. *Provided*, That whenever the commission shall, by order, fix a standard of safety for employments or places of employment, such order shall, upon the filing by the commission of a copy thereof with the clerk of the county, city and county, or city to which it may apply, establish a minimum requirement concerning the matters covered by such order and shall be construed in connection with any local order relative to the same matter and to amend or modify any requirement in such local order not up to the standard of the order of the commission.

Municipal employees.

Sec. 65. The commission shall have further power and authority—

(1) To establish and maintain museums of safety and hygiene in which shall be exhibited safety devices, safeguards and other means and methods for the protection of the life and safety of employees, and to publish and distribute bulletins on any phase of this general subject.

Museums, etc.

(2) To cause lectures to be delivered, illustrated by stereopticon or other views, diagrams or pictures, for the information of employers and their employees and the general public in regard to the causes and prevention of industrial accidents, occupational diseases and related subjects.

Lectures.

(3) To appoint advisers, who shall, without compensation assist the commission in establishing standards of safety and the commission may adopt and incorporate in its general orders such safety recommendations as it may receive from such advisers.

Advisers.



- Orders as evidence.** SEC. 66. Every order of the commission, general or special, its rules and regulations, findings and decisions, made and entered under the safety provisions of this act shall be admissible as evidence in any prosecution for the violation of any of the said provisions and shall, in every such prosecution, be conclusively presumed to be reasonable and lawful and to fix a reasonable and proper standard and requirement of safety, unless, prior to the institution of the prosecution for such violation or violations, proceedings for a rehearing thereon or a review thereof shall have been instituted as provided in sections eighty-one to eighty-five, inclusive, of this act and not then finally determined.
- Violations.** SEC. 67. Every employer, employee or other person who, either individually or acting as an officer, agent or employee of a corporation or other person, violates any safety provision contained in sections fifty-two, fifty-three, fifty-four or fifty-five of this act, or any part of any such provision, or who shall fail or refuse to comply with any such provision or any part thereof, or who, directly or indirectly, knowingly induces another so to do is guilty of a misdemeanor. In any prosecution under this section it shall be deemed prima facie evidence of a violation of any such safety provision, that the accused has failed or refused to comply with any order, rule, regulation or requirement of the commission relative thereto and the burden of proof shall thereupon rest upon the accused to show that he has complied with such safety provision.
- Same subject.** SEC. 68. Every violation of the provisions contained in sections fifty-two, fifty-three, fifty-four, or fifty-five, of this act, or any part or portion thereof, by any person or corporation is a separate and distinct offense, and, in the case of a continuing violation thereof, each day's continuance thereof shall constitute a separate and distinct offense.
- Disposition of fines.** SEC. 69. All fines imposed and collected under prosecutions for violations of the provisions of sections fifty-one to seventy-two inclusive of this act, shall be paid into the State treasury to the credit of the "accident prevention fund," which fund is hereby created.
- Disclosing information.** SEC. 70. It shall be unlawful for any member of the commission, or for any officer or employee of the commission, to divulge to any person not connected with the administration of this act any confidential information obtained from any person, concerning the failure of any other person to keep any place of employment safe, or concerning the violation of any order, rule or regulation issued by the commission. Any member of the commission or any officer or employee of the commission divulging such confidential information shall be guilty of a misdemeanor.
- Accidents to be reported.** SEC. 71. (a) Every employer of labor, and every insurance carrier, is hereby required to file with the commission, under such rules and regulations as the commission may from time to time make, a full and complete report of every accident to an employee arising out of or in the course of his employment and resulting in loss of life or injury to such person. Such reports shall be furnished to the commission in such form and such detail as the commission shall from time to time prescribe, and shall make specific answers to all questions required by the commission under its rules and regulations. Any such employer or insurance carrier who shall furnish such report shall be exempt from furnishing any similar report or reports authorized or required under the laws of this State.
- (b) Every employer or insurance carrier receiving from the commission any blanks with directions to fill out the same shall cause the same to be properly filled out so as to answer fully and correctly each question propounded therein; in case he is unable to answer any such questions a good and sufficient reason shall be given for such failure.
- (c) No information furnished to the commission by an employer or an insurance carrier shall be open to public inspection or made public except on order of the commission, or by the commission or a commissioner in the course of a hearing or proceeding. Any officer or employee of the commission who, in violation of the provisions of this subsection, divulges any information shall be guilty of a misdemeanor.
- Investigations.** SEC. 72. (a) The commission shall investigate the cause of all industrial accidents occurring within the State in any employment or place of employment, or directly or indirectly arising from or con-

nected with the maintenance or operation of such employment or place of employment, resulting in personal injury or death and requiring, in the judgment of the commission, such investigation; and the commission shall have the power to make such orders or recommendations with respect to such accidents as may be just and reasonable, provided that neither the order nor the recommendation of the commission, nor any accident report filed with the commission, shall be admitted as evidence in any action for damages or any proceeding to recover compensation, based on or arising out of such injury or death.

(b) For the purpose of making any investigation which the commission is authorized to make under the provisions of this section, or for the purpose of collecting statistics or examining the provisions made for the safety of employees, any member of the commission, inspector or other person designated by the commission for that purpose, may enter any place of employment.

(c) Any employer, insurance carrier or any other person who shall violate or omit to comply with any of the provisions of this section, or who shall in any way obstruct or hamper the commission, any commissioner or other person conducting any investigation authorized to be undertaken or made by the commission, shall be guilty of a misdemeanor.

SEC. 73. (a) All proceedings for the recovery of compensation, or concerning any right or liability arising out of or incidental thereto, or for the enforcement against the employer or an insurance carrier of any liability for compensation imposed upon him by this act in favor of the injured employee, his dependents or any third person, or for the determination of any question as to the distribution of compensation among dependents or other persons or for the determination of any question as to who are dependents of any deceased employee, or what persons are entitled to any benefit under the compensation provisions of this act, or for obtaining any order which by this act the commission is authorized to make, shall be instituted before the commission, and not elsewhere, except as otherwise in this act provided, and the commission is hereby vested with full power, authority and jurisdiction to try and finally determine all such matters, subject only to the review by the courts in this act specified and in the manner and within the time in this act provided.

Proceedings.

(b) All orders, rules, and regulations, findings, decisions and awards of the commission in conformity with law shall be in force and shall be prima facie lawful; and all such orders, rules and regulations, findings, decisions and awards shall be conclusively presumed to be reasonable and lawful, until and unless they are modified or set aside by the commission or upon a review by the courts in this act specified and within the time and in the manner herein specified.

Presumptions as to orders.

SEC. 74. (a) Any notice, order or decision required by this act to be served upon any person or party either before, during or after the institution of any proceeding before the commission, may be served in the manner provided by Chapter V, Title XIV of Part II of the Code of Civil Procedure of this State, unless otherwise directed by the commission or a member thereof, in which event the same shall be served in accordance with the order or direction of said commission or member thereof.

Service.

(b) The secretary, assistant secretary and the inspectors appointed by the commission shall have all of the powers conferred by law upon peace officers to carry weapons, make arrests and serve warrants and other process in any county or city and county of this State.

(c) Any such notice, order or decision affecting the State or any city and county, city, school district or public corporation therein, shall be served upon the same officer, officers, person or persons, upon whom the service of similar notices, orders or decisions is authorized by law.

SEC. 75. The commission shall have full power and authority:

Power as to rules of procedure, etc.

- (1) To adopt reasonable and proper rules of practice and procedure;
- (2) To regulate and provide the manner, and by whom, minors and incompetent persons shall appear and be represented before it;
- (3) To appoint a trustee or guardian ad litem to appear for and represent any such minor or incompetent upon such terms and conditions as it may deem proper; and such guardian or trustee must give a bond

in the same form and of the same character required by law from a guardian appointed by the courts and in such an amount as the commission or a commissioner may fix and determine, such bond to be approved by the commission or a commissioner, and such guardian or trustee shall not be discharged from liability until he shall have filed an account with the commission or with the probate court and such account shall have been approved. The trustee or guardian shall be entitled to receive such compensation for his services as shall be fixed and allowed by the commission or by the probate court;

(4) To provide for the joinder in the same proceeding of all persons interested therein, whether as employer, insurance carrier, employee, dependent, creditor or otherwise;

(5) To regulate and prescribe the kind and character of notices, where not otherwise prescribed by this act, and the service thereof;

(6) To regulate and prescribe the nature and extent of the proofs and evidence.

Referees.

SEC. 76. (a) The commission may by order entered upon its minutes, upon the agreement of the parties, upon the application of either, or of its own motion, and either with or without notice, direct and order a reference in the following cases:

(1) To try any or all of the issues in any proceeding before it, whether of fact or of law, and to report a finding, order, decision or award to be based thereon.

(2) To ascertain a fact necessary to enable the commission to determine any proceeding before it or to make any order, decision or award that the commission is authorized to make under this act, or that is necessary for the information of the commission.

(b) The commission may appoint one or more referees in any proceeding, as it may deem necessary or advisable, and may refer separate matters arising out of the same proceeding to different referees. It may also, in its discretion, appoint general referees who are residents of the county or city and county for which they are appointed and who shall hold office during the pleasure of the commission. Any referee appointed by the commission shall have such powers, jurisdiction and authority as is granted under the law, by the order of appointment and by the rules of the commission and shall receive such salary or compensation for his services as may be fixed by the commission.

(c) Any party to the proceeding may object to the appointment of any person as referee upon any one or more of the grounds specified in section 641 of the Code of Civil Procedure and such objection must be heard and disposed of by the commission. Affidavits may be read and witnesses examined as to such objections.

(d) Before entering upon his duties, the referee must be sworn before an officer authorized to administer oaths, faithfully and fairly to hear and determine the allegations and evidence of the parties in relation to the matters in the reference, and to make just findings and report according to his understanding.

(e) The referee must report his findings in writing to the commission within twenty days after the testimony is closed. Such report shall be made in the form prescribed by the commission and shall include all matters required to be included in the order of reference or by the rules of the commission. The facts found and conclusions of law must be separately stated.

(f) Upon the filing of the report of the referee, the commission may confirm, adopt, modify or set aside the same or any part thereof and may, either with or without further proceedings, and either with or without notice, enter its order, findings, decision or award based in whole or in part upon the report of the referee.

Hearings.

SEC. 77. (a) All hearings and investigations before the commission or any member thereof, or any referee appointed thereby, shall be governed by this act and by the rules of practice and procedure adopted by the commission, and in the conduct thereof neither the commission nor any member thereof nor any referee appointed thereby shall be bound by the technical rules of evidence. No informality in any proceeding or in the manner of taking testimony shall invalidate any order, decision, award, rule or regulation made, approved or confirmed by the commission.

(b) The commission or any member thereof or any party to the action or proceeding may, in any investigation or hearing before the commission, cause the deposition of witnesses residing within or without the State to be taken in the manner prescribed by law for like depositions in civil actions in the superior courts of this State, and to that end may compel the attendance of witnesses and the production of books, documents, papers and accounts.

SEC. 78. The commission and each member thereof, its secretary and referees, shall have power to administer oaths, certify to all official acts, and to issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents and testimony in any inquiry, investigation, hearing or proceeding in any part of the State. Each witness who shall appear, by order of the commission or a member thereof, or a referee appointed thereby, shall be entitled to receive, if demanded, for his attendance the same fees and mileage allowed by law to a witness in civil cases, which amount shall be paid by the party at whose request such witness is subpoenaed, unless otherwise ordered by the commission. When any witness who has not been required to attend at the request of any party is subpoenaed by the commission his fees and mileage may be paid from the funds appropriated for the use of the commission in the same manner as other expenses of the commission are paid. Any witness subpoenaed, except one whose fees and mileage may be paid from the funds of the commission, may, at the time of service, demand the fee to which he is entitled for travel to and from the place at which he is required to appear, and one day's attendance. If such witness demands such fees at the time of service, and they are not at that time paid or tendered, he shall not be required to attend before the commission, member thereof, or referee as directed in the subpoena. All fees or mileage to which any witness is entitled under the provisions of this section may be collected by action therefor instituted by the person to whom such fees are payable.

SEC. 79. The superior court in and for the county, or city and county, in which any inquiry, investigation, hearing or proceeding may be held by the commission or any member thereof or referee appointed thereby, shall have the power to compel the attendance of witnesses, the giving of testimony and the production of papers, including books, accounts and documents, as required by any subpoena issued by the commission or member thereof or referee. The commission or the member thereof or the referee, before whom the testimony is to be given or produced, in case of the refusal of any witness to attend or testify or produce any papers required by such subpoena, may report to the superior court in and for the county, or city and county, in which the proceeding is pending, by petition, setting forth that due notice has been given of the time and place of attendance of said witness, or the production of said papers, and that the witness has been subpoenaed in the manner prescribed in this act, and that the witness has failed and refused to attend or produce the papers required by the subpoena, or has refused to answer questions propounded to him in the course of such proceeding, and ask an order of said court, compelling the witness to attend and testify or produce said papers before the commission. The court, upon the petition of the commission or such member thereof or referee, shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in such order, the time to be not more than ten days from the date of the order, and then and there show cause why he had not attended and testified or produced said papers before the commission, member thereof or referee. A copy of said order shall be served upon said witness. If it shall appear to the court that said subpoena was regularly issued by the commission or member thereof or referee, the court shall thereupon enter an order that said witness appear before the commission or member thereof or referee at a time and place to be fixed in such order, and testify or produce the required papers, and upon failure to obey said order, said witness shall be dealt with as for contempt of court. The remedy provided in this section is cumulative, and shall not be construed to impair or interfere with the power of the commission or a member thereof to enforce the attendance of witnesses and the production of papers, and to punish for contempt in the same manner and to the same extent as courts of record.

Power to administer oaths, etc.

Procuring testimony.

**General powers.** SEC. 80. (a) The commission is hereby vested with full power, authority and jurisdiction to do and perform any and all things, whether herein specifically designated, or in addition thereto, which are necessary or convenient in the exercise of any power, authority or jurisdiction conferred upon it under this act.

(b) The commission and each member thereof shall have power to issue writs of summons, warrants of attachment, warrants of commitment and all necessary process in proceedings for contempt, in like manner and to the same extent as courts of record. The process issued by the commission or any member thereof shall extend to all parts of the State and may be served by any persons authorized to serve process of courts of record, or by any person designated for that purpose by the commission or any member thereof. The person executing any such process shall receive such compensation as may be allowed by the commission, not to exceed the fees now prescribed by law for similar services, and such fees shall be paid in the same manner as provided herein for the fees of the witnesses.

**Rehearings.** SEC. 81. (a) Any party or person aggrieved directly or indirectly by any final order, decision, award, rule or regulation of the commission, made or entered under any provision contained in this act, may apply to the commission for a rehearing in respect to any matters determined or covered by such final order, decision, award, rule or regulation and specified in the application for rehearing within the time and in the manner hereinafter specified, and not otherwise.

(b) No cause of action arising out of any such final order, decision or award shall accrue in any court to any person until and unless such person shall have made application for such rehearing, and such application shall have been granted or denied: *Provided*, That nothing herein contained shall be construed to prevent the enforcement of any such final order, decision, award, rule or regulation in the manner provided in this act.

(c) Such application shall set forth specifically and in full detail the grounds upon which the applicant considers said final order, decision, award, rule or regulation is unjust or unlawful, and every issue to be considered by the commission. Such application must be verified upon oath in the same manner as required for verified pleadings in the courts of record and must contain a general statement of any evidence or other matters upon which the applicant relies in support thereof. The applicant for such rehearing shall be deemed to have finally waived all objections, irregularities and illegalities concerning the matter upon which such rehearing is sought other than those set forth in the application for such rehearing.

(d) A copy of such application for rehearing shall be served forthwith on all adverse parties, if any, and any such adverse party may file an answer thereto within ten days thereafter. Such answer must likewise be verified. If there are no adverse parties, such application may be heard ex parte or the commission may require the application for rehearing to be served on such parties as may be designated by it.

(e) Upon filing of an application for a rehearing, if the issues raised thereby have theretofore been adequately considered by the commission, it may determine the same by confirming without hearing its previous determination, or if a rehearing is necessary to determine the issues raised, the commission shall order a rehearing thereon and consider and determine the matter or matters raised by such application. Notice of the time and place of such rehearing shall be given to the applicant and the adverse parties, if any, and to such other persons as the commission may order.

(f) If after such rehearing and a consideration of all the facts, including those arising since the making of the order, decision or award involved, the commission shall be of the opinion that the original order, decision or award or any part thereof, is in any respect unjust or unwarranted, or should be changed, the commission may abrogate, change or modify the same. An order, decision or award made after such rehearing, abrogating, changing or modifying the original order, decision or award shall have the same force and effect as an original order, decision or award, but shall not affect any right or the enforcement of any right arising from or by virtue of the original order, decision or award, unless so

ordered by the commission. An application for a rehearing shall be deemed to have been denied by the commission unless it shall have been acted upon within thirty days from the date of filing: *Provided, however, That the commission may upon good cause being shown therefor, extend the time within which it may act upon such application for rehearing for not exceeding thirty days.*

SEC. 82. (a) At any time within twenty days after the service of any final order or decision of the commission awarding or denying compensation, or arising out of or incidental thereto, any party or parties aggrieved thereby may apply for such rehearing upon one or more of the following grounds and upon no other grounds: Grounds for rehearing.

(1) That the commission acted without or in excess of its powers.

(2) That the order, decision or award was procured by fraud.

(3) That the evidence does not justify the finding of fact.

(4) That the applicant has discovered new evidence, material to him, and which he could not, with reasonable diligence have discovered and produced at the hearing.

(5) That the findings of fact do not support the order, decision or award.

(b) Nothing contained in this section shall, however, be construed to limit the right of the commission, at any time within two hundred forty-five weeks from the date of its award, and from time to time, after due notice and upon the application of any party interested, to review, diminish or increase, within the limits provided by this act, any compensation awarded upon the grounds that the disability of the person in whose favor such award was made has either increased or diminished or terminated.

SEC. 83. (a) At any time within twenty days after the service of any other final order, decision, rule or regulation made by the commission under the provisions of this act, any party or parties, person or persons aggrieved thereby or otherwise affected, directly or indirectly, may apply for such rehearing upon one or more of the following grounds and upon no other grounds: Same subject.

(1) That the commission acted without or in excess of its powers.

(2) That the order or decision was procured by fraud.

(3) That the order, decision, rule or regulation is unreasonable.

(b) Nothing contained in this section shall be construed to limit the right of the commission, at any time and from time to time, to adopt new or different rules or regulations or new or different standards of safety, or to abrogate, change or modify any existing rule, regulation, or standard, or any part thereof, or to deprive the commission of continuing jurisdiction over the same or to prevent the enforcement in the manner provided by this act, of any rules, regulations or standard of the commission, or any part thereof, when so adopted, or changed, or modified.

SEC. 84. (a) Within thirty days after the application for a rehearing is denied, or, if the application is granted, within thirty days after the rendition of the decision on the rehearing, any party affected thereby may apply to the supreme court of this State or to the district court of appeal of the appellate district in which such person resides, for a writ of certiorari or review (hereinafter referred to as a writ of review) for the purpose of having the lawfulness of the original order, decision or award or the order, decision or award on rehearing inquired into and determined. Appeal to court.

(b) Such writ shall be made returnable not later than thirty days after the date of the issuance thereof, and shall direct the commission to certify its record in the case to the court. On the return day the cause shall be heard in the court unless for good cause the same be continued. No new or additional evidence may be introduced in such court but the cause shall be heard on the record to the commission as certified to by it. The review shall not be extended further than to determine whether or not—

(1) The commission acted without or in excess of its powers.

(2) The order, decision or award was procured by fraud.

(3) The order, decision, rule or regulation is unreasonable.

(4) If findings of fact are made, whether or not such findings of fact support the order, decision or award under review.

(c) The findings and conclusions of the commission on questions of fact shall be conclusive and final and shall not be subject to review; such questions of fact shall include ultimate facts and the findings and conclusions of the commission. The commission and each party to the action or proceeding before the commission shall have the right to appear in the review proceeding. Upon the hearing the court shall enter judgment either affirming, modifying or setting aside the order, decision or award.

(d) The provisions of the Code of Civil Procedure of this State relating to writs of review shall, so far as applicable and not in conflict with this act, apply to proceedings in the courts under the provisions of this section. No court of this State (except the supreme court and the district courts of appeal to the extent herein specified) shall have jurisdiction to review, reverse, correct or annul any order, decision or award of the commission or to suspend or delay the operation or execution thereof, or to restrain, enjoin or interfere with the commission in the performance of its duties: *Provided*, That a writ of mandamus shall lie from the supreme court or the district courts of appeal in all proper cases.

**Suspension.**

Sec. 85. (a) The filing of an application for a rehearing shall have the effect of suspending the order, decision, award, rule or regulation affected, in so far as the same applies to the parties to such application, unless otherwise ordered by the commission, for a period of ten days, and the commission may, in its discretion and upon such terms and conditions as it may by order direct, stay, suspend or postpone the same during the pendency of such rehearing.

(b) The filing of an application for, or the pendency of, a writ of review, shall not of itself stay or suspend the operation of the order, decision, award, rule or regulation of the commission subject to review, but the court before which such application is filed may, in its discretion, stay or suspend in whole or in part the operation of the order, decision, award, rule or regulation of the commission subject to review upon such terms and conditions as it may by order direct.

**Construction.**

Sec. 86. (a) Whenever this act, or any part or section thereof, is interpreted by a court, it shall be liberally construed by such court.

(b) If any section, subsection, subdivision, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act, and each section, subsection, subdivision, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses or phrases is declared unconstitutional.

(c) This act shall not be construed to apply to employers or employments which, according to law, are so engaged in interstate commerce as not to be subject to the legislative power of the State or to employees injured while they are so engaged, except in so far as this act may be permitted to apply under the provisions of the Constitution of the United States or the acts of Congress.

**Election.**

Sec. 87. (a) Any employer, having in his employment any employee not included within the term "employee" as defined by section fourteen of this act or not entitled to compensation under this act, and any such employee, may, by their joint election, elect to come under the compensation provisions of this act in the manner hereinafter provided.

(b) Such election on the part of the employer shall be made by filing with the commission a written statement to the effect that he accepts the compensation provisions of this act, which, when filed, shall operate, within the meaning of section twelve of this act, to subject him to the compensation provisions of this act, and of all acts amendatory thereof, for the term of one year from the date of filing, and thereafter without further act on his part, for successive terms of one year each, unless such employer shall, at least sixty days prior to the expiration of such first or any succeeding year, file in the office of the commission a notice in writing that he withdraws his election. Such acceptance shall not be held to include employees whose employment is both casual and not in the usual course of the trade, business, profession or occupation of the employer, unless expressly mentioned therein.

(c) Any employee in the service of any such employer, shall be deemed to have accepted, and shall, within the meaning of section

twelve of this act, be subject to the compensation provisions of this act, and of any act amendatory thereof, if, at the time of the accident for which liability is claimed:

(1) The employer charged with such liability is subject to the compensation provisions of this act, whether the employee has actual notice thereof or not; and

(2) Such employee shall not, at the time of entering into his contract of hire, have given to his employer notice in writing that he elects not to be subject to the compensation provisions of this act; or, in the event that such contract of hire was made in advance of the election by the employer, such employee shall have given to his employer notice in writing that he elects to be subject to such provisions, or without giving either of such notices, shall have remained in the service of such employer for thirty days after the employer has filed his election.

SEC. 88. The commission shall, not later than the first day of December of each calendar year, subsequent to the year 1913, make a report to the governor of the State covering its entire operations and proceedings for the previous fiscal year, with such suggestions or recommendations as it may deem of value for public information. Such report shall be printed and a copy thereof furnished to all applicants within this State.

Reports.

SEC. 89. The sum of one hundred eighty-seven thousand four hundred seventy dollars is hereby appropriated out of any money in the State treasury, not otherwise appropriated, to be used by the Industrial Accident Commission in carrying out the purposes of this act, and the controller is hereby directed to draw his warrant on the general fund from time to time in favor of said Industrial Accident Commission for the amounts expended under its direction, and the treasurer is hereby authorized and directed to pay the same.

Appropriation.

SEC. 90. All acts or parts of acts inconsistent with this act are hereby repealed.

Repealer.

SEC. 91. The compensation provisions of this act shall not apply to any injury sustained prior to the taking effect thereof.

Prior injuries.

SEC. 92. This act shall take effect and be in force on and after the first day of January, A. D. 1914.

Act in effect.

Approved May 26, 1913.

## CONNECTICUT.

### ACTS OF 1913.

#### CHAPTER 138.—*Compensation of workmen for injuries.*

##### PART A. EMPLOYERS' LIABILITY.

SECTION 1. In an action to recover damages for personal injury sustained by an employee arising out of and in the course of his employment, or for death resulting from injury so sustained, it shall not be a defense: (a) That the injured employee was negligent; (b) that the injury was caused by the negligence of a fellow employee; (c) that the injured employee had assumed the risk of the injury.

Defenses abolished.

SEC. 2. The provisions of section 1 of Part A of this act shall not apply to actions to recover damages for personal injuries sustained by employees of any employer having regularly less than five employees, by casual employees, or by outworkers; nor shall the same provisions apply to actions against any employer who shall have accepted Part B of this act in the manner hereinafter prescribed.

When abrogation does not apply.

##### PART B. WORKMEN'S COMPENSATION.

SECTION 1. When any persons in the mutual relation of employer and employee shall have accepted Part B of this act, the employer shall not be liable to any action for damages on account of personal injury sustained by an employee arising out of and in the course of his employment or on account of death resulting from injury so sustained; but the employer shall pay compensation on account of such injury in accordance with the scale hereinafter provided, except that no compensation

Election of compensation.



shall be paid when the injury shall have been caused by the willful and serious misconduct of the injured employee or by his intoxication. The acceptance of Part B of this act by employers and employees shall be understood to include the mutual renunciation and waiver of all rights and claims arising out of injuries sustained in the course of employment as aforesaid, other than rights and claims given by Part B of this act, including the right of jury trial on all questions affecting compensation and all right of appeal from the compensation commissioners except as hereinafter established.

**Election presumed.**

**SEC. 2.** Every contract of employment not made before the date of this act shall be conclusively presumed to include a mutual agreement between employer and employee to accept Part B of this act and be bound thereby, unless either employer or employee shall by written stipulation in the contract, or by such other notice as is prescribed in section three of Part B, indicate his refusal to accept the provisions of said Part B. Every contract of employment made before the date of this act and continued in force after said date shall be conclusively presumed to include a mutual agreement between employer and employee to accept Part B of this act and be bound thereby, unless by the date at which this act goes into effect either employer or employee has indicated his refusal to accept said Part B in the manner prescribed in section three of said Part B.

**Withdrawal of acceptance.**

**SEC. 3.** Acceptance of Part B of this act may be withdrawn by written or printed notice from either employer or employee to the other party and to the compensation commissioner of the district in which the employee is employed. Notice of withdrawal may be served by personal presentation or by registered letter addressed to the person on whom it is to be served at his last known residence or place of business; and such notice shall become effective thirty days after service. Either employer or employee who has withdrawn acceptance may renew the same by the same notice and procedure as is prescribed for withdrawals. Notices in behalf of a minor shall be given by his parent or guardian, or, if there be no parent or guardian, then by such minor.

**Renewals.**

**Failure to elect.**

**SEC. 4.** Every employer not accepting Part B of this act shall be liable to action for damages on account of personal injury to his employees in accordance with the provisions of Part A of this act, and every employee not accepting Part B of this act shall lose all rights and benefits of Part A of this act with reference to any employer who continues to accept said Part B.

**Contractors and subcontractors.**

**SEC. 5.** When any principal employer procures any work to be done, wholly or in part for him, by a contractor, or through him by a subcontractor, and the work so procured to be done is a part or process in the trade or business of such principal employer, and is performed in, on, or about premises under his control, then such principal employer shall be liable to pay all compensation under this act to the same extent as if the work were done without the intervention of such contractor or subcontractor.

**Liability of third persons.**

**SEC. 6.** When any injury for which compensation is payable under this act shall have been sustained under circumstances creating in some other person than the employer a legal liability to pay damages in respect thereto, the injured employee may, at his option, either claim compensation under this act or proceed at law against such other person to recover damages; and, if compensation is claimed and paid under this act, any employer having paid the compensation shall be subrogated to the rights of the injured employee to recover against that person: *Provided*, If the employer shall recover from such other person damages in excess of the compensation already paid, or awarded to be paid under this act, then any such excess shall be paid to the injured employee, less the employer's expenses and costs of action.

**Medical and surgical care.**

**SEC. 7.** The employer shall provide a competent physician or surgeon to attend any injured employee during the thirty days immediately following the injury, as such injury may require, and in addition shall furnish such medical and surgical aid or hospital service, during such thirty days, as such physician or surgeon shall deem reasonable or necessary. In the event of the failure of the employer promptly to provide such physician or surgeon or such medical or surgical or hospital service, during any portion of such thirty days, the injured employee may pro-

vide such physician or surgeon or medical or surgical or hospital service at the expense of the employer. Or, at his option, the injured employee may refuse the medical, surgical, and hospital service provided by his employer and provide the same at his own expense. If it shall appear to the commissioner that an injured employee has refused to accept and failed to provide such reasonable medical, surgical, or hospital care, all rights of compensation under this act shall be suspended during such refusal and failure. The pecuniary liability of the employer for the medical, surgical, and hospital service herein required shall be limited to such charges as prevail in the same community for similar treatment of injured persons of a like standard of living when such treatment is paid for by the injured persons.

Sec. 8. No compensation shall be payable under this act on account of any injury which does not incapacitate the injured employee for a period of more than two weeks from earning full wages at his customary employment; but if incapacity extends beyond a period of two weeks compensation shall begin on the fifteenth day after the injury.

Waiting time.

Sec. 9. Compensation shall be paid on account of death resulting from injuries within two years from date of injury as follows: (a) For burial expenses one hundred dollars; (b) to those totally dependent upon the deceased employee at the time of his injury a weekly compensation equal to half of the average weekly earnings of the deceased at the time of his injury; (c) in case there is no one totally dependent upon the deceased employee then to those partially dependent upon the deceased employee at the time of his injury a weekly compensation not exceeding that payable to total dependents and of such proportionate sum as may be determined according to the measure of dependence; (d) in case there are no dependents of the deceased employee the sum of seven hundred and fifty dollars to be paid to the state treasurer and by him set apart as a fund to be used for the payment of lawful expenses of the commissioners; but the compensation payable on account of death resulting from injuries shall in no case be more than ten dollars or less than five dollars weekly, and such compensation shall not continue longer than three hundred and twelve weeks after death. The compensation on account of death payable under this act to a widow or widower of a deceased employee shall not cease with the death of such widow or widower, but upon her or his death within the period during which such compensation is payable it shall continue to be paid for the remainder of such period to her or his dependents as defined in section forty-three.

Compensation for death.

Sec. 10. The following persons shall be conclusively presumed to be totally dependent for support upon a deceased employee: (a) A wife upon a husband with whom she lives at the time of his injury or from whom she receives support regularly; (b) a husband upon a wife with whom he lives at the time of her injury or from whom he receives support regularly; (c) a child or children under the age of eighteen years, or over said age, but physically or mentally incapacitated from earning, upon the parent with whom he is or they are living or from whom he is or they are receiving support regularly at the time of the injury of such parent, there being no surviving dependent parent. In case there is more than one child thus dependent the death benefit shall be divided equally among them. In all other cases questions of dependency, total or partial, shall be determined in accordance with the fact, as the fact may be at the time of the injury. In such other cases, if there is more than one person totally dependent, the death benefit shall be divided equally among them, and persons partially dependent, if any, shall receive no part thereof. If there is no person totally dependent and more than one person partially dependent, the death benefit shall be divided among them according to the relative degrees of their dependence. For the purposes of this act the dependence of a widow or widower of a deceased employee shall be construed to terminate with remarriage and the dependence of a child, except a child physically or mentally incapacitated from earning, with the attainment of eighteen years. Compensation under this section shall be paid to alien dependents in half the amounts indicated in this section unless such alien dependents are residents of the United States, or its dependencies, or Canada.

Who are dependents.

**Total disability.** SEC. 11. In case the injury results in total incapacity to perform work of any character, there shall be paid to the injured employee a weekly compensation equal to half of his average weekly earnings at the time of the injury; but the compensation shall in no case be more than ten dollars or less than five dollars weekly; and such compensation shall not continue longer than the period of total incapacity, or in any event longer than five hundred and twenty weeks. The following injuries of any person shall be considered as causing total incapacity and compensation shall be paid accordingly: (a) Total and permanent loss of sight in both eyes; (b) the loss of both feet at or above the ankle; (c) the loss of both hands at or above the wrist; (d) the loss of one foot at or above the ankle and one hand at or above the wrist; (e) any injury resulting in permanent and complete paralysis of the legs or arms or of one leg and one arm; (f) any injury resulting in incurable imbecility or insanity.

**Partial disability.** SEC. 12. In case the injury results in partial incapacity, there shall be paid to the injured employee a weekly compensation equal to half the difference between his average weekly earnings before the injury and what he is able to earn thereafter. This compensation shall in no case be more than ten dollars weekly and shall continue during the period of partial incapacity, but not longer than three hundred and twelve weeks. If the employer procures for an injured employee employment suitable to his capacity the wages offered in such employment shall be taken as the earning capacity of the injured employee. In case of the following injuries the compensation, in lieu of all other payments, shall be half of the previous average weekly earnings of the injured employee for the terms respectively indicated: (a) for the loss of one arm at or above the elbow, or the complete and permanent loss of the use of one arm, two hundred and eight weeks; (b) for the loss of one hand at or above the wrist, or the complete and permanent loss of the use of one hand, one hundred and fifty-six weeks; (c) for the loss of one leg at or above the knee, or the complete and permanent loss of the use of one leg, one hundred and eighty-two weeks; (d) for the loss of one foot at or above the ankle, or the complete and permanent loss of the use of one foot, one hundred and thirty weeks; (e) for the complete and permanent loss of hearing in both ears, one hundred and fifty-six weeks; (f) for the complete and permanent loss of hearing in one ear, fifty-two weeks; (g) for the complete and permanent loss of sight of one eye, one hundred and four weeks; (h) for the loss of a thumb, thirty-eight weeks; (i) for the loss of a first finger or a great toe, thirty-eight weeks; (j) for the loss of a second finger, thirty weeks; a third finger, twenty-five weeks; a fourth finger, twenty weeks; (k) for the loss of any toe except the great toe, thirteen weeks. The loss of one phalange of a thumb or two phalanges of a finger shall be considered half the loss of a thumb or finger respectively, and shall be compensated accordingly.

**Computation of earnings.** SEC. 13. For the purpose of this act, the average weekly wage shall be ascertained by dividing the total wages received by the injured workman from the employer in whose service he is injured during the twenty-six calendar weeks immediately preceding that during which he was injured, by the number of said calendar weeks during which, or any portion of which, said workman was actually employed by said employer, provided in making such computation absence for seven consecutive calendar days, although not in the same calendar week, shall be considered as absence for a calendar week. Where the employment commenced other than at the beginning of a calendar week, such calendar week and the wages earned during such week, shall be excluded in making the above computation. Where the employment previous to injury as provided above is computed to be less than a net period of two calendar weeks, then his weekly wage shall be considered to be equivalent to the average weekly wage prevailing in the same or similar employment in the same locality at the time of injury.

**Advance payments.** SEC. 14. In fixing the amount of any compensation under this act due allowance shall be made for any sum which the employer may have paid to any injured employee or to his dependents on account of the injury, except such sums as the employer may have expended or directed to be expended for medical, surgical, or hospital service.

SEC. 15. Any award of compensation made under this act shall be subject to modification, upon the request of either party and in accordance with the procedure for original determinations, whenever it shall appear to the compensation commissioner or commission that the incapacity of an injured employee has increased, decreased, or ceased, or that the measure of dependence on account of which the compensation is paid has changed.

Revision of awards.

SEC. 16. Within ninety days after the passage of this act the governor shall appoint five competent persons, one for each of the five congressional districts as at present constituted, to be known as compensation commissioners, and shall designate one of them as chairman. The term of office of the compensation commissioners shall be five years, except that when first appointed one shall be appointed for one year and three months from October 1, 1913, one for two years and three months from said date, one for three years and three months from said date, one for four years and three months from said date, and one for five years and three months from said date. Thereafter, upon the expiration of the term for which a commissioner is first appointed, his successor shall be appointed by the governor for the full term of five calendar years. After due notice and public hearing the governor may remove any commissioner for cause and the good of the public service. Said commissioners shall be sworn to a faithful performance of their duties. Vacancies occurring during a term shall be filled by the governor.

Compensation commissioners.

SEC. 17. Each commissioner shall, for the purpose of this act, have power to summon and examine under oath such witnesses, and may direct the production of, and examine or cause to be produced or examined, such books, records, vouchers, memoranda, documents, letters, contracts, or other papers in relation to any matter at issue as he may find proper, and shall have the same powers in reference thereto as are now vested in magistrates taking depositions. He shall have power to certify to official acts, and all powers necessary to enable him to perform the duties imposed upon him by this act. The commissioners shall reside in the districts for which they are severally appointed and each shall have jurisdiction of all claims and questions arising in such district under Part B of this act. The commissioner for the first congressional district shall maintain an office at some convenient location in the city of Hartford; the commissioner for the second district an office similarly located in the city of Willimantic; the commissioner for the third district, in the city of New Haven; the commissioner for the fourth district, in the city of Bridgeport; and the commissioner for the fifth district, in the city of Waterbury. Each commissioner shall keep his office open during reasonable business hours of every day except Sundays and legal holidays, but he shall have power to hear and decide cases at any other place within his district. In case a commissioner is disqualified or temporarily incapacitated from hearing any matter, he shall designate some other commissioner to hear and decide said matter and such other commissioner shall possess the same jurisdiction and power, for the purposes of such hearing, as such incapacitated or disqualified commissioner. The superior court, on application of a commissioner or the commission, or of the attorney general, may enforce, by appropriate decree or process, any provision of this act or any proper order of a commissioner or the commission rendered in pursuance of any such provision.

Powers.

Residence.

Enforcement of orders, etc.

SEC. 18. Acting together, the commissioners shall have power to adopt and change such common rules, procedure, and forms as they shall deem expedient for the purposes of this act. Annually the commissioners shall prepare and submit to the governor a report of their doings, including such recommendations as they shall think proper for the improvement of this act or its administration.

Board of commissioners.

SEC. 19. Each of the commissioners shall receive a salary of four thousand dollars per annum, payable in equal monthly instalments, and in addition such allowance, not exceeding two thousand dollars a year, as may be approved by the comptroller for expenses incurred in the discharge of his duties.

Salaries, etc.

SEC. 20. Every employer who has accepted Part B of this act shall keep a record of such injuries sustained by his employees in the course

Reports of accidents.

of their employment as result in incapacity for one day or more, and every such employer shall send each week to the commissioner such report of said injuries as the commission shall require, with such notices of claims for compensation as have been served upon him within one week, in conformity with the provisions of section twenty-one. No other report of injuries to employees shall be required by any department or office of the state from such employers as have accepted Part B, and copies of all reports of injuries received by a commissioner shall by him be transmitted to the factory inspector once in three months.

Claims.

SEC. 21. No proceedings for compensation under this act shall be maintained unless a written notice of the injury shall have been given to the employer by the injured employee or in his behalf within thirty days of the happening thereof, and during the continuance of the incapacity on account of which compensation is claimed, nor unless claim for compensation is made within one year from the date of the injury. Such notice shall state in ordinary language the date, place, and nature of the injury, the name and address of the injured employee, and the person in whose interest compensation is claimed. Notices may be served in the same manner as notices of withdrawal from the provisions of Part B of this act; and, in cases of fatal injuries, notice may be served either by any one of the dependents under this act or by the legal representative of the deceased employee; but no want, defect, or inaccuracy of such notice and claim shall be a bar to the maintenance of proceedings unless the employer shall show that he was ignorant of the injury and was prejudiced by want, defect, or inaccuracy of notice. Upon satisfactory showing of such ignorance and prejudice, the employer shall receive allowance to the extent of such prejudice. Within one week after the receipt by an employer of such notice of injury and claim for compensation he shall report the substantial facts of said notice and claim to the commissioner.

Voluntary agreements.

SEC. 22. If an employer and an injured employee, or in case of fatal injury his legal representative, shall, not earlier than two weeks after the date of the injury, reach an agreement in regard to compensation, such agreement shall by the employer be submitted in writing to the commissioner, with a statement of the time, place, and nature of the injury upon which it is based; and if said commissioner shall find said agreement to conform to the provisions of this act in every regard he shall so approve it. Every agreement thus approved shall be filed in the office of the clerk of the superior court for the county in which the injury occurred and a copy thereof shall be retained by the commissioner, and a copy of the same delivered to each of the parties and thereafter it shall be as binding upon both parties as an award by the commissioner. Such agreements shall be subject to subsequent modification as changed conditions may justify, but no modification shall be valid until approved and filed by the commissioner.

Medical examinations.

SEC. 23. At any time while claiming or receiving compensation, upon the reasonable request of the employer or at the direction of the commissioner, an injured employee shall submit himself to examination by a reputable practicing physician or surgeon provided and paid by the employer, with a view to a determination of the nature of the injury and the incapacity resultant therefrom. At any such examination the injured employee shall be allowed to secure the attendance of any reputable practicing physician or surgeon provided and paid by himself. The refusal of an injured employee thus to submit himself to a reasonable examination shall suspend his right to compensation during such refusal.

Hearings of claims.

SEC. 24. If an employer and his injured employee, or his legal representative, as the case may be, shall fail to reach an agreement in regard to compensation under this act, either party may notify the commissioner of the failure. Upon such notice, or upon other knowledge that an agreement has not been reached in a case in which compensation is claimed, the commissioner shall appoint an early hearing upon the matter, giving both parties due notice of time and place not less than ten days prior to the date appointed. Hearings shall be held, if practicable, in the town in the State in which the injured employee resides; and, if such place is not practicable, in such other convenient place as the commissioner may prescribe. Sufficient notice of such

hearing may be given to the parties in interest by a brief written statement in ordinary terms of the date, place, and nature of the injury upon which the claim for compensation is based.

SEC. 25. Both parties may appear at any hearing, either in person or by attorney or other accredited representative, and no formal pleadings shall be required, beyond such informal notices as the commission shall approve. In all cases and hearings under this act the commissioner shall proceed, so far as possible, in accordance with the rules of equity. He shall not be bound by the ordinary common law or statutory rules of evidence or procedure, but may make inquiry in such manner, through oral testimony or written and printed records, as is best calculated to ascertain the substantial rights of the parties and carry out justly the spirit of this act. No fees shall be taxed or charged to either party by the commissioner in connection with any hearing or other procedure, but the commissioner may and shall furnish at actual cost certified copies of any testimony, award, or other matter which may be of record in his office. Witnesses subpoenaed by the commissioner shall be allowed such fees and traveling expenses as are allowed in civil actions, to be paid by the party subpoenaing said witnesses.

Conduct of  
hearings.

SEC. 26. As soon as may be after the conclusion of any hearing the commissioner shall send to each party a written copy of his finding and award and shall file a third copy in his office. The original award shall be filed in the office of the clerk of the superior court for the county in which the injury occurred. If no appeal from his decision is taken by either party within ten days thereafter said finding and award shall be final and may be enforced in the same manner as a judgment of the superior court. The superior court is hereby authorized to issue execution upon any uncontested or final award of a commissioner in the same manner as in cases of judgments rendered in the superior court.

Awards.

SEC. 27. At any time within ten days after entry of such finding and award by the commissioner either party may appeal therefrom to the superior court for the county in which the injury was sustained. The clerk of said court shall notify the adverse party of such appeal. No bond for prosecution shall be required on any such appeal unless property of the defendant is attached therein. Actions brought into the superior court under the provisions of this section shall be privileged in respect to their assignment for trial over all other actions except writs of habeas corpus and actions brought by or on behalf of the State, including informations on the relation of private individuals. No costs shall be taxed in favor of either party on any such appeal.

Appeals.

SEC. 28. Whenever he deems it just or necessary the commissioner may approve or direct the commutation of weekly compensations under this act into monthly or quarterly payments, or into a single lump sum. In any such case of commutation, a true equivalence of value shall be maintained, with due discount of sums payable in the future; and when commutation is made into a single lump sum, the commissioner may direct that it be paid into any savings bank, trust company, or life insurance company which is authorized to do business within this State, to be held in trust for the beneficiary or beneficiaries under this act, and paid out in conformity with the provisions of this act.

Commutation  
into lump sums.

SEC. 29. With the approval of the State insurance commissioner any employer subject to the provisions of Part B may enter into an agreement with his employees to provide a system of compensation, benefit, and insurance in lieu of the compensation and insurance provided by this act. No such substitute system shall be approved unless it confers benefits upon injured employees at least equivalent to the benefits provided by this act, nor shall any such substitute system be approved which contains an obligation of employees to join in it as a condition of employment, or which in that case does not contain equitable provision for the withdrawal of employees from it and the distribution of its assets. If any such system requires contributions from employees it shall not be approved unless it confers benefits in addition to those provided under this act at least commensurate with such contributions. The insurance commissioner, having given his approval of such substitute system, shall have over it all the jurisdiction given him by chapter 186 of the public acts of 1909 over insurance companies. He may withdraw his approval upon reasonable notice to the employer

Substitute  
schemes.

- and order a distribution of the assets, subject to the right of any party in interest to take an appeal to the superior court for Hartford County.
- Guarantee of payments.** **SEC. 30.** Every employer subject to Part B who shall not furnish to the commissioner satisfactory proof of his solvency and financial ability to pay directly to injured employees or other beneficiaries the compensation provided by this act, shall insure his full liability under Part B in one or both the following ways. (1) By filing with the insurance commissioner in form acceptable to him security guaranteeing the performance of the obligations of this act by said employer; or, (2) by insuring his full liability under Part B of this act in such stock or mutual companies or associations as are or may be authorized to take such risks in this State, or by such combination of the above-mentioned two methods as he may choose, subject to the approval of the insurance commissioner.
- Contents of insurance policies.** **SEC. 31.** Every policy insuring the payment of compensations under this act shall contain a clause to the effect that as between the employee and the insurer notice and knowledge of the occurrence of injury by the insured shall be deemed notice and knowledge by the insurer, that jurisdiction of the insured for the purposes of this act shall be jurisdiction of the insurer, and that the insurer shall in all things be bound by and subject to the findings, judgments, and awards rendered against such insured.
- To cover full liability.** **SEC. 32.** No policy of insurance against liability under Part B of this act, except as provided in section thirty, shall be made unless the same shall cover the entire liability of the employer thereunder and shall contain an agreement by the insurer that, in case the insured shall become insolvent or be discharged in bankruptcy during the period that the policy is in operation, or the compensation, or any part of it, is due and unpaid, or in case an execution upon a judgment for compensation is returned unsatisfied, an injured employee, or other person entitled to compensation under this act, may enforce his claim to compensation against the insurer to the same extent that the insured could have enforced his claim against such insurer had he paid compensation.
- Employee's rights.** **SEC. 33.** No contract, expressed or implied, no rule, regulation, or other device, shall in any manner relieve any employer, in whole or in part, of any obligation created by this act, except as herein set forth.
- Waivers forbidden.** **SEC. 34.** When any employee affected by the provisions of this act, or any person entitled to compensation hereunder, shall be a minor, or mentally incompetent, his parent, or guardian duly appointed, may, on his behalf, perform any act or duty required or exercise any right conferred by this act with the same effect as if such person was legally capable to act in his own behalf and had so acted.
- Minors.** **SEC. 35.** All fees of attorneys, physicians, or other persons for services under this act shall be subject to the approval of the commissioner.
- Fees.** **SEC. 36.** All sums due for compensation under this act shall be exempt from levy, attachment, and execution and shall be nonassignable before or after award. The rights of compensation granted by this act shall have the same preference against the assets of an employer as may be allowed by law to a claim for unpaid wages.
- Status of benefit payments.** **SEC. 37.** Compensations payable under this act shall be paid at such particular times in the week and in such manner as the commissioner may order, and shall be paid directly to the persons entitled to receive them unless the commissioner, for good reason, shall order payment to those entitled to act for such persons.
- Payments.** **SEC. 38.** Any notice under this act required to be served upon employer, employee, or commissioner may be served in the manner prescribed in section three of Part B of this act, unless the circumstances of the case or the rules of the commission shall direct otherwise.
- Notice.** **SEC. 39.** The town clerks of the several towns are hereby authorized and directed to receive from the commission such blank forms as may be prepared for use under this act and to distribute the same to persons making proper application for them.
- Duty of town clerks.** **SEC. 40.** This act shall not affect the liability of employers to employees engaged in interstate or foreign commerce, for death or injury in case the laws of the United States provide for compensation or for liability for such death or injury.
- Interstate commerce.**

SEC. 41. The provisions of this act shall not apply to injuries or actions brought on account of injuries sustained before January 1, 1914. Prior injuries.

SEC. 42. Any employer who has accepted Part B of this act and who thereafter fails to conform to any of the provisions of section thirty of Part B, shall thereby forfeit all benefits thereunder and shall be liable as if he had not accepted the same. Any such employer who shall fail to conform to any of the other provisions of Part B shall be fined not more than one hundred dollars for each offense. Failure to observe act.

SEC. 43. "Commissioner" shall mean that compensation commissioner, as constituted in this act, who has jurisdiction in the matter referred to in the context. "Commission" shall mean the five commissioners, or a majority of them, acting as a board. "Dependents" shall mean members of the injured employee's family or next of kin who were wholly or partly dependent upon the earnings of the employee at the time of the injury. "Employee" shall mean any person who has entered into or works under any contract or service or apprenticeship with an employer. "Employer" shall mean any natural person, corporation, firm, partnership, or joint stock association, the state, and any public corporation within the State using the services of another for pay; it includes also the legal representative of any such employer. Masculine terms include males, females, and legal persons. "Outworker" shall mean a person to whom articles or materials are given to be treated in any way on premises not under the control or management of the person who gave them out. As the natural interpretation of the context may require, singular terms may be taken to include the plural, and plural to include the singular. Definitions.

SEC. 44. In case any provision of this act shall be held by the courts to be unconstitutional and invalid, the invalidity of such provision shall not affect any other provision which can be given effect without the provision held invalid. Unconstitutionality of single provisions.

**PART C. EMPLOYERS' MUTUAL INSURANCE.**

SECTION 1. With the approval of the insurance commissioner, employers who have accepted the provisions of Part B of this act and are bound to pay compensations to their employees thereunder, may associate themselves, in accordance with the law for the formation of corporations without capital stock, for the purpose of establishing and maintaining mutual associations to insure their liabilities under this act, but no such association shall be formed to include employers not in the same or similar trade or business, or in trades or businesses with substantially similar degrees of hazard of injury to employees. Mutual associations authorized.

SEC. 2. With a view to his approval, the insurance commissioner may require the incorporators of any such association to include in their proposed certificate of incorporation such lawful provisions for the regulation of the affairs of the association and the definition of its powers and the powers of its officers, directors, and incorporators as shall satisfy him that it is well designed and wisely adapted to its proposed purposes. When such a certificate, in form and substance acceptable to the insurance commissioner, has been approved by and filed with the secretary of the State, the incorporators shall forthwith cause copies thereof to be filed in the offices of the insurance commissioner and each of the compensation commissioners. To be approved.

SEC. 3. Membership in such associations shall be limited to such employers as are subject to Part B of this act, and each association shall have power, by appropriate by-laws, to provide for the admission, suspension, withdrawal, or expulsion of members. Membership.

SEC. 4. Except as herein otherwise provided, such associations shall be subject to the same regulation and control as is or may be imposed by law upon other corporations or associations taking similar risks in this State, and over them the insurance commissioner shall have all the jurisdiction given him by chapter 186 of the public acts of 1909 over insurance companies. Control.

SEC. 5. No policies shall be issued by any such association until members in such numbers and with such numbers of employees as the insurance commissioner may decide will give a fair diffusion of risks shall have obligated themselves to take policies immediately upon their Policies to issue when.



authorization, nor shall any policies be issued except such as the insurance commissioner shall have approved as conforming in all respects to the requirements of this act. Conformably to the provisions of section thirty of Part B of this act, policies may be issued covering claims only in excess of a certain amount. If at any time, by the retirement of members, reduction of numbers of employees, or other cause, the membership of any association shall appear to the insurance commissioner no longer to afford a fair diffusion of risks, he may suspend or forbid the further issue of policies until the former conditions of the association have been restored.

- Officers.** SEC. 6. The affairs of all associations incorporated under this act shall be managed by such officers and directors as may be chosen in manner prescribed by the by-laws of the association, provided every member shall be entitled to cast at least one ballot in all elections and votes, that any member having had for six months an average of more than one hundred and not more than five hundred employees to whom he is bound to pay compensation under this act shall be entitled to cast two ballots, that each additional five hundred employees shall entitle such member to an additional ballot, and that no member shall be entitled to cast more than eight ballots.
- Votes.**
- Rules for safety.** SEC. 7. Each association shall have power to prescribe and enforce reasonable rules for safety regulations on the premises of its members, and for that purpose, its inspectors shall have free access to all such premises during regular working hours.
- Premiums.** SEC. 8. Each association shall have power to determine the comparative premium rates for each occupation or risk insured by it and to prescribe rates of cash premiums sufficient to cover the current cost. Said premium rates shall prevail for the fiscal year of the association, but annually they may be changed at any time by the directors. The current cost herein specified shall be such an amount as is estimated to cover the expenses and the claims or portions of claims payable within the same fiscal year within which they originated. Members of each association shall be required to pay yearly in advance cash premiums for current costs, and in addition thereto an amount in negotiable notes sufficient to maintain a reserve equal to that required of stock or commercial casualty companies by the general statutes for similar classes of risks. These notes shall be payable on the call of the treasurer of the association, as they may be required to meet estimated losses or expenses in excess of the current cost or to meet claims covering losses not payable within the same fiscal year within which the claim originated. The directors may, in their discretion, fix rates of interest on either notes or balances.
- Assessments.** SEC. 9. If an association is not possessed of funds sufficient for the payment of incurred losses and expenses, it shall make an assessment for the amount needed to pay such losses and expenses, upon the members liable to assessment therefor, in proportion to their several liabilities.
- Funds.** SEC. 10. The funds of each association shall be invested by the directors in the same classes of securities and in the same manner in which the funds of domestic life insurance companies are by law required or permitted to be invested.
- By-laws and regulations.** SEC. 11. Each association shall have power to determine the premiums, contingent liabilities, assessments, penalties, and dividends of its members, and to enforce, or administer the same without the limitations imposed upon corporations without capital stock by section ninety of chapter 194 of the public acts of 1903. It shall also have power to make and amend by-laws or regulations not inconsistent with its certificate of incorporation for the prompt, economical, and safe conduct of its affairs. All by-laws and regulations of each association shall be filed with the insurance commissioner, and shall be subject to his approval. If not disapproved by him, they shall go into effect thirty days after filing, or at such later date as may be indicated in the by-laws or regulations.
- Appeals.** SEC. 12. From any decision or order of the insurance commissioner affecting any association, such association shall have the right of appeal to the superior court of Hartford County.

GENERAL PROVISIONS.

SECTION 13. All acts and parts of acts inconsistent with any provision of this act are hereby repealed to the extent of such inconsistency. Repealer.  
 SEC. 14. So much of this act as directs the appointment of compensation commissioners and authorizes the formation of employers' mutual insurance associations shall take effect upon its passage; so much as empowers the commission to adopt and publish rules, procedure, and forms shall take effect October 1, 1913; all other provisions of this act shall take effect January 1, 1914. Act in effect, when.

Approved, May 29, 1913.

ILLINOIS.

ACTS OF 1913.

*Compensation of workmen for injuries.*

(Page 335.)

SECTION 1. Any employer in this State may elect to provide and pay compensation for accidental injuries sustained by any employee arising out of and in the course of the employment according to the provisions of this act, and thereby relieve himself from any liability for the recovery of damages, except as herein provided. Election allowed.

(a) Election by an employer to provide and pay compensation according to the provisions of this act shall be made by the employer filing notice of such election with the industrial board. How made.

(b) Every employer within the provisions of this act who has elected to provide and pay compensation according to the provisions of this act shall be bound thereby as to all his employees covered by this act until January 1st of the next succeeding year and for terms of each year thereafter: *Provided*, Any such employer may elect not to provide and pay the compensation herein provided for accidents resulting in either injury or death and occurring after the expiration of any such calendar year by filing notice of such election with the industrial board at least sixty days prior to the expiration of any such calendar year, and by posting such notice at a conspicuous place in the plant, shop, office, room, or place where such employee is employed, or by personal service, in written or printed form, upon such employee, at least sixty days prior to the expiration of any such calendar year. Term.

(c) In the event any employer elects to provide and pay the compensation provided in this act, then every employee of such employer, as a part of his contract of hiring or who may be employed at the time of the taking effect of this act and the acceptance of its provisions by the employer, shall be deemed to have accepted all the provisions of this act and shall be bound thereby unless within thirty days after such hiring or after the taking effect of this act, and its acceptance by the employer, he shall file a notice to the contrary with the industrial board, whose duty it shall be to immediately notify the employer, and if so notified, the employer shall not be deprived of any common law or statutory defenses existing but for this act; and until such notice to the contrary is given to the employer, the measure of liability of the employer shall be determined according to the compensation provisions of this act: *Provided, however*, That any employee may withdraw from the operation of this act upon filing a written notice of withdrawal at least ten days prior to January 1st of any year with the industrial board, whose duty it shall be to immediately notify the employer by registered mail, and, if so notified, the employer shall not be deprived of any common law or statutory defenses existing but for this act, and until such notice to the contrary is given to the employer, the measure of liability of the employer shall be determined according to the compensation provisions of this act. Notice of withdrawal.

(d) Any employer or employee may, without prejudice to any existing right or claim, withdraw his election to reject this act by giving thirty days' written notice in such manner and form as may be provided by the industrial board. Presumption as to employees.

**Presumption as to certain employers.** Sec. 2. Every employer enumerated in section 3, paragraph (b), shall be conclusively presumed to have filed notice of his election as provided in section 1, paragraph (a), and to have elected to provide and pay compensation according to the provisions of this act, unless and until notice in writing of his election to the contrary is filed with the industrial board and unless and until the employer shall either furnish to his employee personally or post at a conspicuous place in the plant, shop, office, room or place where such employee is to be employed, a copy of said notice of election not to provide and pay compensation according to the provisions of this act; which notice of non-election, if filed and posted as herein provided, shall be effective until withdrawn; and such notice of nonelection may be withdrawn as provided in this act.

**Defenses abolished.** Sec. 3. (a) In any action to recover damages against an employer, engaged in any of the occupations, enterprises or businesses enumerated in paragraph (b) of this section, who shall elect not to provide and pay compensation to any employee, according to the provisions of this act, it shall not be a defense, that: First, the employee assumed the risks of the employment; second, the injury or death was caused in whole or in part by the negligence of a fellow servant; or third, the injury or death was proximately caused by the contributory negligence of the employee.

**Extrahazardous occupations.** (b) The provisions of paragraph (a) of this section shall only apply to an employer engaged in any of the following occupations, enterprises or businesses, namely:

1. The building, maintaining, repairing or demolishing of any structure;
2. Construction, excavating or electrical work;
3. Carriage by land or water and loading and unloading in connection therewith;
4. The operation of any warehouse or general or terminal store houses;
5. Mining, surface mining or quarrying;
6. Any enterprise in which explosive materials are manufactured, handled or used in dangerous quantities;
7. In any enterprise wherein molten metal, or explosive or injurious gases or vapors, or inflammable vapors or fluids, or corrosive acids, are manufactured, used, generated, stored or conveyed in dangerous quantities;
8. In any enterprise in which statutory or municipal ordinance regulations are now or shall hereafter be imposed for the regulating, guarding, use or the placing of machinery or appliances, or for the protection and safeguarding of the employees or the public therein; each of which occupations, enterprises or businesses are hereby declared to be extrahazardous.

**Who are employers.** Sec. 4. The term "employer" as used in this act shall be construed to be:

First. The State and each county, city, town, township, incorporated village, school district, body politic, or municipal corporation therein.

Second. Every person, firm, public or private corporation, including hospitals, public service, eleemosynary, religious, or charitable corporations or associations who has any person in service or under any contract for hire, express or implied, oral or written, and who, at or prior to the time of the accident to the employee for which compensation under this act may be claimed, shall in the manner provided in this act have elected to become subject to the provisions of this act, and who shall not, prior to such accident, have effected a withdrawal of such election in the manner provided in this act.

**Who are employees.** Sec. 5. The term "employee" as used in this act shall be construed to mean:

First. Every person in the service of the State, county, city, town, township, incorporated village or school district, body politic, or municipal corporations therein, under appointment, or contract of hire, express or implied, oral or written, except any official of the State, or of any county, city, town, township, incorporated village, school district, body politic, or municipal corporation therein; and except any employee thereof for whose accidental injury or death arising out of and in the course of his employment compensation or a pension shall be payable to him, his personal representative, beneficiaries or heirs,

from any pension or benefit fund to which the State, or any county, city, town, township, incorporated village, school district, body politic, or municipal corporation therein contributes in whole or in part: *Provided*, That one employed by a contractor who has contracted with the State, or a county, city, town, township, incorporated village, school district, body politic, or municipal corporation therein, through its representatives, shall not be considered as an employee of the State, county, city, town, township, incorporated village, school district, body politic or municipal corporation which made the contract.

Second. Every person in the service of another under any contract of hire, express or implied, oral or written, including aliens, and minors who are legally permitted to work under the laws of the State, who, for the purpose of this act, shall be considered the same and have the same power to contract, receive payments and give quittances therefor, as adult employees, but not including any person whose employment is but casual or who is not engaged in the usual course of the trade, business, profession, or occupation of his employer: *Provided*, That employees shall not be included within the provisions of this act when excluded by the laws of the United States relating to liability of employers to their employees for personal injuries where such laws are held to be exclusive.

SEC. 6. No common law or statutory right to recover damages for injury or death sustained by any employee while engaged in the line of his duty as such employee other than the compensation herein provided shall be available to any employee who is covered by the provisions of this act, to any one wholly or partially dependent upon him, the legal representatives of his estate, or any one otherwise entitled to recover damages for such injury. Remedy exclusive.

SEC. 7. The amount of compensation which shall be paid for an injury to the employee resulting in death shall be: Compensation for death.

(a) If the employee leaves any widow, child or children whom he was under legal obligation to support at the time of his injury, a sum equal to four times the average annual earnings of the employee, but not less in any event than one thousand five hundred dollars and not more in any event than three thousand five hundred dollars. Any compensation payments other than necessary medical, surgical or hospital fees or services shall be deducted in ascertaining the amount payable on death.

(b) If no amount is payable under paragraph (a) of this section and the employee leaves any widow, child, parent, grandparent or other lineal heir, to whose support he had contributed within four years previous to the time of his injury, a sum equal to four times the average annual earnings of the employee, but not less in any event than one thousand five hundred dollars and not more in any event than three thousand five hundred dollars. Any compensation payments other than necessary medical, surgical or hospital fees or services shall be deducted in ascertaining the amount payable on death.

(c) If no amount is payable under paragraph (a) or (b) of this section and the employee leaves collateral heirs dependent at the time of the injury to the employee upon his earnings, such a percentage of the sum provided in paragraph (a) of this section as the average annual contributions which the deceased made to the support of such collateral dependent heirs during the two years preceding the injury bears to his earnings during such two years.

(d) If no amount is payable under paragraph (a) or (b) or (c) of this section, a sum not to exceed one hundred and fifty dollars for burial expenses.

(e) All compensation except for burial expenses, provided for in this section to be paid in case injury results in death, shall be paid in installments equal to one-half the average earnings, at the same intervals at which the wages or earnings of the employee were paid; or if this shall not be feasible, then the installments shall be paid weekly: *Provided*, Such compensation may be paid in a lump sum upon petition as provided in section 9 of this act.

(f) The compensation to be paid for injury which results in death, as provided in this section, shall be paid at the option of the employer either to the personal representative of the deceased employee or to To whom payable.

his beneficiaries, and shall be distributed to the heirs who formed the basis for determining the amount of compensation to be paid by the employer, the distributees' shares to be in the proportion of their respective dependency at the time of the injury on the earnings of the deceased: *Provided*, That, in the judgment of the court appointing the personal representative, a child's distributive share may be paid to the parent for the support of the child. The payment of compensation by the employer to the person representative of the deceased employee shall relieve him of all obligation as to the distribution of such compensation so paid. The distribution by the personal representative of the compensation paid to him by the employer shall be made pursuant to the order of the court appointing him.

**Compensation for injuries.** SEC. 8. The amount of compensation which shall be paid to the employee for an injury not resulting in death shall be:

**Medical, etc., services.** (a) The employer shall provide necessary first aid medical, surgical and hospital services; also medical, surgical and hospital services for a period not longer than eight weeks, not to exceed, however, the amount of \$200.00. The employee may elect to secure his own physician, surgeon or hospital services at his own expense.

**Total disability.** (b) If the period of temporary total incapacity for work lasts for more than six working days, compensation equal to one-half the earnings, but not less than \$5.00 nor more than \$12.00 per week, beginning on the eighth day of such temporary total incapacity, and continuing as long as the temporary total incapacity lasts, but not after the amount of compensation paid equals the amount which would have been payable as a death benefit under paragraph (a), section 7, if the employee had died as a result of the injury at the time thereof, leaving heirs surviving as provided in said paragraph (a), section 7.

**Disfigurement.** (c) For any serious and permanent disfigurement to the hands, head or face, the employee shall be entitled to compensation for such disfigurement, the amount to be fixed by agreement or by arbitration in accordance with the provisions of this act, which amount shall not exceed one-quarter of the amount of the compensation which would have been payable as a death benefit under paragraph (a), section 7, if the employee had died as a result of the injury at the time thereof, leaving heirs surviving, as provided in said paragraph (a), section 7: *Provided*, That no compensation shall be payable under this paragraph where compensation is payable under paragraphs (d), (e) or (f) of this section.

**Permanent partial disability.** (d) If, after the injury has been sustained, the employee as a result thereof becomes partially, though permanently incapacitated from pursuing his usual and customary line of employment, he shall, except in the cases covered by the specific schedule set forth in paragraph (e) of this section, receive compensation, subject to the limitations as to time and maximum amounts fixed in paragraphs (b) and (h) of this section, equal to one-half of the difference between the average amount which he earned before the accident, and the average amount which he is earning or is able to earn in some suitable employment or business after the accident. In the event the employee returns to the employment of the employer in whose service he was injured, the employee shall not be barred from asserting a claim for compensation under this act: *Provided*, Notice of such claim is filed with the industrial board within eighteen months after he returns to such employment, and the said board shall immediately send to the employer, by registered mail, a copy of such notice.

**Specific injuries.** (e) For injuries in the following schedule, the employee shall receive in addition to compensation during the period of temporary total incapacity for work resulting from such injury, in accordance with the provisions of paragraphs (a) and (b) of this section, compensation, for a further period, subject to the limitations as to time and amounts fixed in paragraphs (b) and (h) of this section, for the specific loss herein mentioned, as follows, but shall not receive any compensation under any other provision of this act:

For the loss of a thumb, or the permanent and complete loss of its use, fifty per centum of the average weekly wage during sixty weeks;

For the loss of a first finger, commonly called the index finger, or the permanent and complete loss of its use, fifty per centum of the average weekly wage during thirty-five weeks;

For the loss of a second finger, or the permanent and complete loss of its use, fifty per centum of the average weekly wages during thirty weeks;

For the loss of a third finger, or the permanent and complete loss of its use, fifty per centum of the average weekly wage during twenty weeks;

For the loss of a fourth finger, commonly called the little finger, or the permanent and complete loss of its use, fifty per centum of the average weekly wage during fifteen weeks;

The loss of the first phalange of the thumb, or of any finger, shall be considered to be equal to the loss of one-half of such thumb, or finger, and compensation shall be one-half the amounts above specified;

The loss of more than one phalange shall be considered as the loss of the entire finger or thumb: *Provided, however,* That in no case shall the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand;

For the loss of a great toe, fifty per centum of the average weekly wage during thirty weeks;

For the loss of one or more of the toes other than the great toe, fifty per centum of the average weekly wage during ten weeks;

The loss of the first phalange of any toe shall be considered to be equal to the loss of one-half of such toe, and compensation shall be one-half of the amount above specified;

The loss of more than one phalange shall be considered as the loss of the entire toe;

For the loss of a hand, or the permanent and complete loss of its use, fifty per centum of the average weekly wage during one hundred and fifty weeks;

For the loss of an arm, or the permanent and complete loss of its use, fifty per centum of the average weekly wage during two hundred weeks;

For the loss of a foot, or the permanent and complete loss of its use, fifty per centum of the average weekly wage during one hundred and twenty-five weeks;

For the loss of a leg, or the permanent and complete loss of its use, fifty per centum of the average weekly wage during one hundred and seventy-five weeks;

For the loss of the sight of an eye, fifty per centum of the average weekly wage during one hundred weeks;

The loss of both hands or both arms, or both feet, or both legs, or both eyes, or of any two thereof, shall constitute total and permanent disability, to be compensated according to the compensation fixed by paragraph (f) of this section: *Provided,* That these specific cases of total and permanent disability shall not be construed as excluding other cases.

(f) In the case of complete disability which renders the employee wholly and permanently incapable of work, compensation equal to 50 per cent of his earnings, but not less than \$5.00, nor more than \$12.00 per week, commencing on the day after the injury and continuing until the amount paid equals the amount which would have been payable as a death benefit under paragraph (a), section 7, if the employee had died as a result of the injury at the time thereof, leaving heirs surviving, as provided in said paragraph (a), section 7, and thereafter a pension during life annually equal to 8 per cent of the amount which would have been payable as a death benefit under paragraph (a), section 7, if the employee had died as a result of the injury at the time thereof, leaving heirs surviving, as provided in said paragraph (a), section 7. Such pension shall not be less than \$10.00 per month and shall be payable monthly.

(g) In case death occurs as a result of the injury before the total of the payments made equals the amount payable as a death benefit, then in case the employee leaves any widow, child or children, parents, grandparents or other lineal heirs, entitled to compensation under section 7, the difference between the compensation for death and the sum

Permanent total disability.

Subsequent death.

of the payments made to the employee shall be paid, at the option of the employer, either to the personal representative or the beneficiaries of the deceased employee and distributed, as provided in paragraph (f) of section 7, but in no case shall the amount payable under this paragraph be less than \$500.

Maximum benefits.

(h) In no event shall the compensation to be paid exceed fifty per centum of the average weekly wage or exceed twelve dollars per week in amount; nor, except in cases of complete disability as defined above, shall any payments extend over a period of more than eight years from the date of the accident. In case an injured employee shall be incompetent at the time when any right or privilege accrues to him under the provisions of this act, a conservator or guardian may be appointed pursuant to law, and may, on behalf of such incompetent, claim and exercise any such right or privilege with the same force and effect as if the employee himself had been competent and had claimed or exercised said right or privilege; and no limitations of time by this act provided shall run so long as said incompetent employee is without a conservator or guardian.

Time of payments.

(i) All compensation provided for in paragraphs (b), (c), (d), (e) and (f) of this section, other than cases of pension for life, shall be paid in installments, at the same intervals at which the wages or earnings of the employee were paid at the time of the injury, or if this shall not be feasible, then the installments shall be paid weekly.

Lump sums.

SEC. 9. Any employer or employee or beneficiary, who shall desire to have such compensation, or any unpaid part thereof, paid in a lump sum, may petition the industrial board, asking that such compensation be so paid, and if upon proper notice to the interested parties and a proper showing made before such board, it appears to the best interest of the parties that such compensation be so paid, the board shall order the commutation of the compensation to an equivalent lump sum, which commutation shall be an amount which will equal the total sum of the probable future payments capitalized at their present value upon the basis of interest calculated at three per centum per annum with annual rest: *Provided*, That in cases indicating complete disability no petition for a commutation to a lump sum basis shall be entertained by the industrial board until after the expiration of six months from the date of the injury, and where necessary, upon proper application being made, a guardian, conservator or administrator, as the case may be, may be appointed for any person under disability who may be entitled to any such compensation, and an employer bound by the terms of this act, and liable to pay such compensation, may petition for the appointment of the public administrator, or a conservator, or guardian where no legal representative has been appointed or is acting for such party or parties so under disability: *Provided, further*, That if the amount awarded as a lump sum settlement is not satisfactory to either party, such party may reject the same within ten days after notice of the award by filing his written rejection thereof with the said board in which event compensation shall be payable in installments as herein provided.

Compensation computed, how.

SEC. 10. The basis for computing the compensation provided for in sections 7 and 8 of the act shall be as follows:

(a) The compensation shall be computed on the basis of the annual earnings which the injured person received as salary, wages or earnings, if in the employment of the same employer continuously during the year next preceding the injury.

(b) Employment by the same employer shall be taken to mean employment by the same employer in the grade in which the employee was employed at the time of the accident, uninterrupted by absence from work due to illness or any other unavoidable cause.

(c) If the injured person has not been engaged in the employment of the same employer for the full year immediately preceding the accident, the compensation shall be computed according to the annual earnings which persons of the same class in the same employment and same location, (or if that be impracticable, of neighboring employments of the same kind) have earned during such period.

(d) As to employees in employments in which it is the custom to operate throughout the working days of the year, the annual earnings.

if not otherwise determinable, shall be regarded as 300 times the average daily earnings in such computation.

(e) As to employees in employments in which it is the custom to operate for a part of the whole number of working days in each year, such number, if the annual earnings are not otherwise determinable, shall be used instead of 300 as a basis for computing the annual earnings: *Provided*, The minimum number of days which shall be so used for the basis of the year's work shall be not less than 200.

(f) In the case of injured employees who earn either no wage or less than the earnings of adult day laborers in the same line of employment in that locality, the yearly wage shall be reckoned according to the average annual earnings of adults of the same class in the same (or if that is impracticable then of neighboring) employments.

(g) Earnings, for the purpose of this section, shall be based on the earnings for the number of hours commonly regarded as a day's work for that employment, and shall exclude overtime earnings. The earnings shall not include any sum which the employer has been accustomed to pay the employee to cover any special expense entailed on him by the nature of his employment.

(h) In computing the compensation to be paid to any employee, who, before the accident for which he claims compensation, was disabled and drawing compensation under the terms of this act, the compensation for each subsequent injury shall be apportioned according to the proportion of incapacity and disability caused by the respective injuries which he may have suffered.

(i) To determine the amount of compensation for each installment period, the amount per annum shall be ascertained pursuant hereto, and such amount divided by the number of installment periods per annum.

SEC. 11. The compensation herein provided, together with the provisions of this act, shall be the measure of the responsibility which the employer has assumed for injuries or death that may occur to employees in his employment subject to the provisions of this act. Limit of liability.

SEC. 12. An employee entitled to receive disability payments shall be required, if requested by the employer, to submit himself at the expense of the employer for examination to a duly qualified medical practitioner or surgeon selected by the employer, at a time and place reasonably convenient for the employee, as soon as practicable after the injury, and also one week after the first examination, and thereafter at intervals not oftener than once every four weeks, which examination shall be for the purpose of determining the nature, extent and probable duration of the injury received by the employee, and for the purpose of ascertaining the amount of compensation which may be due the employee from time to time for disability according to the provisions of this act: *Provided, however*, That such examination shall be made in the presence of a duly qualified medical practitioner or surgeon provided and paid for by the employee if such employee so desires. If the employee refuses so to submit himself to examination or unnecessarily obstructs the same, his right to compensation payments shall be temporarily suspended until such examination shall have taken place, and no compensation shall be payable under this act for such period. Medical examinations.

SEC. 13. There is hereby created a board which shall be known as the industrial board, to consist of three members to be appointed by the governor, by and with the consent of the senate, one of whom shall be a representative citizen of the employing class operating under this act, and one of whom shall be a representative citizen chosen from among the employees operating under this act, and one of whom shall be a representative citizen not identified with either the employing or employee classes, and who shall be designated by the governor as chairman. Appointment of members to places on the first board, or to fill vacancies on said board may be made during recesses of the senate, but shall be subject to confirmation by the senate at the next ensuing session of the legislature. The term of office of members of this board shall be six years, except that when first constituted one member shall be appointed for two years, one for four years, and one for six years. Thereafter one member shall be appointed every second Industrial board.



- year for the full term of six years. Not more than two members of the board shall belong to the same political party.
- Salaries.** Sec. 14. The salary of each of the members of the board so appointed by the governor shall be \$4,000 per year. The board shall appoint a secretary and shall employ such assistants and clerical help as may be necessary. The board shall provide itself with a seal for the authentication of its orders, awards, and proceedings, upon which shall be inscribed the words "Industrial board—Illinois—Seal."
- Seal.**
- Jurisdiction.** Sec. 15. The industrial board shall have jurisdiction over the operation and administration of this act, and said board shall perform all the duties imposed upon it by this act, and such further duties as may hereafter be imposed by law and the rules of the board not inconsistent therewith.
- Powers.** Sec. 16. The board may make rules and orders for carrying out the duties imposed upon it by law, which rules and orders shall be deemed prima facie reasonable and valid; and the process and procedure before the board shall be as simple and summary as reasonably may be. The board or any member thereof shall have the power to administer oaths, subpoena and examine witnesses, and to examine and inspect such books, papers and records, places or premises as may relate to questions in dispute.
- Blanks and records.** Sec. 17. The board shall cause to be printed and furnish free of charge upon request by any employer or employee such blank forms as it shall deem requisite to facilitate or promote the efficient administration of this act, and the performance of the duties of the board; it shall provide a proper record in which shall be entered and indexed the name of any employer who shall file a notice of declination or withdrawal under this act, and the date of the filing thereof; and a proper record in which shall be entered and indexed the name of any employee who shall file such a notice of declination or withdrawal, and the date of the filing thereof; and such other notices as may be required by the terms and intent of this act; and records in which shall be recorded all proceedings, orders and awards had or made by the board, or by the arbitration committees, and such other books or records as it shall deem necessary, all such records to be kept in the office of the board.
- Disputes.** Sec. 18. All questions arising under this act, if not settled by agreement of the parties interested therein, shall, except as otherwise provided, be determined by the industrial board.
- Arbitration.** Sec. 19. Any disputed questions of law or fact upon which the employer and employee or personal representative can not agree, shall be determined as herein provided.
- (a) It shall be the duty of the industrial board, upon notification that the parties have failed to reach an agreement, to notify both parties to appoint their respective representatives on a committee of arbitration. The board shall designate one of its members or an agent appointed by it and at its expense to act as chairman, and if either party fails to appoint its member on the committee within seven days after notification as above provided, the board shall appoint a person to fill the vacancy and notify the parties to that effect, and the reasonable expenses of the person so appointed to fill the vacancy shall, after approval by the board, be taxed as costs against the party who failed to appoint its member on such committee.
- (b) The committee of arbitration shall make such inquiries and investigations as it shall deem necessary, and may examine and inspect all books, papers, records, places or premises relating to the questions in dispute. The hearings of the committee shall be held in the vicinity where the injury occurred, after ten days' notice of the time and place of such hearing shall have been given to each of the parties, and the decision of the committee shall be filed with the industrial board, which board shall immediately send to each party a copy of such decision, together with a notification of the time when it was filed, and unless a petition for a review is filed with the board by either party within fifteen days after the receipt by said party of the copy of such decision and notification of time when filed, and unless such party petitioning for review shall, within twenty days of the filing of such decision, file with the board either an agreed statement of the facts

appearing upon the hearing before the committee of arbitration, or, if such party shall so elect, a correct stenographic report of the proceedings at such hearing, then the decision shall be entered of record as the decision of the industrial board: *Provided*, That such industrial board may, for sufficient cause shown, grant further time in which to petition for such review or to file such agreed statement or stenographic report. An agreed statement of facts or correct stenographic report, as the case may be, shall be authenticated by the signatures of the parties or their attorneys and in the event they do not agree as to the correctness of the stenographic report it shall be authenticated by the signature of the chairman of the committee of arbitration.

(c) The industrial board may appoint, at its expense, a duly qualified, impartial physician, to examine the injured employee and report to the board. The fee for this service shall not exceed five dollars and traveling expenses, but the board may allow additional reasonable amounts in extraordinary cases. The fees and the payment thereof of all attorneys and physicians for services authorized by the board under this act, shall, upon request of either the employer or the employee or the beneficiary affected, be subject to the review and decision of the industrial board.

Physician.

(d) If any employee shall persist in insanitary or injurious practices which tend to either imperil or retard his recovery or shall refuse to submit to such medical or surgical treatment as is reasonably essential to promote his recovery, the board may, in its discretion, reduce, or suspend the compensation of any such injured employee.

Refusing medical aid.

(e) If a petition for review, and agreed statement of facts or stenographic report is filed, as provided herein, the industrial board shall promptly review the decision of the committee of arbitration and the facts as they appear from the said statement of facts or stenographic report, and shall also, if desired, hear the parties, together with such additional evidence as they may wish to submit. After such hearing upon review, the board shall announce and file in its office its decision thereon and shall immediately send to each party a copy of such decision, together with a notification of the time when it was filed. Such review and hearing may be held in its office, or elsewhere, as the board shall deem advisable. Any party may, within twenty days of the receipt by it of notice of the board's decision or within such further time as the board may grant, file with the board either an agreed statement of the facts appearing upon the hearing, or, if such party shall so elect, a correct stenographic report of the proceedings at the hearing, such statement of facts or stenographic report to be authenticated by the signatures of the parties or their attorneys, and in the event they do not agree then the authentication shall be by the signature of the chairman of the board. The statement of facts or stenographic report of the proceedings on the hearings before either the committee of arbitration or the industrial board shall upon filing as hereinbefore provided, become part of the record of the proceedings of said board.

Review.

(f) The decision of the industrial board, acting within its powers, according to the provisions of paragraph (e) of this section, and of the committee of arbitration, where no review is had and its decision becomes the decision of the industrial board in accordance with the provisions of this section, shall, in the absence of fraud be conclusive, but the supreme court shall have power to review questions of law involved in any such decision: *Provided*, That application is made by the aggrieved party within thirty days after notice given to him of such decision or within thirty days after the expiration of the time allowed for filing the agreed statement of facts or stenographic report with said board, by certiorari, mandamus or by any other method permissible under the rules and practices of said court or the laws of this State.

Decisions conclusive.

Reference to court.

The decision of any two members of a committee of arbitration, or of the industrial board, shall be considered the decision of such committee or board, respectively.

(g) Either party may present a certified copy of the decision of the industrial board, when no proceedings for review thereof have been taken, or of the decision of such committee of arbitration when no claim for review is made, or of the decision of the industrial board after hearing upon review, providing for the payment of compensation

Court to render judgment, when.

according to this act, to the circuit court of the county in which such accident occurred, whereupon such court shall render a judgment in accordance therewith; and in cases where the employer does not institute proceedings for review of the decision of the industrial board and refuses to pay compensation according to the award upon which such judgment is entered, the court shall, in entering judgment thereon, tax as costs against him the reasonable costs and attorney fees in the arbitration proceedings and in the court entering the judgment, for the person in whose favor the judgment is entered; which judgment, and costs, taxed as herein provided, shall, until and unless set aside, have the same effect as though duly rendered in an action duly tried and determined by said court, and shall, with like effect, be entered and docketed. The circuit court shall have power at any time, upon application, to make any such judgment conform to any modification required by any subsequent decision of the supreme court upon appeal, or as the result of any subsequent proceedings for review as provided in this act. Judgment shall not be entered until fifteen days' notice of the time and place of the application for the entry of judgment shall be served upon the employer by filing such notice with the industrial board; which board shall, in case it has on file the address of the employer or the name and address of its agent upon whom notices may be served, immediately send a copy of the notice to the employer or such designated agent; and no judgment shall be entered in the event the employer shall file with the said board its bond with good and sufficient surety in double the amount of the award conditioned upon the payment of said award in the event the said employer shall fail to prosecute with effect proceedings for review of the decision or the said decision upon review shall be affirmed.

Review of awards.

(h) An agreement or award under this act, providing for compensation in installments, may at any time within eighteen months after such agreement or award, be reviewed by the industrial board at the request of either the employer or the employee on the ground that the disability of the employee has subsequently recurred, increased, diminished or ended; and on such review compensation payments may be reestablished, increased, diminished or ended: *Provided*, That the board shall give fifteen days' notice to the parties of the hearing for review: *And, provided further*, Any employee, upon any petition for such a review being filed by the employer, shall be entitled to one day's notice for each one hundred miles necessary to be traveled by him in attending the hearings of the board upon said petition, and three days' in addition thereto, and such employee shall, at the discretion of the board, also be entitled to five cents per mile necessarily traveled by him in attending such hearing, not to exceed a distance of 300 miles, to be taxed by the board as costs and deposited with the petition of the employer.

(i) Each party, upon taking any proceedings or steps whatsoever, before any committee of arbitration, industrial board or court, shall file with the industrial board his address or the name and address of an agent upon whom all notices to be given to such party shall be served either personally or by registered mail addressed to such party or agent at the last address so filed with the industrial board: *Provided*, That in the event such party has not filed his address or the name and address of an agent as above provided, service of any notice may be had by filing such notice with the industrial board.

Reports of board.

SEC. 20. The industrial board shall report in writing to the governor on the 30th day of June, annually, the details and results of its administration of this act, in accordance with the terms of this act, and may prepare and issue such special bulletins and reports from time to time as in the opinion of the board seems advisable.

Payments exempt.

SEC. 21. No payment, claim, award or decision under this act shall be assignable or subject to any lien, attachment or garnishment, or be held liable in any way for any lien, debt, penalty or damages. In case of insolvency of the employer, every decision of the industrial board for compensation under this act shall, upon the filing of a certified copy of the decision with the recorder of deeds of a county, constitute a lien upon all property of the employer within said county, paramount to all other claims, or liens except for wages and taxes, and mortgages or trust

deeds and such liens shall be enforced by order of the court. Any right to receive compensation hereunder shall be extinguished by the death of the person or persons entitled thereto, subject to the provisions of this act relative to compensation for death received in the course of employment.

SEC. 22. Any contract or agreement made by any employer or his agent or attorney with any employee or any other beneficiary of any claim under the provisions of this act within seven days after the injury shall be presumed to be fraudulent. Agreements in seven days.

SEC. 23. No employee, personal representative, or beneficiary shall have power to waive any of the provisions of this act in regard to the amount of compensation which may be payable to such employee, personal representative or beneficiary hereunder except after approval by the industrial board. Waivers.

SEC. 24. No proceedings for compensation under this act shall be maintained unless notice of the accident has been given the employer as soon as practicable, but not later than 30 days after the accident. In cases of mental incapacity of the employee, notice must be given within six months after such accident. No defect or inaccuracy of such notice shall be a bar to the maintenance of proceedings by arbitration or otherwise by the employee, unless the employer proves that he is unduly prejudiced in such proceedings by such defect or inaccuracy. Notice of the accident shall in substance apprise the employer of the claim of compensation made and shall state the name and address of the employee injured, the approximate date and place of the accident, if known, and in simple language the cause thereof; which notice may be served personally or by registered mail, addressed to the employer at his last known residence or place of business: *Provided*, That the failure on the part of any person entitled to such compensation to give such notice shall not relieve the employer from his liability for such compensation, when the facts and circumstances of such accident are known to such employer, his agent or vice principal in the enterprise. No proceedings for compensation under this act shall be maintained unless claim for compensation has been made within six months after the accident, or in the event that payments have been made under the provisions of this act, unless written claim for compensation has been made, within six months after such payments have ceased. Notice.

SEC. 25. Any employer against whom liability may exist for compensation under this act may, with the approval of the industrial board, be relieved therefrom by: Claims.

(a) Depositing the commuted value of the total unpaid compensation for which such liability exists, computed at three per centum per annum in the same manner as provided in section 9, with the State treasurer, or county treasurer in the county where the accident happened, or with any State or national bank or trust company doing business in this State, or in some other suitable depository approved by the industrial board: *Provided*, That any such depository to which such compensation may be paid shall pay the same out in installments as in this act provided, unless such sum is ordered paid in, and is commuted to, a lump sum payment in accordance with the provision of this act. Employers' options.

(b) By the purchase of an annuity, in an amount of compensation due or computed, under this act within the limitation provided by law, in any insurance company granting annuities and licensed or permitted to do business in this State, which may be designated by the employer, or the industrial board.

SEC. 26. (a) An employer who elects to provide and pay the compensation provided for in this act shall within ten (10) days of receipt by the employer of a written demand by the industrial board (1) file with the board a sworn statement showing his financial ability to pay the compensation provided for in this act, normally required to be paid, or (2) furnish security, indemnity or a bond guaranteeing the payment by the employer of the compensation provided for in this act, normally required to be paid, or (3) insure to a reasonable amount his normal liability to pay such compensation in some corporation, association or organization authorized, licensed or permitted to do such insurance business in this State, or (4) make some other provision Guaranty of payments.

for the securing of the payment of compensation provided for in this act, normally required to be paid, and shall within twenty (20) days of the receipt of such written demand furnish to the board evidence of his compliance with one of the above alternatives: *Provided*, That the sworn statement of financial ability, or security, indemnity or bond, or amount of insurance or other provision, filed, furnished, carried or made by the employer, as the case may be, shall be subject to the approval of the board, upon the approval of which the board shall send to the employer written notice of its approval thereof: *And, provided, further*, That demand shall not be made upon the employer by the board oftener than once in any calendar year.

Liability in  
absence of guar-  
anty.

(b) If no sworn statement or no security, indemnity or bond, or no insurance is filed, furnished or carried, or other provision made by the employer within ten (10) days of receipt by the employer of the written demand provided for in paragraph (a), or if the statement, security, indemnity, bond or amount of insurance filed, furnished or carried, or other provision made by the employer, as provided in paragraph (a), shall not be approved by the board, and written notice of such non-approval shall be given to the employer and the employer shall not comply with one of the alternatives of paragraph (a) of this section within ten (10) days after the receipt by the employer of such written notice of nonapproval, then the employer shall be liable for compensation to any injured employee or his personal representative, according to the terms of this act, or for damages in the same manner as if the employer had elected not to accept this act, at the option of such employee or his personal representative: *Provided*, Such option is exercised and written notice thereof is given to the employer within thirty days after the accident to such employee, otherwise the employer shall be liable only for the compensation payable according to the provisions of this act: *And, provided, further*, That if at any time thereafter the employer shall comply with any of the alternatives of paragraph (a), then as to all accidents occurring after the said compliance, the employer shall only be liable for compensation according to the terms of this act.

"Normal lia-  
bility."

(c) "Normal liability" and "normally required to be paid," whenever used herein, shall be measured by the experience, if any, of the said employer during the two years preceding the demand by the board, and if there is no such individual basis of experience, then by the general experience in the same industry, business, occupation or enterprise in the same neighborhood during the same period.

Insurance, etc.

SEC. 27. (a) This act shall not affect or disturb the continuance of any existing insurance, mutual aid, benefit, or relief association or department, whether maintained in whole or in part by the employer or whether maintained by the employees, the payment of benefits of such association or department being guaranteed by the employer or by some person, firm or corporation for him: *Provided*, The employer contributes to such association or department an amount not less than the full compensation herein provided, exclusive of the cost of the maintenance of such association or department and without any expense to the employee. This act shall not prevent the organization and maintaining under the insurance laws of this State of any benefit or insurance company for the purpose of insuring against the compensation provided for in this act, the expense of which is maintained by the employer. This act shall not prevent the organization or maintaining under the insurance laws of this State of any voluntary mutual aid, benefit or relief association among employees for the payment of additional accident or sick benefits.

(b) No existing insurance, mutual aid, benefit or relief association or department shall, by reason of anything herein contained, be authorized to discontinue its operation without first discharging its obligations to any and all persons carrying insurance in the same or entitled to relief or benefits therein.

Costs on em-  
ployer.

(c) Any contract, oral, written or implied, of employment providing for relief benefit, or insurance or any other device whereby the employee is required to pay any premium or premiums for insurance against the compensation provided for in this act shall be null and void, and any employer withholding from the wages of any employee any

amount for the purpose of paying any such premium shall be guilty of a misdemeanor and punishable by a fine of not less than ten dollars nor more than one thousand dollars, or imprisonment in the county jail for not more than six months, or both, in the discretion of the court.

SEC. 28. Any person, who shall become entitled to compensation under the provisions of this act, shall, in the event of his inability to recover such compensation from the employer on account of his insolvency, be subrogated to all the rights of such employer against any insurance company, association or insurer which may have insured such employer against loss growing out of the compensation required by the provisions of this act to be paid by such employer, and, in such event only, the said insurance company, association, or insurer shall become primarily liable to pay to the employee or his personal representative the compensation required by the provisions of this act to be paid by such employer.

Subrogation of employees.

SEC. 29. Where an injury or death for which compensation is payable by the employer under this act was not proximately caused by the negligence of the employer or his employees, and was caused under circumstances creating a legal liability for damages in some person other than the employer to pay damages, such other person having also elected to be bound by this act, then the right of the employee or personal representative to recover against such other person shall be subrogated to his employer and such employer may bring legal proceedings against such other person to recover the damages sustained, in an amount not exceeding the aggregate amount of compensation payable under this act, by reason of the injury or death of such employee. Where the injury or death for which compensation is payable under this act was not proximately caused by the negligence of the employer or his employees and was caused under circumstances creating a legal liability for damages on the part of some person other than the employer to pay damages, such other person having elected not to be bound by this act, then legal proceedings may be taken against such other person to recover damages notwithstanding such employer's payment of or liability to pay compensation under this act, but in such case if the action against such other person is brought by the injured employee or his personal representative and judgment is obtained and paid, or settlement is made with such other person, either with or without suit, then from the amount received by such employee or personal representative there shall be paid to the employer the amount of compensation paid or to be paid by him to such employee or personal representative: *Provided*, That if the injured employee or his personal representative shall agree to receive compensation from the employer or to institute proceedings to recover the same or accept from the employer any payment on account of such compensation, such employer shall be subrogated to all the rights of such employee or personal representative and may maintain, or in case an action has already been instituted, may continue an action either in the name of the employee or personal representative or in his own name against such other person for a recovery of damages to which but for this section the said employee or personal representative would be entitled, but such employer shall nevertheless pay over to the injured employee or personal representative all sums collected from such other person by judgment or otherwise in excess of the amount of such compensation paid or to be paid under this act and all costs, attorneys' fees and reasonable expenses incurred by such employer in making such collection and enforcing such liability.

Liability of third persons.

SEC. 30. It shall be the duty of every employer within the provisions of this act to send to the industrial board in writing an immediate report of all accidental injuries arising out of or in the course of the employment and resulting in death; it shall also be the duty of every such employer to report between the 15th and the 25th of each month to the industrial board all accidental injuries for which compensation has been paid under this act, which injuries entail a loss to the employee of more than one week's time, and in case the injury results in permanent disability, a further report shall be made as soon as it is determined that such permanent disability has resulted or will result from such injury. All reports shall state the date of the injury, includ-

Accidents to be reported.

ing the time of day or night, the nature of the employer's business, the name, address, the age, sex, conjugal condition of the injured person, the specific occupation of the injured person, the direct cause of the injury and the nature of the accident, the character of the injury, the length of disability, and, in case of death, the length of disability before death, the wages of the injured person, whether compensation has been paid to the injured person, or to his legal representative or his heirs or next of kin, the amount of compensation paid, the amount paid for physicians', surgeons' and hospital bills, and by whom paid, and the amount paid for funeral or burial expenses, if known. The making of reports as provided herein shall release the employer covered by the provisions of this act from making such reports to any other officer of the State.

**Contractors.**

SEC. 31. Any person, firm or corporation, who undertakes to do or contracts with others to do, or have done for him, them or it, any work enumerated as extrahazardous in paragraph (b) in section 3, requiring employment of employees in, on or about the premises where he, they or it as principal or principals, contract to do such work or any part thereof, and does not require of the person, firm or corporation undertaking to do such work for said principal or principals, that such person, firm or corporation undertaking to do such work shall insure his, their or its liability to pay the compensation provided in this act to his, their or its employees and any such person, firm or corporation who creates or carries into operation any fraudulent scheme, artifice or device to enable him, them or it to execute such work without such person, firm or corporation being responsible to the employee, his personal representative or beneficiary entitled to such compensation under the provisions of this act, such person, firm or corporation shall be included in the term "employer" and with the immediate employer shall be jointly and severally liable to pay the compensation herein provided for and be subject to all the provisions of this act.

**Fraud.****Existing rights of action.**

SEC. 32. No right of action for damages, at common law or under any other statute, existing at the time of the taking effect of this act, shall be affected by this act.

**If act unconstitutional, what.**

If the provisions of this act relating to compensation for injuries to or death of employees shall be repealed or adjudged invalid or unconstitutional, the period intervening between the occurrence of an injury or death and such repeal or final adjudication of invalidity, shall not be computed as a part of the time limited by law for the commencement of any action relating to such injury or death, but the amount of any compensation which may have been paid for any such injury shall be deducted from any judgment for damages recovered on account of such injury. Any claim, disagreement or controversy existing or arising under "an act to promote the general welfare of the people of this State, by providing compensation for accidental injuries or death suffered in the course of employment," approved June 10, 1911, in force May 1, 1912, shall be adjusted in accordance with the provisions of said act, notwithstanding the repeal thereof, or may by agreement of the parties, be adjusted in accordance with the method of procedure provided in this act for the adjustment of differences, jurisdiction to adjust such differences so submitted by the parties being hereby conferred upon the industrial board or committee of arbitration provided for in this act.

**Violations.**

SEC. 33. Any willful neglect, refusal, or failure to do the things required to be done by any section, clause, or provision of this act, on the part of the persons herein required to do them, or any violation of any of the provisions or requirements hereof, or any attempt to obstruct or interfere with any court officer, or any other person charged with the duty of administering or enforcing the provisions of this act, shall be deemed a misdemeanor, punishable by a fine of not less than \$10 nor more than \$500 at the discretion of the court.

**Invalidity of part of act.**

SEC. 34. The invalidity of any portion of this act shall in no way affect the validity of any other portion thereof which can be given effect without such invalid part.

**Repealer.**

SEC. 35. That an act to promote the general welfare of the State of Illinois by providing compensation for accidental injuries or death suffered in the course of employment, approved June 10 1911 in force May 1, 1912, be, and the same hereby repealed.

Approved June 28, 1913.

IOWA.

ACTS OF 1913.

CHAPTER 147.—*Compensation of workmen for injuries.*

SECTION 1. (a) Except as by this act otherwise provided, it shall be conclusively presumed that every employer as defined by this act has elected to provide, secure and pay compensation according to the terms, conditions, and provisions of this act for any and all personal injuries sustained by an employee arising out of and in the course of the employment; and in such cases the employer shall be relieved from other liability for recovery of damages or other compensation for such personal injury, unless by the terms of this act otherwise provided; but this act shall not apply to any household or domestic servant, farm or other laborer engaged in agricultural pursuits, nor persons whose employment is of a casual nature.

Election of compensation presumed.

Effect.

(b) Where the State, county, municipal corporation, school district, cities under special charter and commission form of government is the employer, the terms, conditions and provisions of this act for the payment of compensation and amount thereof for such injury sustained by an employee of such employer shall be exclusive, compulsory and obligatory upon both employer and employee.

Compulsory as to municipalities.

(c) An employer having the right under the provisions of this act to elect to reject the terms, conditions and provisions thereof and in such case exercises the right in the manner and form by this act provided, such employer shall not escape liability for personal injury sustained by an employee of such employer when the injury sustained arises out of and in the usual course of the employment because—

Defenses abrogated, when.

(1) The employee assumed the risks inherent in or incidental to or arising out of his or her employment; or the risks arising from the failure of the employer to provide and maintain a reasonably safe place to work, or the risks arising from the failure of the employer to furnish reasonably safe tools or appliances, or because the employer exercised reasonable care in selecting reasonably competent employees in the business.

(2) That the injury was caused by the negligence of the coemployee.

(3) That the employee was negligent unless and except it shall appear that such negligence was willful and with intent to cause the injury; or the result of intoxication on the part of [on] the injured party.

(4) In actions by an employee against an employer for personal injury sustained arising out of and in the course of the employment where the employer has elected to reject the provisions of this act, it shall be presumed that the injury to the employee was the direct result and growing out of the negligence of the employer; and that such negligence was the proximate cause of the injury; and in such cases the burden of proof shall rest upon the employer to rebut the presumption of negligence.

Suits.

Every such employer shall be conclusively presumed to have elected to provide, secure and pay compensation to employees for injuries sustained arising out of and in the course of the employment according to the provisions of this act, unless and until notice in writing of an election to the contrary shall have been given to the employees by posting the same in some conspicuous place at the place where the business is carried on, and also by filing notice with the Iowa industrial commissioner with return thereon by affidavit showing the date that notice was posted as by this act provided: *Provided, however,* That any employer beginning business after the taking effect of this act and giving notice at once of his desire not to come under the provisions of this act, shall not be considered as under the act: *Provided, however,* That such employer shall not be relieved of the payment of compensation as by this act provided until thirty days after the filing of such notice with the Iowa industrial commissioner, which notice shall be substantially in the following form:

Election to reject law.

EMPLOYERS' NOTICE TO REJECT.

*To the employees of the undersigned, and the Iowa Industrial Commissioner:*

You and each of you are hereby notified that the undersigned rejects the terms, conditions and provisions to provide, secure and pay com-

Form of notice.



compensation to employees of the undersigned for injuries received as provided in the acts of the (——) general assembly known as chapter (——) and acts to pay damages for personal injuries received by such employee under the common law and statutes of this State modified by subdivisions one, two, three and four of section one, chapter (——) of the acts of the (——) general assembly and acts amendatory thereto.

Signed \_\_\_\_\_

State of Iowa,  
\_\_\_\_\_ County, ss.

The undersigned being first duly sworn deposes and says that a true, correct and verbatim copy of the foregoing notice was on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, posted at \_\_\_\_\_ (State fully place where posted.)

Subscribed and sworn to before me by \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Notary Public.

Notice to be posted.

The employer shall keep such notice posted in some conspicuous place which shall apply to the employees subsequently employed by the employer with the same force and effect and to the same extent and in like manner as employees in the employ at the time the notice was given.

Implied agreement.

Where the employer and employee have not given notice of an election to reject the terms of this act, every contract of hire express or implied, shall be construed as an implied agreement between them and a part of the contract on the part of the employer to provide, secure and pay, and on the part of the employee to accept compensation in the manner as by this act provided for all personal injuries sustained arising out of and in the course of the employment.

No compensation, when.

SEC. 2. No compensation under this act shall be allowed for an injury caused:

(a) By the employee's willful intention to injure himself or to willfully injure another; nor shall compensation be paid to an injured employee if injury is sustained where intoxication of the employee was the proximate cause of the injury.

Remedies exclusive.

SEC. 3. (a) The rights and remedies provided in this act for an employee on account of an injury shall be exclusive of all other rights and remedies of such employee, his personal or legal representatives, dependents or next of kin, at common law or otherwise on account of such injury; and all employees affected by this act shall be conclusively presumed to have elected to take compensation in accordance with the terms, conditions and provisions of this act until notice in writing shall have been served upon his employer; and also on the Iowa industrial commissioner, with return thereon by affidavit showing the date upon which notice was served upon the employer.

Rejection of act by employee.

(b) In the event such employee elects to reject the terms, conditions and provisions of this act, the rights and remedies thereof shall not apply where an employee brings an action or takes proceedings to recover damages or compensation for injuries received growing out of and in the course of his employment, except as otherwise provided by this act; and in such actions where the employee has rejected the terms of this act the employer shall have the right to plead and rely upon any and all defenses including those at common law, and the rules and defenses of contributory negligence, assumption of risk and fellow servant shall apply and be available to the employer as by statute authorized unless otherwise provided in this act: *Provided, however,* That if an employee sustains an injury as the result of the employer's failure to furnish or failure to exercise reasonable care to keep or maintain any safety device required by statute or rule, or violation of any of the statutory provisions or rules and regulations now or hereafter in force relating to safety of employees, the doctrine of assumed risk in such case growing out of the negligence of the employer shall not apply or be available as defensive matter to such offending party. The notice required to be given by an employee shall be substantially in the following form:

EMPLOYEE'S NOTICE TO REJECT.

To \_\_\_\_\_ and the Iowa Industrial Commissioner:

(Name of employer)

You and each of you are hereby notified that the undersigned hereby elects to reject the terms, conditions and provisions of an act for the payment of compensation as provided by the acts of the (\_\_\_\_\_) general assembly and acts amendatory thereto, and elects to rely upon the common law as modified by section three of the acts of the (\_\_\_\_\_) general assembly for the right to recover for personal injury which I may receive, if any, growing out of and arising from the employment while in line of duty for my employer above named.

Form of notice.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Signed \_\_\_\_\_

State of Iowa, }  
 \_\_\_\_\_ County. }ss:

The undersigned being first duly sworn deposes and says that the written notice was on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, served on the within named employer of the undersigned by delivering to \_\_\_\_\_ (Name of served.) a true, correct, and verbatim copy thereof.

Subscribed and sworn (or affirmed) to before me by the said \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
 Notary Public.

In any case where an employee or one who is an applicant for employment elects to reject the terms, conditions, and provisions of this act, he shall, in addition to the notice required by subdivision (b) of section 3 of this act, state in an affidavit to be filed with said notice who, if any person, requested, suggested, or demands of such person to exercise the right to reject the provisions of this act. And if request, suggestion, or demand has been made of such employee by any person, such employee shall give and state the name of the person who made the request, suggestion, or demand, and all of the circumstances relating thereto, the date and place when and where made, and persons present, and if it be found that the employer of such employee, or an employer to whom an applicant for employment, or any person a member of the firm, association, corporation, or agent or official of such employer, made a request, suggestion, or demand of such employee or applicant for employment to reject the terms, conditions and provisions of this act, such request, suggestion, or demand if made under such conditions, shall be conclusively presumed to have been sufficient to have unduly influenced such employee or an applicant for employment to exercise the right to reject the terms of this act, and the rejection made under such circumstances shall be conclusively presumed to have been procured through fraud and thereby fraudulently procured, and such rejection shall be nul and void and of no effect.

Information required.

No person interested in the business of such employer, financially or otherwise, shall be permitted to administer the oath to the affidavit required in case as [an] employee or applicant for employment elects to exercise the right to reject the provisions of this act. And the person administering such oath in making such affidavit, shall carefully read the notice and affidavit to such person making such rejection, and shall explain that the purpose of the notice is to bar such person from recovering compensation in accordance with the schedule and terms of this act in the event that he sustains an injury in the course of such employment. All of which shall be shown by certificate of the person administering the oath herein contemplated. The Iowa industrial commissioner, or any person acting for such commissioner, shall refuse to file the notice and affidavit, unless such notice, affidavit and certificate fully, and in detail, comply with the requirements hereof. And if such rejection, affidavit and certificate is found insufficient for any cause, shall be returned by mail or otherwise to the person who executed the instrument.

Administration of oath.

- Rejection in force.      **Sec. 4. (a)** When the employer or employee has given notice in compliance with this act electing to reject the terms thereof such election shall continue and be in force until such employer or employee shall thereafter elect to come under the provisions of this act as is provided in subdivision (b) of this section.
- Waiver.                      **(b)** When an employer or employee rejects the terms, conditions or provisions of this act, such party may at any time thereafter elect to waive the same by giving notice in writing in the same manner required of the party in electing to reject the provisions of the act and which shall become effective when filed with the Iowa industrial commissioner.
- Rejection by both parties.      **Sec. 5.** Where the employer and employee elect to reject the terms, conditions and provisions of this act, the liability of the employer shall be the same as though the employee had not rejected the terms, conditions and provisions thereof.
- Rejection after election.      **Sec. 6.** An employer having come under this act, who thereafter elects to reject the terms, conditions and provisions thereof, shall not be relieved from the payment of compensation to such employee who sustains an injury in the course of the employment before the election to reject becomes effective; and in such cases the employer shall be required to secure the payment of any compensation due or that may become due to such workman, subject to the approval of the Iowa industrial commissioner.
- Injuries caused by third parties.      **Sec. 7.** Where an employee coming under the provisions of this act receives an injury for which compensation is payable under this act and which injury was caused under circumstances creating a legal liability in some person other than the employer, to pay damages in respect thereof.
- (a)** The employee or beneficiary may take proceedings both against that person to recover damages and against the employer for compensation, but the amount of the compensation to which he is entitled under this act shall be reduced by the amount of damages recovered.
- (b)** If the employee or beneficiary in such case recovers compensation under this act, the employer by whom the compensation was paid or the party who has been called upon to pay the compensation, shall be entitled to indemnity from the person so liable to pay damages as aforesaid, and shall be subrogated to the rights of the employee to recover therefor.
- Waivers for-bidden.      **Sec. 8.** No contract, rule, regulation or device whatsoever shall operate to relieve the employer, in whole or in part, from any liability created by this act except as herein provided.
- Notice.                      **Sec. 9.** Unless the employer or representative of such employer shall have actual knowledge of the occurrence of an injury, or unless the employee or some one on his behalf, or some of the dependents or some one on their behalf, shall give notice thereof to the employer within fifteen days of the occurrence of the injury, then no compensation shall be paid until and from the date such notice is given or knowledge obtained; but if notice is given or the knowledge obtained within thirty days from occurrence of the injury, no want, failure or inaccuracy of a notice shall be a bar to obtaining compensation, unless the employer shall show that he was prejudiced by such want, defect or inaccuracy, and then only to the extent of such prejudice: *Provided*, That if the employee or beneficiary shall show that his failure to give prior notice was due to mistake, inadvertence, ignorance of fact or law, or inability, or to the fraud, misrepresentation or deceit of another or to any other reasonable cause or excuse, then compensation may be allowed, unless and then to the extent only that the employer shall show that he was prejudiced by failure to receive such notice: *Provided, further*, Unless knowledge is obtained or notice given within ninety days after the occurrence of the injury, no compensation shall be allowed. No form of notice shall be required but may substantially conform to the following form:

Form.

FORM OF NOTICE.

To \_\_\_\_\_

You are hereby notified that on or about the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, personal injury was sustained by \_\_\_\_\_ while in your employ at \_\_\_\_\_, \_\_\_\_\_. (Give name of place employed and point where located when injury occurred and that compensation will be claimed therefor.)

Signed \_\_\_\_\_

but no variation from this form of notice shall be material if the notice is sufficient to advise the employer that a certain employee, by name, received an injury in the course of his employment on or about a specified time at or near a certain place. Notice served upon one on whom an original notice may be served in civil cases shall be a compliance with this act.

The notice required to be given to the employer may be served by any person over sixteen years of age, who shall make return upon a copy of the notice, properly sworn to, showing the date of service where and upon whom served, but no special form of the return of service of the notice shall be required. It shall be sufficient if the facts therefrom can be reasonably ascertained. The return of service may be amended at any time.

Sec. 10. If any employee has not given notice to reject the terms, conditions and provisions of this act, or has given such notice and waived the same as by this act provided, and the employer has not rejected the terms, conditions and provisions of the act or has given such notice and waived the same and the employee receives a personal injury arising out of and in the course of the employment, compensation shall be paid as herein provided.

(a) The compensation provided for in this act shall be paid in accordance with the schedule unless otherwise provided.

(b) At any time after an injury and until the expiration of two weeks of incapacity, the employer, if so requested by the workman, or any one for him, or if so ordered by the court or Iowa industrial commissioner, shall furnish reasonable surgical, medical and hospital services and supplies, not exceeding one hundred (\$100.00) dollars.

(c) Where the injury causes death the compensation under this act shall be as follows:

The employer shall in addition to any other compensation pay the reasonable expense of the employee's last sickness and burial not to exceed one hundred (\$100.00) dollars. If the employee leaves no dependents this shall be the only compensation.

(d) If death results from the injury, the employer shall pay the dependents of the employee wholly dependent upon his earnings for support at the time of the injury, a weekly payment equal to fifty (50%) per cent of his average weekly wages, but not more than ten (\$10.00) dollars nor less than five (\$5.00) dollars per week for a period of three hundred (300) weeks.

(e) If the employee leaves dependents only partially dependent upon his earnings for support at the time of the injury, the weekly compensation to be paid as aforesaid shall be equal to the same proportion of the weekly payments for the benefit of persons wholly dependent as the amount contributed by the employee to such partial dependents bear to the annual earnings of the deceased at the time of the injury. When weekly payments have been made to an injured employee before his death, the compensation to dependents shall begin from the date of the last of such payments, but shall not continue more than three hundred (300) weeks from the date of the injury.

(f) Where injury causes death to an employee, a minor, whose earnings were received by the parent, the compensation to be paid the parent shall be two-thirds (2-3) of the amount provided for payment in subdivision "D" section "10."

(g) No compensation shall be paid for an injury which does not incapacitate the employee for a period of at least two weeks from earning full wages; but if incapacity extends beyond a period of two weeks, compensation shall begin on the fifteenth day after the injury.

(h) For injury producing temporary disability, fifty (50%) per cent of the average weekly wages received at the time of injury, subject to a maximum compensation of ten (\$10.00) dollars and a minimum of five (\$5.00) dollars per week: *Provided*, That if at the time of injury the employee receives wages less than five (\$5.00) dollars per week, then he shall receive the full amount of wages per week. This compensation shall be paid during the period of such disability, not, however, beyond three hundred (300) weeks.

(i) For disability total in character and permanent in quality fifty (50%) per cent of the average weekly wages received at the time of the injury, subject to a maximum compensation of ten (\$10.00) dollars

Compensation payable, when.

Amount.

Medical, etc., expenses.

Funeral, etc., expenses.

Death benefits.

Minors.

Waiting time.

Temporary disability.

Permanent total disability.

per week, and a minimum of five (\$5.00) dollars per week: *Provided*, That if at the time of injury, the employee receives wages less than five (\$5.00) dollars per week, then he shall receive the full amount of wages per week.

This compensation shall be paid during the period of such disability, not however, beyond four hundred (400) weeks.

Partial dis-  
ability.

(j) For disability partial in character and permanent in quality the compensation shall be based upon the extent of such disability.

For all cases included in the following schedule compensation shall be paid as follows, to-wit:

(1) For the loss of a thumb fifty per cent (50%) of daily wages during forty weeks.

(2) For the loss of a first finger, commonly called the index finger, fifty per cent (50%) of daily wages during thirty (30) weeks.

(3) For the loss of a second finger, fifty per cent (50%) of daily wages during twenty-five (25) weeks.

(4) For the loss of a third finger, fifty per cent (50%) of daily wages during twenty (20) weeks.

(5) For the loss of a fourth finger, commonly called the little finger, fifty per cent (50%) of daily wages for fifteen (15) weeks.

(6) For the loss of the first phalange of the thumb or of any finger shall be considered to be equal to the loss of one-half of such thumb or finger and compensation shall be one-half of the amounts above specified.

(7) The loss of more than one phalange shall be considered as the loss of the entire finger or thumb: *Provided, however*, That in no case shall the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand.

(8) For the loss of a great toe, fifty per cent (50%) of daily wages during twenty-five (25) weeks.

(9) For the loss of one of the toes other than the great toe, fifty (50%) per cent of daily wages during fifteen (15) weeks.

(10) For the loss of the first phalange of any toe, shall be considered to be equal to the loss of one-half of such toe and the compensation shall be one-half of the amount above specified.

(11) The loss of more than one phalange shall be considered as the loss of the entire toe.

(12) For the loss of a hand fifty per cent (50%) of daily wages during one hundred fifty (150) weeks.

(13) For the loss of an arm fifty per cent (50%) of daily wages during two hundred (200) weeks.

(14) For the loss of a foot fifty per cent (50%) of daily wages during one hundred twenty-five (125) weeks.

(15) For the loss of a leg, fifty per cent (50%) of daily wages during one hundred seventy-five (175) weeks.

(16) For the loss of any [an] eye, fifty per cent (50%) of daily wages during one hundred (100) weeks.

(17) For the loss of both arms, or both hands, or both feet, or both legs, or both eyes, or of any two thereof, shall constitute total and permanent disability to be compensated according to provisions of clause "I" section ten, part one hereof.

(18) In all other cases in this, clause "J", the compensation shall bear such relation to the amount stated in the above schedule as the disability bears to those produced by the injuries named in the schedule. Should the employee and employer be unable to agree upon the amount of compensation to be paid in cases not specifically covered by the schedule, the amount of compensation shall be settled according to provisions of this act as in other cases of disagreement.

(19) The amounts specified in this, clause "J" and subdivisions thereof shall be subject to the same limitations as to maximum and minimum weekly payments as are stated in clause "H" section ten hereof.

Death of bene-  
ficiary.

Sec. 11. Where an employee is entitled to compensation under this act for an injury received and death ensues from any cause not resulting from the injury for which he was entitled to the compensation, payments of the unpaid balance for such injury shall cease and all liability therefor shall terminate.

SEC. 12. After an injury the employee, if so requested by his employer, shall submit himself for examination at some reasonable time and place within the State and as often as may be reasonably requested, to a physician or physicians authorized to practice under the laws of this State without cost to the employee; but if the employee requests he shall, at his own cost, be entitled to have a physician or physicians of his own selection present to participate in such examination. The refusal of the employee to submit to such examination shall deprive him of the right to compensation during the continuance of such refusal. When a right to compensation is thus suspended no compensation shall be payable in respect to the period of suspension. Medical examinations.

SEC. 13. The compensation herein provided shall be the measure of the responsibility which the employer has assumed for injuries or death that may occur to employees in his employment subject to the provisions of this act, and it shall not be in any wise reduced by contribution from employees. Burden on employer.

SEC. 14. Where a minor dependent or one physically or mentally incapacitated from earning is entitled to compensation under this act, payment shall be made to a trustee appointed by the judge of the district court for each county in the respective judicial districts, and the money coming into the hands of the said trustee shall be expended for the use and benefit of the person entitled thereto under the direction and orders of the judge during term time or in vacation. The trustee shall make annual reports to the court of all money or property received and expended for each person, and for services rendered as trustee shall be paid such compensation by the county as the court may direct by written order directed to the auditor of the county who shall issue a warrant therefor upon the treasurer of the county in which the appointment is made. If the judge making the appointment deems it advisable, a trustee may be appointed to serve for more than one county in the district and the expenses shall be paid ratably by each county according to the amount of work performed in each county. The trustee shall qualify and give bond in such amount as the judge may direct, which may be increased or diminished from time to time as the court may deem best. Payments to trustees, when.

SEC. 15. In any case where the period of compensation can be determined definitely either party may, upon due notice to the other, apply to any judge of the district court for the county in which the accident occurred for an order commuting future payments to a lump sum. And such judge may make such an order when it shall be shown to his satisfaction that the payment of a lump sum in lieu of future monthly or weekly payments, as the case may be, will be for the best interest of the person or persons receiving or dependent upon said compensation, or that the continuance of periodical payments will as compared with lump sum payments entail undue expense or undue hardship upon the employer liable therefor. Where the commutation is ordered, the court shall fix the lump sum to be paid at an amount which will equal the total sum of the probable future payments capitalized at their present value and upon the basis of interest, calculated at 5 per cent per annum. Upon the payment of such amount the employer shall be discharged from all further liability on account of such injury or death, for which said compensation was being paid, and be entitled to a duly executed release, upon filing which the liability of such employer under any agreement, award, finding or judgment shall be discharged of record. Lump-sum payments.

SEC. 16. The basis for computing compensation provided for in this act shall be as follows: Computation of payments.

(a) The compensation shall be computed on the basis of the annual earnings which the injured person received as salary, wages or earnings in the employment of the same employer during the year next preceding the injury.

(b) Employment by the same employer shall be taken to mean employment by the same employer in the grade in which the employee was employed at the time of the accident, uninterrupted by absence from work due to illness or any other unavoidable cause.

(c) The annual earnings, if not otherwise determinable, shall be regarded as three hundred (300) times the average daily earnings in such computation.

(d) If the injured person has not been engaged in the employment for a full year immediately preceding the accident, the compensation shall be computed according to the annual earnings which persons of the same class in the same or in neighboring employments of the same kind have earned during such period. And if this basis of computation is impossible, or should appear to be unreasonable, three hundred (300) times the amount which the injured person earned on an average of those days when he was working during the year next preceding the accident, shall be used as a basis for the computation.

(e) In case of injured employees who earn either no wages or less than three hundred (300) times the usual daily wage or earnings of the adult day laborer in the same line of industry of that locality the yearly wage shall be reckoned as three hundred (300) times the average daily local wages of the average wage earner in that particular kind or class of work; or if information of that class is not obtainable, then of the class or kindred or similarity in the same general employment in the same neighborhood.

(f) As to employees in employments in which it is the custom to operate for a part of the whole number of working days in each year, such number shall be used instead of three hundred (300) as a basis for computing the annual earnings, provided, the minimum number of days which shall be used for the basis of the year's work shall not be less than two hundred (200.).

(g) Earnings, for the purpose of this section, shall be based on the earnings for the number of hours commonly regarded as a day's work for that employment, and shall exclude overtime earnings. The earnings shall not include any sum which the employer has been accustomed to pay the employee to cover any special expense entailed on him by the nature of his employment.

(h) In computing the compensation to be paid to any employee who, before the accident for which he claims compensation, was disabled and drawing compensation under the terms of this act, the compensation for each subsequent injury shall be apportioned according to the proportion of incapacity and disability caused by the respective injuries which he may have suffered.

**Definitions.**

SEC. 17. In this act unless the context otherwise requires:

(a) "Employer" includes and applies to any person, firm, association or corporation, and includes State, counties, municipal corporations, cities under special charter and under commission form of government and shall include school districts and the legal representatives of a deceased employer. Whenever necessary to give effect to section seven of this act, it includes a principal or intermediate contractor.

(b) "Workman" is used synonymous with "employee" and means any person who has entered into the employment of, or works under contract of service, express or implied, or apprenticeship for an employer, except a person whose employment is purely casual and not for the purpose of the employer's trade or business or those engaged in clerical work only, but clerical work shall not include one who may be subjected to the hazards of the business or one holding an official position or standing in a representative capacity of the employer, or an official elected or appointed by the State, county, school district, municipal corporation, cities under special charter and commission form of government: *Provided*, That one who sustains the relation of contractor with any person, firm, association, corporation or the State, county, school district, municipal corporation, cities under special charter or commission form of government, shall not be considered an employee thereof.

The term "workman" shall include the singular and plural of both sexes. Any reference to a workman who has been injured shall, where the workman is dead, include a reference to his dependents as herein defined, legal representatives or where the workman is a minor or incompetent to his guardian or next friend.

**Dependency presumed, when.**

(c) The following shall be conclusively presumed to be wholly dependent upon a deceased employee:

(1) The surviving spouse, unless it be shown that the survivor willfully deserted deceased without fault upon the part of the deceased, and if it be shown that the survivor deserted deceased without

fault upon the part of deceased, the survivor shall not be regarded as a dependent in any degree. No surviving spouse shall be entitled to the benefits of this act unless she shall have been married to the deceased at the time of the injury.

(2) A child or children under sixteen years of age (and over said age if physically or mentally incapacitated from earning) whether actually dependent for support or not upon the parent at the time of his or her death.

(3) A parent of a minor entitled to the earnings of the employee at the time when the injury occurred, subject to provisions of subdivision "F" section ten hereof.

(4) If the deceased employee leaves dependent surviving spouse, the full compensation shall be paid to such spouse; but if the dependent surviving spouse dies before payment is made in full, the balance remaining shall be paid to the person or persons wholly dependent, if any, share and share alike. If there be no person or persons wholly dependent, then payment shall be made to partial dependents.

(5) In all other cases questions of dependency in whole or in part shall be determined in accordance with the fact as the fact may be at the time of the injury; and in such other cases if there is more than one person wholly dependent, the death benefit shall be equally divided among them, and persons partially dependent, if any, shall receive no part thereof. If there is no one wholly dependent and more than one person partially dependent, the death benefit shall be divided among them according to the relative extent of their dependency: *Provided, however,* That when a lump sum is paid as contemplated by this act, the court or commissioner, in making distribution thereof, shall take into consideration the contingent rights of partial beneficiaries or the rights of those who may become such after a wholly dependent child or children becomes sixteen years of age.

(6) Step-parents shall be regarded in this act as parents.

(7) Adopted child or children or stepchild or children shall be regarded in this act the same as if issue of the body.

(d) "Injury" or "personal injury" includes death resulting from injury.

(e) The words "personal injury arising out of and in the course of such employment" shall include injuries to employees whose services are being performed on, in or about the premises which are occupied, used or controlled by the employer, and also injuries to those who are engaged elsewhere in places where their employer's business requires their presence and subjects them to dangers incident to the business.

(f) The words "injury and personal injury" shall not include injury caused by the willful act of a third person directed against an employee for reasons personal to such employee or because of his employment.

(g) They shall not include a disease except as it shall result from the injury.

(h) "Industrial employment" includes only employment in occupation, callings, businesses or pursuits which are carried on by the employer for the sake of pecuniary gain.

(i) The word "court" whenever used in this act unless the context shows otherwise, shall be taken to mean the district court.

SEC. 18. (a) Any contract of employment, relief benefit or insurance or other device whereby the employee is required to pay any premium or premiums for insurance against the compensation provided for in this act shall be null and void; and any employer withholding from the wages of any employee any amount for the purpose of paying any such premium shall be guilty of a misdemeanor and punishable by a fine not less than ten (\$10.00) dollars nor more than fifty (\$50.00) dollars for each offense in the discretion of the court.

No employee or beneficiary shall have power to waive any of the provisions of this act in regard to the amount of compensation which may be payable to such employee or beneficiary hereunder to whom the act applies.

SEC. 19. Any contract or agreement made by any employer or his agent or attorney with any employee or any other beneficiary of any claim under the provisions of this act within twelve (12) days after the injury shall be presumed to be fraudulent.

Other dependents.

Injury.

Contracts with employees to pay premiums.

Agreements within 12 days.



- Standards of safety. of Sec. 20. The Iowa industrial commission cooperating with the employers affected by this act, or any committee or committees appointed by such employers or the Iowa industrial commissioner, shall fix standards of safety for safety appliances or places of employment, except mines under the jurisdiction of the mine inspectors.
- Attorneys' fees. Sec. 21. No claim of an attorney at law for services in securing a recovery under this act shall be an enforceable lien thereon unless the amount of the same be approved in writing by a judge of a court of record or the Iowa industrial commissioner, which approval may be made in term time or vacation.
- Commerce. Sec. 22. The provisions of this act shall apply to employers and employees as defined in this act engaged in intrastate commerce and also those engaged in interstate or foreign commerce for whom a rule or method of compensation has been or may be established by the congress of the United States, only to the extent that their mutual connection with intrastate work or foreign commerce shall be clearly separable and distinguishable from interstate or foreign commerce: *Provided*, That any such employer and workman of such employer working only in this State may, subject to the approval of the Iowa industrial commissioner, and so far as not forbidden by any act of congress or permitted, voluntarily by written agreement, accept and become bound by the provisions of this act in like manner and with the same force and effect in every respect as by this act provided for other employers and employees.

## PART II.

- Industrial commissioner. Sec. 23. There is hereby created the office of Iowa industrial commissioner, to be appointed by the governor, by and with the consent of the senate. The term of office of the commissioner shall be six years. An appointment may be made to fill a vacancy or otherwise when the senate is not in session, but shall be acted upon at the next session thereof.
- Salary, expenses, etc. Sec. 24. The salary and actual necessary expenses of the commissioner shall be paid by the State, and he shall be provided with adequate and necessary office rooms, furniture, equipment, supplies and other necessities in the transaction of the business. The salary of the commissioner shall be three thousand dollars (\$3,000.00) per annum. The commissioner, by and with the consent of the executive council may fix the salary and appoint a secretary and other assistants and clerical help as may be required and needed: *Provided*, That the salary of the secretary shall not exceed fifteen hundred dollars (\$1,500.00) per annum. The salary and actual personal expense account of the commissioner shall be itemized and sworn to, and filed as other current bills as provided by statute, and warrant therefor shall be issued by the auditor upon the treasurer of the State for the payment thereof at the end of each calendar month: *Provided, however*, That the expense account may be audited, allowed and paid at the end of each week. The commissioner shall provide himself with a seal, which shall be used to authenticate his orders, decisions and other proceedings deemed necessary, upon which shall be inscribed the words "Iowa Industrial Commissioner's Seal" and the date of organization. All other accounts made by, through or under the commissioner for salaries, expenditures, unless otherwise by this act provided, shall be itemized and sworn to by the parties entitled thereto, audited by the commissioner, attested by the secretary, filed as other bills are required by statute, and a warrant shall issue therefor by the auditor of state upon the treasurer, who shall pay the same out of the funds appropriated for the use of the commissioner as by this act provided. The salaries of all persons under the commissioner shall be audited, allowed and paid at the end of each month, and expense accounts may be audited, allowed and paid at the end of each week. The commissioner shall have the power to remove the secretary or any other person appointed to an office by him at any time the commissioner may see fit.
- Political activity. It shall be unlawful for any appointee by the commissioner to espouse the election or appointment of any candidate for or to any political office, or contribute to the campaign fund of any political party, or to the campaign fund of any person who is a candidate for election or

appointment to any political office, and any person performing the duties as an appointee under the commissioner violating the provisions of this act shall be sufficient cause for dismissal and removal from office.

Before entering upon his duties the commissioner shall qualify by taking the oath of his office, that he will support the constitution of the United States and of the State of Iowa, and will faithfully and impartially, without fraud fear or favor, discharge the duties of his office incumbent upon him, as provided by the law of the State of Iowa, to the best of his ability and understanding.

Oath.

There is hereby appropriated out of any money not otherwise appropriated for the use of the commissioner, as contemplated within the terms of this act or acts amendatory thereof, or other statutes relating to the commissioner, his duties and responsibilities empowered by law, the sum of twenty thousand dollars (\$20,000.00) annually, and in addition thereto the executive council shall provide and furnish the commissioner with such printing as may be necessary in the transaction of the business within the contemplation of law.

Appropriation.

Sec. 25. The commissioner may make rules and regulations not inconsistent with this act for carrying out the provisions of the act. Process and procedure under this act shall be as summary as reasonably may be. The commissioner shall have the power to subpoena witnesses, administer oaths and to examine such books and records of the parties to a proceeding or investigation as relate to questions in dispute or under investigation. The fees for attending as a witness before the industrial commissioner shall be \$1.50 per diem; for attending before an arbitration committee \$1.00 per diem; in both cases five cents per mile for traveling to and from the place of hearing. The district court is hereby empowered to enforce by proper proceedings the provisions of this section relating to the attendance and testimony of witnesses and the examination of books and records. The commissioner shall make biennial reports to the governor who shall transmit the same to the general assembly, in which among other things, the commissioner shall recommend such changes in the law covered by this act as it may deem necessary.

Rules and regulations.

Sec. 26. If the employer and the employee reach an agreement in regard to the compensation under this act, a memorandum thereof shall be filed with the Iowa industrial commissioner by the employer or employee, and unless the commissioner shall, within twenty days, notify the employer and employee of his disapproval of the agreement by registered letter sent to their addresses as given on the memorandum filed, the agreement shall stand as approved and be enforceable [enforcible] for all purposes under the provisions of this act. Such agreement shall be approved by said commissioner only when the terms conform to the provisions of this act.

Memoranda of agreements.

Sec. 27. If the employer and the injured employee or representatives or dependents fail to reach an agreement in regard to compensation under this act, either party may notify the industrial commissioner, who shall thereupon call for the formation of a committee of arbitration. The arbitration committee shall consist of three persons, one of whom shall be the industrial commissioner who shall act as chairman. The other two shall be named, respectively, by the two parties. If a vacancy occurs it shall be filled by the party whose representative is unable to act.

Arbitrations.

Sec. 28. The arbitrators appointed by the parties shall be sworn by the chairman to take the following oath:

Oath of arbitrators.

I \_\_\_\_\_ do solemnly swear (or affirm) that I will faithfully perform my duties as arbitrator and will not be influenced in my decision by any feeling of friendship or partiality toward either party.  
(Signed) \_\_\_\_\_

Sec. 29. It shall be the duty of the industrial commissioner, upon notification, that the parties have failed to reach an agreement, to request both parties to appoint their respective representatives on the committee of arbitration. The commissioner shall act as chairman, and, if either party does not appoint its member on this committee within seven days after notification as above provided, or after a vacancy has occurred, the commissioner shall fill the vacancy and notify the parties to that effect.

Committee.

- Investigations.** SEC. 30. The committee on arbitration shall make such inquiries and investigations as it shall deem necessary. The hearings of the committee shall be in the city, town or place where the injury occurred and the decision of the committee, together with the statement of evidence submitted before it, its findings of fact, rulings of law and any other matters pertinent to questions arising before it shall be filed with the industrial commissioner. Unless a claim for a review is filed by either party within five days, the decision shall be enforceable [enforceable] under the provisions of this act.
- Physicians.** SEC. 31. The industrial commissioner may appoint a duly qualified impartial physician to examine the injured employee and make report. The fee for this service shall be five (\$5.00) dollars, to be paid by the industrial commissioner together with traveling expenses, but the commissioner may allow additional reasonable amounts in extraordinary cases. Any physician so examining any injured employee shall not be prohibited from testifying before the Iowa industrial commissioner or any other person, commission or court, as to the results of his examination or the condition of the injured employee.
- Arbitrators' fees.** SEC. 32. The arbitrators named by or for the parties to the dispute shall each receive five (\$5.00) dollars as a fee for his services, but the industrial commissioner may allow additional reasonable amounts in extraordinary cases. The fees shall be paid by the employer who may deduct an amount equal to one-half of the sum from any compensation found due the employee. And all other costs incurred in the hearing before the board of arbitration shall be taxed to the losing party, or an equitable apportionment made thereof by the committee according to the facts.
- Review.** SEC. 33. If a claim for review is filed, the industrial commissioner shall hear the parties and may hear evidence in regard to any or all matters pertinent thereto and may revise the decision of the committee in whole or in part, or may refer the matter back to the committee for further findings of fact, and shall file its decision with the records of the proceedings and notify the parties thereof. No party shall as a matter of right be entitled to a second hearing upon any question of fact.
- Filing orders in court.** SEC. 34. Any party in interest may present certified copy of an order or decision of the commissioner or a decision of an arbitration committee from which no claim for review has been filed within the time allowed therefor, or a memorandum of agreement approved by the commissioner, and all papers in connection therewith, to the district court of the county in which the injury occurred, whereupon said court shall render a decree in accordance therewith and notify the parties. Such decree shall have the same effect and in all proceedings in relation thereto shall thereafter be the same as though rendered in a suit duly heard and determined by said court, except that there shall be no appeal therefrom upon questions of fact or where the decree is based upon an order or decision of the commissioner which has not been presented to the court within ten days after the notice of the filing thereof by the commissioner. Upon the presentation to the court of a certified copy of a decision of the industrial commissioner, ending, diminishing or increasing a weekly payment under the provisions of this act, the court shall revoke or modify the decree to conform to such decision.
- Effect.** SEC. 35. (a) Any payment to be made under this act may be reviewed by the industrial commissioner at the request of the employer or of the employee, and on such review it may be ended, diminished or increased subject to the maximum or minimum amounts provided for in this act if the commissioner finds the conditions of the employee warrants such action.
- Revision of payments.** (b) Any notice to be given by the commissioner or court provided for in this act shall be in writing but service thereof shall be sufficient if registered and deposited in the mail, addressed to the last known address of the parties.
- Fees to be approved.** SEC. 36. Fees of attorneys and physicians for services under this act shall be subject to the approval of the industrial commissioner unless otherwise provided in this act.
- Accidents to be reported.** SEC. 37. Every employer shall hereafter keep a record of all injuries, fatal or otherwise, sustained by his employees in the course of their

employment. Within forty-eight hours not counting Sundays and legal holidays, after the employer has knowledge of the occurrence of an accident resulting in personal injury, a report shall be made in writing by the employer to the industrial commissioner on blanks to be procured from the commissioner for that purpose.

Upon the termination of the disability of the injured employee, or if such disability extends beyond a period of sixty days, at the expiration of such period, the employer shall make a supplemental report on blanks to be procured from the commissioner for that purpose. The said reports shall contain the name and nature of the business of the employer, the location of the establishment, the name, age, sex and occupation of the injured employee, and shall state the date and hour of the accident, the nature and cause of the injury, and such other information as may be required by the commissioner. Any employer who refuses or neglects to make the report required by this section shall be punished by a fine of not more than fifty (\$50.00) dollars for each offense.

All books, records and pay rolls of the employers, coming under this act showing or reflecting in any way upon the amount of wage expenditure of such employers, shall always be open for inspection by the industrial commissioner, or any of his representatives presenting a certificate of authority from said commissioner for the purpose of ascertaining the correctness of the wage expenditure; the number of men employed and such other information as may be necessary for the uses and purposes of the commissioner in its administration of the law. But information obtained within the contemplation of this act shall be used for no other purpose than the information of the commissioner or insurance association with reference to the duties imposed upon such commissioner. A refusal on the part of the employer to submit his books, records, or pay rolls for the inspection of the commissioner, or his authorized representative presenting written authority from the commissioner, shall subject the employer to a penalty of one hundred dollars (\$100.00) for each such offense to be collected by civil action in the name of the State, and paid into the State treasurer [treasury].

Sec. 38. It shall be unlawful for the commissioner, during his term of office, to serve upon any committee of any political party or espouse the election or appointment of any person for any political office or contribute to any campaign fund of any political party, or to the campaign fund of any person who is a candidate for election or appointed to any political office. A violation of this section shall be deemed a misdemeanor and upon conviction shall be fined one hundred (\$100.00) dollars.

Sec. 39. It shall be unlawful for any person who is a candidate for the appointment as commissioner to make any promise to another, expressed or implied, in consideration of any assistance or influence given or recommendation made that the candidate will, if appointed as commissioner, vote to appoint such person or one whom he may recommend to an office within the power of the commissioner to appoint. A violation thereof shall be deemed a misdemeanor and upon conviction thereof shall be fined one hundred (\$100.00) dollars.

Sec. 40. All recommendations to the governor of any person asking the appointment of another as commissioner shall be reduced to writing signed by the person presenting the same, which shall be filed by the governor in his office and open at all reasonable times for public inspection, and all recommendations made by any person to the commissioner for the appointment of another within the power of the commissioner to appoint, shall be reduced to writing, signed by the person presenting the same and filed by the commissioner and open for public inspection at all reasonable times and hours. If any person recommending the appointment of another within the contemplation of this act refuse to reduce the same to writing, it shall be the duty of the person to whom the recommendation is made, to make a brief memoranda thereof stating the name of the person recommended and the name of the person who made the same, which shall be filed as by this act in other cases provided. It shall be unlawful for the commissioner to be financially interested in any business enterprise coming under or

Books, records, etc.

Political activity.

Promise of vote.

Recommendations as to appointments.

Commissioner not to have financial interest.

affected by this act during his term of office and any member offending this statute, it shall be sufficient grounds [sic] for his removal from office and in such case the governor shall at once declare the office vacant and appoint another to fill the vacancy.

Removal from office.

Sec. 41. The governor shall remove from office the commissioner on the grounds of inefficiency, neglect of duty, or malfeasance in office, upon written charges having been filed with the executive council and sustained by proofs. But written notice of such charges, together with a copy thereof, shall be served upon the accused ten (10) days before the time fixed for hearing. The executive council shall have jurisdiction to hear the case, and shall make such finding in accordance with justice and the law. The finding shall be reduced to writing, and report and finding filed with the governor.

### PART III.

Insurance.

SECTION 42. Every employer, subject to the provisions of this act, shall insure his liability thereunder in some corporation, association or organization approved by the State department of insurance. Every such employer shall within thirty (30) days after this act goes into effect exhibit on demand of the State insurance department evidence of his compliance with this section. And if such employer refuses, or neglects to comply with this section, he shall be liable in case of injury to any workman in his employ under part one (1) of this act.

Mutual associations.

Sec. 43. For the purpose of complying with the foregoing section, groups of employers by themselves or in an association with any or all of their workmen, may form insurance associations as hereafter provided, subject to such reasonable conditions and restrictions as may be fixed by the State insurance department and membership in such mutual insurance organization as approved, together with evidence of the payment of premiums due, shall be evidence of compliance with the preceding section.

Approved schemes.

Sec. 44. Subject to the approval of the Iowa industrial commissioner any employer or group of employers may enter into or continue an agreement with his or their workmen to provide a scheme of compensation, benefit or insurance in lieu of the compensation and insurance provided by this act; but such scheme shall in no instance provide less than the benefits here secured, nor vary the period of compensation provided for disability or for death, or the provisions of this act with respect to periodic payments, or the percentage that such payments shall bear to weekly wages, except that the sums required may be increased: *Provided further*, That the approval of the Iowa industrial commissioner shall be granted, if the scheme provides for contribution by workmen, only when it confers benefits in addition to those required by this act commensurate with such contributions.

Certificates.

Sec. 45. Whenever such scheme or plan is approved by the Iowa industrial commissioner, he shall issue a certificate to that effect, whereupon it shall be legal for such employer, or group of employers, to contract with any or all of his or their workmen to substitute such scheme or plan for the provisions of this act during a period of time fixed by said department.

Termination of schemes.

Sec. 46. Such scheme or plan may be terminated by the Iowa industrial commissioner on reasonable notice to the interested parties if it shall appear that the same is not fairly administered, or if its operation shall disclose latent defects threatening its solvency, or if for any substantial reason it fails to accomplish the purpose of this act; but from any such order of said Iowa industrial commissioner the parties affected, whether employer or workman, may, upon the giving of proper bond to protect the interests involved appeal for equitable relief to the district court of this State.

Commission for insuring.

Sec. 47. No insurer of any obligation under this act shall either by himself or through another, either directly or indirectly, charge or accept as a commission or compensation for placing or renewing any insurance under this act more than fifteen (15) per cent of the premium charged.

Provisions of policy.

Sec. 48. Every policy issued by any insurance corporation, association or organization to assure the payment of compensation under this

act shall contain a clause providing that between any employer and the insurer, notice, to and knowledge of the occurrence of injury or death on the part of the insured shall be notice and knowledge on the part of the insurer; and jurisdiction of the insured for the purpose of this act shall be jurisdiction of the insurer and the insurer shall be bound by every agreement, adjudgment, award or judgment rendered against the insured.

SEC. 49. No policy of insurance issued under this act shall contain any provision relieving the insurer from payment if the insured becomes insolvent or discharged in bankruptcy during the period that the policy is in operation, or the compensation, or any part of it, is due and unpaid. Every policy shall provide that the workmen shall have a first lien upon any amount becoming due on account of such policy to the insured from the insurer, and that in case of the legal incapacity, inability or disability of the insured to receive the amount due and pay it over to the insured workman, or his dependents, said insurer shall pay the same directly to such workman, his agent, or to a trustee for him or his dependents, to the extent of discharging any obligation of the insured to said workman or his dependents.

Insolvency of employer.

SEC. 50. Where an employer coming under this act furnishes proofs to the insurance department satisfactory to the insurance department and Iowa industrial commissioner, of such employer's solvency and financial ability to pay the compensation and benefits as by this act provided and to make such payments to the parties when entitled thereto, or when such employer deposits with such insurance department security satisfactory to such insurance department and the Iowa industrial commissioner as well secure the payment of such compensation, such employer shall be relieved of the provision of section forty-two (42) of this act: *Provided*, That such employer shall from time to time, as may be required by such insurance department and Iowa industrial commissioner, furnish such additional proof of solvency and financial ability to pay as by this section of this act provided.

Insurance not required, when.

The insurance department and Iowa industrial commissioner may, at any time, upon reasonable notice to such employer and upon hearing, revoke for cause any order or approval theretofore made, as by this act provided and within the contemplation of this section.

SEC. 51. Part one of this act shall take effect from and after July first, 1914, and parts two and three July fourth, 1913.

Act in effect.

And any employer or employee who serves the notice to reject the terms of the act as by the act provided not less than thirty days before part one thereof takes effect, such notice for the purpose [of] rejecting the terms of the act shall have the same force and effect as though part one had taken effect July fourth, 1913.

Notice.

Approved April 18 A. D. 1913.

## KANSAS.

### ACTS OF 1911.

#### CHAPTER 218.—*Compensation for injuries to workmen.*

SECTION 1. If in any employment to which this act applies, personal injury by accident arising out of and in the course of employment is caused to a workman, his employer shall, subject as hereinafter mentioned, be liable to pay compensation to the workman in accordance with this act. Save as herein provided, no such employer shall be liable for any injury for which compensation is recoverable under this act: *Provided*, That (a) the employer shall not be liable under this act in respect of any injury which does not disable the workman for a period of at least two weeks from earning full wages at the work at which he is employed; (b) if it is proved that the injury to the workman results from his deliberate intention to cause such injury, or from his willful failure to use a guard or protection against accident required pursuant to any statute and provided for him, or a reasonable and proper guard and protection voluntarily furnished him by said employer, or solely from his deliberate breach of statutory regulations

Compensation payable, when.

affecting safety of life or limb, or from his intoxication, any compensation in respect to that injury shall be disallowed.

SEC. 2. [Repealed.]

Fines.

SEC. 3. Nothing in this act shall affect the liability of the employer or employee to a fine or penalty under any other statute.

Employees of  
contractors.

SEC. 4. (a) Where any person (in this section referred to as principal) undertakes to execute any work which is a part of his trade or business or which he has contracted to perform and contracts with any other person (in this section referred to as the contractor) for the execution by or under the contractor of the whole or any part of the work undertaken by the principal, the principal shall be liable to pay to any workman employed in the execution of the work any compensation under this act which he would have been liable to pay if that workman had been immediately employed by him; and where compensation is claimed from or proceedings are taken against the principal, then, in the application of this act, references to the principal shall be substituted for references to the employer, except that the amount of compensation shall be calculated with reference to the earnings of the workman under the employer by whom he is immediately employed. (b) Where the principal is liable to pay compensation under this section, he shall be entitled to indemnity from any person who would have been liable to pay compensation to the workman independently of this section, and shall have a cause of action therefor. (c) Nothing in this section shall be construed as preventing a workman from recovering compensation under this act from the contractor instead of the principal. (d) This section shall not apply to any case where the accident occurred elsewhere than on or in, or about the premises on which the principal has undertaken to execute work or which are otherwise under his control or management, or on, in, or about the execution of such work under his control or management. (e) A principal contractor, when sued by a workman of a subcontractor, shall have the right to implead the subcontractor. (f) The principal contractor who pays compensation voluntarily to a workman of a subcontractor shall have the right to recover over against the subcontractor.

Injuries  
caused by third  
persons.

SEC. 5. Where the injury for which compensation is payable under this act was caused under circumstances creating a legal liability against some person other than the employer to pay damages in respect thereof. (a) The workman may take proceedings against that person to recover damages and against any person liable to pay compensation under this act for such compensation, but shall not be entitled to recover both damages and compensation; and (b) If the workman has recovered compensation under this act, the person by whom the compensation was paid, or any person who has been called on to indemnify him under the section of this act relating to subcontracting, shall be entitled to indemnity from the person so liable to pay damages as aforesaid, and shall be subrogated to the rights of the workman to recover damages therefor.

Scope of law.

SEC. 6 (as amended by Chapter 216, Acts of 1913). This act shall apply only to employment in the course of the employer's trade or business on, in or about a railway, factory, mine or quarry, electric, building or engineering work, laundry, natural gas plant, county and municipal work, and all employments wherein a process requiring the use of any dangerous explosive or inflammable materials is carried on, which is conducted for the purpose of business, trade or gain; each of which employments is hereby determined to be especially dangerous, in which from the nature, conditions or means of prosecution of the work therein, extraordinary risk to the life and limb of the workman engaged therein are inherent, necessary, or substantially unavoidable, and as to each of which employments it is deemed necessary to establish a new system of compensation for injuries to workmen. This act shall not apply in any case where the accident occurred before this act takes effect, and all rights which have accrued, by reason of any such accident, at the time of the publication of this act, shall be saved the remedies now existing therefor, and the court shall have the same power as to them as if this act had not been enacted. Agricultural pursuits and employments incident thereto are hereby declared to be nonhazardous and exempt from the provisions of this act.

Exemptions.

SEC. 7. This act shall not be construed to apply to business or employments which, according to law, are so engaged in interstate commerce as to be not subject to the legislative power of the State, nor to persons injured while they are so engaged.

Interstate  
commerce.

SEC. 8 (as amended by Chapter 216, Acts of 1913). It is hereby determined that the necessity for this law and the reason for its enactment, exist only with regard to employers who employ a considerable number of persons. This act, therefore, shall only apply to employers by whom five or more workmen have been (employed) continuously for more than one month at the time of the accident: *Provided, however*, That employers having less than five workmen may elect to come within the provisions of this act in which case his employees shall be included herein, as hereinafter provided: *And provided further*, That this act shall apply to mines without regard to number of workmen employed.

What employ-  
ers affected.

SEC. 9 (as amended by Chapter 216, Acts of 1913). In this act, unless the context otherwise requires. (a) "Railway" includes street railways and interurban and "employment on railways" includes work in depots, power houses, roundhouses, machine shops, yards, and upon the right of way, and in the operation of its engines, cars and trains, and to employees of express companies while running on railroad trains. (b) "Factory" means any premises wherein power is used in manufacturing, making, altering, adapting, ornamenting, finishing, repairing or renovating any article or articles for the purpose of trade or gain or of the business carried on therein, including expressly any brick yard, meat-packing house, foundry, smelter, oil refinery, lime-burning plant, steam heating plant, electric lighting plant, electric power plant and water power plant, powder plant, blast furnace, paper mill, printing plant, flour mill, glass factory, cement plant, artificial gas plant, machine or repair shop, salt plant, and chemical manufacturing plant. (c) "Mine" means any opening in the earth for the purpose of extracting any minerals, and all underground workings, slopes, shafts, galleries, and tunnels, and other ways, cuts and openings connected therewith, including those in the course of being opened, sunk or driven; and includes all the appurtenant structures at or about the openings of the mine, and any adjoining adjacent work place where the material from a mine is prepared for use or shipment. (d) "Quarry" means any place, not a mine, where stone, slate, clay, sand, gravel or other solid material is dug or otherwise extracted from the earth for the purpose of trade or bargain or of the employer's trade or business. (e) "Electrical work" means any kind of work in or directly connected with the construction, installation, operation, alteration, removal, or repair of wires, cables, switchboards or apparatus, used for the transmission of electrical current. (f) "Building work" means any work in the erection, construction, extension, decoration, alteration, repair or demolition of any building or structural appurtenances. (g) "Engineering work" means any work in the construction, alteration, extension, repair or demolition of a railway (as hereinbefore defined) bridge, jetty, dike, dam, reservoir, underground conduit, sewer, oil or gas well, oil tank, gas tank, water tower, or water works (including standpipes or mains), any caisson work or work in artificially compressed air, any work in dredging, pile driving, moving buildings, moving safes, or in laying, repairing or removing, underground pipes and connections, the erection, installing, repairing, or removing of boilers, furnaces, engines and power machinery, (including belting and other connections) and any work in grading or excavating where shoring is necessary or power machinery or blasting powder, dynamite or other high explosives is in use (excluding mining and quarrying). (h) "Employer" includes any person or body of persons corporate or incorporate, and the legal representatives of a deceased employer or the receiver or trustee of a person, corporation, association or partnership. (i) "Workman" means any person who has entered into the employment of or works under contract of service or apprenticeship with an employer, but does not include a person who is employed otherwise than for the purpose of the employer's trade or business. Any reference to a workman who has been injured shall, where the workman is dead, include a reference to his dependents, as hereinafter defined, or to his legal representative,

Definitions.



or where he is a minor or incompetent, to his guardian. (j) "Dependents" means such members of the workman's family as were wholly or in part dependent upon the workman at the time of the accident. And "members of a family" for the purpose of this act means only widow, or husband, as the case may be, and children; or if no widow, husband or children, then parents and grandparents, or if no parents or grandparents, then grandchildren; or if no grandchildren, then brothers and sisters. In the meaning of this section parents include stepparents, children include stepchildren, and grandchildren include stepgrandchildren, and brothers and sisters include stepbrothers and stepsisters, and children and parents include that relation by legal adoption. (k) The words "Arising out of and in the course of employment" as used in this act shall not be construed to include injuries to the employee occurring while he is on his way to assume the duties of his employment or after leaving such duties, the proximate cause of which injury is not the employer's negligence.

Incompetent persons.

SEC. 10. In case an injured workman is mentally incompetent or a minor, or where death results from the injury, in case any of his dependents as herein defined is mentally incompetent or a minor, at the time when any right, privilege or election accrues to him under this act, his guardian may, in his behalf, claim and exercise such right, privilege, or election, and no limitation of time, in this act provided for, shall run, so long as such incompetent or minor has no guardian.

Compensation for—  
Death;

SEC. 11 (as amended by Chapter 216, Acts of 1913). The amount of compensation under this act shall be: (a) Where death results from injury: (1) If the workman leaves any dependents wholly dependent upon his earnings, an amount equal to three times his earnings for the preceding year but not exceeding thirty six hundred dollars and not less than twelve hundred dollars, provided, such earnings shall be computed upon the basis of the scale which he received or would have been entitled to receive had he been at work, during the thirty days next preceding the accident; and, if the period of the workman's employment by the said employer had been less than one year, then the amount of his earnings during the said year shall be deemed to be fifty-two times his average weekly earnings during the period of his actual employment under said employer: *Provided*, That the amount of any payments made under this act and any lump sum paid hereunder for such injury from which death may thereafter result shall be deducted from such sum: *And provided, however*, That if the workman does not leave any dependents, citizens of and residing at the time of the accident in the United States or the Dominion of Canada, the amount of compensation shall not exceed in any case seven hundred and fifty dollars. (2) If the workman does not leave any such dependents, but leaves any dependents in part dependent upon his earnings, such proportion of the amount payable under the foregoing provisions of this section, as may be agreed upon or determined to be proportionate to the injury to the said dependents; and (3) If he leaves no dependents, the reasonable expense of his medical attendance and burial, not exceeding one hundred dollars. (4) Marriage of any dependent shall terminate all compensation of such dependent, but shall not affect compensation allowed other dependents; when any minor dependent, not physically or mentally incapable of wage earning shall become eighteen years of age, such compensation shall cease.

Total disability;

(b) Where total incapacity for work results from injury, periodical payments during such incapacity, commencing at the end of the second week, equal to fifty per cent of his average weekly earnings computed as provided in section 12 but in no case less than six dollars per week or more than fifteen dollars per week. (c) When partial incapacity for work results from injury, periodical payments during such incapacity, commencing at the end of the second week, shall not be less than twenty-five per cent, nor exceed fifty per cent, based upon the average weekly earnings computed as provided in section 12, but in no case less than three dollars per week or more than twelve dollars per week: *Provided, however*, That if the workman is under twenty-one years of age at the date of the accident and the average weekly earnings are less than \$10.00 his compensation shall not be less than seventy-

Partial disability.

five per cent of his average weekly earnings. No such payment for total or partial disability shall extend over a period exceeding eight years.

SEC. 12. For the purposes of the provisions of this act relating to "earnings" and "average earnings" of a workman the following rules shall be observed: (a) "Average earnings" shall be computed in such manner as is best calculated to give the average rate per week at which the workman was being remunerated for the 52 weeks prior to the accident; *Provided*, That where by reason of the shortness of time during which the workman has been in the employment of his employer, or the casual nature or the terms of the employment, it is impracticable to compute the rate of remuneration, regard shall be had to the average weekly amount which, during the twelve months previous to the accident, was being earned by a person in the same grade employed at the same work by the same employer, or, if there is no person employed, by a person in the same grade employed in the same class of employment and in the same district. (b) Where the workman had entered into concurrent contracts of service with two or more employers under which he worked at one time for one such employer and at another time for another such employer, his "earnings" and his "average earnings" shall be computed as if his earnings under all such contracts were earnings in the employment of the employer for whom he was working at the time of the accident. (c) Employment by the same employer shall be taken to mean employment by the same employer in the grade in which the workman was employed at the time of the accident, uninterrupted by his absence of work due to illness or any other unavoidable cause. (d) Where the employer has been accustomed to pay to the workman a sum to cover any special expenses entailed upon him by the nature of his employment, the sum so paid shall not be reckoned as part of the earnings. (e) In fixing the amount of the payment, allowance shall be made for any payment or benefit which the workman may receive from the employer during his period of incapacity. (f) In case of partial incapacity the payments shall be computed to equal, as closely as possible, fifty per cent of the difference between the amount of the "average earnings" of the workman before the accident, to be computed as herein provided, and the average amount which he is most probably able to earn in some suitable employment or business after the accident, subject however, to the limitations hereinbefore provided.

Earnings  
computed, how.

SEC. 13. The payments shall be made at the same time, place and in the same manner as the wages of the workman were payable at the time of the accident, but a judge of any district court having jurisdiction upon the application of either party may modify such regulation in a particular case as to him may seem just.

Payments.

SEC. 14. Where death results from the injury and the dependents of the deceased workman as herein defined, have agreed to accept compensation, and the amount of such compensation and the apportionment thereof between them has been agreed to or otherwise determined, the employer may pay such compensation to them accordingly (or to an administrator if one be appointed) and thereupon be discharged from all further liability for the injury. Where only the apportionment of the agreed compensation between the dependents is not agreed to, the employer may pay the amount into any district court having jurisdiction, or to the administrator of the deceased workman, with the same effect. Where the compensation has been so paid into court or to an administrator, the proper court, upon the petition of such administrator or any of such dependents, and upon such notice and proof as it may order shall determine the distribution thereof among such dependents. Where there are no dependents, medical and funeral expenses may be paid and distributed in like manner.

Payments to  
dependents.

SEC. 15. The payments due under this act, as well as any judgment obtained thereunder, shall not be assignable or subject to levy, execution or attachment, except for medicine, medical attention and nursing and no claim of any attorney at law for services rendered in securing such indemnity or compensation or judgment shall be an enforceable lien thereon, unless the same has been approved in writing by the judge of the court where said case was tried; but if no trial was had, then by any judge of the district court of this State to whom

Payments not  
assignable, etc.

- such matter has been regularly submitted, on due notice to the party or parties in interest of such submission.
- Reports by employers.** SEC. 16. Employers affected by this act shall report annually to the State commissioner and factory inspector such reasonable particulars in regard thereto as he may require, including particulars as to all releases of liability under this act and any other law. The penalty for failure to report or for false report shall invalidate any such release of liability.
- Medical examinations.** SEC. 17. (a) After an injury to the employees, if so requested by his employer, the employee must submit himself for examination at some reasonable time to a reputable physician selected by the employer, and from time to time thereafter during the pendency of his claim for compensation, or during the receipt by him for payment under this act, but he shall not be required to so submit himself, more than once in two weeks unless in accordance with such orders as may be made by the proper court or judge thereof. Either party may upon demand require a report of any examination made by the physician of the other party upon payment of a fee of one dollar therefor. (b) If the employees request he shall be entitled to have a physician of his own selection present at the time to participate in such examinations. (c) Unless there has been a reasonable opportunity thereafter for such physician selected by the employee to participate in the examination in the presence of the physician selected by the employer, the physician selected by the employer shall not be permitted afterwards to give evidence of the condition of the employee in a dispute as to the injury. (d) Except as provided herein in this act there shall be no other disqualification or privilege preventing the testimony of a physician who actually makes an examination.
- Special examinations.** SEC. 18. In case of a dispute as to the injury, the committee, or arbitrator as hereinafter provided, or the judge of the district court shall have the power to employ a neutral physician of good standing ability, whose duty it shall be, at the expense of the parties to make an examination of the injured person, as the court may direct, on the petition of either or both the employer and employee or dependents.
- Evidence not admitted, when.** SEC. 19. If the employer or the employee has a physician make such an examination and no reasonable opportunity is given to the other party to have his physician make examination, then, in case of a dispute as to the injury, the physician of the party making such examination shall not give evidence before the court unless a neutral physician either has examined or then does examine the injured employee and give testimony regarding the injuries.
- Refusal to be examined.** SEC. 20. If the employee shall refuse examination by physician selected by the employer, with the presence of a physician of his own selection, and shall refuse an examination by the physician appointed by the court, he shall have no right to compensation during the period from refusal until he, or someone in his behalf, notifies the employer or the court that he is willing to have such examination.
- Certificates.** SEC. 21. A physician making an examination shall give to the employer and to the workman a certificate as to the condition of the workman, but such certificate shall not be competent evidence of that condition unless supported by his testimony if his testimony would have been admissible.
- Notice.** SEC. 22 (as amended by Chapter 216, Acts of 1913). Proceedings for the recovery of compensation under this act shall not be maintainable unless written notice of the accident, stating the time, place and particulars thereof, and the name and address of the person injured, has been given within ten days after the accident, and unless a claim for compensation has been made within three months after the accident or in case of death, within six months from the date thereof. Such notice shall be delivered by registered mail, or by delivery to the employer. The want of, or any defect in such notice, or in its service, shall not be a bar unless the employer proves that he has, in fact, been thereby prejudiced, or if such want or defect was occasioned by mistake, physical or mental incapacity or other reasonable cause, and the failure to make a claim within the period above specified shall be a bar: *Provided, however,* That in case of incapacity of an injured employee the limitation herein shall not run during such incapacity.
- Claim.**

SEC. 23. Compensation due under this act may be settled by agreement. Every such agreement, other than a release, shall be in the form hereinafter provided. Agreements.

SEC. 24. If compensation be not so settled by agreement: (a) If any committee representative of the employer and the workman exists, organized for the purpose of settling disputes under this act, the matter shall, unless either party objects by notice in writing delivered or sent by registered mail to the other party before the committee meets to consider the matter, be settled in accordance with its rules by such committee or by an arbitrator selected by it. (b) If either party so objects, or there is no such committee, or the committee or the arbitrator to whom it refers the matter fails to settle it within sixty days from the date of the claim, the matter may be settled by a single arbitrator agreed on by the parties, or appointed by any judge of a court where an action might be maintained. The consent to arbitration shall be in writing and signed by the parties and may limit the fees of the arbitrator and the time within which the award must be made. And unless such consent and the order of appointment expressly refers other questions, only the question of the amount of compensation shall be deemed to be an issue. Settlement of disputes.

SEC. 25. The arbitrator shall not be bound by technical rules of procedure or evidence, but shall give the parties reasonable opportunity to be heard and act reasonably and without partiality. He shall make and file his award, with the consent to arbitration attached in the office of the clerk of the proper district court within the time limited in the consent, or if no time limit is fixed therein, within sixty days after his selection, and shall give notice of such filing to the parties by mail. Award.

SEC. 26. The arbitrator's fee shall be fixed by the consent to arbitration or be agreed to by the parties before the arbitration, and if not so fixed or agreed to, they shall not exceed \$10.00 per day, for not to exceed ten days, and disbursements for expense. The arbitrator shall tax or apportion the costs of such fees in his discretion and shall add the amount taxed or apportioned against the employer to the first payment made under the award, and he shall note the amount of his fees on the award and shall have a lien therefor on the first payments due under the award. Fees.

SEC. 27. Every agreement for compensation and every award shall be in writing, signed and acknowledged by the parties or by the arbitrator or secretary of the committee hereinbefore referred to, and shall specify the amount due and unpaid by the employer to the workman up to the date of the agreement or award, and if any, the amount of the payments thereafter to be paid by the employer to the workman and the length of time such payments shall continue. Agreements, etc., to be in writing.

SEC. 28. It shall be the duty of the employer to file or cause to be filed every release of liability hereunder, every agreement for or award of compensation, or modifying an agreement for or award of compensation, under this act, if not filed by the committee or arbitrator, to which he is a party, or a sworn copy thereof, in the office of the district court in the county in which the accident occurred within sixty days after it is made, otherwise it shall be void as against the workman. The said clerk shall accept, receipt for, and file any such release, agreement or award, without fee, and record and index it in the book kept for that purpose. Nothing herein shall be construed to prevent the workman from filing such agreement or award. Filing.

SEC. 29. At any time within one year after an agreement or award has been so filed, a judge of a district court having jurisdiction may, upon the application of either party, cancel such agreement or award, upon such terms as may be just, if it be shown to his satisfaction that the workman has returned to work and is earning approximately the same or higher wages as or than he did before the accident, or that the agreement or award has been obtained by fraud or undue influence, or that the committee or arbitrator making the award acted without authority or was guilty of serious misconduct, or that the award is grossly inadequate or grossly excessive, or if the employee absents himself so that a reasonable examination of his condition can not be made, or has departed beyond the boundaries of the United States or Canada. Cancellation.

- Stay of proceedings. pro- SEC. 30. At any time after the filing of an agreement or award and before judgment has been granted thereon, the employer may stay proceedings thereon by filing in the office of the clerk of the district court wherein such agreements or award is filed: (a) A proper certificate of a qualified insurance company that the amount of the compensation to the workman is insured by it; (b) A proper bond undertaking to secure the payment of the compensation. Such certificate or bond shall first be approved by a judge of the said district court.
- Lump-sum payments. SEC. 31. At any time after an agreement or award has been filed, the workman may apply to the said district court for judgment against the employer for a lump sum equal to eighty per cent of the amount of payments due and unpaid and prospectively due under the agreement or award; and, unless the agreement or award be stayed, modified or canceled, or the liability thereunder be redeemed or otherwise discharged, the court shall examine the workman under oath, and if satisfied that the application is made because of doubt as to the security of his compensation, shall compute the sum and direct judgment accordingly, as if in an action: *Provided*, That if the employer shall give a good and sufficient bond, approved by the court, no execution shall issue on such judgment so long as the employer continues to make payments in accordance with the original agreement or award undiminished by the discount.
- Review, etc. SEC. 32. An agreement or award may be modified at any time by a subsequent agreement; or, at any time after one year from the date of filing; it may be reviewed, upon the application of either party on the ground that the incapacity of the workman has subsequently increased or diminished. Such application shall be made to the said district court; and, unless the parties consent to arbitration, the court may appoint a medical practitioner to examine the workman and report to it; and upon his report and after hearing the evidence of the parties, the court may modify such agreement or award, as may be just, by ending, increasing or diminishing the compensation, subject to the limitations hereinbefore provided.
- Lump-sum payments after six months. SEC. 33. Where any payment has been continued for not less than six months the liability therefor may be redeemed by the employer by the payment to the workman of a lump sum of an amount equal to eighty per cent of the payments which may become due according to the award, such amount to be determined by agreement, or, in default thereof, upon application, to a judge of a district court having jurisdiction. Upon paying such amount the employer shall be discharged from all further liability on account of the injury, and be entitled to a duly executed release, upon filing which or other due proof of payment, the liability upon any agreement or award shall be discharged of record.
- Insurer's rights and duties. SEC. 34. Where the payment of compensation to the workman is insured, by a policy or policies, at the expense of the employer, the insurer shall be subrogated to the rights and duties under this act of the employer, so far as appropriate.
- Courts. SEC. 35. All references hereinbefore to a district court of the State of Kansas having jurisdiction of a civil action between the parties shall be construed as relating to the then existing Code of Civil Procedure. Such court shall make all rules necessary and appropriate to carry out the provisions of this act.
- Legal enforcement. SEC. 36. A workman's right to compensation under this act, may, in default of agreement or arbitration, be determined and enforced by action in any court of competent jurisdiction. In every such action the right to trial by jury shall be deemed waived and the case tried by the court without a jury, unless either party, with his notice of trial, or when the case is placed upon the calendar—demand a jury trial. The judgment in the action, if in favor of the plaintiff, shall be for a lump sum equal to the amount of the payments then due and prospectively due under this act, with interest on the payments overdue, or, in the discretion of the trial judge, for periodical payments as in an award. Where death results from injury, the action shall be brought by the dependent or dependents entitled to the compensation or by the legal representative of the deceased for the benefit of the dependents as herein defined; and in such action the judgment may provide for the proportion of the award to be distributed to or between the several dependents;

otherwise such proportions shall be determined by the proper probate court. An action to set aside a release or other discharge of liability on the ground of fraud or mental incompetency may be joined with an action for compensation under this act. No action or proceeding provided for in this act shall be brought or maintained outside of the State of Kansas, and notice thereof may be given by publication against nonresidents of the State in the manner now provided by article 7 of chapter 95, General Statutes of Kansas of 1909 so far as the same may be applicable, and by personal service of a true copy of the first publication within twenty-one days after the date of the said first publication unless excused by the court upon proper showing that such service can not be made.

SEC. 37. The cause of action shall be deemed in every case, including a case where death results from the injury to have accrued to the injured workman at the time of the accident; and the time limited in which to commence an action for compensation therefor shall run as against him, his legal representatives and dependents from that date.

Rights accrue, when.

SEC. 38. Contingent fees of attorneys for services and proceedings under this act shall in every case be subject to approval by the court.

Attorneys' fees.

SEC. 39. If the superintendent of insurance by and with the advice and written approval of the attorney general certifies that any scheme of compensation, benefit or insurance for the workman of an employer in any employment to which this act applies, whether or not such scheme includes other employers and their workmen, provides scales of compensation not less favorable to the workmen and their dependents than the corresponding scales contained in this act, and that, where the scheme provides for contributions by the workman, the scheme confers benefits at least equivalent to those contributions, in addition to the benefits to which the workmen would have been entitled under this act or their equivalents, the employer, may, while the certificate is in force, contract with any of his workmen that the provisions of the scheme shall be substituted for the provisions of this act; and thereupon the employer shall be liable only in accordance with that scheme; but, save as aforesaid, this act shall not apply notwithstanding any contract to the contrary made after this act becomes a law.

Schemes may be substituted.

SEC. 40. No scheme shall be so certified which does not contain suitable provisions for the equitable distribution of any moneys or securities held for the purpose of the scheme, after due provision has been made to discharge the liabilities already accrued, if and when such certificate is revoked or the scheme otherwise terminated.

Provisions to be equitable.

SEC. 41. If at any time the scheme no longer fulfills the requirements of this article, or is not fairly administered, or other valid and substantial reasons therefor exist, the superintendent of insurance by and with the attorney general shall revoke the certificate and the scheme shall thereby be terminated.

Certificate may be revoked.

SEC. 42. Where a certified scheme is in effect the employer shall answer all such inquiries and furnish all such accounts in regard thereto as may be required by the superintendent.

Reports.

SEC. 43. The superintendent of insurance may make all rules and regulations necessary to carry out the purposes of the four preceding sections.

Rules.

SEC. 44 (as amended by Chapter 216, Acts of 1913). All employers as defined by and entitled to come within the provisions of this act, shall be presumed to have done so unless such employer shall file with the secretary of state at Topeka, Kansas, a written statement that he elects not to accept thereunder, and thereafter any such employer desiring to change his election shall only do so by filing a written declaration thereof with the secretary of state. Notice of such election shall be forthwith posted by such employer in conspicuous places in and about his place of business.

Election by employers.

SEC. 45 (as amended by Chapter 216, Acts of 1913). Every employee entitled to come within the provisions of this act, shall be presumed to have done so unless such employee, shall file with the secretary of state, before injury, a written declaration that he elects not to accept thereunder and thereafter any such employee desiring to change his election shall only do so by filing a written declaration thereof with the secretary of state. Any contract wherein an employer requires of an

By employees.

- employee as a condition of employment that he shall elect not to come within the provisions of this act shall be void.
- Suits for damages.** Sec. 46. In any action to recover damages for a personal injury sustained within this State by an employee (entitled to come within the provisions of this act) while engaged in the line of his duty as such or for death resulting from personal injury so sustained, in which recovery is sought upon the ground of want of due care of the employer or of any officer, agent or servant of the employer, where such employer is within the provisions hereof, it shall not be a defense to any employer (as herein in this act defined) who shall not have elected, as hereinbefore provided, to come within the provisions of this act; (a) That the employee either expressly or impliedly assumed the risk of the hazard complained of; (b) that the injury or death was caused in whole or in part by the want of due care of a fellow servant; (c) that such employee was guilty of contributory negligence but such contributory negligence of said employee shall be considered by the jury in assessing the amount of recovery.
- Defenses abrogated, when.**
- Defenses allowed, when.** Sec. 47. In an action to recover damages for a personal injury sustained within this State by an employee (entitled to come within the provisions of this act) while engaged in the line of his duty as such or for death resulting from personal injury so sustained in which recovery is sought upon the ground of want of due care of the employer or of any officer, agent or servant of the employer, and where such employer has elected to come and is within the provisions of this act as hereinbefore provided, it shall be a defense for such employer in all cases where said employee has elected not to come within the provisions of this act; (a) That the employee either expressly or impliedly assumed the risk of the hazard complained of; (b) that the injury or death was caused in whole or in part by the want of due care of a fellow servant; (c) that said employee was guilty of contributory negligence: *Provided, however,* That none of these defenses shall be available where the injury was caused by the willful or gross negligence of such employer, or of any managing officer, or managing agent of said employer or where under the law existing at the time of the death or injury such defenses are not available.
- Construction of statute.** Sec. 48. Nothing in this act shall be construed to amend or repeal section 6999 of the General Statutes of Kansas of 909, or House bill No. 240 of the Session of 1911, the same being "An act relating to the liability of common carriers by railroads to their employees in certain cases, and repealing all acts and parts of acts so far as the same are in conflict herewith."
- In effect, when.** Sec. 49. This act shall take effect and be in force from and after its publication in the statute book, and the first day of January, 1912.

Approved March 14, 1911.

## MARYLAND.

### ACTS OF 1912.

#### CHAPTER 837.—*Compensation of workmen for injuries—Cooperative insurance.*

- Agreements to accept law.** SECTION 1. It shall be lawful for any employer to make a contract in writing with any employee whereby the parties may agree that [the] employee shall become insured against accident occurring in the course of employment which results in personal injury or death, in accordance with the provisions of this act, and that in consideration of such insurance the employer shall be relieved from the consequences of acts or omissions by reason of which he would without such contract become liable toward such employee or toward the legal representative, widow, widower, or next of kin of such employee.
- Effect on liability.**
- Who may write insurance.** Sec. 2. Such insurance shall be effected in some casualty company organized under the laws of the State of Maryland or admitted to do business in this State, provided that any employer employing not less than fifteen hundred (1,500) employees may establish an insurance fund from sums contributed by himself and his employees upon condition that he undertake and agree to make up any deficiency in
- Establishment funds.**

insurance benefits that may arise out of the inadequacy of such fund. Such fund shall be inviolably appropriated as a trust fund for the purpose of such insurance and shall not be invested otherwise. Provision shall be made for the election by the insured employees of an advisory committee, which shall be kept informed regarding the state of the insurance fund, and shall have the right to examine the books kept in connection therewith. Such books shall also be subject to the inspection of the insurance commissioner of this State in the same manner as books of insurance companies doing business in this State.

Upon the request of the employer or upon the request of the advisory committee, the insurance commissioner shall act as depository of the securities in which such funds may be invested.

If any employer desires to discontinue an insurance fund maintained by him, or if he discontinues his business without transferring the same to a successor or assign, taking over and agreeing to maintain such fund, he shall notify the insurance commissioner of his purpose, who shall thereupon supervise the disposition of the insurance fund. Such fund shall be distributed among those equitably entitled to it according to their contribution (not taking into consideration expenses of the management), and where those entitled to any part of the fund can not be discovered or ascertained the money remaining unclaimed shall be paid into the insurance department, to be held and disposed of as may be provided by law.

Discontin-  
ances.

The insurance commissioner shall be entitled to be paid out of such fund the reasonable expenses of his supervision, including a compensation not to exceed ten dollars per day for the time of any person or persons (other than a salaried employee of his office) employed by him for the purpose of such supervision necessarily spent in connection therewith.

SEC. 3. Such insurance shall cover the risk of personal injury by accident arising out of and in course of the employment resulting in death, provided death occur within twelve months from the time of such injury, or resulting in disability, whether the same be total or partial, permanent or temporary. But no one shall be entitled to any benefit hereunder where the injury is the result of the employee's intoxication, or willful and deliberate act or deliberate intention to produce such injury.

Scope of in-  
surance.

SEC. 4. The insurance in case of death shall be for the benefit of such persons being the widow, widower, father, mother, son or daughter, as are dependent wholly or in part for their support upon the earnings of such employee (all of which persons are hereinafter designated as dependents of such employee), or of such of them as may be named in the contract or policy to which it refers and the person for whose benefit such insurance is made should be bound by the agreement authorized by the first section of this act.

Beneficiaries.

SEC. 5. In order to satisfy the requirements of this act, the benefits payable under such insurance shall be at least as follows:

Benefits.

(1) In case of death:

(a) If the employee insures for the benefit of any dependent wholly dependent upon his wages at the time of his death, a sum equal to his wages in the employment of said employer during a period of three years next preceding the accident, but not less in any case than the sum of one thousand dollars: *Provided*, That the amount of any weekly payment made under such insurance or any lump sum paid in redemption thereof, may be deducted from such sum; and if the period of the employee's employment by said employer has been less than said three years, then the amount of his earnings during said three years shall be deemed to be one hundred and fifty-six times his average weekly earnings during the period of his actual employment by said employer.

Death.

(b) If the employee insures for the benefit only of persons partly dependent upon his wages at the time of his death, then a sum equal to the payment provided for the benefit of persons wholly dependent, less six times the average annual earnings; or if employed for less than a year, then less three hundred times the average weekly earnings of said dependent person or persons partly dependent on his wages.

(c) If the employee leaves no dependents, then the reasonable expenses of his medical attendance shall be paid, and in addition



burial expenses not less than seventy-five dollars nor more than one hundred dollars.

And the contract or policy therein referred to may provide for the payment, instead of a lump sum, of a weekly sum which, in the case of persons wholly dependent, shall not be less than the weekly payment in case of total disability hereinafter provided for, and which, in case of persons partly dependent, shall not be less than the weekly payment in case of total disability, less the amounts earned by the persons partly dependent, and which sum may be divided between the dependent in such a manner as such contract or policy may provide or as may otherwise be agreed upon; or such contract or policy may provide for a combination of lump sums, weekly payment, or for the substitute of one for the other.

Nonfatal in-  
juries.

(II) In case of injury not resulting in death, when total disability results from the injury, a weekly payment during the period of such disability shall be paid to the insured, which shall not be less than fifty per cent of his average weekly wages during the previous twelve months, if he has been so long employed by the contracting employer; if not, then a weekly benefit during such shorter period as he has been in the employment of said employer.

(III) In case of injury not resulting in death, where partial disability results, such weekly payments shall be made during the period of such partial disability as is equal to the difference between the weekly benefit payment, during the period of total disability and the average amount which the injured person is able to earn after the accident.

Loss by actual separation at or above the wrist or ankles of both hands or both feet, or of one hand and one foot, or the irrevocable loss of both eyes, shall be deemed to be equal to total disability.

The loss by actual separation at or above the wrist or ankle of one hand or foot shall be equal to one-half of total disability, and the loss of one eye shall be equal to one-fifth of total disability. Total disability shall be deemed to mean inability to carry on any gainful occupation.

The contract or policy herein referred to may provide that no benefits shall be paid in case of any injury which does not incapacitate the employee for a period of at least one week from earning full wages at the work at which he was employed at the time of the accident.

Contributions.

SEC. 6. Any contract in order to satisfy the requirements of this act shall provide that the employer shall contribute not less than fifty per cent of the insurance premiums and the employees shall contribute the remainder of the premiums.

In case the employer provides any insurance fund out of contributions made by himself and his own employees as above provided, such employer shall pay the whole of the expenses of the management of such fund, and all contributions shall be paid into such fund without any deduction by reason of such expense.

Notice of acci-  
dents.

SEC. 7. The contract may provide that upon penalty of forfeiture of the benefits of the insurances, the employee shall give reasonable and timely notice to his employer, to be fixed by the terms of this contract, of any accident which may entitle him to the benefit of such insurance; and that he shall submit himself to medical examination as required by the employer at the employer's expense.

Deductions  
from wages.

SEC. 8. The contract may provide that the premium payable by the employees shall be deducted from their wages.

An employer who shall willfully and feloniously appropriate the amounts so deducted from the wages to any use other than the payment of insurance premium as stipulated in the contract, shall be guilty of embezzlement and shall be punished accordingly.

Treasurer.

SEC. 9. The contract between the employer and employee may provide that the insurance premiums shall be paid into the hands of a treasurer to be elected or appointed by the employees or by the employer and the employees in such manner and under such voting arrangement as the contract may specify.

The payment of the premiums to the treasurer shall relieve the employer, and the penalty above prescribed for misappropriation of the funds required to be applied to insurance shall apply to such treasurer.

SEC. 10. In case of nonpayment of the premiums within one month after the same are payable, the insurance company shall within two months after the expiration of such month send notice of such default by mail to the insured and to the insurance commissioner of the State.

Nonpayment of premiums.

The insurance policy or contract between the employer and employee may specify a shorter period than the one herein provided for.

Until the required notice shall have been sent, the policy shall not be forfeited for nonpayment of the premium.

SEC. 11. The employer may also advance the premiums of insurance for such number of employees and at such rates as may be agreed upon between him and the insurance company, and may thereupon be supplied by the insurance company with blank policies to be filled in by him with name of any beneficiary under the provisions of this act, and to be executed by him as agent of such company, and he may thereupon reimburse himself for the amounts payable by the employee by deducting the same from the wages of such employee.

Advances by employers.

SEC. 12. Such contract may provide that upon termination of his employment from any cause whatever the employee and his dependent shall cease to be entitled to the benefits of such insurance except as regards accidents occurring before the termination of his employment.

Termination of contracts.

SEC. 13. Such contract may provide that any controversy regarding the extent of disability or the extent of dependency, or any controversy between dependents as to the amounts payable to them respectively, shall be settled by arbitration, the arbitrations [arbitrators] to be named by mutual consent of the parties; and should the parties fail to agree upon an arbitrator, then the arbitrator to be named by a judge of the circuit court of the county or city of Baltimore in which the accident happened, and the award of such arbitrator shall be binding upon both employee or his dependents, as the case may be.

Disputes.

SEC. 14. Any insurance paid in accordance with the provisions of this act shall not be liable to attachment by trustee, garnishee or other process, and shall not be seized, taken, appropriated or applied by any legal or equitable process or by operation of law, to pay any debt or liability of the insured or any beneficiary, nor shall any claim to insurance money be assignable by payee before the same is paid.

Exemption from attachment, etc.

SEC. 15. A contract of insurance in pursuance of the terms of this act shall not relieve the employer from liability for any accident directly due to his failure to supply any safeguard required to be provided for the protection of employees, by or pursuant to any statute or ordinance, or any regulation under any statute or ordinance, unless it shall have been impossible to comply with such requirement by the time the accident happened, or unless the enforcement thereof has been suspended or [on] order of a court of competent jurisdiction.

Failure to supply safeguards.

SEC. 16. Every employer shall file with the insurance commissioner a copy of the form of contract and policy which he shall use under the provisions of this act, and in the event of such form being departed from in any particular case shall also file a copy of such particular contract.

Forms to be filed.

If he shall fail to do so, he shall be liable to a penalty of fifty dollars in each case, to be recovered in an action of debt in the name of the State.

SEC. 17. A quarterly report of all settlement and payment of insurance benefits shall be filed by the employer with the insurance commissioner. If such employer shall fail to make such report in thirty days after demand by insurance commissioner, he shall be liable to a penalty of fifty dollars [dollars], to be recovered in an action of debt in the name of the State.

Quarterly reports.

SEC. 18. The insurance commissioner shall prepare blanks of contract and policy complying with the provisions of this act, and shall distribute the same, upon application, free of charge.

Blanks.

SEC. 19. Nothing in this act contained shall be construed as authorizing any employer, any officer or agent of such employer to require any employee or any person seeking employment, as a condition of such employment or of the continuance of such employment, to enter into a contract, or to continue in such contract, such as is authorized to be made by section 1 of this act.

Contracts not to be condition of employment.

SEC. 21. This act shall take effect and be in force from the date of its passage.

Act in effect.

Approved April 15, 1912.

## MASSACHUSETTS.

## ACTS OF 1911.

CHAPTER 751.—*Compensation for injured employees—State insurance association.*

## PART I.

## MODIFICATION OF REMEDIES.

- Suits for damages.** **Defenses abrogated.** SECTION 1. In an action to recover damages for personal injury sustained by an employee in the course of his employment, or for death resulting from personal injury so sustained, it shall not be a defense:
1. That the employee was negligent;
  2. That the injury was caused by the negligence of a fellow employee;
  3. That the employee had assumed the risk of the injury.
- Farm laborers, etc.** SEC. 2. The provisions of section one shall not apply to actions to recover damages for personal injuries sustained by domestic servants and farm laborers.
- Employees of subscribers association.** SEC. 3. The provisions of section one shall not apply to actions to recover damages for personal injuries sustained by employees of a subscriber.
- Same.** SEC. 4. The provisions of sections one hundred and twenty-seven to one hundred and thirty-five, inclusive, and of one hundred and forty-one to one hundred and forty-three, inclusive, of chapter five hundred and fourteen of the acts of the year nineteen hundred and nine, and of any acts in amendment thereof, shall not apply to employees of a subscriber while this act is in effect.
- Presumption of waiver.** SEC. 5. An employee of a subscriber shall be held to have waived his right of action at common law to recover damages for personal injuries if he shall not have given his employer, at the time of his contract of hire, notice in writing that he claimed such right, or if the contract of hire was made before the employer became a subscriber, if the employee shall not have given the said notice within thirty days of notice of such subscription. An employee who has given notice to his employer that he claimed his right of action at common law may waive such claim by a notice in writing which shall take effect five days after it is delivered to the employer or his agent.

## PART II.

## PAYMENTS.

- Compensation payable, when.** SECTION 1. If an employee who has not given notice of his claim of common law rights of action, as provided in Part I, section five, or who has given such notice and has waived the same, receives a personal injury arising out of and in the course of his employment, he shall be paid compensation by the association, as hereinafter provided, if his employer is a subscriber at the time of the injury.
- Misconduct.** SEC. 2. If the employee is injured by reason of his serious and willful misconduct, he shall not receive compensation.
- Double compensation.** SEC. 3 (as amended by Chapter 571, Acts of 1912). If the employee is injured by reason of the serious and willful misconduct of a subscriber or of any person regularly entrusted with and exercising the powers of superintendence, the amounts of compensation hereinafter provided shall be doubled. In such case the subscriber shall repay to the association the extra compensation paid to the employee. If a claim is made under this section the subscriber shall be allowed to appear and defend against such claim only.
- Waiting time.** SEC. 4. No compensation shall be paid under this act for any injury which does not incapacitate the employee for a period of at least two weeks from earning full wages, but if incapacity extends beyond the period of two weeks, compensation shall begin on the fifteenth day after the injury.
- Medical, etc., aid.** SEC. 5. During the first two weeks after the injury, the association shall furnish reasonable medical and hospital services, and medicines when they are needed.

SEC. 6. If death results from the injury, the association shall pay the dependents of the employee, wholly dependent upon his earnings for support at the time of the injury, a weekly payment equal to one-half his average weekly wages, but not more than ten dollars nor less than four dollars a week, for a period of three hundred weeks from the date of the injury. If the employee leaves dependents only partly dependent upon his earnings for support at the time of his injury, the association shall pay such dependents a weekly compensation equal to the same proportion of the weekly payments for the benefit of persons wholly dependent as the amount contributed by the employee to such partial dependents bears to the annual earnings of the deceased at the time of his injury. When weekly payments have been made to an injured employee before his death, the compensation to dependents shall begin from the date of the last of such payments, but shall not continue more than three hundred weeks from the date of the injury.

Death benefits.

SEC. 7. The following persons shall be conclusively presumed to be wholly dependent for support upon a deceased employee:

Dependents.

(a) A wife upon a husband with whom she lives at the time of his death.

(b) A husband upon a wife with whom he lives at the time of her death.

(c) A child or children under the age of eighteen years (or over said age, but physically or mentally incapacitated from earning) upon the parent with whom he is or they are living at the time of the death of such parent, there being no surviving dependent parent. In case there is more than one child thus dependent, the death benefit shall be divided equally among them.

In all other cases questions of dependency, in whole or in part, shall be determined in accordance with the fact, as the fact may be at the time of the injury; and in such other cases, if there is more than one person wholly dependent, the death benefit shall be divided equally among them, and persons partly dependent, if any, shall receive no part thereof; if there is no one wholly dependent and more than one person partly dependent, the death benefit shall be divided among them according to the relative extent of their dependency.

SEC. 8. If the employee leaves no dependents, the association shall pay the reasonable expense of his last sickness and burial, which shall not exceed two hundred dollars.

No dependents.

SEC. 9. While the incapacity for work resulting from the injury is total, the association shall pay the injured employee a weekly compensation equal to one-half his average weekly wages, but not more than ten dollars nor less than four dollars a week; and in no case shall the period covered by such compensation be greater than five hundred weeks, nor the amount more than three thousand dollars.

Incapacity.

SEC. 10. While the incapacity for work resulting from the injury is partial, the association shall pay the injured employee a weekly compensation equal to one-half the difference between his average weekly wages before the injury and the average weekly wages which he is able to earn thereafter, but not more than ten dollars a week; and in no case shall the period covered by such compensation be greater than three hundred weeks from the date of the injury.

Partial incapacity.

SEC. 11 (as amended by Chapter 696, Acts of 1913). In case of the following specified injuries the amounts hereinafter named shall be paid in addition to all other compensation:

Specific injuries.

(a) For the loss by severance of both hands at or above the wrist, or both feet at or above the ankle, or the loss of one hand and one foot, or the reduction to one-tenth of normal vision in both eyes with glasses, one-half of the average weekly wages of the injured person, but not more than ten dollars nor less than four dollars a week, for a period of one hundred weeks.

(b) For the loss by severance of either hand at or above the wrist, or either foot at or above the ankle, or the reduction to one tenth of normal vision in either eye with glasses, one half the average weekly wages of the injured person, but not more than ten dollars nor less than four dollars a week, for a period of fifty weeks.

(c) For the loss by severance at or above the second joint of two or more fingers, including thumbs, or toes, one half the average weekly

wages of the injured person, but not more than ten dollars nor less than four dollars a week, for a period of twenty-five weeks.

(d) For the loss by severance of at least one phalange of a finger, thumb, or toe, one half the average weekly wages of the injured person, but not more than ten dollars nor less than four dollars a week, for a period of twelve weeks.

(e) The additional amounts provided for in this section in case of the loss of a hand, foot, thumb, finger or toe shall also be paid for the number of weeks above specified, in case the injury is such that the hand, foot, thumb, finger or toe is not lost but is so injured as to be permanently incapable of use.

Insurance not considered.

SEC. 12. No savings or insurance of the injured employee, independent of this act, shall be taken into consideration in determining the compensation to be paid hereunder, nor shall benefits derived from any other source than the association be considered in fixing the compensation under this act.

Payee.

SEC. 13. The compensation payable under this act in case of the death of the injured employee shall be paid to his legal representative; or, if he has no legal representative, to his dependents; or, if he leaves no dependents, to the persons to whom payment of the expenses for the last sickness and burial are due. If the payment is made to the legal representative of the deceased employee, it shall be paid by him to the dependents or other persons entitled thereto under this act.

Incompetent persons.

SEC. 14. If an injured employee is mentally incompetent or is a minor at the time when any right or privilege accrues to him under this act, his guardian or next friend may in his behalf claim and exercise such right or privilege.

Notice.

SEC. 15. No proceedings for compensation for an injury under this act shall be maintained unless a notice of the injury shall have been given to the association or subscriber as soon as practicable after the happening thereof, and unless the claim for compensation with respect to such injury shall have been made within six months after the occurrence of the same; or, in case of the death of the employee, or in the event of his physical or mental incapacity, within six months after death or the removal of such physical or mental incapacity.

Form.

SEC. 16 (as amended by Chapter 571, Acts of 1912). The said notice shall be in writing, and shall state in ordinary language the time, place and cause of the injury, and shall be signed by the person injured, or by a person in his behalf, or, in the event of his death, by his legal representative or by a person in his behalf, or by a person to whom payments may be due under this act or by a person in his behalf. Any form of written communication signed by any person who may give the notice as above provided, which contains the information that the person has been so injured, giving the time, place and cause of the injury, shall be considered a sufficient notice.

Service.

SEC. 17. The notice shall be served upon the association, or an officer or agent thereof, or upon the subscriber, or upon one subscriber, if there are more subscribers than one, or upon any officer or agent of a corporation if the subscriber is a corporation, by delivering the same to the person on whom it is to be served, or leaving it at his residence or place of business, or by sending it by registered mail addressed to the person or corporation on whom it is to be served, at his last known residence or place of business.

Sufficiency.

SEC. 18. A notice given under the provisions of this act shall not be held invalid or insufficient by reason of any inaccuracy in stating the time, place or cause of the injury, unless it is shown that it was the intention to mislead and the association was in fact misled thereby. Want of notice shall not be a bar to proceedings under this act, if it be shown that the association, subscriber, or agent had knowledge of the injury.

Medical examinations.

SEC. 19 (as amended by Chapter 571, Acts of 1912). After an employee has received an injury, and from time to time thereafter during the continuance of his disability he shall, if so requested by the association or subscriber, submit himself to an examination by a physician or surgeon authorized to practice medicine under the laws of the Commonwealth, furnished and paid for by the association or subscriber. The employee shall have the right to have a physician provided and

paid for by himself present at the examination. If he refuses to submit himself for the examination, or in any way obstructs the same, his right to compensation shall be suspended, and his compensation during the period of suspension may be forfeited.

SEC. 20. No agreement by an employee to waive his rights to compensation under this act shall be valid.

SEC. 21. No payment under this act shall be assignable or subject to attachment, or be liable in any way for any debts.

SEC. 22. Whenever any weekly payment has been continued for not less than six months, the liability therefor may in unusual cases be redeemed by the payment of a lump sum by agreement of the parties, subject to the approval of the industrial accident board.

SEC. 23 (added by Chapter 571, Acts of 1912). The claim for compensation shall be in writing and shall state the time, place, cause and nature of the injury; it shall be signed by the person injured or by a person in his behalf, or, in the event of his death, by his legal representative or by a person in his behalf, or by a person to whom payments may be due under this act or by a person in his behalf, and shall be filed with the industrial accident board. The failure to make a claim within the period prescribed by section fifteen shall not be a bar to the maintenance of proceedings under this act if it is found that it was occasioned by mistake or other reasonable cause.

Waivers.

Payments exempt.

Lump-sum payments.

Claims.

PART III.

PROCEDURE.

SEC. 1 (as amended by Chapter 571, Acts of 1912). There shall be an industrial accident board consisting of five members, to be appointed by the governor, by and with the advice and consent of the council, one of whom shall be designated by the governor as chairman. The term of office of members of this board shall be five years, except that when first constituted one member shall be appointed for one year, one for two years, one for three years, one for four years, and one for five years. Thereafter one member shall be appointed every year for the full term of five years.

Industrial accident board.

SEC. 2 (as amended by Chapter 48, Acts of 1913). The salaries and expenses of the board shall be paid by the Commonwealth. The salary of the chairman shall be five thousand dollars a year, and the salary of the other members shall be forty-five hundred dollars a year each. The board may appoint a secretary at a salary of not more than three thousand dollars a year, and may remove him. It shall be also allowed such sums as may annually be appropriated by the general court for clerical service, and travelling and other necessary expenses. The board shall be provided with an office in the statehouse or in some other suitable building in the city of Boston, in which its records shall be kept.

Salaries, etc.

SEC. 3 (as amended by Chapter 571, Acts of 1912). The board may make rules not inconsistent with this act for carrying out the provisions of the act. Process and procedure under this act shall be as summary as reasonably may be. The board or any member thereof shall have the power to subpoena witnesses, administer oaths, and to examine such parts of the books and records of the parties to a proceeding as relate to questions in dispute. The fees for attending as a witness before the industrial accident board shall be one dollar and fifty cents a day, for attending before an arbitration committee fifty cents a day; in both cases five cents a mile for travel out and home.

Powers of board.

The superior court shall have power to enforce by proper proceedings the provisions of this section relating to the attendance and testimony of witnesses and the examination of books and records.

SEC. 4 (as amended by Chapter 571, Acts of 1912). If the association and the injured employee reach an agreement in regard to compensation under this act, a memorandum of the agreement shall be filed with the industrial accident board and, if approved by it, thereupon the memorandum shall for all purposes be enforceable under the provisions of Part III, section eleven. Such agreements shall be approved by said board only when the terms conform to the provisions of this act.

Agreements to be filed.

- Arbitration.** SEC. 5 (as amended by Chapter 571, Acts of 1912). If the association and the injured employee fail to reach an agreement in regard to compensation under this act, either party may notify the industrial accident board who shall thereupon call for the formation of a committee of arbitration. The committee of arbitration shall consist of three members, one of whom shall be a member of the industrial accident board, and shall act as chairman. The other two members shall be named, respectively, by the two parties. If the subscriber has appeared under the provisions of Part II, section three, the member named by the association shall be subject to his approval. If a vacancy occurs it shall be filled by the party whose representative is unable to act.
- The arbitrators appointed by the parties shall be sworn by the chairman as follows: I ——— do solemnly swear that I will faithfully perform my duty as arbitrator and will not be influenced in my decision by any feeling of friendship or partiality toward either party. So help me God.
- Duty of board.** SEC. 6 (as amended by Chapter 571, Acts of 1912). It shall be the duty of the industrial accident board, upon notification that the parties have failed to reach an agreement, to request both parties to appoint their respective representatives on the committee of arbitration. The board shall designate one of its members to act as chairman, and, if either party does not appoint its member on this committee within seven days after notification, as above provided, or after a vacancy has occurred, the board or any member thereof shall fill the vacancy and notify the parties to that effect.
- Investigation.** SEC. 7 (as amended by Chapter 571, Acts of 1912). The committee on arbitration shall make such inquiries and investigations as it shall deem necessary. The hearings of the committee shall be held in the city or town where the injury occurred, and the decision of the committee, together with a statement of the evidence submitted before it, its findings of fact, rulings of law and any other matters pertinent to questions arising before it shall be filed with the industrial accident board. Unless a claim for a review is filed by either party within seven days, the decision shall be enforceable under the provisions of Part III, section eleven.
- Physician.** SEC. 8. The industrial accident board or any member thereof may appoint a duly qualified impartial physician to examine the injured employee and to report. The fee for this service shall be five dollars and traveling expenses, but the board may allow additional reasonable amounts in extraordinary cases.
- Fees.** SEC. 9. The arbitrators named by or for the parties to the dispute shall each receive five dollars as a fee for his services, but the industrial accident board or any member thereof may allow additional reasonable amounts in extraordinary cases. The fees shall be paid by the association, which shall deduct an amount equal to one third of the sum from any compensation found due the employee.
- Review.** SEC. 10 (as amended by Chapter 571, Acts of 1912). If a claim for a review is filed, as provided in Part III, section seven, the board shall hear the parties and may hear evidence in regard to any or all matters pertinent thereto and may revise the decision of the committee in whole or in part, or may refer the matter back to the committee for further findings of fact, and shall file its decision with the records of the proceedings and notify the parties thereof. No party shall as a matter of right be entitled to a second hearing upon any question of fact.
- Decrees by courts.** SEC. 11 (as amended by Chapter 571, Acts of 1912). Any party in interest may present certified copies of an order or decision of the board, a decision of an arbitration committee from which no claim for review has been filed within the time allowed therefor, or a memorandum of agreement approved by the board, and all papers in connection therewith, to the superior court for the county in which the injury occurred or for the county of Suffolk, whereupon said court shall render a decree in accordance therewith and notify the parties. Such decree shall have the same effect and all proceedings in relation thereto shall thereafter be the same as though rendered in a suit duly heard and determined by said court, except that there shall be no appeal therefrom upon questions of fact, or where the decree is based upon a decision of

an arbitration committee or a memorandum of agreement, and that there shall be no appeal from a decree based upon an order or decision of the board which has not been presented to the court within ten days after the notice of the filing thereof by the board. Upon the presentation to it of a certified copy of a decision of the industrial accident board ending, diminishing or increasing a weekly payment under the provisions of Part III, section twelve, the court shall revoke or modify the decree to conform to such decision.

Sec. 12. Any weekly payment under this act may be reviewed by the industrial accident board at the request of the association or of the employee; and on such review it may be ended, diminished or increased, subject to the maximum and minimum amounts above provided, if the board finds that the condition of the employee warrants such action. Review of award.

Sec. 13. Fees of attorneys and physicians for services under this act shall be subject to the approval of the industrial accident board. Fees to be approved.

Sec. 14. If the committee of arbitration, industrial accident board, or any court before whom any proceedings are brought under this act determines that such proceedings have been brought, prosecuted, or defended without reasonable ground, it shall assess the whole cost of the proceedings upon the party who has so brought, prosecuted or defended them. Costs.

Sec. 15 (as amended by Chapter 448, Acts of 1913). Where the injury for which compensation is payable under this act was caused under circumstances creating a legal liability in some person other than the subscriber to pay damages in respect thereof, the employee may at his option proceed either at law against that person to recover damages, or against the association for compensation under this act, but not against both, and if compensation be paid under this act, the association may enforce in the name of the employee, or in its own name and for its own benefit, the liability of such other person, and in case the association recovers a sum greater than that paid by the association to the employee four-fifths of the excess shall be paid over to the employee. Injuries caused by third persons.

Sec. 16 (as amended by Chapter 571, Acts of 1912). All questions arising under this act, if not settled by agreement by the parties interested therein, shall, except as otherwise herein provided, be determined by the industrial accident board. The decisions of the industrial accident board shall for all purposes be enforceable under the provisions of Part III, section eleven. Disputes.

Sec. 17. If a subscriber enters into a contract, written or oral, with an independent contractor to do such subscriber's work, or if such a contractor enters into a contract with a subcontractor to do all or any part of the work comprised in such contract with the subscriber, and the association would, if such work were executed by employees immediately employed by the subscriber, be liable to pay compensation under this act to those employees, the association shall pay to such employees any compensation which would be payable to them under this act if the independent or subcontractors were subscribers. The association, however, shall be entitled to recover indemnity from any other person who would have been liable to such employees independently of this section, and if the association has paid compensation under the terms of this section, it may enforce in the name of the employee, or in its own name and for the benefit of the association, the liability of such other person. This section shall not apply to any contract of an independent or subcontractor which is merely ancillary and incidental to, and is no part of or process in, the trade or business carried on by the subscriber, nor to any case where the injury occurred elsewhere than on, in, or about the premises on which the contractor has undertaken to execute the work for the subscriber or which are under the control or management of the subscriber. Independent contractors.

Sec. 18. Every employer shall hereafter keep a record of all injuries, fatal or otherwise, received by his employees in the course of their employment. Within forty-eight hours, not counting Sundays and legal holidays, after the occurrence of an accident resulting in personal injury a report thereof shall be made in writing to the industrial accident board on blanks to be procured from the board for the purpose. Accidents to be reported.



Upon the termination of the disability of the injured employee or, if such disability extends beyond a period of sixty days, at the expiration of such period the employer shall make a supplemental report on blanks to be procured from the board for that purpose.

The said reports shall contain the name and nature of the business of the employer, the location of the establishment, the name, age, sex and occupation of the injured employee, and shall state the date and hour of the accident, the nature and cause of the injury, and such other information as may be required by the board.

Any employer who refuses or neglects to make the report required by this section shall be punished by a fine of not more than fifty dollars for each offense.

#### PART IV.

##### THE MASSACHUSETTS EMPLOYEES INSURANCE ASSOCIATION.

- Association created.** SECTION 1. The Massachusetts Employees Insurance Association is hereby created a body corporate with the powers provided in this act and with all the general corporate powers incident thereto.
- Board of directors.** SEC. 2. The governor shall appoint a board of directors of the association, consisting of fifteen members, who shall serve for a term of one year, or until their successors are elected by ballot by the subscribers at such time and for such term as the by-laws shall provide.
- Powers of board.** SEC. 3. Until the first meeting of the subscribers the board of directors shall have and exercise all the powers of the subscribers, and may adopt by-laws not inconsistent with the provisions of this act, which shall be in effect until amended or repealed by the subscribers.
- Officers.** SEC. 4. The board of directors shall annually choose by ballot a president, who shall be a member of the board, a secretary, a treasurer, and such other officers as the by-laws shall provide.
- Quorum.** SEC. 5. Seven or more of the directors shall constitute a quorum for the transaction of business.  
Vacancies in any office may be filled in such manner as the by-laws shall provide.
- Membership.** SEC. 6. Any employer in the Commonwealth may become a subscriber.
- First meeting.** SEC. 7. The board of directors shall, within thirty days of the subscription of twenty-five employers, call the first meeting of the subscribers by a notice in writing mailed to each subscriber at his place of business not less than ten days before the date fixed for the meeting.
- Votes.** SEC. 8. In any meeting of the subscribers each subscriber shall be entitled to one vote, and if a subscriber has five hundred employees to whom the association is bound to pay compensation he shall be entitled to two votes, and he shall be entitled to one additional vote for each additional five hundred employees to whom the association is bound to pay compensation, but no subscriber shall cast, by his own right or by the right of proxy, more than twenty votes.
- Policies issued, when.** SEC. 9. No policy shall be issued by the association until not less than one hundred employers have subscribed, who have not less than ten thousand employees to whom the association may be bound to pay compensation.
- Same.** SEC. 10. No policy shall be issued until a list of the subscribers, with the number of employees of each, together with such other information as the insurance commissioner may require, shall have been filed at the insurance department, nor until the president and secretary of the association shall have certified under oath that every subscription in the list so filed is genuine and made with an agreement by every subscriber that he will take the policies subscribed for by him within thirty days of the granting of a license to the association by the insurance commissioner to issue policies.
- Issues cease, when.** SEC. 11. If the number of subscribers falls below one hundred, or the number of employees to whom the association may be bound to pay compensation falls below ten thousand, no further policies shall be issued until other employers have subscribed who, together with existing subscribers, amount to not less than one hundred who have not less than ten thousand employees, said subscriptions to be subject to the provisions contained in the preceding section.

SEC. 12. Upon the filing of the certificate provided for in the two preceding sections the insurance commissioner shall make such investigation as he may deem proper and, if his findings warrant it, grant a license to the association to issue policies.

License.

SEC. 13. The board of directors shall distribute the subscribers into groups in accordance with the nature of the business and the degree of the risk of injury.

Risk groups.

Subscribers within each group shall annually pay in cash, or notes absolutely payable, such premiums as may be required to pay the compensation herein provided for the injuries which may occur in that year.

SEC. 14. The association may in its by-laws and policies fix the contingent mutual liability of the subscribers for the payment of losses and expenses not provided for by its cash funds; but such contingent liability of a subscriber shall not be less than an amount equal to and in addition to the cash premium.

Liabilities.

SEC. 15. If the association is not possessed of cash funds above its unearned premiums sufficient for the payment of incurred losses and expenses, it shall make an assessment for the amount needed to pay such losses and expenses upon the subscribers liable to assessment therefor in proportion to their several liability.

Assessments.

Every subscriber shall pay his proportional part of any assessments which may be laid by the association, in accordance with law and his contract, on account of injuries sustained and expenses incurred while he is a subscriber.

SEC. 16. The board of directors may, from time to time, by vote fix and determine the amount to be paid as a dividend upon policies expiring during each year after retaining sufficient sums to pay all the compensation which may be payable on account of injuries sustained and expenses incurred.

Dividends.

All premiums, assessments, and dividends shall be fixed by and for groups as heretofore provided in accordance with the experience of each group, but all the funds of the association and the contingent liability of all the subscribers shall be available for the payment of any claim against the association.

SEC. 17. Any proposed premium, assessment, dividend or distribution of subscribers shall be filed with the insurance department and shall not take effect until approved by the insurance commissioner after such investigation as he may deem necessary.

Rates to be approved.

SEC. 18. The board of directors shall make and enforce reasonable rules and regulations for the prevention of injuries on the premises of subscribers, and for this purpose the inspectors of the association shall have free access to all such premises during regular working hours.

Rules.

Any subscriber or employee aggrieved by any such rule or regulation may petition the industrial accident board for a review, and it may affirm, amend, or annul the rule or regulation.

SEC. 19. If any officer of the association shall falsely make oath to any certificate required to be filed with the insurance commissioner, he shall be guilty of perjury.

False statements.

SEC. 20. Every subscriber shall, as soon as he secures a policy, give notice, in writing or print, to all persons under contract of hire with him that he has provided for payment to injured employees by the association.

Notice of policy.

SEC. 21 (as amended by Chapter 571, Acts of 1912). Every subscriber shall give notice in writing or print to every person with whom he is about to enter into a contract of hire that he has provided for payment to injured employees by the association. If an employer ceases to be a subscriber he shall, on or before the day on which his policy expires, give notice thereof in writing or print to all persons under contract with him. In case of the renewal of the policy no notice shall be required under the provisions of this act. He shall file a copy of said notice with the industrial accident board. The notices required by this and the preceding section may be given in the manner therein provided or in such other manner as may be approved by the industrial accident board.

Notice by subscribers.

SEC. 22. If a subscriber, who has complied with all the rules, regulations and demands of the association, is required by any judgment

Employers reimbursed, when.

of a court of law to pay to an employee any damages on account of personal injury sustained by such employee during the period of subscription, the association shall pay to the subscriber the full amount of such judgment and the cost assessed therewith, if the subscriber shall have given the association notice in writing of the bringing of the action upon which the judgment was recovered and an opportunity to appear and defend the same.

State insurance  
code does not  
apply.

Sec. 23. The provisions of chapter five hundred and seventy-six of the acts of the year nineteen hundred and seven and of acts in amendment thereof shall apply to the association, so far as such provisions are pertinent and not in conflict with the provisions of this act, except that the corporate powers shall not expire because of failure to issue policies or make insurance.

Expenses.

Sec. 24. The board of directors appointed by the governor under the provisions of Part IV, section two, may incur such expenses in the performance of its duties as shall be approved by the governor and council. Such expenses shall be paid from the treasury of the Commonwealth and shall not exceed in amount the sum of fifteen thousand dollars.

Limit.

## PART V.

### MISCELLANEOUS PROVISIONS.

Compensation  
proceedings bar  
suit.

SECTION. 1. If an employee of a subscriber files any claim with or accepts any payment from the association on account of personal injury, or makes any agreement, or submits any question to arbitration, under this act, such action shall constitute a release to the subscriber of all claims or demands at law, if any, arising from the injury.

Definitions.

Sec. 2 (as amended by Chapter 568, Acts of 1913). The following words and phrases, as used in this act, shall, unless a different meaning is plainly required by the context, have the following meaning:—

"Employer" shall include the legal representative of a deceased employer.

"Employee" shall include every person in the service of another under any contract of hire, express or implied, oral or written, except masters of and seamen on vessels engaged in interstate or foreign commerce, and except one whose employment is but casual, or is not in the usual course of the trade, business, profession or occupation of his employer. Any reference to an employee who has been injured shall, when employee is dead, also include his legal representatives, dependents and other persons to whom compensation may be payable.

"Dependents" shall mean members of the employee's family or next of kin who were wholly or partly dependent upon the earnings of the employee for support at the time of the injury.

"Average weekly wages" shall mean the earnings of the injured employee during the period of twelve calendar months immediately preceding the date of injury, divided by fifty-two; but if the injured employee lost more than two weeks' time during such period then the earning for the remainder of such twelve calendar months shall be divided by the number of weeks remaining after the time so lost has been deducted. Where, by reason of the shortness of the time during which the employee has been in the employment of his employer, or the nature or terms of the employment, it is impracticable to compute the average weekly wages, as above defined, regard may be had to the average weekly amount, which during the twelve months previous to the injury, as being earned by a person in the same grade employed at the same work by the same employer; or, if there is no person so employed, by a person in the same grade employed in same class of employment and in the same district.

"Association" shall mean the Massachusetts Employees Insurance Association.

"Subscriber" shall mean an employer who has become a member of the association by paying a year's premium in advance and receiving the receipt of the association therefor, provided that the association holds a license issued by the insurance commissioner as provided in Part IV, section twelve.

SEC. 3 (as amended by Chapter 571, Acts of 1912). Any liability insurance company authorized to do business within this Commonwealth shall have the same right as the association to insure the liability to pay the compensation provided for by Part II of this act, and when such liability company issues a policy conditioned to pay such compensation the holder of such policy shall be regarded as a subscriber so far as applicable within the meaning of this act, and when any such company insures such payment of compensation it shall be subject to the provisions of Parts I, II, III and V and of section twenty-two of Part IV of this act, and shall file with the insurance department its classifications of risks and premiums relating thereto and any subsequent proposed classifications or premiums, none of which shall take effect until the insurance commissioner has approved the same as adequate for the risks to which they respectively apply.

Who may write insurance.

SEC. 4 (as amended by Chapter 571, Acts of 1912). Sections one hundred and thirty-six to one hundred and thirty-nine, inclusive, of chapter five hundred and fourteen of the acts of the year nineteen hundred and nine are hereby repealed.

Repeals.

SEC. 5. The provisions of this act shall not apply to injuries sustained prior to the taking effect thereof.

Prior injuries.

SEC. 6 (as amended by Chapter 571, Acts of 1912). Part IV of this act shall take effect on the first day of January, nineteen hundred and twelve; sections one to three, inclusive, of Part III shall take effect on the tenth day of May, nineteen hundred and twelve; the remainder thereof shall take effect on the first day of July, nineteen hundred and twelve.

Law in effect, when.

Approved July 28, 1911.

ACTS OF 1912.

CHAPTER 666.—*Compensation of workmen for injuries—Regulation of insurance.*

SECTION 1. The insurance commissioner may withdraw his approval of any premium or distribution of subscribers given by him to the Massachusetts Employees Insurance Association under the provisions of section seventeen of Part IV of chapter seven hundred and fifty-one of the acts of the year nineteen hundred and eleven, or of any premium or rate made by an insurance company and approved by him under the provisions of section three of Part V of said chapter seven hundred and fifty-one as amended by section seventeen of chapter five hundred and seventy-one of the acts of the year nineteen hundred and twelve.

Disapproval of rates, etc.

SEC. 2. The notices required by section five of Part I of said chapter seven hundred and fifty-one shall be given in such manner as the industrial accident board may approve.

Approved May 28, 1912.

ACTS OF 1913.

CHAPTER 807.—*Compensation for injuries to public employees.*

SECTION 1. The Commonwealth shall and any county, city, town, or district having the power of taxation, may pay the compensation provided by Part II of chapter seven hundred and fifty-one of the acts of the year nineteen hundred and eleven and acts in amendment thereof and in addition thereto to such laborers, workmen and mechanics employed by it as receive injuries arising out of and in the course of their employment, or, in case of death resulting from any such injury, may pay compensation as provided in sections six, seven and eight of said Part II, and in any amendments thereof, to the persons thereto entitled.

Employees of State and municipalities.

SEC. 2. Procedure under this act and the jurisdiction of the industrial accident board shall be the same as under the provisions of said chapter seven hundred and fifty-one, and the Commonwealth or a county, city, town or district which accepts the provisions of this act

Procedure and jurisdiction.

shall have the same rights in proceedings under said chapter as the association thereby created. The treasurer and receiver general, or the treasurer or officer having similar duties of a county, city, town or district which accepts the provisions of this act, shall pay any compensation awarded for injury to any person in its employment upon proper vouchers without any further authority.

Submission to  
vote of municip-  
alities.

SEC. 3. Counties, cities, towns, and districts having the power of taxation, may accept the provisions of this act by vote of a majority of those legal voters who vote on the question of its acceptance at an annual meeting or election as hereinafter provided. In towns and districts which have an annual meeting of the legal voters, this act shall be submitted for acceptance to the voters of the town or district at the next annual meeting after its passage. In cities, and in towns which do not have annual meetings, this act shall be submitted to the voters at the next municipal election, and in counties and in districts which do not have an annual meeting, at the next State election after its passage. At every such election, and at every annual meeting where ballots are used, the following question shall be printed on the ballot:

"Shall chapter [807] of the acts of nineteen hundred and thirteen, being an act to provide for compensating laborers, workmen and mechanics for injuries sustained in public employment, and to exempt from legal liability counties and municipal corporations which pay such compensation, be accepted by the inhabitants of this (county, city, town, water district, fire district, etc.) of \_\_\_\_\_?"

|      |   |
|------|---|
| YES, | — |
| NO.  | — |

The vote shall be canvassed by the county commissioners, city council or commission, or selectmen, or, in the case of a district, by the district commissioners or other governing board of the district. A notice stating the result of the vote shall be posted in the county court house, or city or town hall, or, in the case of a district, in the public building where the employees of the district are paid. Except as provided in section four, a county, city, town or district which accepts the provisions of this act shall not be liable in any action for a personal injury sustained by a laborer, workman or mechanic in the course of his employment by such county, city, town or district, or for death resulting from such injury.

Options of em-  
ployees.

SEC. 4. A laborer, workman or mechanic entering or remaining in the service of a county, city, town or district, who would, if injured, have a right of action against the county, city, town or district by existing law, may, if the county, city, town or district has accepted the provisions of this act, before he enters its service, or accepts them afterward, claim or waive his right of action as provided in section five of Part I of said chapter seven hundred and fifty-one, and shall be deemed to have waived such right of action unless he claims it. Section four of said Part I shall apply to actions by laborers, workmen or mechanics employed by a county, city, town or district which accepts the provisions of this act.

Election as to  
compensation or  
pension.

SEC. 5. Any person entitled to receive from the Commonwealth or from a county, city, town or district the compensation provided by Part II of said chapter seven hundred and fifty-one, who is also entitled to a pension by reason of the same injury, shall elect whether he will receive such compensation or such pension, and shall not receive both. In case a person entitled to such compensation from the Commonwealth or from a county, city, town or district receives by special act a pension for the same injury, he shall forfeit all claim for compensation, and any compensation received by him or paid by the Commonwealth or by the county, city, town or district which employs him for medical or hospital services rendered to him may be recovered back in an action at law. No further payment shall be awarded by vote or otherwise to any person who has claimed and received compensation under this act.

Scope of law.

SEC. 6. This act shall apply to all laborers, workmen and mechanics in the service of the Commonwealth or of a county, city or town, or district having the power of taxation, under any employment or contract of hire, expressed or implied, oral or written, including those employed in work done in performance of governmental duties as well

as those employed in municipal enterprises conducted for gain or profit. For the purposes of this act all laborers, workmen and mechanics paid by the Commonwealth, but serving under boards or commissions exercising powers within defined districts, shall be deemed to be in the service of the Commonwealth.

SEC. 7. The provisions of chapter seven hundred and fifty-one of the acts of the year nineteen hundred and eleven, and acts in amendment thereof and in addition thereto shall not apply to any persons other than laborers, workmen and mechanics employed by counties, cities, towns or districts having the power of taxation.

Same subject.

SEC. 8. This act shall take effect upon its passage.

Act in effect.

Approved June 16, 1913.

MICHIGAN.

FIRST EXTRA SESSION—1912.

ACT No. 10.—*Compensation of workmen for injuries.*

PART I.

MODIFICATION OF REMEDIES.

SECTION 1. In an action to recover damages for personal injury sustained by an employee in the course of his employment, or for death resulting from personal injuries so sustained, it shall not be a defense:

Defenses abrogated.

(a) That the employee was negligent, unless and except it shall appear that such negligence was willful;

(b) That the injury was caused by the negligence of a fellow employee;

(c) That the employee had assumed the risks inherent in or incidental to, or arising out of his employment, or arising from the failure of the employer to provide and maintain safe premises and suitable appliances.

SEC. 2. The provisions of section one shall not apply to actions to recover damages for personal injuries sustained by household domestic servants and farm laborers.

Exemptions.

SEC. 3. The provisions of section one shall not apply to actions to recover damages for the death of, or for personal injuries sustained by employees of any employer who has elected, with the approval of the industrial accident board hereinafter created, to pay compensation in the manner and to the extent hereinafter provided.

Election by employers.

SEC. 4. Any employer who has elected, with the approval of the industrial accident board hereinafter created, to pay compensation as hereinafter provided, shall not be subject to the provisions of section one; nor shall such employer be subject to any other liability whatsoever, save as herein provided for the death of or personal injury to any employee, for which death or injury compensation is recoverable under this act, except as to employees who have elected in the manner hereinafter provided not to become subject to the provisions of this act.

Effect of election.

SEC. 5 (as amended by Act No. 50, Acts of 1913). The following shall constitute employers subject to the provisions of this act:

1. The State and each county, city, township, incorporated village and school district therein, and each incorporated public board or public commission in this State authorized by law to hold property and to sue or be sued generally;

Who are employers.

2. Every person, firm and private corporation, including any public service corporation, who has any person in service under any contract of hire, express or implied, oral or written, and who, at or prior to the time of the accident to the employee for which compensation under this act may be claimed, shall in the manner provided in the next section, have elected to become subject to the provisions of this act, and who shall not, prior to such accident, have effected a withdrawal of such election, in the manner provided in the next section.

How election is made.

Sec. 6. Such election on the part of the employers mentioned in subdivision two of the preceding section, shall be made by filing with the industrial accident board hereinafter provided for, a written statement to the effect that such employer accepts the provisions of this act, and that he adopts, subject to the approval of said board, one of the four methods provided for the payment of the compensation hereinafter specified. The filing of such statement and the approval of said board shall operate, within the meaning of the preceding section, to subject such employer to the provisions of this act and all acts amendatory thereof for the term of one year from the date of the filing of such statement, and thereafter, without further act on his part, for successive terms of one year each, unless such employer shall, at least thirty days prior to the expiration of such first or any succeeding year, file in the office of said board a notice in writing to the effect that he desires to withdraw his election to be subject to the provisions of this act: *Provided, however,* That such employer so electing to become subject to the provisions of this act shall, within ten days after the approval by said board of his election filed as aforesaid, post in a conspicuous place in his plant, shop, minor place of work, or if such employer be a transportation company, at its several stations and docks, notice in the form as prescribed and furnished by the industrial accident board to the effect that he accepts and will be bound by the provisions of this act.

Sec. 7. The term "employee" as used in this act shall be construed to mean:

Who are employees.

1. Every person in the service of the State, or of any county, city, township, incorporated village or school district therein, under any appointment, or contract of hire, express or implied, oral or written, except any official of the State, or of any county, city, township, incorporated village or school district therein: *Provided,* That one employed by a contractor who has contracted with a county, city, township, incorporated village, school district or the State, through its representatives, shall not be considered an employee of the State, county, city, township, incorporated village or school district which made the contract;

2. Every person in the service of another under any contract of hire, express or implied, oral or written, including aliens, and also including minors who are legally permitted to work under the laws of the State who, for the purposes of this act, shall be considered the same and have the same power to contract as adult employees, but not including any person whose employment is but casual or is not in the usual course of the trade, business, profession or occupation of his employer.

Employees subject to act.

Sec. 8. Any employee as defined in subdivision one of the preceding section shall be subject to the provisions of this act and of any act amendatory thereof. Any employee as defined in subdivision two of the preceding section shall be deemed to have accepted and shall be subject to the provisions of this act and of any act amendatory thereof if, at the time of the accident upon which liability is claimed:

1. The employer charged with such liability is subject to the provisions of this act, whether the employee has actual notice thereof or not; and

2. Such employee shall not, at the time of entering into his contract of hire, express or implied, with such employer, have given to his employer notice in writing that he elects not to be subject to the provisions of this act; or, in the event that such contract of hire was made before such employer became subject to the provisions of this act, such employee shall have given to his employer notice in writing that he elects not to be subject to such provisions, or without giving either of such notices shall have remained in the service of such employer for thirty days after the employer has filed with said board an election to be subject to the terms of this act. An employee who has given notice to his employer in writing as aforesaid that he elects not to be subject to the provisions of this act, may waive such claim by a notice in writing, which shall take effect five days after it is delivered to the employer or his agent.

## PART II.

## COMPENSATION.

SECTION 1. If an employee who has not given notice of his election not to be subject to the provisions of this act, as provided in part one, section eight, or who has given such notice and has waived the same as hereinbefore provided, receives a personal injury arising out of and in the course of his employment by an employer who is at the time of such injury subject to the provisions of this act, he shall be paid compensation in the manner and to the extent hereinafter provided, or in case of his death resulting from such injuries such compensation shall be paid to his dependents as hereinafter defined. Who may receive compensation.

SEC. 2. If the employee is injured by reason of his intentional and willful misconduct, he shall not receive compensation under the provisions of this act. Willful misconduct.

SEC. 3. No compensation shall be paid under this act for any injury which does not incapacitate the employee for a period of at least two weeks from earning full wages, but if incapacity extends beyond the period of two weeks, compensation shall begin on the fifteenth day after the injury: *Provided, however,* That if such disability continues for eight weeks or longer, such compensation shall be computed from the date of the injury. Waiting time.

SEC. 4. During the first three weeks after the injury the employer shall furnish, or cause to be furnished, reasonable medical and hospital services and medicines when they are needed. Medical, etc., services.

SEC. 5. If death results from the injury, the employer shall pay, or cause to be paid, subject, however, to the provisions of section twelve hereof, in one of the methods hereinafter provided, to the dependents of the employee, wholly dependent upon his earnings for support at the time of the injury, a weekly payment equal to one-half his average weekly wages, but not more than ten dollars nor less than four dollars a week for a period of three hundred weeks from the date of the injury. If the employee leaves dependents only partly dependent upon his earnings for support at the time of his injury, the weekly compensation to be paid as aforesaid shall be equal to the same proportion of the weekly payments for the benefit of persons wholly dependent as the amount contributed by the employee to such partial dependents bears to the annual earnings of the deceased at the time of his injury. When weekly payments have been made to an injured employee before his death the compensation to dependents shall begin from the date of the last of such payments, but shall not continue more than three hundred weeks from the date of the injury. Death.

SEC. 6. The following persons shall be conclusively presumed to be wholly dependent for support upon a deceased employee: Dependents.

(a) A wife upon a husband with whom she lives at the time of his death;

(b) A husband upon a wife with whom he lives at the time of her death;

(c) A child or children under the age of sixteen years (or over said age, if physically or mentally incapacitated from earning) upon the parent with whom he is or they are living at the time of the death of such parent, there being no surviving parent. In case there is more than one child thus dependent, the death benefit shall be divided equally among them. In all other cases questions of dependency, in whole or in part, shall be determined in accordance with the fact, as the fact may be at the time of the injury; and in such other cases, if there is more than one person wholly dependent, the death benefit shall be divided equally among them, and persons partly dependent, if any, shall receive no part thereof; if there is no one wholly dependent and more than one person partly dependent, the death benefit shall be divided among them according to the relative extent of their dependency. No person shall be considered a dependent, unless a member of the family of the deceased employee, or bears to him the relation of husband or widow, or lineal descendant, or ancestor, or brother, or sister.



- Determination of dependency.** SEC. 7. Questions as to who constitute dependents and the extent of their dependency shall be determined as of the date of the accident to the employee, and their right to any death benefit shall become fixed as of such time, irrespective of any subsequent change in conditions; and the death benefit shall be directly recoverable by and payable to the dependent or dependents entitled thereto, or their legal guardians or trustees. In case of the death of one such dependent his proportion of such compensation shall be payable to the surviving dependents pro rata. Upon the death of all such dependents compensation shall cease. No person shall be excluded as a dependent who is a nonresident alien. No dependent of an injured employee shall be deemed, during the life of such employee, a party in interest to any proceeding by him for the enforcement of collection of any claim for compensation, nor as respects the compromise thereof by such employee.
- If no dependents.** SEC. 8. If the employee leaves no dependents the employer shall pay, or cause to be paid as hereinafter provided, the reasonable expense of his last sickness and burying, which shall not exceed two hundred dollars.
- Total incapacity.** SEC. 9. While the incapacity for work resulting from the injury is total, the employer shall pay, or cause to be paid as hereinafter provided, to the injured employee a weekly compensation equal to one-half his average weekly wages, but not more than ten dollars nor less than four dollars a week; and in no case shall the period covered by such compensation be greater than five hundred weeks, nor shall the total amount of all compensation exceed four thousand dollars.
- Partial incapacity.** SEC. 10. While the incapacity for work resulting from the injury is partial, the employer shall pay, or cause to be paid as hereinafter provided, to the injured employee a weekly compensation equal to one-half the difference between his average weekly wages before the injury and the average weekly wages which he is able to earn thereafter, but not more than ten dollars a week; and in no case shall the period covered by such compensation be greater than three hundred weeks from the date of the injury. In cases included by the following schedule the disability in each such case shall be deemed to continue for the period specified, and the compensation so paid for such injury shall be as specified therein, to wit:
- Specific injuries.** For the loss of a thumb, fifty per centum of the average weekly wages during sixty weeks;
- For the loss of a first finger, commonly called index finger, fifty per centum of average weekly wages during thirty five weeks;
- For the loss of a second finger, fifty per centum of average weekly wages during thirty weeks;
- For the loss of a third finger, fifty per centum of average weekly wages during twenty weeks;
- For the loss of a fourth finger, commonly called little finger, fifty per centum of average weekly wages during fifteen weeks;
- The loss of the first phalange of the thumb, or of any finger, shall be considered to be equal to the loss of one-half of such thumb or finger, and compensation shall be one-half the amounts above specified;
- The loss of more than one phalange shall be considered as the loss of the entire finger or thumb: *Provided, however,* That in no case shall the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand;
- For the loss of a great toe, fifty per centum of average weekly wages during thirty weeks;
- For the loss of one of the toes other than a great toe, fifty per centum of average weekly wages during ten weeks;
- The loss of the first phalange of any toe shall be considered to be equal to the loss of one-half of such toe, and compensation shall be one-half of the amount above specified;
- The loss of more than one phalange shall be considered as the loss of the entire toe;
- For the loss of a hand, fifty per centum of average weekly wages during one hundred and fifty weeks;
- For the loss of an arm, fifty per centum of average weekly wages during two hundred weeks;

For the loss of a foot, fifty per centum of average weekly wages during one hundred and twenty-five weeks;

For the loss of a leg, fifty per centum of average weekly wages during one hundred and seventy-five weeks;

For the loss of an eye, fifty per centum of average weekly wages during one hundred weeks;

The loss of both hands, or both arms, or both feet, or both legs, or both eyes, or of any two thereof, shall constitute total and permanent disability, to be compensated according to the provisions of section nine.

The amounts specified in this clause are all subject to the same limitations as to maximum and minimum as above stated.

SEC. 11. The term "average weekly wages" as used in this act is defined to be one fifty-second part of the average annual earnings of the employee. If the injured employee has not worked in the employment in which he was working at the time of the accident, whether for the employer or not, during substantially the whole of the year immediately preceding his injury, his average annual earnings shall consist of three hundred times the average daily wage or salary which he has earned in such employment during the days when so employed. If the injured employee has not worked in such employment during substantially the whole of such immediately preceding year, his average annual earnings shall consist of three hundred times the average daily wage or salary which an employee of the same class working substantially the whole of such immediately preceding year in the same or a similar employment in the same or a neighboring place, shall have earned in such employment during the days when so employed. In cases where the foregoing methods of arriving at the average annual earnings of the injured employee can not reasonably and fairly be applied, such annual earnings shall be taken at such sum as, having regard to the previous earnings of the injured employee, and of other employees of the same or most similar class, working in the same or most similar employment, in the same or neighboring locality, shall reasonably represent the annual earning capacity of the injured employee at the time of the accident in the employment in which he was working at such time. The fact that an employee has suffered a previous disability, or received compensation therefor, shall not preclude compensation for a later injury, or for death, but in determining compensation for the later injury, or death, his average annual earnings shall be such sum as will reasonably represent his annual earning capacity at the time of the later injury in the employment in which he was working at such time, and shall be arrived at according to and subject to the limitations of the provisions of this section. The weekly loss in wages referred to in this act shall consist of such percentage of the average weekly earnings of the injured employee, computed according to the provisions of this section, as shall fairly represent the proportionate extent of the impairment of his earning capacity in the employment in which he was working at the time of the accident, the same to be fixed as of the time of the accident, but to be determined in view of the nature and extent of the injury.

Wages defined.

Second injuries.

SEC. 12. The death of the injured employee prior to the expiration of the period within which he would receive such weekly payments shall be deemed to end such disability, and all liability for the remainder of such payments which he would have received in case he had lived shall be terminated, but the employer shall thereupon be liable for the following death benefits in lieu of any further disability indemnity:

Death during period of disability.

If the injury so received by such employee was the proximate cause of his death, and such deceased employee leaves dependents, as hereinbefore specified, wholly or partially dependent on him for support, the death benefit shall be a sum sufficient, when added to the indemnity which shall at the time of death have been paid or become payable under the provisions of this act to such deceased employee, to make the total compensation for the injury and death exclusive of medical and hospital services and medicines furnished as provided in section four hereof, equal to the full amount which such dependents would have been entitled to receive under the provisions of section five hereof in case the accident had resulted in immediate death, and such benefits

- shall be payable in weekly installments in the same manner and subject to the same terms and conditions in all respects as payments made under the provisions of said section five.
- Insurance, etc., of employees.** SEC. 13. No savings or insurance of the injured employee, nor any contribution made by him to any benefit fund or protective association independent of this act, shall be taken into consideration in determining the compensation to be paid hereunder, nor shall benefits derived from any other source than those paid or caused to be paid by the employer as herein provided, be considered in fixing the compensation under this act.
- Incompetence.** SEC. 14. If an injured employee is mentally incompetent or is a minor at the time when any right or privilege accrues to him under this act, his guardian or next friend may in his behalf claim and exercise such right or privilege.
- Notice and claim.** SEC. 15. No proceedings for compensation for an injury under this act shall be maintained, unless a notice of the injury shall have been given to the employer three months after the happening thereof, and unless the claim for compensation with respect to such injury shall have been made within six months after the occurrence of the same; or, in case of the death of the employee, or in the event of his physical or mental incapacity, within six months after death or the removal of such physical or mental incapacity.
- Form.** SEC. 16. The said notice shall be in writing, and shall state in ordinary language the time, place and cause of the injury; and shall be signed by the person injured, or by a person in his behalf, or, in the event of his death, by his dependents or by a person in their behalf.
- Service.** SEC. 17. The notice shall be served upon the employer or an agent thereof. Such service may be made by delivering said notice to the person on whom it is to be served, or leaving it at his residence or place of business, or by sending it by registered mail addressed to the person or corporation on whom it is to be served, at his last known residence or place of business.
- Defects, etc.** SEC. 18. A notice given under the provisions of this act shall not be held invalid or insufficient by reason of any inaccuracy in stating the time, place or cause of the injury, unless it is shown that it was the intention to mislead, and the employer, or the insurance company carrying such risk, or the commissioner of insurance, as the case may be, was in fact misled thereby. Want of such written notice shall not be a bar to proceedings under this act, if it be shown that the employer had notice or knowledge of the injury.
- Medical examinations.** SEC. 19. After an employee has given notice of an injury, as provided by this act, and from time to time thereafter during the continuance of his disability, he shall, if so requested by the employer, or the insurance company carrying such risk, or the commissioner of insurance, as the case may be, submit himself to an examination by a physician or surgeon authorized to practice medicine under the laws of the State, furnished and paid for by the employer, or the insurance company carrying such risk, or the commissioner of insurance, as the case may be. The employee shall have the right to have a physician provided and paid for by himself present at the examination. If he refuses to submit himself for the examination, or in any way obstructs the same, his right to compensation shall be suspended, and his compensation during the period of suspension may be forfeited. Any physician who shall make or be present at any such examination may be required to testify under oath as to the results thereof.
- Waivers.** SEC. 20. No agreement by an employee to waive his rights to compensation under this act shall be valid.
- Exemption from assignment, etc.** SEC. 21. No payment under this act shall be assignable or subject to attachment or garnishment, or be held liable in any way for any debts. In case of insolvency every liability for compensation under this act shall constitute a first lien upon all the property of the employer liable therefor, paramount to all other claims or liens except for wages and taxes, and such liens shall be enforced by order of the court.
- Lump-sum payments.** SEC. 22. Whenever any weekly payment has been continued for not less than six months, the liability therefor may be redeemed by the payment of a lump sum by agreement of the parties, subject to the approval of the industrial accident board, and said board may at any time direct in any case, if special circumstances be found which

in its judgment require the same, that the deferred payments be commuted on the present worth thereof at five per cent per annum to one or more lump sum payments, and that such payments shall be made by the employer or the insurance company carrying such risk, or commissioner of insurance, as the case may be.

SEC. 23 (added by Act No. 50, Acts of 1913). All compensation paid or to be paid under this act by any employer, being an incorporated public board, or public commission shall be treated as part of the necessary operating expenses thereof, and all sums and amounts of money required therefor may be embraced in any requisition authorized by law to be made upon any other public corporation, body or officer for moneys for the use of such employer in addition to all other sums authorized by law, or separate requisition therefor may be made in like manner; and the same shall be allowed and paid to such employer in the same manner as other moneys are required to be allowed and paid for the use of such employer; or the same may be embraced in any report or requirement authorized by law to be made to or upon any other public corporation, or officer, of sums of money to be levied as taxes for the use of such employer, in addition to all other sums authorized by law, or separate report or requirement thereof may be made in like manner; and the same shall be levied, collected and paid as other amounts for taxes are required to be levied, collected and paid for the use of such employer.

Payments by public boards and commissions.

### PART III.

#### PROCEDURE.

SECTION 1. There is hereby created a board which shall be known as the industrial accident board, consisting of three members to be appointed by the governor, by and with the consent of the senate, one of whom shall be designated by the governor as chairman. Appointments to fill vacancies may be made during recesses of the senate, but shall be subject to confirmation by the senate at the next ensuing session of the legislature. The term of office of members of this board shall be six years, except that when first constituted one member shall be appointed for two years, one for four years, and one for six years. Thereafter one member shall be appointed every second year for the full term of six years. No more than two members of this board shall belong to the same political party.

Industrial accident board.

SEC. 2. The salary of each of the members so appointed by the governor shall be three thousand five hundred dollars per year. The board may appoint a secretary at a salary of not more than two thousand five hundred dollars a year, and may remove him. The board shall be provided with an office in the capitol, or in some other suitable building in the city of Lansing, in which its records shall be kept, and it shall also be provided with necessary office furniture, stationery and other supplies. It shall provide itself with a seal for the authentication of its orders, awards and proceedings, upon which shall be inscribed the words "Industrial Accident Board—Michigan—Seal." It shall employ such assistants and clerical help as it may deem necessary and fix the compensation of all persons so employed: *Provided*, That the average compensation paid to such employees shall not exceed one thousand dollars per annum for each person employed, and all such clerical assistants shall be subject to existing laws regulating the grading and compensation of department clerks. The members of the board and its assistants shall be entitled to receive from the State their actual and necessary expenses while traveling on the business of the board; but such expenses shall be sworn to by the person who incurred the same, and be approved by the chairman of the board before payment is made.

Salaries, etc.

All such salaries and expenses when audited and allowed by the board of State auditors, shall be paid by the State treasurer out of the general fund, upon warrant of the auditor general.

SEC. 3. The board may make rules not inconsistent with this act for carrying out the provisions of the act. Process and procedure under this act shall be as summary as reasonably may be. The board or any member thereof shall have the power to administer oaths, subpoena

Rules.

- witnesses and to examine such parts of the books and records of the parties to a proceeding as relate to questions in dispute.
- Forms.** SEC. 4. The board shall cause to be printed and furnish free of charge to any employer or employee such blank forms as it shall deem requisite to facilitate or promote the efficient administration of this act; it shall provide a proper record book in which shall be entered and indexed the name of any employer who shall file a statement of election under this act, and the date of the filing thereof and its approval by such board, and a separate book in which shall be entered and indexed the name of every employer who shall file his notice of withdrawal of said election, and the date of the filing thereof; and books in which shall be recorded all orders and awards made by the board; and such other books or records as it shall deem required by the proper and efficient administration of this act; all such records to be kept in the office of the board. Upon the filing of a statement of election by an employer to become subject to the provisions of this act, the board shall forthwith cause such notice of the fact to be given by requiring said employer to post such notice as hereinbefore provided; and the board shall likewise cause notice to be given of the filing of any withdrawal of such election; but notwithstanding the failure to give, or the insufficiency of, any such notice, knowledge of all filed statements of election and notices of withdrawal of election, and of the time of the filing of the same, shall conclusively be imputed to all employees.
- Agreements to be filed.** SEC. 5. If the employer, or the insurance company carrying such risk, or commissioner of insurance, as the case may be, and the injured employee reach an agreement in regard to compensation under this act, a memorandum of such agreement shall be filed with the industrial accident board, and, if approved by it, shall be deemed final and binding upon the parties thereto. Such agreements shall be approved by said board only when the terms conform to the provisions of this act.
- Arbitration.** SEC. 6. If the employer, or the insurance company carrying such risk, or the commissioner of insurance, as the case may be, and the employee fail to reach an agreement in regard to compensation under this act, either party may notify the industrial accident board, who shall thereupon call for the formation of a committee of arbitration. The committee of arbitration shall consist of three members, one of whom shall be a member of the industrial accident board, and shall act as chairman. The other two members shall be named respectively by the two parties.
- Duty of board.** SEC. 7. It shall be the duty of the industrial accident board, upon notification that the parties have failed to reach an agreement, to request both parties to appoint their respective representatives on the committee of arbitration. The board shall designate one of its members to act as chairman, and, if either party does not appoint its member on this committee within seven days after notification as above provided, the board or any member thereof shall fill the vacancy and notify the parties to that effect.
- Investigations.** SEC. 8. The committee of arbitration shall make such inquiries and investigations as it shall deem necessary. The hearings of the committee shall be held at the locality where the injury occurred, and the decision of the committee shall be filed with the industrial accident board. Unless a claim for a review is filed by either party within seven days, the decision shall stand as the decision of the industrial accident board: *Provided*, That said industrial accident board may, for sufficient cause shown, grant further time in which to claim such review.
- Examination by physician.** SEC. 9. The industrial accident board or any member thereof may appoint a duly qualified impartial physician to examine the injured employee and to report. The fee for this service shall be five dollars and traveling expenses, but the board may allow additional reasonable amounts in extraordinary cases.
- Fees, etc.** SEC. 10. The arbitrators named by or for the parties to the dispute shall each receive five dollars a day for his services, but the industrial accident board or any member thereof may allow additional reasonable amounts in extraordinary cases. The fees of such arbitrators and other costs of such arbitration, not exceeding, however, the taxable costs allowed in suits at law in the circuit courts of this State, shall be fixed by the board and paid by the State as the other expenses of the board are paid. The fees and the payment thereof of all attorneys and physi-

cians for services under this act shall be subject to the approval of the industrial accident board.

Sec. 11. If a claim for review is filed, as provided in part three, section eight, the industrial accident board shall promptly review the decision of the committee of arbitration and such records as may have been kept of its hearings, and shall also if desired hear the parties, together with such additional evidence as they may wish to submit, and file its decision therein with the records of such proceedings. Such review and hearing may be held in its office at Lansing or elsewhere at the board shall deem advisable.

Review.

Sec. 12. The findings of fact made by said industrial accident board acting within its powers, shall, in the absence of fraud, be conclusive, but the supreme court shall have power to review questions of law involved in any final decision or determination of said industrial accident board: *Provided*, That application is made by the aggrieved party within thirty days after such determination by certiorari, mandamus or by any other method permissible under the rules and practice of said court or the laws of this State, and to make such further orders in respect thereto as justice may require.

Questions of fact and of law.

Sec. 13. Either party may present a certified copy of the decision of such industrial accident board approving agreements of settlement as provided in part three, section five hereof, or of the decision of such committee of arbitration when no claim for review is made as provided in part three, section eight, or of the decision of such industrial accident board when a claim for review is filed as provided in part three, section eleven, providing for payment of compensation under this act, to the circuit court for the county in which such accident occurred, whereupon said court shall, without notice, render a judgment in accordance therewith against said employer and also against any insurance company carrying such risk under the provisions of this act; which judgment, until and unless set aside shall have the same effect as though duly rendered in an action duly tried and determined by said court, and shall, with like effect, be entered and docketed.

Court decrees.

Sec. 14. Any weekly payment under this act may be reviewed by the industrial accident board at the request of the employer, or the insurance company carrying such risks, or the commissioner of insurance as the case may be, or the employee; and on such review it may be ended, diminished or increased, subject to the maximum and minimum amounts above provided, if the board finds that the facts warrant such action.

Revision of payments.

Sec. 15. Where the injury for which compensation is payable under this act was caused under circumstances creating a legal liability in some person other than the employer to pay damages in respect thereof, the employee may at his option proceed either at law against that person to recover damages, or against the employer for compensation under this act, but not against both, and if compensation be paid under this act the employer may enforce for his benefit or for that of the insurance company carrying such risk, or the commissioner of insurance, as the case may be, the liability of such other person.

Injuries caused by third parties.

Sec. 16. All questions arising under this act, if not settled by agreement by the parties interested therein, shall, except as otherwise herein provided, be determined by the industrial accident board.

Settlement of disputes.

Sec. 17. Every employer shall hereafter keep a record of all injuries, fatal or otherwise, received by his employees in the course of their employment. Within ten days after the occurrence of an accident resulting in personal injury a report thereof shall be made in writing to the industrial accident board on blanks to be procured from the board for that purpose. The said reports shall contain the name and nature of the business of the employer, the location of his establishment or place of work, the name, age, sex and occupation of the injured employee, and shall state the time, the nature and cause of the injury, and such other information as may be required by the board. Any employer who refuses or neglects to make the report required by this section shall be punished by a fine of not more than fifty dollars for each offense.

Records of accidents.

Sec. 18 (added by Act No. 156, Acts of 1913). The board may appoint an assistant secretary at a salary of not more than fifteen hundred dollars a year to be paid as other State employees are paid.

Assistant secretary.

## PART IV.

## METHOD OF PAYMENT.

How payment  
may be provided  
for.

SECTION 1. Every employer filing his election to become subject to the provisions of this act, as hereinbefore set forth, shall have the right to specify at the time of doing so, subject to the approval of said industrial accident board, which of the following methods for the payment of such compensation he desires to adopt, to wit:

First. Upon furnishing satisfactory proof to said board of his solvency and financial ability to pay the compensation and benefits hereinbefore provided for, to make such payments directly to his employees, as they may become entitled to receive the same under the terms and conditions of this act; or

Second. To insure against such liability in any employers' liability company authorized to take such risks in the State of Michigan; or

Third. To insure against such liability in any employers' insurance association organized under the laws of the State of Michigan; or

Fourth. To request the commissioner of insurance of the State of Michigan to assume the administration of the disbursement of such compensation exclusive of that provided for in part two, section four herein, and the collection of the premiums and assessments necessary to pay the same, as provided in part five hereof. Said board, however, shall have the right, from time to time to review and alter its decision in approving the election of such employer to adopt any one of the foregoing methods of payment, if in its judgment such action is necessary or desirable to secure and safeguard such payments to employees.

Existing insur-  
ance contracts.

SEC. 2. Nothing herein shall affect any existing contract for employers' liability insurance or affect the organization of any mutual or other insurance company, or any arrangement now existing between employers and employees, providing for the payment to such employees, their families, dependents or representatives, sick, accident or death benefits, in addition to the compensation provided for by this act. But liability for compensation under this act shall not be reduced or affected by any insurance, contribution or other benefit whatsoever, due to or received by the person entitled to such compensation, and the person so entitled shall, irrespective of any insurance or other contract, have the right to recover the same directly from the employer; and in addition thereto, the right to enforce in his own name in the manner provided in this act the liability of any insurance company or of any employers' association organized under the laws of the State of Michigan, or the commissioner of insurance, who may, in whole or in part, have insured the liability for such compensation: *Provided, however,* That payment in whole or in part of such compensation by either the employer, or the insurance company carrying such risk, or the commissioner of insurance, as the case may be, shall, to the extent thereof be a bar to recovery against the other, of the amount so paid.

Contracts sub-  
ject to act.

SEC. 3. Every contract for the insurance of the compensation herein provided for, or against liability therefor, shall be deemed to be made subject to the provisions of this act, and provisions thereof inconsistent with this act shall be void. No company shall enter into any such contract for insurance, unless such company shall have been approved by the commissioner of insurance as provided by law.

Discharge  
of liability.

SEC. 4. Any employer against whom liability may exist for compensation under this act may, with the approval of the industrial accident board, be relieved therefrom by:

1. Depositing the present value of the total unpaid compensation for which such liability exists, assuming interest at three per centum per annum, with such trust company of this State as shall be designated by the employee, or by his dependents, in case of his death, and such liability exists in their favor, or in default of such designation by him, or them, after ten days' notice in writing from the employer, with such trust company of this State as shall be designated by the industrial accident board; or

2. By the purchase of an annuity, within the limitations provided by law, in any insurance company granting annuities and licensed in this State, which may be designated by the employee, or his dependents, or the industrial accident board, as provided in subsection one of this section.

## PART V.

## ADMINISTRATION BY COMMISSIONER OF INSURANCE.

SECTION 1. Whenever five or more employers, who have become <sup>State accident</sup> subject to the provisions of this act, and who have on their pay rolls an aggregate number of not less than three thousand employees, shall in writing request the commissioner of insurance so to do, he shall assume charge of levying and collection from them such premium and dividends as may from time to time be necessary to pay the sums which shall become due their employees, or dependents of their employees, as compensation under the provisions of this act, and also the expense of conducting the administration of such funds; and shall disburse the same to the persons entitled to receive such compensation under the provisions of this act: *Provided, however,* That neither the commissioner of insurance nor the State of Michigan shall become or be liable or responsible for the payment of claims for compensation under the provisions of this act beyond the extent of the funds so collected and received by him as hereinafter provided.

SEC. 2 (as amended by Act No. 79, Acts of 1913). The commissioner of insurance shall immediately upon assuming the administration <sup>Administra-</sup> of the collection and disbursement of the moneys referred to in the preceding section, cause to be created in the State treasury a fund to be known as "accident fund." Each such employer shall contribute to this fund to the extent of such premiums or assessments as the commissioner shall deem necessary to pay the compensation accruing under this act to employees of such employers or to their dependents, which premiums and assessments shall be levied in the manner and proportion hereinafter set forth. There shall be maintained in said accident fund a sufficient amount of cash to pay current losses and expenses, and the balance may be invested by the commissioner of insurance and the State treasurer acting together, in such securities as are specified in section four of act number seventy-seven of the Public Acts of eighteen hundred sixty-nine, for deposit by insurance companies with the State treasurer. All such securities shall be purchased and may be sold at such time, in such manner and in accordance with such rules and conditions as may be prescribed and required by the joint action of said insurance commissioner and State treasurer: *Provided, however,* That no such investment shall be made nor any securities sold or disposed of except by and with the consent and approval in writing of the board of State auditors. The commissioner of insurance shall give a good and sufficient bond in the sum of twenty-five thousand dollars, executed by some surety company authorized to do business in the State of Michigan, covering the collection and disbursement of all moneys that may come into his hands under the provisions of this act. The premium on said bond shall be paid out of the general funds of the State on an order of the auditor general. Said bond must be approved by the board of State auditors.

SEC. 3. It is the intention that the amounts raised for such fund shall ultimately become neither more nor less than self-supporting, and the premiums or assessments levied for such purpose shall be subject to readjustment from time to time by the commissioner of insurance as may become necessary. <sup>Premium rates.</sup>

SEC. 4. The commissioner of insurance may classify the establishments or works of such employers in groups in accordance with the nature of the business in which they are engaged and the probable risk of injury to their employees under existing conditions. He shall determine the amount of the premiums or assessments which such employers shall pay to said accident fund, and may prescribe when and in what manner such premiums and assessments shall be paid, and may change the amount thereof both in respect to any or all of such employers from time to time, as circumstances may require, and the condition of their respective plants, establishments or places of work in respect to the safety of their employees may justify, but all such premiums or assessments shall be levied on a basis that shall be fair, equitable and just as among such employers. At the beginning of each fiscal year it shall be the duty of the commissioner of insurance to call for the required payment of premiums in such amounts as shall, together with any balance <sup>Classification.</sup>



in the accident fund, in his judgment, and subject to the approval of said industrial accident board, be sufficient to enable him to pay all sums which may become due and payable to the employees of any such employer who has become subject to the provisions of part five of this act, and also the expenses of administering such funds during the following year.

Default in pay-  
ments of pre-  
miums.

SEC. 5. If any employer shall make default in the payment of any contribution, premium or assessment required as aforesaid by the commissioner of insurance, the sum due shall be collected by an action at law in the name of the State as plaintiff, and such right of action shall be in addition to any other right of action or remedy. In case any injury happens to any of the workmen of such employer during the period of any default in the payment of any such premium, assessment or contribution, the defaulting employer shall not, if such default be after demand for payment, be entitled to the benefits of this act, but shall be liable to suit by the injured workman, or by his dependents in case death results from such accident, as if he had not elected to become subject to this act. In case, however, the amount actually collected in by such injured workman or his dependents shall equal or exceed the compensation to which the plaintiff therein would be entitled under this act, the plaintiff shall not be paid anything out of said accident fund. If the said amount shall be less than such compensation under this act, the accident fund shall contribute the amount of the deficiency. The person so entitled under the provisions of this section shall have the choice, to be exercised before suit, of proceeding by suit or taking under this act. If such person shall take under this act, the cause of action against the employer shall be assigned to the State for the benefit of the accident fund.

Withdrawing  
from insurance  
plan.

SEC. 6. Any employer subject to the provisions of part five of this act, who has complied with all the rules, regulations and demands of the industrial accident board and the commissioner of insurance, may withdraw therefrom at the expiration of the period of one year for which he has elected to become subject to the provisions of this act: *Provided, however,* That he shall give written notice of such withdrawal to said commissioner of insurance at least thirty days before the expiration of such period: *And provided further,* That if at the time of such withdrawal liability may exist against employer for compensation to employees who have been theretofore killed or injured, as hereinbefore provided, such employer shall either relieve himself and the commissioner of insurance from such liability in the manner provided in part four, section four of this act, or shall otherwise protect and indemnify said commissioner of insurance against such liability in such reasonable manner as he may require.

Disputes.

SEC. 7. In case any controversy shall arise between the commissioner of insurance and any employer subject to the provisions of part five of this act, relative to any rule or regulation adopted by said commissioner of insurance, or any decision made by him in respect to the collection, administration and disbursement of such funds, or in case any controversy shall arise between any employee claiming compensation under the provisions of this act and said commissioner of insurance, all such controversies of every kind and nature shall be subject to review in like manner and with the same force and effect in all respects as is heretofore provided in respect to differences arising through the administration of such funds by the employer, or by a liability insurance company or by an employers' mutual insurance association.

Inspection  
of pay rolls, etc.

SEC. 8. The books, records and pay rolls of each employer subject to the provisions of part five of this act shall always be open to inspection by the commissioner of insurance, or his duly authorized agent or representative, for the purpose of ascertaining the correctness of the amount of the pay roll reported, the number of men employed, and such other information as said commissioner may require in the administration of said funds. Refusal on the part of any such employer to submit said books, records and pay rolls for such inspection, shall subject the offending employer to a penalty of fifty dollars for each offense, to be collected by civil action in the name of the State and paid into the accident fund, and the individual who shall personally give such refusal shall be guilty of a misdemeanor.

SEC. 9 (as amended by Act No. 79, Acts of 1913). The commissioner of insurance shall issue proper receipts for all moneys so collected and received from employers, as aforesaid, shall take receipts for all sums paid to employees for compensation under the provisions of this act, and shall keep full and complete records of all business transacted by him in the administration of such funds. He may employ such deputies and assistants and clerical help as may be necessary, and as the board of State auditors may authorize, for the proper administration of said funds and the performance of the duties imposed upon him by the provisions of this act, at such compensation as may be fixed by said board of State auditors, and may also remove them. The commissioner of insurance and such deputies and assistants shall be entitled to receive from the State their actual and necessary expenses while traveling on the business of the board, but all such salaries and expenses so authorized by the provisions of this act shall, when audited and approved by the board of State auditors, be charged to and paid out of said accident fund. He shall include in his annual report a full and correct statement of the administration of such fund, showing its financial status and outstanding obligations, the claims, and the amount paid on each claim, claims not paid, claims contested and why, and general statistics in respect to all business transacted by him under the provisions of this act.

Receipts, expenditures, etc.

SEC. 10 (as amended by Act No. 79, Acts of 1913). All payments on account of injuries to employees from said accident fund shall be made only upon the certificate of the commissioner of insurance, which certificate shall be in accordance with the agreement for compensation as approved by the industrial accident board; such certificate shall be filed with the auditor general, who shall thereupon draw his warrant on the State treasurer against said accident fund. If at any time there shall not be sufficient money in said fund wherewith to pay the same, the employer on account of whose workmen it was that such warrant was drawn, shall pay the same, and he shall be credited upon his next following contribution to such fund the amount so paid, with interest thereon at the legal rate, from the date of such payment to the date such next following contribution becomes payable, and if the amount of the credit shall exceed the amount of the contribution, he shall be repaid such excess.

Payments made, how.

SEC. 11. If this act shall be thereafter repealed, all moneys which are in the accident fund at the time of such repeal shall be subject to disposition under the direction of the circuit court for the county of Ingham, with due regard, however, to the obligation incurred and existing to pay compensation under the provisions of this act.

Return of premiums.

PART VI.

MISCELLANEOUS PROVISIONS.

SECTION 1. If the employee, or his dependents, in case of his death, of any employer subject to the provisions of this act files any claim with, or accepts any payment from such employer, or any insurance company carrying such risks, or from the commissioner of insurance on account of personal injury, or makes any agreement, or submits any question to arbitration under this act, such action shall constitute a release to such employer of all claims or demands at law, if any, arising from such injury.

Acceptance of benefits.

SEC. 2. If the provisions of this act relating to compensation for injuries to or death of workmen shall be repealed or adjudged invalid or unconstitutional, the period intervening between the occurrence of an injury or death and such repeal, or the final adjudication of invalidity, shall not be computed as a part of the time limited by law for the commencement of any action relating to such injury or death, but the amount of any compensation which may have been paid for any such injury shall be deducted from any judgment for damages recovered on account of such injury.

Effect of litigation.

SEC. 3. This act shall not affect any cause of action existing or pending before it went into effect.

Prior causes of action.

- Relation to Federal statutes. SEC. 4. The provisions of this act shall apply to employers and workmen engaged in intrastate commerce, and also to those engaged in interstate or foreign commerce, for whom a rule of liability or method of compensation has been or may be established by the Congress of the United States, only to the extent that their mutual connection with intrastate work may and shall be clearly separable and distinguishable from interstate or foreign commerce, except that any such employer and any of his workmen working only in this State, may, subject to the approval of the industrial accident board, and so far as not forbidden by any act of Congress, voluntarily accept and become bound by the provisions of this act in like manner and with the same force and effect in all respects as is hereinbefore provided for other employers and their workmen.
- Repeal. SEC. 5. All acts or parts of acts inconsistent with this act are to be deemed replaced by this act, and to that end are hereby repealed.
- Part 5 separate. SEC. 6. The legislature intends that part five of this act shall be deemed separate from the other parts thereof, so that if said part five should fail or be adjudged invalid or unconstitutional it shall in no way affect any other part of this act.
- Appropriation. SEC. 7 (as amended by Act No. 259, Acts of 1913). To carry out the provisions of this act there is hereby appropriated for the expenses of the industrial accident board for the fiscal year ending June thirtieth, nineteen hundred fourteen and annually thereafter, the sum of forty thousand dollars. The auditor general shall add to and incorporate into the State tax the sum of forty thousand dollars annually, which said sum shall be included in the State taxes apportioned by the auditor general on all taxable property of the State, to be levied, assessed and collected at other State taxes, and when so assessed and collected to be paid into the general fund to reimburse said fund for the appropriation made by this act.
- Act in effect. SEC. 8. The provisions of this act shall take effect and be in force from and after September first, nineteen hundred twelve.
- Approved March 20, 1912.

## MINNESOTA.

### ACTS OF 1913.

#### CHAPTER 467.—*Employers' liability—Compensation of workmen for injuries.*

#### PART 1.

#### EMPLOYERS' LIABILITY.

- Damages. SECTION 1. When personal injury or death is caused to an employee by accident arising out of and in the course of his employment, of which injury the actual or lawfully imputed negligence of the employer is the natural and proximate cause, he, or, in case of death, his personal representative, for the exclusive benefit of the surviving spouse and next of kin, shall receive compensation by way of damages therefor from his employer, provided the employee was himself not willfully negligent at the time of receiving such injury; and the question of whether the employee was willfully negligent shall be one of fact to be submitted to the jury, subject to the usual powers of the court over verdicts rendered contrary to the evidence, or to law.
- Questions of negligence. SEC. 2. In all cases brought under Part 1 of this act it shall not be a defense (a) that the employee was negligent, unless and except it shall also appear that such negligence was willful; (b) that the injury was caused by the negligence of a fellow employee; (c) that the employee had assumed the risks inherent in, or incidental to the work, or arising out of and in the course of his employment from the failure of the employer to provide and maintain safe premises and suitable appliances, which grounds of defense are hereby abolished except as provided in section 4.
- Defenses abrogated.

SEC. 3. If the employer elects not to come under Part 2 of this act, he loses the right to interpose the three defenses named in section 2 in any action brought against him for personal injury or death of an employee. Where abrogation operates.

SEC. 4. If the employer becomes subject to Part 2 of this act and the employee does not, then the employer may set up such defenses as are available at the time of the passage of this act. When defenses are allowed.

SEC. 5. The provisions of sections one, two, three and four shall apply to any claim for the death of an employee arising under section 4503 of chapter 84, Revised Laws of Minnesota 1905, and the acts or parts of acts amendatory thereof, concerning death by wrongful act. Death by wrongful act.

SEC. 6. In all actions at law brought pursuant to Part 1 of this act, the burden of proof to establish willful negligence of the injured employee shall be upon the defendant. Burden of proof.

SEC. 7. No claim for legal services or disbursements pertaining to any demand made or suit brought under the provisions of this act shall be an enforceable lien against the amount paid as compensation, or be valid or binding in any other respect, unless the same be approved in writing by the judge presiding at the trial, or in case of settlement without trial, by a judge of the district court: *Provided*, That if notice in writing be given the defendant, of such claim for legal services or disbursements, the same shall be a lien against the amount paid as compensation, subject to determination of the amount and approval hereinbefore provided. All sums allowed as liens against such compensation or paid for legal, medical and hospital services and other disbursements, shall be reported by the employee to the labor commissioner with terms of settlement as provided in section 24 of this act. Legal fees not a lien.

PART 2.

ELECTIVE COMPENSATION.

SEC. 8. This act shall not be construed or held to apply to any employer acting as a common carrier when engaged in interstate or foreign commerce by railroad, which employer by reason of being engaged in interstate or foreign commerce by railroad, is not subject exclusively to the legislative power of the State of Minnesota, or for which employer and the employees thereof, a rule of liability or method of compensation has been, or may be established by the Congress of the United States; nor shall it apply to any employee of such common carrier injured or killed while so engaged. Nor shall the provisions of this act apply to actions or proceedings to recover damages or compensation for personal injuries sustained by domestic servants, farm laborers, or persons whose employment at the time of the injury is but casual and not in the usual course of the trade, business, profession or occupation of his employer. Interstate commerce.

Whenever an employee of a common carrier, engaged in interstate or foreign commerce by railroad shall sustain personal injury by accident, arising out of, and in the course of his employment, resulting in his disability or death, it shall be presumed prima facie that such employee was, at the time of the accident, engaged in such commerce.

SEC. 9. If both employer and employee, shall, by agreement express or implied, or otherwise, as herein provided, become subject to Part 2 of this act, compensation according to the schedules hereinafter contained shall be paid by every such employer, in every case of personal injury or death of his employee, caused by accident, arising out of and in the course of employment, without regard to the question of negligence, except accidents which are intentionally self inflicted or when the intoxication of such employee is the natural or proximate cause of the injury, and the burden of proof of such fact shall be upon the employer. Compensation payable, when.

SEC. 10. Such agreement or the election hereinafter provided for shall be a surrender by the parties thereto of their rights to any other method, form or amount of compensation or determination thereof than as provided in Part 2 of this act, and an acceptance of all the provisions of Part 2 of this act, and shall bind the employee himself, and for compensation for his death shall bind his personal representative, the surviving spouse and next of kin, as well as the employer, and those Method to be exclusive.

Presumption  
as to contracts.

conducting his business during bankruptcy or insolvency, for compensation for death or injury, as provided for by Part 2 of this act.

SEC. 11. All contracts of employment made after the taking effect of this act shall be presumed to have been made with reference, and subject to the provisions of Part 2, unless otherwise expressly stated in the contract, in writing, or unless written or printed notice has been given by either party to the other, as hereinafter provided, that he does not accept the provisions of Part 2. Every employer and every employee is presumed to have accepted and come under Part 2 hereof, unless thirty (30) days prior to accident, he shall have signified his election not to accept or be bound by the provisions of Part 2. This election not to accept Part 2 shall be by notice as follows:

The employer shall post and keep posted in his shop or place of business a written or printed notice of his election not to be bound by Part 2 hereof and file a duplicate thereof with the labor commissioner.

The employee shall give written or printed notice to the employer of his election not to be bound by Part 2, and file a duplicate with proof of service attached thereto with the labor commissioner.

Termination of  
agreement.

SEC. 12. Either party may terminate his acceptance, or his election not to accept of the provisions of Part 2 by thirty (30) days' written notice to the other. A duplicate of such notice with proof of service attached thereto shall be filed with the labor commissioner and the time shall not begin to run until the notice is so filed:

*Provided, however,* That during the thirty (30) days immediately succeeding the taking effect of this act, notice of election not to accept the provisions of Part 2 may be given by either party to the other as above provided, and shall be immediately effective as a notice of election, upon filing duplicate thereof with the labor commissioner.

Compensation  
for—  
Temporary dis-  
ability;

SEC. 13. Following is the schedule of compensation: (a) For injury producing temporary total disability, fifty per centum of the wages received at the time of injury, subject to a maximum compensation of ten dollars (\$10.00) per week and a minimum of six dollars (\$6.00) per week: *Provided,* That if at the time of injury the employee receives wages of less than six dollars (\$6.00) per week, then he shall receive the full amount of such wages per week. This compensation shall be paid during the period of such disability, not, however, beyond three hundred weeks. Payments to be made at the intervals when the wage was payable, as nearly as may be.

Partial disabili-  
ty;

(b) In all cases of temporary partial disability the compensation shall be fifty per cent of the difference between the wage of the workman at the time of the injury, and the wage he is able to earn in his partially disabled condition. This compensation shall be paid during the period of such disability, not however beyond three hundred weeks, payment to be made at the intervals when the wage was payable as nearly as may be and subject to the same maximum and minimum as stated in (a).

(c) For permanent partial disability, the compensation shall be based upon the extent of such disability. In cases included by the following schedule the compensation shall be that named in the schedule, to wit:

For the loss of a thumb, fifty per centum of daily wages during sixty (60) weeks.

For the loss of a first finger, commonly called index finger, fifty per centum of daily wages during thirty-five (35) weeks.

For the loss of a second finger, fifty per centum of daily wages during thirty (30) weeks.

For the loss of a third finger, fifty per centum of daily wages during twenty (20) weeks.

For the loss of a fourth finger, commonly called little finger, fifty per centum of daily wages during fifteen weeks.

The loss of the first phalange of the thumb, or of any finger, shall be considered equal to the loss of one-half of such thumb, or finger, and compensation shall be one-half the amounts specified above for such thumb or finger.

The loss of more than one phalange shall be considered as the loss of the entire finger or thumb; providing, however, that in no case shall the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand.

For the loss of a great toe, fifty per centum of daily wages during thirty (30) weeks.

For the loss of one of the toes other than a great toe, fifty per centum of daily wages during ten (10) weeks.

The loss of the first phalange of any toe shall be considered to be equal to the loss of one-half of such toe, and compensation shall be one-half of the amount above specified.

The loss of more than one phalange shall be considered as the loss of the entire toe.

For the loss of a hand, fifty per centum of daily wages during one hundred and fifty (150) weeks.

For the loss of an arm, fifty per centum of daily wages during two hundred (200) weeks.

For the loss of a foot, fifty per centum of daily wages during one hundred and twenty-five (125) weeks.

For the loss of a leg, fifty per centum of daily wages during one hundred and seventy-five (175) weeks.

For the loss of an eye, fifty per centum of daily wages during one hundred (100) weeks.

In all other cases of permanent partial disability, not above enumerated, the compensation shall be fifty per centum of the difference between the wage of the workman at the time of the injury and the wage he is able to earn in his partially disabled condition. Compensation shall continue during disability, not however, beyond three hundred (300) weeks.

In all cases of permanent partial disability within the foregoing schedule, it shall be considered that the permanent loss of the use of a member shall be equivalent to and draw the same compensation as the loss of that member; but the compensation in and by said schedule provided, shall be in lieu of all other compensation in such cases.

Should the employer and employee be unable to agree upon the amount of compensation to be paid, the amount of compensation shall be determined according to the provisions of section 30 hereof.

The compensations provided in clause (c) are all subject to the same limitations as to maximum and minimum as are stated in clause (a).

(d) For permanent total disability, fifty per centum of the wages received at the time of injury, subject to a maximum compensation of ten dollars (\$10.00) per week and a minimum of six dollars (\$6.00) per week; provided, that if at the time of injury the employee receives wages of less than six dollars (\$6.00) per week, then he shall receive the full amount of wages per week. This compensation shall be paid during the period of such disability, not, however, beyond four hundred (400) weeks; payment to be made at the intervals when the wage was payable, as nearly as may be.

Permanent total disability.

(e) The loss of both hands, or both arms, or both feet, or both legs, or both eyes, or of any two thereof, or a total loss of mental faculties, or complete paralysis of both legs or both arms, shall constitute permanent total disability.

(f) In case death occurs to a workman during the period of disability, caused by an injury due to accident, and arising out of and in the course of his employment, all payments previously made as compensation for such injury, shall be deducted from the compensation, if any, due on account of death.

Death of employee receiving compensation.

SEC. 14. (1) Wife and children presumed wholly dependent. For the purposes of this act, the following described persons, viz: Wife, minor children under the age of eighteen years, or those over that age who are physically or mentally incapacitated from earning, shall be presumed to be wholly dependent.

Dependents.

(2) Actual dependents.—Any dependents named in subdivision 1; also husband, mother, father, grandmother, grandfather, sisters and brothers who were wholly supported by the deceased workman at the time of his death and for a reasonable period of time immediately prior thereto shall be considered his actual dependents, and payment of compensation shall be made to them in the order named.

(3) Partial dependents.—Any dependents named in subdivision 2, who regularly derived part of their support from the wages of the deceased workman at the time of his death and for a reasonable period of time immediately prior thereto shall be considered his partial depend-

ents, and payment of compensation shall be made to them in the order named.

**Death benefits.** (4) In death cases, compensation payable to dependents shall be distributed according to the laws of Minnesota, providing for distribution of the personal property of an intestate decedent, except as herein otherwise provided, and shall be computed and paid on the following basis:

**Amounts.** (5) If the deceased employee leave a widow and no dependent child, there shall be paid to the widow, thirty-five per centum of the monthly wages of deceased.

(6) If the deceased employee leave a widow and one dependent child, there shall be paid to the widow for the benefit of herself and such child, forty per centum of the monthly wages of deceased.

(7) If the deceased employee leave a widow and either two or three dependent children, there shall be paid to the widow for the benefit of herself and such children, fifty per centum of the monthly wages of deceased.

(8) If the deceased employee leave a widow and four or more dependent children, there shall be paid to the widow for the benefit of herself and such children, sixty per centum of the monthly wages of the deceased.

(9) In case of remarriage of a widow without children, she shall receive a lump sum settlement equal to one-half of the amount of the compensation remaining unpaid. In case of remarriage of a widow who has dependent children, the unpaid balance of compensation which would otherwise become due to her, shall be paid to such children.

(10) If the deceased employee leave a dependent orphan, there shall be paid forty per centum of the monthly wages of deceased, with ten per centum additional for each orphan in excess of two, with a maximum of sixty per centum of such wages.

(11) If the deceased employee leave a dependent husband and no dependent child, there shall be paid to the husband twenty-five per centum of the monthly wages of deceased.

(12) If the deceased employee leave no widow or children or husband entitled to any payment hereunder, but should leave a parent or parents, either or both of whom are wholly dependent on the deceased, there shall be paid, if only one parent, twenty-five per centum of the monthly wages of the deceased, and if both parents, thirty-five per centum of the monthly wages of the deceased to such parent or parents.

(13) If the deceased leave no widow or dependent child or husband or parent entitled to any payment hereunder, but leaves a brother, sister or grandparent wholly dependent on him for support, there shall be paid to such dependent relative, if but one, twenty-five per centum of the monthly wages of the deceased, or if more than one thirty per centum of the monthly wages of the deceased, divided between or among them share and share alike.

(14) If compensation is being paid under Part 2 of this act to any dependent, such compensation shall cease upon the death or marriage of such dependent, unless otherwise provided herein.

(15) Partial dependents.—Partial dependents shall be entitled to receive only that proportion of the benefits provided for actual dependents which the average amount of the wages regularly contributed by the deceased to such partial dependent at, and for a reasonable time immediately prior to the injury, bore to the total wage of the deceased, during the same time.

(16) No dependents.—Expense of last sickness and burial not exceeding one hundred dollars (\$100.00), in addition to the medical and hospital services and expenses provided by section 18.

(17) Death compensation.—The compensation in case of death shall be subject to a maximum compensation of ten dollars (\$10.00) per week and a minimum of six dollars (\$6.00) per week: *Provided*, That if at the time of injury the employee receives wages of less than six dollars (\$6.00) per week, then the compensation shall be the full amount of such wages per week. This compensation shall be paid during dependency not exceeding three hundred (300) weeks. Payments to be made at the intervals when the wage was payable, as nearly as may be.

(18) In computing and paying compensation to orphans or other children, in all cases, only those under eighteen years of age, or those over eighteen years of age who are physically or mentally incapacitated from earning, shall be included; the former to receive compensation only during the time they are under eighteen, the latter only for the time they are so incapacitated, within the period of three hundred (300) weeks.

SEC. 15. If an employee receive an injury, which, of itself, would only cause permanent partial disability, but which, combined with a previous disability, does in fact cause permanent total disability, the employer shall only be liable for the permanent partial disability caused by the subsequent injury. Subsequent injuries.

SEC. 16. In case any employee for whose injury or death compensation is payable under Part 2 of this act shall, at the time of the injury, be employed and paid jointly by two or more employers subject to this act, such employers shall contribute the payment of such compensation in the proportion of their several wage liability to such employee. If one or more but not all of such employers should be subject to Part 2 of this act, and otherwise subject to liability for compensation hereunder, then the liability of such of them as are so subject, shall be to pay the proportion of the entire compensation which their proportionate wage liability bears to the entire wages of the employee: *Provided, however,* That nothing in this section shall prevent any arrangement between such employers for a different distribution, as between themselves, of the ultimate burden of such compensation. Joint employ-  
ers.

SEC. 17. No compensation shall be allowed for the first two weeks after injury received, except as provided by section 18, nor in any case unless the employer has actual knowledge of the injury or is notified thereof within the period specified in section 19. Waiting time.

SEC. 18. Such medical and surgical treatment, medicine, medical and surgical supplies, crutches and apparatus as may be reasonably required at the time of the injury and thereafter during the disability, but not exceeding ninety (90) days, to cure and relieve from the effects of the injury, the same to be provided by the employer and in case of his inability or refusal seasonably to do so, the employer to be liable for the reasonable expense incurred by or on behalf of the employee in providing the same: *Provided, however,* That the total liability under this section shall not exceed the sum of one hundred dollars (\$100.00) in value; except that the court may, during said period of ninety (90) days, upon necessity being shown therefor, require the employer to furnish such additional medical, surgical and hospital treatment and supplies as may be reasonable, which, together with any such sums or relief theretofore furnished shall not exceed in all two hundred dollars (\$200.00) in value. Medical, etc.,  
services.

SEC. 19. Unless the employer shall have actual knowledge of the occurrence of the injury, or unless the injured workman, or a dependent, or some one in behalf of either, shall give notice thereof to the employer in writing, within fourteen (14) days after the occurrence of the injury, then no compensation shall be due until such notice is given or knowledge obtained. If the notice is given, or knowledge obtained within thirty (30) days from the occurrence of the injury, no want, failure, or inaccuracy of a notice shall be a bar to obtaining compensation, unless the employer shall show that he was prejudiced by such want, defect or inaccuracy, and then only to the extent of such prejudice. If the notice is given, or the knowledge obtained within ninety (90) days, and if the employee, or other beneficiary, shall show that his failure to give prior notice was due to his mistake, inadvertence, ignorance of fact or law, or inability, or to the fraud, misrepresentation or deceit of the employer or his agent, then compensation may be allowed, unless the employer shall show that he was prejudiced by failure to receive such notice, in which case the amount of compensation shall be reduced by such sum as shall fairly represent the prejudice shown. Unless knowledge be obtained or notice given, within ninety (90) days after the occurrence of the injury, no compensation shall be allowed. Notice.

SEC. 20. The notice referred to in section 19 may be served personally upon the employer, or upon any agent of the employer upon Service of notice.



whom a summons may be served in a civil action, or by sending it by registered mail to the employer at the last known residence or business place thereof within the State, and shall be substantially in the following form:

## NOTICE.

"You are hereby notified that an injury was received by (Name) \_\_\_\_\_, who was in your employ at (Place) \_\_\_\_\_, while engaged as (kind of work) \_\_\_\_\_ on or about the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and who is now located at (give town, street and number) \_\_\_\_\_ that so far as now known, the nature of the injury was \_\_\_\_\_ and that compensation may be claimed therefor.

(Signed) \_\_\_\_\_,  
(Giving address).

Dated \_\_\_\_\_, 19\_\_\_\_."

But no variation from this form shall be material if the notice is sufficient to advise the employer that a certain employee, by name, received a specified injury in the course of his employment on or about a specified time, at or near a certain place specified.

Medical examinations.

SEC. 21. (1) The injured employee must submit himself to examination by employer's physician, if requested by the employer, and at reasonable times thereafter upon employer's request. The employee shall be entitled upon request to have his own physician present at any such examination. Each party shall defray the cost of his own physician.

(2) Medical examination by neutral physician.—In case of dispute as to the injury, the court may, of its own motion, or upon request of any interested party, appoint a neutral physician of good standing and ability to make an examination of the injured person, and report his findings to the court. The expense of such examination shall be borne by the said parties.

(3) If the injured employee refuses to comply with any reasonable request for examination, his right to compensation shall be suspended and no compensation shall be paid while he continues in such refusal.

(4) Autopsy.—In all death claims where the cause of death is obscure or disputed, any interested party may require an autopsy; the cost of such autopsy shall be borne by the party demanding the same.

Settlements.

SEC. 22. (1) The interested parties shall have the right to settle all matters of compensation between themselves. But all settlements shall be substantially in accordance with the provisions of sections 13 and 14 of this act, and shall be approved by a judge of the district court. When so approved such settlements shall be filed with the clerk of the district court and in case of default by the employer in the payment of any compensation determined or agreed upon and the continuation of such default for the period of thirty (30) days after payment is due and payable, the employee may upon five (5) days' notice in writing to the employer of his intention to apply to the court for judgment, cause judgment to be entered on such settlement or determination for all compensation due and payable and unpaid; and such judgment shall have the same force and effect, and may be satisfied as other judgments of the same court.

Reference to court.

(2) In case of a dispute over, or failure to agree upon a claim for compensation between employer and employee, or the dependents of the employee, either party may submit the claim, both as to questions of fact, the nature and effect of the injuries, and the amount of compensation therefor according to the schedule herein provided, to the judge of the district court of the county which would have jurisdiction in a civil case, or, where there is more than one judge of said court, then to either or any of said judges of such court; which judge is hereby authorized to hear and determine such disputes in a summary manner, and his decision as to all questions of fact shall be conclusive and binding, subject to the right of appeal as hereinafter provided.

Nonresident aliens.

SEC. 23. In case a deceased employee entitled to compensation is an alien, who leaves surviving him a wife or other dependent residing outside of the United States, the said judge shall by order, in case no other personal representative of the deceased shall have been appointed by the probate court, direct payment to be made to the duly accredited consular officer of the foreign country of which the deceased was a citi-

zen, if such consular officer resides in the State of Minnesota, upon like terms as to bond for the proper application of the compensation coming to the deceased, as are required of administrators. But in either case such representatives shall, when so appointed and at reasonable times thereafter, upon request of the employer, furnish to the employer a sworn statement containing a list of the dependents with the names, age, residence and relationship of each dependent to the deceased.

Sec. 24. Copies of all settlements and releases shall be filed by the employer with the labor commissioner within ten (10) days after such settlements are made, and shall become part of the permanent records of that department. Record of settlements.

Sec. 24A. The labor commissioner upon demand of an employee in this State, shall advise such employee of his rights under this act and shall assist, so far as possible, in adjusting differences between employee and employer under Part 2 thereof. He shall observe in detail the operation of the act throughout the State and shall make report thereof to each session of the legislature, together with such suggestions and recommendations as to changes as he may deem necessary or advisable for the improvement thereof. Labor commissioner.

Sec. 25. The amounts of compensation payable periodically hereunder, either by agreement of the parties, so approved by the court, or by decision of the court, may be commuted to one or more lump sum payments, except compensation due for death or permanent total disability, or for permanent partial disability resulting from the loss of an arm or a hand or a foot or a leg or an eye. These may be so commuted only with the consent of the district court. Lump sums.

Sec. 26. All settlements of compensation by agreement of the parties, and all awards of compensation made by the court, where the amount paid or to be paid in settlement or by award, does not exceed the compensation for six months' disability, shall be final and not subject to readjustment. What settlements final.

Sec. 27. All amounts paid by employer and received by the employee or his dependents, by lump sum payment, shall be final; but the amount of any award payable periodically for more than six (6) months may be modified as follows: Reviews.

(a) At any time by agreement of the parties and approved by the court.

(b) If the parties can not agree, then at any time after six (6) months from the date of the award an application may be made to the court by either party on the ground of increase or decrease of incapacity due solely to the injury. In such case the same procedure shall be followed as in section 30 in case of disputed claim for compensation.

Sec. 28. At any time after the amount of any award has been agreed upon by the parties, or found and ordered by the court, a sum equal to the present value of all future installments of compensation calculated on a six per cent basis, may (where death or the nature of the injury renders the amount of future payments certain) by leave of court, be paid by the employer to any savings bank or trust company of this State to be approved and designated by the court, and such sum, together with all interest thereon, shall, thereafter be held in trust for the employee or the dependents of the employee, who shall have no further recourse against the employer. The payment of such sum by the employer, evidenced by the receipts in duplicate of the trustee one of which shall be filed with the labor commissioner, and the other filed with the clerk of the district court, shall operate as a satisfaction of said award as to the employer. Payments from said fund shall be made by the trustee in the same amounts and at the same time as are herein required of the employer until said fund and interest shall be exhausted. In the appointment of the trustee, preference shall be given, in the discretion of the court, to the choice of the injured employee or the dependents of the deceased employee, as the case may be. Payments to trustees.

Sec. 29. The right to compensation and all compensation awarded any injured employee or for death claims to his dependents, shall have the same preference against the assets of the employer as other unpaid wages for labor; but such compensation shall not become a lien on the property of third persons by reason of such preference. Compensation payments preferred.

Claims for compensation owned by an injured employee or his dependents, shall not be assignable and shall be exempt from seizure or sale for the payment of any debt or liability.

**Disputes.**

SEC. 30. Procedure in case of dispute shall be as follows: Either party may present a verified complaint to said judge setting forth the names and residences of the parties and the facts relating to employment at the time of injury, the injury in its extent and character, the amount of wages being received at the time of injury, the knowledge of the employer or notice of the occurrence of said injury, and such other facts as may be necessary and proper for the information of the said judge, and shall state the matter or matters in dispute and the contention of the petitioner with reference thereto.

Upon the presentation of such complaint, it shall be filed with the clerk of the district court of the proper county, and the judge shall fix by order a time and place for the hearing thereof, not less than three (3) weeks after the date of the filing of said complaint. A copy of said complaint and order shall be served as summons in a civil action upon the adverse party within four (4) days after filing the complaint. Within seven (7) days after the service of such complaint the adverse party shall file and answer to said complaint, which shall admit or deny the substantial averments of the complaint, and shall state the contention of the defendant with reference to the matter in dispute as disclosed by the complaint. The answer shall be verified in like manner as required for a complaint.

At the time fixed for hearing, or any adjournment thereof the said judge shall hear such witnesses as may be presented by each party, and in a summary manner decide the merits of the controversy. This determination shall be filed in writing with the clerk of the said court, and judgment shall be entered thereon in the same manner as in causes tried in the said district court, and shall contain a statement of facts as determined by said judge. Subsequent proceedings thereon shall only be for the recovery of moneys thereby determined to be due, provided that nothing herein contained shall be construed as limiting the jurisdiction of the supreme court to review questions of law by certiorari. Costs may be awarded by said judge in his discretion, and when so awarded the same costs shall be allowed, taxed and collected as are allowed, taxed and collected for like services and proceedings in civil cases.

**Prior injuries.**

SEC. 31. Every right of action for death, by wrongful act or for injury by negligence, accruing to an injured employee prior to the taking effect of this act is continued and preserved under the existing law.

**Insurance of risks.**

SEC. 31A. Any employer who is responsible for compensation as provided in this act may insure the risk in any manner then authorized by law. But those writing such insurance shall in every case be subject to the conditions in this section hereinafter named.

If the risk of the employer is carried by any insurer doing business for profit, or by any insurance association or corporation formed of employers, or of employers and workmen, to insure the risks under this act, operating by the mutual assessment or other plan or otherwise, then insofar as policies are issued on such risks they shall provide for compensation for injuries or death according to the full benefits of Part 2 of this act.

**Provisions of policies.**

Such policies shall contain a clause to the effect that as between the workman and the insurer, that notice to and knowledge by the employer of the occurrence of the injury shall be deemed notice and knowledge on the part of the insurer; that jurisdiction of the employer for arbitration or other purposes shall be jurisdiction of the insurer, and that the insurer will in all things be bound by and subject to the awards rendered against such employer upon the risks so insured.

Such policies must provide that the workman shall have an equitable lien upon any amount which shall become owing on account of such policy to the employer from the insurer and in case of the legal incapacity or inability of the employer to receive the said amount and pay it over to the workman or dependents, the said insurer will pay the same direct to said workman or dependents, thereby discharging all obligations under the policy to the employer and all of the obligations of the employer and insurer to the workman; but such policies shall contain no provisions relieving the insurance company from payment when the

employer becomes insolvent or discharged in bankruptcy or otherwise during the period the policy is in force, if the compensation remains owing.

The insurer must be one authorized by law to conduct such business in the State of Minnesota, and authority is hereby granted to all insurance companies writing such insurance to include in their policies in addition to the requirements now provided by law the additional requirements, terms and conditions in this section provided. Insurance carriers.

It shall be lawful for the employer and the workman to agree to carry the risks covered by Part 2 of this act in conjunction with other and greater risks and providing other and greater benefits such as additional compensation, accident, sickness or old age insurance or benefits, and the fact that such plan involved a contribution by the workman shall not prevent its validity if the employer pays not less than the cost of the insurance of the risks otherwise covered by Part 2 of this act, and workman gets the whole of the additional compensation or benefits. Cooperative schemes.

If the employer shall insure to his employees the payment of the compensations provided by Part 2 of this act, in a corporation or association authorized to do business in the State of Minnesota and approved by the insurance commissioner of the State of Minnesota, and if the employer shall post a notice or notices in a conspicuous place or in conspicuous places about his place of employment, stating that he is so insured and stating by whom insured, and if the employer shall further file copy of such notice with the labor commissioner of the State of Minnesota, then, and in such case, any suits or actions brought by an injured employee or his dependents shall be brought directly against the insurer, and the employer or insured shall be released from any further liability. Direct liability.

*Provided*, That in case of insolvency or bankruptcy of such insurance company the employer shall not be released from liability under the provisions of this act.

The return of any execution upon any judgment of an employee against any such insurance company unsatisfied in whole or in part, shall be conclusive evidence of the insolvency of such insurance company and in case of the adjudication of bankruptcy or insolvency of any such insurance company by any court of competent jurisdiction, proceedings may be brought by the employee against the employer in the first instance or against such employer and insurance company jointly or severally or in any pending proceeding against any insurance company, the employer may be joined at any time after such adjudication.

SEC. 32. (1) Any person who creates or carries into operation any fraudulent scheme, artifice or device to enable him to execute work without himself being responsible to the workman for the provisions of this act, shall himself be included in the term "employer," and be subject to all the liabilities of employers under this act. But this section shall not be construed to cover or mean an owner who lets a contract to a contractor in good faith, nor a contractor who, in good faith, lets to a subcontractor a portion of his contract: *Provided, however*, That no person shall be deemed a contractor or subcontractor, so as to make him liable to pay compensation within the meaning of this section, who performs his work upon the employer's premises and with the employer's tools or appliances and under the employer's direction; nor one who does what is commonly known as "piecework," or in any way where the system of employment used merely provides a method of fixing the workman's wages. Avoiding responsibility employer. re-as

(2) Where compensation is claimed from, or proceedings taken against a person under subdivision one of this section, the compensation shall be calculated with reference to the wage the workman was receiving from the person by whom he was immediately employed at the time of the injury. Basis for compensation.

(3) The employer shall not be liable or required to pay compensation for injuries due to the acts or omissions of third persons not at the time in the service of the employer, nor engaged in the work in which the injury occurs, except as provided in section 33, or under the conditions set forth in section 34(i). Injuries caused by third persons.

SEC. 33. (1) Where an injury or death for which compensation is payable under Part 2 of this act is caused under circumstances also creating a legal liability for damages on the part of any party other than the employer, such party also being subject to the provisions of Part 2 Alternative proceedings.

of this act, the employee in case of injury or his dependents in case of death, may, at his or their option, proceed either at law against such party to recover damages, or against the employer for compensation under Part 2 of this act, but not against both.

If the employee in case of injury, or his dependents in case of death, shall bring an action for the recovery of damages against such party other than the employer, the amount thereof, manner in which and the persons to whom the same are payable, shall be as provided for in Part 2 of this act and not otherwise: *Provided*, That in no case shall such party be liable to any person other than the employee or his dependents for any damages growing out of or resulting from such injury or death.

Subrogation of  
employer.

If the employee or his dependents shall elect to receive compensation from the employer, then the latter shall be subrogated to the right of the employee or his dependents to recover against such other party, and may bring legal proceedings against such party and recover the aggregate amount of compensation payable by him to such employee, or his dependents hereunder, together with the costs and disbursements of such action and reasonable attorney's fees expended by him therein.

Suits against  
third persons.

(2) Where the injury or death for which compensation is payable under Part 2 of this act was caused under circumstances also creating a legal liability for damages on the part of any party other than the employer, such party not being subject to the provisions of Part 2 of this act, legal proceedings may be taken by the employee or dependents against such other party to recover damages, notwithstanding the payment by the employer, or his liability to pay compensation hereunder. But in such case, if the action against such other party is brought by the injured employee or in case of his death by his dependents, and judgment is obtained and paid, or settlement is made with such other party, either with or without suit, the employer shall be entitled to deduct from the compensation payable by him, the amount actually received by such employee or dependents: *Provided*, That if the injured employee or in case of his death his dependents shall agree to receive compensation from the employer or shall institute proceedings to recover the same, or accept from the employer any payment on account of such compensation, such employer shall be subrogated to all the rights of such employee or dependents and may maintain, or in case an action has already been instituted, may continue the action either in the name of the employee or dependents, or in his own name against such other party for the recovery of damages, but such employer shall nevertheless pay over to the injured employee or dependents all sums collected from such other party by judgment or otherwise in excess of the amount of such compensation payable by the employer under Part 2 of this act, and costs, attorney's fees, and reasonable expenses incurred by such employer in making such collection or enforcing such liability: *Provided*, That in no case shall such party be liable to any person other than the employee or his dependents for any damages growing out of or resulting from such injury or death.

Definitions.

SEC. 34. Throughout this act the following words and phrases as used therein shall be considered to have the following meaning respectively, unless the context shall clearly indicate a different meaning in the connection used.

(a) The word "compensation" has been used both in Part 1 and Part 2 of this act to indicate the money benefit to be paid on account of injury or death. Strictly speaking, the benefit which an employee may receive by action at law under Part 1 of this act is damages, and this is indicated in section 1. To avoid confusion, the word "compensation" has been used in both parts of the act, but it should be understood that under Part 1 the compensation by way of damages is determined by an action at law.

(b) "Child" or "children" shall include posthumous children and all other children entitled by law to inherit as children of the deceased.

(c) A dependent child or orphan shall be considered to mean an unmarried child under the age of eighteen years or one over that age, who is physically or mentally incapacitated from earning.

(d) The term "employer" as used herein shall mean every person not excluded by section 8, who employs another to perform a service for hire, and to whom the "employer" directly pays wages, and shall include any person or corporation, copartnership, or association or

group thereof, and shall include county, village, town, city, school district and other public employers, except the State.

(e) The term "physician" shall include "surgeon," and in either case shall mean one authorized by law to practice his profession within one of the United States and in good standing in his profession at the time.

(f) The term "workman" shall include the plural and all ages and both sexes.

(g) The terms "employee" and "workman" are used interchangeably and have the same meaning throughout this act, and shall be construed to mean:

(1) Every person in the service of a county, city, town, village or school district therein, under any appointment or contract of hire, express or implied, oral or written; but shall not include any official of any county, city, town, village or school district therein, who shall have been elected or appointed for a regular term of office, or to complete the unexpired portion of any regular term.

(2) Every person, not excluded by section 8, in the service of another under any contract of hire, express or implied, oral or written, including aliens and also including minors who are legally permitted to work under the laws of the State, who for the purpose of making election of remedy under this act shall be construed the same, and have the same power of contracting and electing as adult employees.

(h) The word "accident" as used in the phrases "personal injuries due to accident" or "injuries or death caused by accident" in this act shall, unless a different meaning is clearly indicated by the context, be construed to mean an unexpected or unforeseen event, happening suddenly and violently, with or without human fault and producing at the time, injury to the physical structure of the body.

(i) Personal injuries, etc.—Without otherwise affecting either the meaning or interpretation of the abridged clause, "personal injuries arising out of and in the course of employment," it is hereby declared:

Not to cover workmen except while engaged in, on, or about the premises where their services are being performed, or where their service requires their presence as a part of such service at the time of the injury, and during the hours of service as such workmen, and shall not include an injury caused by the act of a third person or fellow employee intended to injure the employee because of reasons personal to him, and not directed against him as an employee, or because of his employment.

(j) Wherever in this act the singular is used, the plural shall be included; where the masculine gender is used, the feminine and neuter shall be included.

(k) Amputations.—Amputations between the elbow and the wrist shall be considered as the equivalent of the loss of a hand, and amputation between the knee and the ankle shall be considered as the equivalent of the loss of a foot.

(l) The labor commissioner, referred to in this act, shall denote the commissioner of labor of the State of Minnesota.

(m) "The court" as used herein shall mean the district court which would have jurisdiction in an ordinary civil case involving a claim for the injuries or death in question, and "the judge" shall mean a judge of said court.

(n) As to constitutionality.—In case for any reason any paragraph or any provision of this act shall be questioned in any court of last resort and shall be held by such court to be unconstitutional or invalid, the same shall not be held to affect any other paragraph or provision of this act, except that parts 1 and 2 are hereby declared to be inseparable, and if either part be declared void or inoperative in an essential part, so that the whole of such part must fall, the other part shall fall with it and not stand alone. Part 1 of this act shall not apply in cases where Part 2 becomes operative in accordance with the provisions thereof, but shall apply in all other cases, and in such cases shall be in extension or modification of the common law.

Questions of constitutionality.

Sec. 35. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

Repealer.

Sec. 36. This act shall take effect from and after the 1st day of October, A. D. 1913.

Act in effect.

Approved April 24, 1913.

## NEBRASKA.

## ACTS OF 1913.

CHAPTER 198.—*Employers' liability—Compensation of workmen for injuries.*

## PART I.

## EMPLOYERS' LIABILITY.

- Damages.** SECTION 1. When personal injury is caused to an employee by accident arising out of and in the course of his employment, of which the actual or lawful imputed negligence of the employer is the natural and proximate cause, he shall receive compensation therefor from his employer, provided the employee was himself not willfully negligent at the time of receiving such injury, and the question of whether the employee was willfully negligent shall be one of fact to be submitted to the jury, subject to the usual powers of the court over verdicts rendered contrary to the evidence, or to law.
- Questions of negligence.**
- Defenses abrogated.** SEC. 2. In all cases brought under Part I of this act it shall not be a defense (a) that the employee was negligent, unless and except it shall also appear that such negligence was willful, or that the employee was in a state of intoxication; (b) that the injury was caused by the negligence of a fellow employee; (c) that the employee had assumed the risks inherent in, or incidental to, or arising from the failure of the employer to provide and maintain safe premises and suitable appliances, which grounds of defense are hereby abolished, except as provided in section 4.
- When abrogation operates.** SEC. 3. If an employer subject to the provisions of this act as shown in section 6 elects not to come under Part II hereof, he loses the right to interpose the three defenses above stated in any action brought against him for personal injury or death of an employee.
- Defenses allowed, when.** SEC. 4. If an employer becomes subject to Part II of this act, and the employee does not, then the defenses existing under the laws for Nebraska, other than the provisions of this act, at the time of the personal injury or death of the employee shall be available to the employer in any action brought by the employee or his dependents for personal injury, or death.
- Death by wrongful act.** SEC. 5. The provisions of sections 1, 2, 3 and 4 shall apply to any claim for the death of any employee arising under chapter 21 of the Compiled Statutes of Nebraska, 1911, and the acts or parts of acts amendatory thereof, concerning death by wrongful act.
- To whom act applies.** SEC. 6. (1) The provisions of this act shall apply to the State of Nebraska and every governmental agency created by it, and every employer in this State employing five or more employees, in the regular trade, business, profession or vocation of such employer.
- Exemptions.** (2) The following are declared not to be hazardous occupations and not within the provisions of this act: employers of household domestic servants, employers of farm laborers and all employers employing less than five employees, in the regular trade, business, profession or vocation of such employer. Railroad companies engaged in interstate or foreign commerce are declared subject to the powers of Congress and not within the provisions of this act.
- Election by exempt persons.** (3) Any employer not included in the preceding paragraphs of this section and the employees of such employer may, by their joint election, filed with the insurance commissioner, accept the provisions of Part II of this act, and such acceptances shall subject them to the said provisions of Part II hereof to all intents and purposes as if they had been originally included in the terms of subdivision 2 of this section: *Provided, however,* That either such employer or workmen (prior to accident) shall have the right to waive such election to come under Part II hereof, the procedure being the same as indicated in subdivisions (a) and (b) of section 12.
- Burden of proof.** SEC. 7. In all actions at law brought pursuant to Part I of this act, burden of proof to establish willful negligence of the injured employee shall be on the defendant.

Sec. 8. No claim or agreement for legal services or disbursements in support of any demand made or suit brought under the provisions of this act shall be an enforceable lien against the amounts to be paid as damages or compensation or be valid or binding in any other respect, unless the same be approved in writing by the judge presiding at the trial, or in case of settlement without trial, by the judge of the district court of the district in which such issue arose. After such approval, if notice in writing be given the defendant of such claim or agreement for legal services and disbursements, the same shall be a lien against any amount thereafter to be paid as damages or compensation: *Provided, however,* That where the employee's compensation is payable by the employer in periodical installments, the court shall fix, at the time of approval, the proportion of each installment to be paid on account of legal services and disbursements.

Legal fees not a lien.

PART II.

ELECTIVE COMPENSATION.

SECTION 9. If both employer and employee become subject to Part II of this act, both shall be bound by the schedule of compensation herein, provided, which compensation shall be paid in every case of injury or death caused by accident arising out of and in the course of employment, except accidents caused by, or resulting in any degree from willful negligence, as hereinafter defined, of the employee.

Compensation payable, when.

Sec. 10. When employer and employee shall by agreement, express or implied, or otherwise as hereinafter provided, accept the provisions of Part II of this act, compensation shall be made for personal injuries to or for the death of such employee by accident arising out of and in the course of his employment, without regard to the negligence of the employer, according to the schedule hereinafter provided, in all cases except when the injury or death is caused by willful negligence on the part of the employee; and the burden of proof of such fact shall be upon the employer.

Same subject.

Sec. 11. Such agreement or the election hereinafter provided for shall be a surrender by the parties thereto of their rights to any other method, form or amount of compensation or determination thereof than as provided in Part II of this act, and an acceptance of all the provisions of Part II of this act, and shall bind the employee himself, and for compensation for his death shall bind his legal representatives, his widow and next of kin, as well as the employer and the legal representatives of a deceased employer, and those conducting the business of the employer during bankruptcy or insolvency.

Method to be exclusive.

Sec. 12. In the occupations described in section 6 hereof, and all contracts of employment made after the taking effect of this act shall be presumed to have been made with reference, and subject to the provisions of Part II hereof, unless otherwise expressly stated in the contract, or unless written or printed notice has been given by either party to the other, as hereinafter provided, that he does not accept the provisions of Part II. Every such employer and every employee is presumed to accept and come under Part II hereof, unless prior to accident he shall signify his election not to accept or be bound by the provisions of Part II. This election not to accept Part II shall be by notice as follows:

Presumption as to contracts.

(a) The employer shall post and thereafter keep continuously posted in a conspicuous place about the place or places where his workmen are employed a written or printed notice of his election not to be bound by Part II hereof, and shall file a duplicate thereof with the insurance commissioner.

Rejection—By employer;

(b) The employee shall give written or printed notice to the employer of his election not to be bound by Part II and shall file a duplicate with proof of service attached thereto with the insurance commissioner.

By employee.

Sec. 13. An employer who has given notice of his election not to accept or be bound by the provisions of Part II hereof, may waive such election at any time, by posting about the place or places where his workmen are employed a written or printed notice setting forth a

Waiving rejection.



withdrawal of his previous election not to be bound by the provisions of Part II. A duplicate of such notice with proof of such posting attached thereto shall be filed with the insurance commissioner. An employee who has given written or printed notice to his employer that he elects not to be subject to the provisions of Part II hereof, may waive such election at any time prior to the happening of an accident resulting in personal injuries to said employee, by a notice in writing directed to the employer and served upon the employer or his agent. A duplicate of such notice with proof of service attached thereto shall be filed with the insurance commissioner. The waivers referred to in the preceding paragraphs of this section shall not become effective until noon of the fifth day after filing the required notice with the insurance commissioner.

Who are em-  
ployers.

SEC. 14. The following shall constitute employers subject to the provisions of this act:

- (1) The State and every governmental agency created by it;
- (2) Every person, firm or corporation, including any public service corporation, who is engaged in any trade, occupation, business, or profession as described in section 6, and who has any person in service under any contract of hire, express or implied, oral or written, and who prior to the time of the accident to the employee for which compensation under this act may be claimed, shall not, in the manner provided in section 12, have elected not to become subject to the provisions of Part II of this act.

Employees.

SEC. 15. The terms "employee" and "workman" are used interchangeably and have the same meaning throughout this act; the said terms include the plural and all ages and both sexes, and shall be construed to mean:

(1) Every person in the service of the State or of any governmental agency created by it, under any appointment or contract of hire, express or implied, oral or written, but shall not include any official of the State, or of any governmental agency created by it, who shall have been elected or appointed for a regular term of office, or to complete the unexpired portion of any regular term.

(2) Every person in the service of any employer who is engaged in any trade, occupation, business or profession as described in section 6, under any contract of hire, express or implied, oral or written, including aliens and also including minors who are legally permitted to work under the laws of the State, who for the purposes of making election of remedies under this code shall have the same power of contracting and electing as adult employees.

(3) It shall not be construed to include any person whose employment is casual, or not for the purpose of gain or profit by the employer, or which is not in the usual course of the trade, business, profession, or occupation of his employer. The term "casual" shall be construed to mean "occasional; coming at certain times without regularity, in distinction from stated or regular."

(4) It shall not be construed to include any person to whom articles and materials are given to be made up, cleaned, washed, finished, repaired or adapted for sale in the worker's own home or on other premises not under the control or management of the employer, unless the employee is required to perform the work at a place designated by the employer.

Avoiding  
responsibility  
employer.

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as

SEC. 16. Any person, firm or corporation creating or carrying into operation any scheme, artifice or device to enable him, them or it to execute work without being responsible to the workmen for the provisions of this act, shall be included in the term "employer" and with the immediate employer shall be jointly and severally liable to pay the compensation herein provided for and be subject to all the provisions of this act. This section, however, shall not be so construed as to cover or mean an owner who lets a contract to a contractor in good faith, or a contractor who, in good faith, lets to a subcontractor a portion of his contract, if the owner or principal contractor, as the case may be, requires the contractor or subcontractor, respectively, to procure a policy or policies of insurance from an insurance company licensed to make such insurance in this State, which policy or policies of insurance shall guarantee payment of compensation according to this act to injured workmen.

SEC. 17. Where compensation is claimed from, or proceedings taken against a person, firm or corporation under the foregoing section, the compensation shall be calculated with reference to the wage the workman was receiving from the person by whom he was immediately employed at the time of the injury. Basis for compensation.

SEC. 18. Where a third person is liable to the employee or to the dependents, for the injury or death, the employer shall be subrogated to the right of the employee or to the dependents against such third person, and the recovery by such employer shall not be limited to the amount payable as compensation to such employee or dependents, but such employer may recover any amount which such employee or his dependents would have been entitled to recover. Any recovery by the employer against such third person, in excess of the compensation paid by the employer after deducting the expenses of making such recovery, shall be paid forthwith to the employee or to the dependents, and shall be treated as an advance payment by the employer, on account of any future installments of compensation. Subrogation of employer.

SEC. 19. No compensation shall be allowed for the first fourteen days after disability begins, except as provided in section 20, but if disability extends beyond the period of fourteen days, compensation shall begin on the fifteenth day after the injury: *Provided, however,* That if such disability continues for eight weeks or longer, such compensation shall be computed from the date of the injury. Waiting time.

SEC. 20. During the first twenty-one days after disability begins the employer shall be liable for reasonable medical and hospital services and medicines as and when needed, not however to exceed two hundred dollars in value, unless the employee refuses to allow them to be furnished by the employer: *Provided, however,* That where the injured employee refuses or neglects to avail himself of such medical or surgical treatment, the employer shall not be liable for any aggravation of such injury due to said neglect or refusal. Medical, etc., services.

SEC. 21. The following schedule of compensation is hereby established for injuries resulting in disability. Compensation for—

(1) For the first three hundred weeks of total disability the compensation shall be fifty per centum of the wages received at the time of injury, but such compensation shall not be more than ten dollars per week or less than five dollars per week: *Provided,* That, if at the time of injury the employee receives wages of less than five dollars per week, then he shall receive the full amount of such wages per week as compensation. After the first three hundred weeks of total disability, for the remainder of the life of the employee, he shall receive forty per centum of the wages received at the time of the injury, but the compensation shall not be more than eight dollars per week nor less than four dollars per week: *Provided,* That, if at the time of the injury the employee receives wages of less than four dollars per week then he shall receive the full amount of such wages as compensation. Nothing in this subdivision shall require the payment of compensation after disability shall cease. Should partial disability be followed by total disability, the period of three hundred weeks mentioned in this subdivision of this section shall be reduced by the number of weeks during which compensation was paid for such partial disability. Total disability:

(2) For disability partial in character (except the particular cases mentioned in subdivision 3 of this section), the compensation shall be fifty per centum of the difference between the wages received at the time of injury and the earning power of the employee thereafter; but such compensation shall not be more than ten dollars per week. This compensation shall be paid during the period of such partial disability; not, however, beyond three hundred weeks after the date of the accident causing the disability. Should total disability be followed by partial disability, the period of three hundred weeks mentioned in this subdivision shall be reduced by the number of weeks during which compensation was paid for such total disability. Partial disability.

(3) For all disability resulting from permanent injury of the following classes, the compensation shall be exclusively as follows: Schedule.

For the loss of a hand, fifty per centum of the wages during one hundred and seventy-five weeks;

For the loss of an arm, fifty per centum of wages during two hundred and fifteen weeks;

For the loss of a foot, fifty per centum of wages during one hundred and fifty weeks;

For the loss of a leg, fifty per centum of wages during two hundred and fifteen weeks;

For the loss of an eye, fifty per centum of wages during one hundred and twenty-five weeks;

For the loss of any two or more of such members, not constituting total disability, fifty per centum of wages during the aggregate of the periods specified for each.

The loss of both hands or both arms, or both feet, or both legs, or both eyes shall constitute total disability, to be compensated according to the provisions of subdivision 1 of this section.

Amputation between the elbow and the wrist shall be considered as the equivalent of the loss of a hand, and amputation between the knee and the ankle shall be considered as the equivalent of the loss of a foot. Amputation at or above the elbow shall be considered as the loss of an arm, and amputation at or above the knee shall be considered as the loss of a leg. Permanent loss of the use of a hand, arm, foot, leg or eye shall be considered as the equivalent of the loss of such hand, arm, foot, leg or eye. Compensation under this subdivision shall not be more than ten dollars per week nor less than five dollars per week: *Provided*, That, if at the time of injury the employee receives wages of less than five dollars per week, then he shall receive the full amount of such wages per week as compensation.

**Death benefits.**

SEC. 22. (1) If death results from the injuries and the deceased employee leaves one or more dependents wholly dependent upon his earnings for support at the time of the accident causing the injury, the compensation, subject to the provisions of section 23, shall be fifty per centum of the wages received at the time of injury, but the compensation shall not be more than ten dollars per week nor less than five dollars per week: *Provided*, That, if at the time of injury the employee receives wages of less than five dollars per week, then the compensation shall be the full amount of such wages per week. This compensation shall be paid during dependency, not exceeding three hundred and fifty weeks from the date of the accident causing the injury.

(2) If the deceased employee leaves no dependents wholly dependent upon his earnings for support at the time of the accident causing the injury, but leaves one or more dependents only partly dependent upon his earnings for support at said time, the compensation shall be the same proportion of the benefits provided in subdivision 1 of this section for persons wholly dependent as the average amount of the wage regularly contributed by the deceased to such partial dependents at, and for a reasonable time immediately prior to the injury bears to the total wage of the deceased, during the same time.

(3) Upon the death of an employee, resulting through personal injuries as herein defined, whether or not there be dependents entitled to compensation, the reasonable expenses of the last sickness and burial, not exceeding one hundred dollars, without deduction of any amount theretofore paid for compensation or for medical expenses, shall be paid to his dependents, or if there be no dependent, then to the personal representatives of the deceased.

**Nonresident aliens.**

(4) Compensation under this act to alien dependents, widows, children and parents not residents of the United States, shall be the same in amount as is provided in each case for residents, except that at any time within one year after the death of the injured employee, the employer may, at his option, commute all future installments of compensation to be paid to such alien dependents by paying to them two-thirds of the total amount of such future installments of compensation. Alien widowers, brothers and sisters not residents of the United States shall not be entitled to any compensation.

(5) The consul general, consul, vice consul general, or vice consul, of the nation of which the employee, whose injury results in death, is a citizen, or the representative of such consul general, consul, vice consul general, or vice consul, residing within the State of Nebraska, shall be regarded as the sole legal representative of any alien dependents of the employee, residing outside of the United States, and repre-

senting the nationality of the employee. Such consular officer or his representative, residing in the State of Nebraska, shall have in behalf of such nonresident dependents, the exclusive right to adjust and settle all claims for compensation provided by this act and to receive for distribution to such nonresidents alien dependents all compensation arising hereunder.

SEC. 23. The death of an injured employee prior to the expiration of the period within which he would receive such disability payment, shall be deemed to end such disability, and all liability for the remainder of such payment which he would have received in case he had lived shall be terminated, but the employer shall thereupon be liable for the following death benefit in lieu of any further disability indemnity: If the injury so received by such employee was the cause of his death, and such deceased employee leaves dependents as hereinbefore specified, wholly or partially dependent on him for support, the death benefit shall be a sum sufficient, when added to the indemnity which shall at the time of death have been paid or become payable under the provisions of this act to such deceased employee, to make the total compensation for the injury and death equal to the full amount which such dependents would have been entitled to receive under the provisions of section 22 hereof in case the accident had resulted in immediate death, and such benefit shall be payable in the same manner and subject to the same terms and conditions in all respects, as payments made under the provisions of said section 22. No deduction shall be made for the amount which may have been paid for medical and hospital services and medicines or for the expenses of the last sickness or burial. If the employee die from some cause other than the injury, there shall be no liability for compensation to accrue after his death.

Death of employee receiving compensation.

SEC. 24. The following persons shall be conclusively presumed to be wholly dependent for support upon a deceased employee:

Dependents.

(a) A wife upon a husband with whom she is living at the time of his death;

(b) A husband upon a wife with whom he is living at the time of her death;

(c) A child or children under the age of sixteen years (or over said age, if physically or mentally incapacitated from earning) upon the parent with whom he is or they are living at the time of death of such parent, there being no surviving parent. In case there is more than one child thus dependent, the death benefit shall be divided equally among them;

(d) Compensation shall be payable under sections 22 and 23 to or on account of any child, brother or sister, only if and while such child, brother or sister, is under the age of sixteen. No compensation shall be payable under said sections to a widow, unless she was living with her deceased husband at the time of his death: *Provided*, That a wife or a husband living in a state of abandonment for more than two years at the time of the injury, or subsequently, shall not be a beneficiary under this act. The terms "child" and "children" shall include stepchildren and adopted children if members of the decedent's household at the time of his death, and shall include posthumous children. If the compensation payable under said sections to any person shall for any cause cease, the compensation to the remaining persons entitled thereunder shall thereafter be the same as would have been payable to them had they been the only persons entitled to compensation at the time of the death of the deceased. If a widow or widower of a deceased employee shall remarry, then the compensation benefits shall become payable to the child or children of such widow or widower, if there be any such child or children; but if there be no such child or children of such dependent widow or widower, shall not be affected by such remarriage;

(e) In all other cases, questions of dependency, in whole or in part, shall be determined in accordance with the fact, as the fact may be at the time of the injury; and in such other cases, if there is more than one person wholly dependent, the death benefit shall be divided equally among them, and persons partly dependent, if any, shall receive no part thereof; if there is no one wholly dependent and more than one person

partly dependent, the death benefit shall be divided among them according to the relative extent of their dependency;

(f) No person shall be considered a dependent, unless he or she be a member of the family of the deceased employee, or bears to him the relation of widow, or widower, or lineal descendent, or ancestor, or brother, or sister;

(g) Questions as to who constitute dependents and the extent of their dependency shall be determined as of the date of the accident to the employee, and the death benefit shall be directly recoverable by and payable to the dependent or dependents entitled thereto, or their legal guardians or trustees. No dependent of an injured employee shall be deemed, during the life of such employee, a party in interest to any proceeding by him for the enforcement of collection of any claim for compensation, nor as respects the compromise thereof by such employee.

Payments, periodical.

SEC. 25. Except as hereinafter provided, all amounts of compensation payable under the provisions of this act shall be payable periodically in accordance with the method of payment of the wages of the employee at the time of his injury or death.

Wages.

SEC. 26. Wherever in this act the term "wages" is used, it shall be construed to mean the money rate at which the service rendered is recompensed under the contract of hiring in force at the time of the accident, and shall not include gratuities received from the employer or others, nor shall it include board, lodging or similar advantages, received from the employer, unless the money value of such advantages shall have been fixed by the parties at the time of hiring. In occupations involving seasonal employment or employments dependent upon the weather, the employee's weekly wages shall be taken to be one-fiftieth of the total wages which he has earned from all occupations during the year immediately preceding the accident, unless it be shown that during such year, by reason of exceptional causes, such method of computation does not ascertain fairly the earnings of the employee, in which case the period for calculation shall be extended so far as to give a basis for the fair ascertainment of his average weekly earnings. In continuous employments, if immediately prior to the accident the rate of wages was fixed by the day or hour, or by the output of the employee, his weekly wages shall be taken to be five and one-half times his average earnings at such rate for a working day of ordinary length, excluding earnings from overtime and using as the basis of calculation his earnings during so much of the preceding six months as he worked for the same employer.

Willful negligence.

SEC. 27. If the employee is injured by reason of his intentional willful negligence, or by reason of being in a state of intoxication, neither he nor his beneficiaries shall receive any compensation under the provisions of this act.

Subsequent injuries.

SEC. 28. If an employee receives an injury, which, of itself, would only cause partial disability, but which, combines [combined] with a previous disability, does in fact cause total disability, the employer shall only be liable as for the partial disability, so far as the subsequent injury is concerned.

Joint employers.

SEC. 29. In case any employee for whose injury or death compensation is payable under this act shall, at the time of the injury, be employed and paid jointly by two or more employers subject to this act, such employers shall contribute to the payment of such compensation in proportion to their several wage liabilities to such employee. If one or more, but not all of such employers should be subject to the provisions of Part II of this act, then the liability of such of them as are so subject shall be to pay that proportion of the entire compensation which their proportionate wage liability bears to the entire wages of the employee: *Provided, however*, That nothing in this section shall prevent any arrangement between employers for a different distribution between themselves of the ultimate burden of compensation.

Employees' insurance, etc.

SEC. 30. No savings or insurance of the injured employee, or any contribution made by him to any benefit fund or protective association independent of this act shall be taken into consideration in determining the compensation to be paid hereunder, nor shall benefits derived from

any other source than those paid or caused to be paid by the employer as herein provided, be considered in fixing the compensation under this act.

Sec. 31. No agreement by an employee to waive his rights to compensation under this act shall be valid. Waivers.

Sec. 32. If an injured employee is mentally incompetent or is a minor at the time when any right or privilege accrues to him under this act, his guardian or next friend may, in his behalf, claim and exercise such right or privilege. Incompetent persons.

Sec. 33. No proceedings for compensation for an injury under this act shall be maintained, unless a notice of the injury shall have been given to the employer as soon as practicable after the happening thereof, and unless the claim for compensation with respect to such injury shall have been made within six months after the occurrence of the same, or, in case of the death of the employee, or in the event of his physical or mental incapacity within six months after death or the removal of such physical or mental incapacity. Notice.

The said notice shall be in writing, and shall state in ordinary language the time, place and cause of the injury; and shall be signed by the person injured, or by a person in his behalf, or, in the event of his death, by his legal representative or by a person in his behalf.

The notice shall be served upon the employer or an agent thereof. Such service may be made by delivering said notice to the person on whom it is to be served, or leaving it at his residence or place of business, or by sending it by registered mail addressed to the person or corporation on whom it is to be served at his last known residence or place of business.

A notice given under the provisions of this section shall not be held invalid or insufficient by reason of any inaccuracy in stating the time, place or cause of the injury, unless it is shown that it was the intention to mislead, and the employer, or the insurance company carrying such risk, as the case may be, was in fact misled thereby. Want of such written notice shall not be a bar to proceedings under this act, if it be shown that the employer had notice or knowledge of the injury.

Sec. 34. After an employee has given notice of an injury as provided in section 33, and from time to time thereafter during the continuance of his disability, he shall, if so requested by the employer or the insurance company carrying such risk, submit himself to an examination by a physician or surgeon legally authorized to practice medicine under the laws of the State, furnished and paid for by the employer, or the insurance company carrying such risk, as the case may be. The employee shall have the right to have a physician provided and paid for by himself present at the examination. The refusal of the employee to submit to such examination shall deprive him of the right to compensation under this act during the continuance of such refusal and the period of such refusal shall be deducted from the period during which compensation would otherwise be payable. Medical examinations.

Sec. 35. In all death claims, where the cause of death is obscure or disputed, any interested party may require an autopsy, the cost of such autopsy to be borne by the party demanding the same. Autopsy.

Sec. 36. The interested parties shall have the right to settle all matters of compensation between themselves in accordance with the provisions of this act. Settlements.

Sec. 37. In case of a dispute over, or failure to agree upon a claim for compensation between employer and employee, or the dependents of the employee, the claim may be submitted to arbitration in such manner or method as may be mutually agreed upon, or either party may submit the claim, both as to the question of fact, the nature and effect of the injuries, and the amount of compensation therefor, according to the schedule herein provided, to the district court of the county which would have jurisdiction of a civil action between the parties, which court shall have authority to hear and determine the cause as a suit in equity and enter final judgment therein determining all questions of law and fact in accordance with the provisions of this act, which judgment shall be final and conclusive unless reversed or modified on appeal or otherwise modified pursuant to the provisions of this act. Disputes.

Action in one year.

SEC. 38. In case of personal injury, all claim for compensation shall be forever barred unless, within one year after the accident, the parties shall have agreed upon the compensation payable under this act, or unless, within one year after the accident, one of the parties shall have filed a petition as provided in section 39 hereof. In case of death, all claims for compensation shall be forever barred unless, within one year after the death, the parties shall have agreed upon the compensation under this act, or unless within one year after the death, one of the parties shall have filed a petition as provided in section 39 hereof. Where, however, payments of compensation have been made in any case, said limitation shall not take effect until the expiration of one year from the time of the making of the last payment.

Procedure.

SEC. 39. Procedure in cases of dispute shall be as follows: Either party may file in the district court a verified petition setting forth the names and residences of the parties and the facts relating to the employment at the time of the injury, the injury in its extent and character, the amount of wages being received at the time of injury, the knowledge of or notice to the employer of the occurrence of said injury and such other facts as may be necessary for the information of the court, and also stating the matter or matters in dispute and the contention of the petitioner with reference thereto.

Upon the filing of such petition a summons shall issue and be served upon the adverse party, as in civil causes, together with a copy of the petition. Return of service shall be made within four days from the issuance of the summons. Within seven days after the return day of such summons the party upon whom the same is served shall file an answer to said petition, which shall admit or deny the substantial averments of the petition, and shall state the contention of the defendant with reference to the matters in dispute, as disclosed by the petition. The answer shall be verified in like manner as required for a petition. At the expiration of the time fixed for filing answer the court shall proceed to hear and determine the cause without delay and shall render judgment thereon according to the form of law. Any appeal from such judgment shall be prosecuted in accordance with the general laws of the State regulating appeals and actions at law except that such appeal shall be perfected within thirty days from the entry of the judgment and the cause shall be advanced for hearing in the supreme court so as to bring said cause on for argument before such court within sixty days from the filing of the appeal and said supreme court shall render its judgment and opinion in such cases within thirty days after submission.

Lump sums.

SEC. 40. The amounts of compensation payable periodically under the law, either by agreement of the parties, or by decision of the court, may be commuted to one or more lump sum payments, except compensation due for death and permanent disability. These may be commuted only with the consent of the district court.

What settlements final.

SEC. 41. All settlements by agreement of the parties and all awards of compensation made by the court, except those amounts payable periodically for six months or more, shall be final and not subject to readjustment.

Reviews.

SEC. 42. All amounts paid by an employer or by an insurance company carrying such risk, as the case may be, and received by the employee or his dependents, by lump sum payments, shall be final, but the amount of any agreement or award payable periodically for more than six months may be modified as follows:

(a) At any time by agreement of the parties;

(b) If the parties can not agree, then at any time after six months from the date of the agreement or award, an application may be made to the court by either party on the ground of increase or decrease or incapacity due solely to the injury, or that the condition of a dependent has changed as to age or marriage, or by reason of the death of a dependent. In such case the same procedure shall be followed as in section 39 in case of disputed claim for compensation.

Payments to trustees.

SEC. 43. At any time after the amount of any award has been agreed upon by the parties, or found and ordered by the court, a sum equal to the present value of all future installments of compensation may (where death or the nature of the injury renders the amount of future payments

certain) by leave of court, be paid by the employer, or by the insurance company carrying such risk, as the case may be, to any savings bank or trust company of this State, in good standing, and such sum, together with all interest thereon, shall thereafter be held in trust for the employee or the dependents of the employee, who shall have no further recourse against the employer. The payment of such sum by the employer, evidenced by the receipt of the trustee to be filed with the insurance commissioner, shall operate as a satisfaction of said award as to the employer. Payments from said fund shall be made by the trustee in the same amounts and at the same time as are herein required of the employer until said fund and interest shall be exhausted. In the appointment of the trustee, preference shall be given, in the discretion of the court, to the choice of the injured employee or the dependents of the deceased employee, as the case may be.

SEC. 44. In case of death, where no executor or administrator is qualified, the said court shall, by order, direct payment to be made to such persons as would be appointed administrator of the estate of such decedent upon like terms as to bond for the proper application of compensation payments as are required of administrators.

Administrators.

SEC. 45. Report of all settlements and releases shall be filed by the employer with the labor commissioner within sixty days after such settlements are made. The said report shall contain the name and nature of the business of the employer, the location of his establishment or place of work, the name, age, sex, and occupation of the injured employee, and shall state the time, the nature and cause of the injury, and such other information as may be required by the labor commissioner. Any employer who refuses or neglects to make the report required by this section shall be punished by a fine of not more than fifty dollars for each offense. If the injury shall result in the death of the employee, such report shall show whether the deceased was a citizen of the United States, or an alien; in the event that the deceased was an alien, such report shall show his nationality, and so far as may be known, his place of birth, parentage and names and addresses of dependents. If, as a result of the injury, the death of the employee occurs subsequent to the making of such report, it shall be the duty of the employer to make supplemental report giving the same information as if the injury had caused the immediate death of the employee.

Reports of settlements, etc.

When an injury results in the death of an employee who is a citizen or subject of a foreign country, the labor commissioner shall, after such death has been reported to him, at once notify the superior consular officer of the country of which the employee at the time of his death, was a citizen or subject, and whose consular district embraces the State of Nebraska, or the representative, residing in the State of Nebraska, of such consular officer, whom he shall have formally designated as his representative by a communication in writing to the labor commissioner. Such notification shall contain in addition to the name of the employee, such further information as the labor commissioner may possess respecting the place of birth, parentage, and names and addresses of the dependents of the employee.

SEC. 46. An employer who is liable for compensation as provided in this act may insure the liability to pay such compensation in any liability insurance company or companies licensed to write such risks in the State of Nebraska, or in any mutual insurance association authorized under the laws of the State of Nebraska to assume such risks.

Insurance of risks.

SEC. 47. No policy of insurance against liability under this act shall be made unless the same shall cover the entire liability of the employer thereunder and shall contain an agreement by the insurer that, in case the employer shall be or become insolvent, or in case an execution upon a judgment for compensation is returned unsatisfied, an employee of such employer or the dependents of a deceased employee who shall be entitled to compensation under this act may enforce their claim or claims to compensation against the insurer to the same extent that the employer could have enforced his claim against such insurer had he paid compensation. No suit shall be maintained for the collection of premiums upon any such policy of insurance, unless such covenant is contained in said policy. Such covenant shall be unaffected by any default of the insured in the payment of premiums and shall be con-

Provisions of policies.



strued to be a direct promise to such injured employee and dependents, and shall be enforceable by action brought in the name of such injured employee or in the names of such dependents. Every contract for the insurance of the compensation herein provided for, or against liability therefor, shall be deemed to be made subject to the provisions of this act, and provisions thereof inconsistent with this act shall be void. No company or association shall enter into any such contract for insurance unless such insurer shall have been approved by the State insurance commissioner as provided by law.

Existing insurance contracts.

SEC. 48. Nothing herein shall affect any existing contract for employers' liability insurance, or affect the organization of any mutual or other insurance company, or any arrangement now existing between employers and employees, providing for the payment to such employees, their families, dependents or representatives, sick, accident or death benefits in addition to the compensation provided for by this act; but liability for compensation under this act shall not be reduced or affected by any insurance of the injured employee, or any contribution or other benefit whatsoever, due to or received by the person entitled to such compensation, and the person so entitled shall, irrespective of any insurance or other contract, have the right to recover the same directly from the employer, and in addition thereto, the right to enforce in his own name in the manner provided in section 47 the liability of any insurer who may, in whole or in part, have insured the liability for such compensation: *Provided, however,* That payment in whole or in part of such compensation by either the employer, or the insurer, as the case may be, shall, to the extent thereof, be a bar to recovery against the other, of the amount so paid.

### PART III.

#### MISCELLANEOUS PROVISIONS.

Suits barred, how.

SECTION 49. If any employee, or his dependents in case of death, of any employer subject to the provisions of Part II of this act files any claim with, or accepts any payment from such employer, or from any insurance company carrying such risk, on account of personal injury, or makes any agreement, or submits any question to the court under Part II of this act, such action shall constitute a release to such employer of all claims or demands at law, if any, arising from such injury.

Compensation payments exempt.

SEC. 50. No payments under this act shall be assignable or subject to attachment or garnishment, or be held liable in any way for any debts, except as provided in section 8 hereof.

Preference.

SEC. 51. The right to compensation and all compensation awarded any injured employee or for death claims to his dependents (without limit of amount), shall have the same preference against the assets of the employer as unpaid wages for labor, but such compensation shall not become a lien on the property of third persons by reason of such preference.

Definitions.

SEC. 52. Throughout this act, the following words and phrases as used therein shall be considered to have the following meaning respectively, unless the context shall clearly indicate a different meaning in the construction used:

(a) The term "physician" shall include "surgeon," and in either case shall mean one legally authorized to practice his profession within the State of Nebraska, and in good standing in his profession at the time.

(b) The word "accident," as used in this act shall, unless a different meaning is clearly indicated by the context, be construed to mean an unexpected or unforeseen event happening suddenly and violently, with or without human fault and producing at the time objective symptoms of an injury.

The terms "injury" and "personal injuries" shall mean only violence to the physical structure of the body and such disease or infection as naturally results therefrom. The said terms shall in no case be construed to include occupational disease in any form, or any contagious or infectious disease contracted during the course of employment, or death due to natural causes but occurring while the workman is at work.

"Death" when mentioned as a basis for the right to compensations means only death resulting from such violence and its resultant effects occurring within three hundred and fifty weeks after the accident.

(c) Without otherwise affecting either the meaning or interpretation of the abridged clause, "personal injuries arising out of and in the course of employment," it is hereby declared—

Not to cover workmen except while engaged in, on or about the premises where their duties are being performed, or where their service requires their presence as a part of such services at the time of the injury, and during the hours of service as such workmen.

(d) For the purposes of this act, willful negligence shall consist of (1) deliberate act, or (2) such conduct as evidences reckless indifference to safety, or (3) intoxication at the time of the injury.

(e) Whenever in this act the singular is used, the plural shall be included; where the masculine gender is used, the feminine shall be included.

(f) The designation "State insurance commissioner" or "insurance commissioner" as used herein is intended to mean the State official who has charge of the insurance department of the State of Nebraska.

(g) The "court" as used herein shall mean the district court which would have jurisdiction in an ordinary civil case involving a claim for the injuries or death in question, and the "judge" shall mean a judge of said court.

SEC. 53. Every right of action for death by wrongful act, or for injury by negligence, accruing to an injured employee prior to the taking effect of this act is continued and preserved under the existing law.

Prior injuries.

SEC. 54. If the provisions of this act relating to the compensation for injuries or to death of workmen shall be repealed or adjudged invalid or unconstitutional, the period intervening between the occurrence of an injury or death and such repeal, or the final adjudication of invalidity, shall not be computed as a part of the time limited by law for the commencement of any action relating to such injury or death, but the amount of any compensation which may have been paid for any such injury shall be deducted from any judgment for damages recovered on account of such injury.

Status of claims if law is invalid.

SEC. 55. In case for any reason any paragraph or any provision of this act shall be questioned in any court and shall be held to be unconstitutional or invalid, the same shall not be held to effect any other paragraph or provision of this act, except that Parts I and II are hereby declared to be inseparable, and if either part be declared void or inoperative in an essential part, so that the whole of such part must fall, the other part shall fall with it and not stand alone. Part I of this act shall not apply in cases where Part II becomes operative in accordance with the provisions thereof, but shall apply in all other cases when the employer is subject to the provisions of this act and in such cases shall be in extension or modification of the common law.

Partial unconstitutionality.

SEC. 56. All acts or parts of acts inconsistent with this act are to be deemed replaced by this act and to that end are hereby repealed.

SEC. 57. This act shall be known as the "Workmen's Compensation Law of 1913."

Approved April 21, 1913.

NEVADA.

ACTS OF 1913.

CHAPTER 111.—*Compensation of workmen for injuries.*

SECTION 1. (a) Where two or more employees, as defined by this act, are employed in the same general employment and in the usual and ordinary transaction of the business, it shall be presumed that the employer, as defined by this act has elected to provide, secure and pay compensation according to the terms, conditions and provisions of this act, to such employees who sustain personal injury, arising out of and in the course of the employment and in such case the employer shall be relieved from liability for recovery of damages or other com-

Election presumed, when.

Effect.

compensation for such personal injuries, unless by the terms of this act otherwise provided.

State, etc., employees.

(b) Where the State, county, municipal corporation, school district, cities under special charter or commission form of government is the employer, the limitations of two employees shall not apply, and as to such employees and employers thereof the rights and remedies as by this act provided to pay compensation for personal injury sustained by such employees arising out of and in the course of the employment shall be exclusive, compulsory and obligatory.

Employers rejecting system.

(c) If an employer having the right under the provisions of this act to elect to reject the terms, conditions and provisions thereof and in such case exercises the right in the manner and form by this act provided, such employer shall not escape liability for personal injury sustained by an employee of such employer when the injury sustained arises out of and in the usual course of the employment because:

Defenses abolished.

(1) The employee assumed the risks inherent to or incidental to or arising out of his or her employment; or the risks arising from the failure of the employer to provide and maintain a reasonably safe place to work, or the risks arising from the failure of the employer to furnish reasonably safe tools or appliances, or because the employer exercised reasonable care in selecting reasonably competent employees in the business.

(2) That the injury was caused by the negligence of a coemployee.

(3) That the employee was negligent unless and except it shall appear that such negligence was willful and with intent to cause the injury; or the result of intoxication on the part of the injured party.

Presumption as to negligence.

(4) In actions by an employee against an employer for personal injury sustained arising out of and in the course of the employment where the employer has elected to reject the provisions of this act, it shall be presumed that the injury to the employee was the first result and growing out of the negligence of the employer; and that such negligence was the proximate cause of the injury; and in such case the burden of proof shall rest upon the employer to rebut the presumption of negligence.

Election presumed.

Every such employer shall be conclusively presumed to have elected to provide, secure and pay compensation to employees for injuries sustained arising out of and in the course of the employment according to the provisions of this act, unless and until notice in writing of an election to the contrary shall have been given to the employee by posting the same in some conspicuous place at the place where the business is carried on, and also by filing notice with the Nevada Industrial Commission with return thereon by affidavit showing the date notice was posted as by this act provided, substantially in the following form:

EMPLOYERS' NOTICE TO REJECT.

To the employees of the undersigned, and the Nevada Industrial Commission:

Notice to reject.

You and each of you are hereby notified that the undersigned rejects the terms, conditions and provisions to provide, secure and pay compensation to employees of the undersigned for injuries received as provided in the act of the Legislature of the State of Nevada known as Nevada Industrial Insurance Act, and elects to pay damages for personal injuries received by such employee under the common law and the statutes of this State modified by subdivisions one, two, three and four of section one of the said Nevada Industrial Insurance Act and acts amendatory thereto.

Signed \_\_\_\_\_.

STATE OF NEVADA, }  
County of \_\_\_\_\_ } ss.

The undersigned being duly sworn deposes and says that a true, correct and verbatim copy of the foregoing notice was on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, posted at \_\_\_\_\_ (state fully place where posted.)

Subscribed and sworn to before me by \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

\_\_\_\_\_, Notary Public.

The employer shall keep such notice posted in some conspicuous place which shall apply to the employees subsequently employed by

the employer with the same force and effect and to the same extent and in like manner as employees in the employ at the time the notice was given.

Where the employer and employee have not given notice of an election to reject the terms of this act, every contract of hire express or implied, shall be construed as an implied agreement between them and a part of the contract on the part of the employer to provide, secure and pay, and on the part of the employee to accept compensation in the manner as by this act provided for all personal injuries sustained arising out of and in the course of the employment.

Construction of contracts.

Sec. 2. No compensation under this act shall be allowed for an injury caused:

Injuries not compensated.

(a) By the employee's willful intention to injure himself or to willfully injure another; nor shall compensation be paid to an injured employee if injury is sustained while intoxicated.

Sec. 3. (a) The rights and remedies provided in this act for an employee on account of an injury shall be exclusive of all other rights and remedies of such employee, his personal or legal representatives, dependents or next of kin, at common law or otherwise on account of such injury; all employees affected by this act shall be conclusively presumed to have elected to take compensation in accordance with the terms, conditions and provisions of this act until notice in writing shall have been served upon his employer; and also on the Nevada Industrial Commission, with return thereon by affidavit showing the date upon which notice was served upon the employer.

Remedy exclusive.

Election by employees.

(b) In the event that such employee elects to reject the terms, conditions and provisions of this act, the rights and remedies thereof shall not apply where an employee brings an action or takes proceedings to recover damages or compensation for injuries received growing out of and in the course of his employment, except as otherwise provided by this act; and in such actions where the employee has rejected the terms of this act the employer shall have the right to plead and rely upon any and all defenses including those at common law, and the rules and defenses of contributory negligence, assumption of risk and fellow servant shall apply and be available to the employer unless otherwise provided in this act: *Provided, however,* That if an employee sustains an injury as the result of the employer's failure to furnish or fails to exercise reasonable care to keep or maintain any safety device required by statute or rule, or violate any of the statutory provisions or rules and regulations now or hereafter in force relating to safety of employees, the doctrine of assumed risk in such case growing out of the negligence of the employer shall not apply or be available as defensive matter to such offending party. The notice required to be given by an employee shall be substantially in the following form:

Suits.

Assumed risks.

EMPLOYEE'S NOTICE TO REJECT TERMS OF THIS ACT.

To (name of employer) and the Nevada Industrial Commission:

Employees' rejection.

You and each of you are hereby notified that the undersigned elects to reject the terms, conditions and provisions of an act for the payment of compensation as provided by the Industrial Insurance Act of the State of Nevada and acts amendatory thereto, and elects to rely upon the common law as modified by section three of the said act for the right to recover for personal injury which I may receive, if any, growing out of and arising from the employment while in line of duty for my employer above named.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Signed \_\_\_\_\_.

STATE OF NEVADA, }  
County of \_\_\_\_\_ } ss.

The undersigned being first duly sworn deposes and says that the written notice was on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, served on the within-named employer of the undersigned by delivering to (name of person served) a true, correct and verbatim copy thereof.

Subscribed and sworn (or affirmed) to before me by the said \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_, Notary Public.

- Term of election.** **Renewal.** **Waiver.** **Rejection by both parties.** **Prior premium payments.** **Liability of third persons.** **Contractors.** **Industrial commission.** **Sessions.** **Proceedings.** **Office.**
- SEC. 4.** (a) Where the employer or employee has given notice in compliance with this act electing to reject the terms thereof, such election shall be for one year from date of becoming effective, and unless renewed within thirty days before the termination of one year as herein provided, it shall be conclusively presumed that such party has elected to waive the rejection made and come under the provision of this act to provide, secure and pay or accept, as the case may be, the compensation herein provided until the contrary is shown by the service of notice anew electing to reject the provisions of this act as herein provided.
- (b) When an employer or employee rejects the terms, conditions or provisions of this act, such party may at any time thereafter elect to waive the same by giving notice in writing in the same manner required of the party in electing to reject the provisions of the act, and which shall become effective when filed with the Nevada Industrial Commission.
- SEC. 5.** Where the employer and employee elect to reject the terms, conditions and provisions of this act, the liability of the employer shall be the same as though the employee had not rejected the terms, conditions and provisions thereof.
- SEC. 6.** An employer having come under this act, who thereafter elects to reject the terms, conditions and provisions thereof, shall not be relieved from the payment of premiums to Nevada Industrial Commission prior to the time his notice of rejection becomes effective; and said premiums may be recovered in an action at law as hereinafter in this act provided.
- SEC. 7.** When an employee coming under the provisions of this act receives an injury for which compensation is payable under this act and which injury was caused under circumstances creating a legal liability in some person other than the employer, to pay damages in respect thereof.
- (a) The employee or beneficiary may take proceedings against that person to recover damages, but the amount of the compensation to which he is entitled under this act shall be reduced by the amount of the damages recovered.
- (b) If the employee or beneficiary in such case receives compensation under this act, the Nevada Industrial Commission by whom the compensation was paid, shall be entitled to indemnity from the person so liable to pay damages as aforesaid, and shall be subrogated to the rights of the employee to recover therefor.
- (c) No contractor or subcontractor shall be entitled to receive compensation under this act, but shall be deemed to be an employer.
- SEC. 8.** There is hereby created the Nevada Industrial Commission to be composed of five members, to wit: The governor, State mine inspector and attorney general and two others to be selected by the three named. The two members so selected shall hold office for four years from and after the date of their appointment. The two additional members of the commission other than the governor, State mine inspector and attorney general shall receive as compensation for their services the sum of ten dollars per day for all days in which they are actually engaged in the business of the commission, which in no case shall exceed one hundred and fifty (\$150) dollars per month. A majority of said commission shall constitute a quorum for the transaction of the business of the commission.
- SEC. 9.** The commission shall be in continuous session and open for the transaction of business during all the business hours of each and every day excepting Sundays and legal holidays. All sessions shall be open to the public, and shall stand and be adjourned without further notice thereof on its records. All proceedings of the commission shall be shown on its record of proceedings, which shall be a public record, and shall contain a record of each case considered, and the award made with respect thereto, and all voting shall be had by the calling of each member's name by the secretary and each vote shall be considered as cast.
- SEC. 10.** The commission shall keep and maintain its office in the town of Carson City, Nevada, and shall provide a suitable room or rooms, necessary office furniture, supplies, books, periodicals and maps. All

necessary expenses shall be audited and paid out of the State treasury. The commission may hold sessions at any place within the State.

Sec. 11. The commission may employ a secretary, actuary, accountants, inspectors, examiners, experts, clerks, stenographers and other assistants, and fix their compensation. Such employments and compensation shall be first approved by the governor, and shall be paid out of the State treasury. The members of the commission, actuaries, accountants, inspectors, examiners, experts, clerks, stenographers and other assistants that may be employed shall be entitled to receive from the State treasury their actual and necessary expenses while traveling in the business of the commission. Such expenses shall be itemized and sworn to by the person who incurred the expense and allowed by the commission. Employees.

Sec. 12. The commission shall adopt reasonable and proper rules to govern its procedure, regulate and provide for the kind and character of notices, and the services thereof, in cases of accidents and injury to employees, the nature and extent of the proofs and evidence and the method of taking and furnishing the same, to establish the rights to benefits of compensation from the State insurance fund, hereinafter provided for, the forms of application of those claiming to be entitled to benefits or compensation therefrom, the method of making investigations, physical examinations and inspections, and prescribe the time within which adjudications and awards shall be made. Rules, forms, etc.

Sec. 13. Every employer shall furnish the commission, upon request, all information required by it to carry out the purposes of this act. The commission or any member thereof or any person employed by the commission for that purpose, shall have the right to examine under oath any employer or officer, agent or employee thereof. Duty of employers.

Sec. 14. Every employer receiving from the commission any blank with directions to fill the same, shall cause the same to be properly filled out as to answer fully and correctly all questions therein propounded, and if unable to do so shall give good and sufficient reasons for such failure. Answers to such questions shall be verified under oath and returned to the board within the period fixed by the commission for such return. Same subject.

Sec. 15. Each member of the commission, the secretary and every inspector or examiner appointed by the commission shall, for the purposes contemplated by this act, have power to administer oaths, certify to official acts, take depositions, issue subpoenas, compel the attendance of witnesses and the production of books, accounts, papers, records, documents and testimony. Powers of commissioners, etc.

Sec. 16. In case of disobedience of any person to comply with the order of the commission, or subpoena issued by it or one of its inspectors, or examiners, or on the refusal of a witness to testify to any matter regarding which he may be lawfully interrogated, or refuse to permit an inspection as aforesaid, the district judge of the county in which the person resides, on application of any member of the commission, or any inspector or examiner appointed by it, shall compel obedience by attachment proceedings as for contempt, as in the case of disobedience of the requirements of subpoenas issued from such court on a refusal to testify therein. Contempt.

Sec. 17. Each officer who serves such subpoenas shall receive the same fees as a sheriff, and each witness who appears, in obedience to a subpoena, before the commission or an inspector or examiner, shall receive for his attendance the fees and mileage provided for witnesses in civil cases in courts of record, which shall be audited and paid from the State treasury in the same manner as other expenses are audited and paid, upon the presentation of proper vouchers approved by any two members of the commission. No witness subpoenaed at the instance of a party other than the commission or any inspector shall be entitled to compensation from the State treasury unless the commission shall certify that his testimony was material to the matter investigated. Fees.

Sec. 18. In an investigation, the commission may cause depositions of witnesses residing within or without the State to be taken in the manner prescribed by the law for like depositions in civil actions in the courts of record. Depositions.

- Evidence.** SEC. 19. A transcribed copy of the evidence and proceedings, or any specific part thereof, or any investigation, by a stenographer appointed by the commission, being certified by such stenographer to be a true and correct transcript of the testimony on the investigation, or of a particular witness, or of a specific part thereof, carefully compared by him with his original notes and to be a correct statement of the evidence and proceedings had on such investigation so purporting to be taken and subscribed, may be received in evidence by the commission with the same effect as if such stenographer were present and testified to the facts so certified. A copy of such transcript shall be furnished on demand to any party upon the payment of the fee therefor, as provided for transcript in courts of record.
- Distribution of forms, etc.** SEC. 20. The commission shall prepare and furnish blank forms, and provide in its rules for their distribution so that the same may be readily available, of application for benefits or compensation from the State insurance fund, notices to employers, proofs of injury or death, of medical attendance, of employment and wage earnings, and such other blanks as may be deemed proper and advisable, and it shall be the duty of insured employers to constantly keep on hand sufficient supply of such blanks.
- Rates of premiums.** SEC. 21. Each employer coming within the provisions of this act shall prior to August 15 1913, pay into the State treasury for the State insurance fund, in accordance with the following schedule a sum equal to a percentage of his total pay roll for the preceding month, to wit:

## CONSTRUCTION WORK—INITIAL PREMIUM RATES.

|   |       |
|---|-------|
| Tunnels; bridges; trestles; subaqueous works; ditches and canals (other than irrigation without blasting); fire escapes; sewers; house moving; house wrecking.....  | . 035 |
| Iron or steel structures or parts of structures.....  | . 040 |
| Electric light or power plants or systems; telegraph or telephone systems; pile driving; steam railroads.....   | . 050 |
| Steeples, towers or grain elevators, not metal framed; chimneys; waterworks or systems; electric railways with rockwork or blasting; blasting; erecting fireproof doors or shutters.....  | . 050 |
| Steam heating plants; tanks, water towers or windmills, not metal frames.....   | . 040 |
| Shaft sinking.....  | . 030 |
| Concrete buildings; freight or passenger elevators; fireproofing of buildings; galvanized iron or tin works; gas works or system; marble, stone or brick work; road work with blasting; roof work; safe moving; slate work; outside plumbing work; metal smokestacks or chimneys.....   | . 050 |
| Excavations not otherwise specified; blast furnaces.....  | . 030 |
| Street or other grading; cable or electric street railways without blasting; advertising signs; ornamental metal work in buildings.....   | . 025 |
| Carpenter work not otherwise specified.....   | . 035 |
| Installation of steam boilers or engines; placing wire in conduits; installing dynamos; putting up belts for machinery; marble, stone or tile setting, inside work; mantel setting; metal ceiling work; painting of buildings or structures; installation of automatic sprinklers; concrete laying in floors, foundations or street paving; asphalt laying; covering steam pipes or boilers; installation of machinery not otherwise specified..... | . 030 |
| Drilling wells; installing electrical apparatus or fire alarm systems in buildings; house heating or ventilating systems; glass setting; building hothouses; lathing; paper hanging; plastering; inside plumbing; wooden stair building; road making.....   | . 020 |

The absence of power-driven machinery does not exempt corporations named in this subdivision, nor the small number of employees engaged, nor the short time required to accomplish the work.

OPERATION (INCLUDING REPAIR WORK) OF—

(All combinations of material take the higher rate when not otherwise provided.)

OPERATION AND REPAIR WORK.

|  |      |
|--|------|
| Logging railroads; railroads; dredges; interurban electric railroads using third rail system.....  | .025 |
| Electric light or power plants; interurban electric railroads not using third rail system; quarries.....   | .025 |
| Street railways; all employees; telegraph or telephone systems; stone crushing; blasting furnaces; smelters; coal mines; gas works; steamboats; tugs; ferries..... | .030 |
| Mines, other than coal; steam heating or power plants.....   | .025 |
| Grain elevators; laundries; waterworks; paper or pulp mills; garbage works.....  | .020 |

FACTORIES USING POWER-DRIVEN MACHINERY—FACTORIES.

|   |      |
|---|------|
| Stamping tin or metal.....  | .045 |
| Bridge work; railroad car or locomotive making or repairing; cooperage; logging with or without machinery; saw mills; shingle mills; staves; veneer; box; lath; packing cases; sash, door or blinds; barrel, keg; pail; basket; tub; woodenware or wooden fiber ware; rolling mills; making steam shovels or dredges; tanks; water towers; asphalt; building material not otherwise specified; fertilizer; cement; stone with or without machinery; kindling wood; masts and spars with or without machinery; canneries, metal stamping extra; creosoting works; pile treating works..... | .020 |
| Excelsior, iron, steel, copper, zinc, brass or lead articles or wares not otherwise specified; working in wood not otherwise specified; hardware; tile; brick, terra cotta; fire clay; pottery; earthenware; porcelain ware; peat fuel, brickettes.....   | .020 |
| Brewers; bottling works; boiler works; foundries; machine shops not otherwise specified.....  | .020 |
| Cordage; working in food stuffs, including oils, fruits and vegetables; working in wool, cloth, leather, paper, broom, brush, rubber or textiles not otherwise specified.....   | .015 |
| Making jewelry, soap, tallow, lard, grease, condensed milk....  | .015 |
| Creameries; printing; electrotyping; photo-engraving; engraving; lithographing.....   | .015 |

MISCELLANEOUS WORK.

|  |      |
|--|------|
| Operating stock yards, with or without railroad entry; packing houses.....                                     | .025 |
| Artificial ice, refrigerating or cold storage plants; tanneries; electric systems not otherwise specified..... | .020 |
| Theater stage employees.....   | .015 |
| Fireworks manufacturing.....   | .050 |
| Powder works.....  | .100 |
| All other employments not herein specified.....  | .015 |

SEC. 21a. The Nevada Industrial Commission shall have the power as experience and conditions demand to increase or decrease the rates above provided. Sixty days' notice of any change in rates shall be given before the same shall become effective: *Provided, further,* That said commission shall have the power, and it shall be their duty, to classify employment[s] with respect to their degree of hazard and determine the risk of same based upon the pay roll and number of employees in each of said classes of employment sufficiently large to provide an adequate fund for the compensation provided for in this act, and to create a surplus sufficiently large to guarantee a satisfactory insurance fund from year to year.

Changing rates.

SEC. 22. Whenever because of poor or careless management in an establishment or work [sic] is unduly dangerous in comparison with

Undue hazards.



other like establishments or works the Nevada Industrial Commission may advance its classification of risks and premium rates in proportion to the undue hazards. Such advancement of classification of risk and premium rates may be made without notice.

Payment of premiums.

SEC. 23. The premiums above provided shall be paid on or before the 15th day of each and every month, commencing on the 15th day of August, 1913, and each and every month thereafter upon the pay roll for the month preceding.

State insurance fund.

SEC. 24. All premiums provided for in this act shall be paid to the State treasurer, and shall constitute the State insurance fund for the benefit of employees of employers and for the benefit of dependents of such employees, and shall be disbursed as hereinafter provided.

Compensation.

SEC. 25. Every workman coming within the provisions of this act who shall be injured in the course of employment, or his dependents, as hereinafter defined, shall be entitled to receive the following compensation:

Death.

(a) In the event of death of any employee or workman coming within the provisions of this act, his dependents, or beneficiaries, shall be entitled to receive an amount equivalent to fifty per cent of his average monthly earnings; but not less than \$20, nor more than \$60 per month for a period of one hundred months, but in no case to exceed the sum of \$5,000, and the burial expenses of such deceased workman shall be paid not to exceed the sum of \$125.

(b) If an employee leaves no dependents of any kind, expenses of his last sickness and burial shall be paid, not to exceed the sum of \$125.

Total disability.

(c) For complete disability, compensation fifty per cent of the average monthly wages, but not more than \$60, nor less than \$20 per month for one hundred months; total amount not to exceed \$5,000.

Partial disability.

(d) For partial disability, one-half the difference between the wages earned before injury and wages which injured is able to earn thereafter, but not more than \$40 a month for a period not to exceed sixty months.

Specific injuries.

Specific payments of injuries as per the following schedule, subject to a maximum of \$60 and a minimum of \$20 per month:

For the loss of a thumb, fifty per cent of the average monthly wages during fifteen months.

For the loss of a first finger, commonly called the index finger, fifty per cent of the average monthly wages during nine months.

For the loss of a second finger, fifty per cent of the average monthly wages during seven months.

For the loss of a third finger, fifty per cent of the average monthly wages during five months.

For the loss of a fourth finger, commonly called the little finger, fifty per cent of the average wages during four months.

The loss of more than one phalange shall be considered as the loss of the entire finger or thumb: *Provided, however,* That in no case shall the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand.

For the loss of a great toe, fifty per cent of the average monthly wages during seven months.

For the loss of one of the other toes other than the great toe, fifty per cent of the average monthly wages during two months and one-half.

However, the loss of the first phalange of any toe shall be considered to be equal to the loss of one-half of such toe, and compensation shall be one-half of the amount above specified.

The loss of more than one phalange shall be considered as the loss of the entire toe.

For the loss of a hand, fifty per cent of the average monthly wages during forty months.

For the loss of an arm, fifty per cent of the average monthly wages during fifty months.

For the loss of a foot, fifty per cent of the average monthly wages during thirty-five months.

For the loss of a leg, fifty per cent of the average monthly wages during forty-five months.

For the loss of an eye, fifty per cent of the average monthly wages during twenty-five months.

However, the loss of both hands, or both arms, or both legs, or both eyes, or any part thereof, shall constitute total and permanent disability to be compensated according to the provisions of section 25, subdivision "C."

Sec. 26. The following shall be conclusively presumed to be wholly dependent upon a deceased employee: Dependents.

(1) The surviving spouse, unless it be shown that the survivor willfully deserted deceased without fault upon the part of deceased, and if it be shown that the survivor deserted deceased without fault upon the part of deceased, the survivor shall not be regarded as a dependent in any degree.

(2) A child or children under sixteen years of age (and over said age if physically or mentally incapacitated from earning) whether actually dependent for support upon the parent at the time of his or her death.

(3) A parent of a minor entitled to the earnings of the employee shall be presumed to be dependent for a period not to exceed four years.

(4) If the deceased employee leaves dependent surviving spouse, the full compensation shall be paid to such spouse; but if the dependent surviving spouse dies before payment is made in full, the balance remaining shall be paid to the person or persons wholly dependent, if any, share and share alike. If there be no person or persons wholly dependent, then payment shall be made to partial dependents.

(5) In all other cases questions of dependency in whole or in part shall be determined in accordance with the fact as the fact may be at the time of the injury; and in such other cases if there is more than one person wholly dependent, the death benefit shall be equally divided among them, and persons partially dependent, if any, shall receive no part thereof. If there is no one wholly dependent and more than one person partially dependent, the death benefit shall be divided among them according to the relative extent of their dependency: *Provided, however,* That when a lump sum is paid as contemplated by this act, the court or commission in making distribution thereof, shall take into consideration the contingent rights of partial beneficiaries or the rights of those who may become such after a wholly dependent child or children become sixteen years of age.

(6) Step-parents shall be regarded in this act as parents.

(7) Adopted child or children or stepchild or children shall be regarded in this act the same as if issue of the body.

Sec. 27. No compensation shall be paid under this act for an injury which does not incapacitate the employee for a period of at least two weeks from earning full wages, but if incapacity extends beyond the period of two weeks, compensation shall begin on the fifteenth day after the injury: *Provided, however,* That if such disability continues for eight weeks or longer, such compensation shall be computed from the date of the injury. Waiting time.

Sec. 28. No money paid, or payable, under this act out of the State insurance fund shall, prior to the issuance and delivery of the warrant therefor, be capable of being assigned; nor shall the same be ever taken in execution, or attached or garnished, nor shall same pass to any other person by operation of law. Any such assignment or charge shall be void. Benefits exempt.

Sec. 29. No employer or workman shall exempt himself from the burden, or waive the benefits of this act by any contract, agreement, rule, regulation or device; and any such contract, agreement, rule, regulation or device shall be absolutely void. Waivers.

Sec. 30. Upon the marriage of a widow, she shall receive once and for all, a lump sum equal to twelve times her monthly allowance, not to exceed, however, the sum of \$300: *Provided, however,* That allowance shall be made by the commission for the support of minor children under the age of sixteen years; the total amount thereof to be not less than \$10, nor more than \$35 per month, to be fixed by the commission. Remarriage of widow.

Sec. 31. The Nevada Industrial Commission, may, in its discretion, allow the conversion of the compensation herein provided for into a lump sum payment, not to exceed the sum of \$5,000, under such Lump-sum payments.

- rules and regulations and system of computation as may be devised for obtaining the present value of such compensation.
- Medical examinations.** SEC. 32. Any workman entitled to receive compensation under this act is required, if requested by the commission, to submit himself for medical examination at a time and from time to time at a place reasonably convenient for the workman and as may be provided by the rules of the commission. If the workman refuses to submit to any such examination, or obstructs the same, his rights to monthly payment shall be suspended until such examination has taken place, and no compensation shall be payable during or for account of such period.
- Accidents to be reported.** SEC. 33. Whenever any accident occurs to any workman it shall be the duty of the employer to at once report such accident and the injury resulting therefrom to the commission, and also to any local representative of the commission. Such report shall state:
- (1) The time, cause and nature of the accident and injuries, and the probable duration of the injury resulting therefrom.
  - (2) Whether the accident arose out of or in the course of the injured person's employment.
  - (3) Any other matters the rules and regulations of the commission may prescribe.
- Applications for compensation.** SEC. 34. (a) Where a workman is entitled to compensation under this act he shall file with the department, his application for such, together with the certificate of the physician who attended him, and it shall be the duty of the physician to inform the injured workman of his rights under this act and to lend all necessary assistance in making this application for compensation and such proof of other matters as required by the rules of the department without charge to the workman.
- (b) Where death results from injury the parties entitled to compensation under this act, or some one in their behalf, shall make application for the same to the department, which application must be accompanied with proof of death and proof of relationship showing the parties to be entitled to compensation under this act, certificates of attending physician, if any, and such other proof as required by the rules of the department.
- Review of awards.** (c) If change of circumstances warrant an increase or rearrangement of compensation, like application shall be made therefor. No increase or rearrangement shall be operative for any period prior to application therefor.
- Limitation.** (d) No application shall be valid or claim thereunder enforceable unless filed within one year after the day upon which the injury occurred or the right thereto accrued.
- Employers' records.** SEC. 35. The books, records and pay rolls of the employer pertinent to the administration of this act shall always be open to inspection by the commission or its traveling auditor, agent or assistant, for the purpose of ascertaining the correctness of the pay roll, the men employed, and such other information as may be necessary for the commission and its management under this act. Refusal on the part of the employer to submit said books, records and pay rolls for such inspection to any member of the commission or any assistant presenting written authority from the commission, shall subject the offending employer to a penalty of one hundred dollars for each offense, to be collected by civil action in the name of the Nevada Industrial Commission and paid into the accident fund, and the individual who shall personally give such refusal shall be guilty of a misdemeanor.
- Misrepresentations.** SEC. 36. Any employer who shall misrepresent to the department the amount of pay roll upon which the premium under this act is based shall be liable to the Nevada Industrial Commission in ten times the amount of the difference in premium paid and the amount the employer should have paid. The liability to the Nevada Industrial Commission shall be enforced in a civil action in the name of the Nevada Industrial Commission. All sums collected under this section shall be paid into the accident fund.
- Defaults.** SEC. 37. If any employer shall default in any payment to the accident fund hereinbefore in this act required, the sum due shall be collected by action at law in the name of the Nevada Industrial Commission as plaintiff, and such right of action shall be in addition to any

other right of action or remedy. In respect to any injury happening to any of his workmen during the period of any default in the payment of any premium under section 6, the defaulting employer shall not, if such default be after demand for payment, be entitled to the benefits of this act, but shall be liable to suit by the injured workman (or the husband, wife, child or dependent of such workman in case death result from the accident), as he would have been prior to the passage of this act. In case the recovery actually collected in such suit shall equal or exceed the compensation to which the plaintiff therein would be entitled under this act, the plaintiff shall not be paid anything out of the accident fund; if the said amount shall be less than such compensation under this act, the accident fund shall contribute the amount of the deficiency. The person so entitled under the provisions of this section to sue shall have the choice (to be exercised before suit) of proceeding by suit or taking under this act. If such person shall take under this act, the cause of action against the employer shall be assigned to the Nevada Industrial Commission for the benefit of the accident fund. In any suit brought upon such cause of action the measure of liability shall be as provided in section 1, subdivision C—1, 2, 3 and 4—of this act. Any such cause of action assigned to the Nevada Industrial Commission may be prosecuted or compromised by the department in its discretion. Any compromise by the workman of any such suit, which would leave a deficiency to be made good out of the accident fund, may be made only with the written approval of the department.

Option of em-  
ployee.

SEC. 38. The Nevada Industrial Commission is hereby authorized and empowered to prosecute, defend and maintain actions in the name of the commission for the enforcement of the provisions of this act, and verification of any pleading, affidavit or other paper required may be made by any member of the commission or by the secretary thereof. In any action or proceeding or in the prosecution of any appeal by the commission, no bond or undertaking shall ever be required to be furnished by the commission.

Power of com-  
mission as to  
suits.

SEC. 39. If any workman be injured because of the absence of any safeguard or protection required to be provided or maintained by, or pursuant to, any statute or ordinance or any departmental regulation under any statute, or be at the time of the injury of less than the maximum age prescribed by law for the employment of the minor in the occupation in which he shall be engaged when injured, the employer shall be liable to the Nevada Industrial Commission for a penalty of not less than \$300 or more than \$2,000 to be collected in a civil action at law by the commission.

Violations of  
statute.

The foregoing provision of this act shall not apply to the employer if the absence of such guard or such protection be due to the removal thereof by the injured workman himself, or with his knowledge, by any fellow workman, unless such removal be by order or direction of the employer or superintendent or foreman of the employer. If the removal of such guard or protection be by the workman himself, or be by his consent, by any of his fellow workmen, unless done by order or direction of the employer or superintendent or foreman of the employer, the compensation of such injured workman, as provided for by section 25 of this act, shall be reduced twenty-five per cent.

Workmen re-  
moving guards.

SEC. 40. The State of Nevada shall not be liable for the payment of any compensation under this act, save and except from the said State insurance fund, to be derived from the payment of premiums as provided in this act.

State liability.

SEC. 41. The expenses of the administration of the commission, including the payment of the salaries of commissioners, and other expenses other than the payment of compensation under this act, shall not exceed ten per cent of the amount of premiums paid into said insurance fund.

Expenses lim-  
ited.

SEC. 42. This act shall be known as the "Nevada Industrial Insurance Act."

Title of act.

SEC. 43. This act shall apply to all employers of labor in the State of Nevada and their employees and the dependents of their employees, except domestic servants and farm laborers, and no contract of employment, insurance, relief benefit or indemnity of any other device shall

Application.

modify, change or waive any liability created by this act, and such contract of employment, relief benefit, insurance or indemnity, or other device having for its purpose the waiver or modification of the terms or liability created by this act shall be void.

Constitutional-  
ity of provisions  
of act.

Sec. 44. If any employer shall be adjudicated to be outside the lawful scope of this act, the act shall not apply to him or his workman, or if any workman shall be adjudicated to be outside the lawful scope of this act because of remoteness of his work from the hazard of his employer's work, any such adjudication shall not impair the validity of this act in other respects, and in every such case an accounting in accordance with the justice of the case shall be had of moneys received. If the provisions of section 21 of this act for the creation of the insurance fund, or the provisions of this act making the compensation to the workman provided in it exclusive of any other remedy on the part of the workman, shall be held invalid, the entire act shall be thereby invalidated except the provisions of section 46, and an accounting according to the justice of the case shall be had of moneys received. In other respects an adjudication of invalidity of any part of this act shall not affect the validity of the act as a whole or any other part thereof.

Limitations not  
to run, when.

Sec. 45. If the provisions of this act relative to compensation for injuries to or death of workmen become invalid because of any adjudication, or be repealed, the period intervening between the occurrence of an injury or death, not previously compensated for under this act by lump payment or completed monthly payments, and such repeal or the rendition of the final adjudication of the invalidity shall not be computed as a part of the time limited by law for the commencement of any action relating to such injury or death: *Provided*, That such action be commenced within one year after such repeal or adjudication; but in any such action any sum paid out of the insurance fund to the workman on account of injury, to whom the action is prosecuted, shall be taken into account or disposed of as follows: If the defendant employer shall have paid without delinquency into the insurance fund the payment provided for by section 21, such sums shall be credited upon the recovery as payment thereon, otherwise the sum shall not be so credited, but shall be deducted from the sum collected and be paid into the said fund from which they had been previously disbursed.

Proviso.

Disposition of  
fund.

Sec. 46. If this act shall be hereafter repealed, all moneys which are in the insurance fund at the time of the repeal shall be subject to such disposition as may be provided by the legislature, and in default of such legislative provision distribution thereof shall be in accordance with the justice of the matter, due regard being had to obligations of compensation incurred and existing.

Law not retro-  
active.

Sec. 47. This act shall not affect any action pending or cause of action existing on June the 30th, 1913.

Act in effect.  
Repealer.

Sec. 48. This act shall be effective July 1, 1913.

Sec. 49. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 15, 1913.

## NEW HAMPSHIRE.

### ACTS OF 1911.

#### CHAPTER 163.—*Compensation of workmen for injuries.*

Scope of law.

SECTION 1. This act shall apply only to workmen engaged in manual or mechanical labor in the employments described in this section, which, from the nature, conditions or means of prosecution of such work, are dangerous to the life and limb of workmen engaged therein, because in them the risks of employment and the danger of injury caused by fellow servants are great and difficult to avoid. (a) The operation on steam or electric railroads of locomotives, engines, trains or cars, or the construction, alteration, maintenance or repair of steam-

Dangerous  
employments.

railroad tracks or road beds over which such locomotives, engines, trains or cars are or are to be operated. (b) Work in any shop, mill, factory or other place on, in connection with or in proximity to any hoisting apparatus, or any machinery propelled or operated by steam or other mechanical power in which shop, mill, factory or other place five or more persons are engaged in manual or mechanical labor. (c) The construction, operation, alteration or repair of wires or lines of wires, cables, switch boards or apparatus, charged with electric currents. (d) All work necessitating dangerous proximity to gunpowder, blasting powder, dynamite or any other explosives, where the same are used as instrumentalities of the industry, or to any steam boiler owned or operated by the employer: *Provided*, Injury is occasioned by the explosion of any such boiler or explosive. (e) Work in or about any quarry, mine or foundry. As to each of said employments it is deemed necessary to establish a new system of compensation for accidents to workmen.

SEC. 2. If, in the course of any of the employments above described, personal injury by accident arising out of and in the course of the employment is caused to any workman employed therein, in whole or in part, by failure of the employer to comply with any statute, or with any order made under authority of law, or by the negligence of the employer or any of his or its officers, agents or employees, or by reason of any defect or insufficiency due to his, its or their negligence in the condition of his or its plant, ways, works, machinery, cars, engines, equipment, or appliances, then such employer shall be liable to such workmen for all damages occasioned to him, or, in case of his death, to his personal representatives for all damages now recoverable under the provisions of chapter 191 of the Public Statutes. The workman shall not be held to have assumed the risk of any injury due to any cause specified in this section; but there shall be no liability under this section for any injury to which it shall be made to appear by a preponderance of evidence that the negligence of the plaintiff contributed. The damages provided for by this section shall be recovered in an action on the case for negligence.

Employer liable for damages, when.

Assumption of risks.

SEC. 3. The provisions of section 2 of this act shall not apply to any employer who shall have filed with the commissioner of labor his declaration in writing that he accepts the provisions of this act as contained in the succeeding sections, and shall have satisfied the commissioner of labor of his financial ability to comply with its provisions, or shall have filed with the commissioner of labor a bond, in such form and amount as the commissioner may prescribe, conditioned on the discharge by such employer of all liability incurred under this act. Such bond shall be enforced by the commissioner of labor for the benefit of all persons to whom such employer may become liable under this act in the same manner as probate bonds are enforced. The commissioner may, from time to time, order the filing of new bonds, when in his judgment such bonds are necessary; and after thirty days from the communication of such order to any employer, such employer shall be subject to the provisions of section 2 of this act until such order has been complied with. The employer may at any time revoke his acceptance of the provisions of the succeeding sections of this act by filing with the commissioner of labor a declaration to that effect, and by posting copies of such declaration in conspicuous places about the place where his workmen are employed. Any person aggrieved by any decision of the commissioner under this section may apply by petition to any justice of the superior court for a review of such decision and said justice on notice and hearing shall make such order affirming, reversing or modifying such decision as justice may require; and such order shall be final. Such employer shall be liable to all workmen engaged in any of the employments specified in section 1, for any injury arising out of and in the course of their employment, in the manner provided in the following sections of this act: *Provided*, That the employer shall not be liable in respect of any injury which does not disable the workman for a period of at least two weeks from earning full wages at the work at which he was employed: *And provided*, That the employer shall not be liable in respect of any injury to the workman which is caused in whole or in part by the intoxication, violation of law, or serious or willful mis-

Election by employer.

Bonds.

Minor injuries, etc.

conduct of the workman: *Provided, further*, That the employer shall at the election of the workman, or his personal representative, be liable under the provisions of section 2 of this act for all injury caused in whole or in part by willful failure of the employer to comply with any statute, or with any order made under authority of law.

Right to sue.

Sec. 4. The right of action for damages caused by any such injury, at common law, or under any statute in force on January one, nineteen hundred and eleven, shall not be affected by this act, but in case the injured workman, or in event of his death his executor or administrator, shall avail himself of this act, either by accepting any compensation hereunder, by giving the notice hereinafter prescribed, or by beginning proceedings therefor in any manner on account of any such injury, he shall be barred from recovery in every action at common law or under any other statute on account of the same injury. In case after such injury the workman, or in the event of his death his executor or administrator, shall commence any action at common law or under any statute other than this act against the employer therefor, he shall be barred from all benefit of this act in regard thereto.

Barred, how.

Notice.

Sec. 5. No proceedings for compensation under this act shall be maintained unless notice of the accident as hereinafter provided has been given to the employer as soon as practicable after the happening thereof and before the workman has voluntarily left the employment in which he was injured and during such disability, and unless claim for compensation has been made within six months from the occurrence of the accident, or in case of the death of the workman, or in the event of his physical or mental incapacity, within six months after such death or the removal of such physical or mental incapacity, or in the event that weekly payments have been made under this article, within six months after such payments have ceased, but no want or defect or inaccuracy of a notice shall be a bar to the maintenance of proceedings unless the employer proves that he is prejudiced by such want, defect or inaccuracy. Notice of the accident shall apprise the employer of the claim for compensation under this article, and shall state the name and address of the workman injured, and the date and place of the accident. The notice may be served personally or by sending it by mail in a registered letter addressed to the employer at his last known residence or place of business.

Compensation  
or death.

Sec. 6. (1) The amount of compensation shall be, in case death results from injury: (a) If the workman leaves any widow, children or parents, resident of this State, at the time of his death, then wholly dependent on his earnings, a sum to compensate them for loss, equal to one hundred and fifty times the average weekly earnings of such workman when at work on full time during the preceding year during which he shall have been in the employ of the same employer, or if he shall have been in the employment of the same employer for less than a year then one hundred and fifty times his average weekly earnings on full time for such less period. But in no event shall such sum exceed three thousand dollars. Any weekly payments made under this act shall be deducted from the sum so fixed. (b) If such widow, children or parents at the time of his death are in part only dependent upon his earnings, such proportion of the benefits provided for those wholly dependent as the amount of the wage contributed by the deceased to such partial dependents at the time of injury bore to the total wage of the deceased. (c) If he leaves no such dependents, the reasonable expenses of his medical attendance and burial, not exceeding one hundred dollars. Whatever sum may be determined to be payable under this act in case of death of the injured workman shall be paid to his legal representative for the benefit of such dependents, or if he leaves no such dependents, for the benefit of the persons to whom the expenses of medical attendance and burial are due.

Compensation  
for incapacity.

(2) Where total or partial incapacity for work at any gainful employment results to the workman from the injury, a weekly payment commencing at the end of the second week after the injury and continuing during such incapacity, subject as herein provided, not exceeding fifty per centum of his average weekly earnings when at work on full time during the preceding year during which he shall have been in the employment of the same employer, or if he shall have been in the

employment of the same employer for less than a year, then a weekly payment of not exceeding one half the average weekly earnings on full time for such less period. In fixing the amount of the weekly payment, regard shall be had to the difference between the amount of the average earnings of the workman before the accident and the average amount he is able to earn thereafter as wages in the same employment or otherwise. In fixing the amount of the weekly payment, regard shall be had to any payment, allowance or benefit which the workman may have received from the employer during the period of his incapacity, and in the case of partial incapacity the weekly payment shall in no case exceed the difference between the amount of the average weekly earnings of the workman before the accident and the average weekly amount which he is earning or is able to earn in the same employment or otherwise after the accident, but shall amount to one-half of such difference. In no event shall any compensation paid under this act exceed the damage suffered, nor shall any weekly payment payable under this act in any event exceed ten dollars a week or extend over more than three hundred weeks from the date of the accident. Such payment shall continue for such period of three hundred weeks: *Provided*, Total or partial disability continue during such period. No such payment shall be due or payable for any time prior to the giving of the notice required by section five of this act.

SEC. 7. Any workman entitled to receive weekly payments under this act is required, if requested by the employer, to submit himself for examination by a duly qualified medical practitioner or surgeon provided and paid for by the employer, at a time and place reasonably convenient for the workman, within two weeks after the injury, and thereafter at intervals not oftener than once in a week. If the workman refuses to submit to such examination, or obstructs the same, his right to weekly payments shall be suspended until such examination has taken place, and no compensation shall be payable during or for account of such period. Medical examinations.

SEC. 8. In case an injured workman shall be mentally incompetent at the time when any right or privilege accrues to him under this act, the guardian of the incompetent appointed pursuant to law may, on behalf of such incompetent, claim and exercise any such right or privilege with the same force and effect as if the workman himself had been competent and had claimed or exercised any such right or privilege, and no limitation of time in this act provided for shall run so long as said incompetent workman has no guardian. Incompetent persons.

SEC. 9. Any question as to compensation which may arise under this act shall be determined by agreement or by an action at equity as hereinafter provided. In case the employer fail to make compensation as herein provided, the injured workman, or his guardian, if such be appointed, or his executor or administrator, may then bring an action to recover compensation under this act in any court having jurisdiction of an action for recovery of damages for negligence for the same injury between the same parties. Such action shall be by petition in equity, which may be made returnable at the appropriate term of the superior court or may be filed in the office of the clerk of the superior court and presented in term time or vacation to any justice of said court, who on reasonable notice shall hear the parties and render judgment thereon. The judgment in such action if in favor of the plaintiff shall be for a lump sum equal to the amount of payments then due and prospectively due under this act. In such action by an executor or administrator the judgment may provide the proportions of the award or the costs to be distributed to or between the several dependents. If such determination is not made it shall be determined by the probate court in which such executor or administrator is appointed, in accordance with this act, on petition of any party interested, on such notice as such court may direct. Any employer who has declared his intention to act under the compensation features of this act shall also have the right to apply by similar proceedings to the superior court or to any justice thereof for a determination of the amount of the weekly payments to be paid the injured workman, or of a lump sum to be paid the injured workman in lieu of such weekly payments; and either such employer or workman may apply to said superior court or to any justice Proceedings in equity.



thereof in similar proceeding for the determination of any other question that may arise under the compensation feature of this act; and said court or justice, after reasonable notice and hearing, may make such order as to the matter in dispute and taxable costs as justice may require.

Payments preferred.

Sec. 10. Any person entitled to weekly payments under this act against any employer shall have the same preferential claim therefor against the assets of the employer as is allowed by law for a claim by such person against such employer for unpaid wages or personal services. Weekly payments due under this act shall not be assignable or subject to levy, execution, attachment or satisfaction of debts. Any right to receive compensation under this act shall be extinguished by the death of the person entitled thereto.

Attorneys' claims.

Sec. 11. No claim of any attorney at law for any contingent interest in any recovery under this act for services in securing such recovery or for disbursements shall be an enforceable lien on such recovery, unless the account of the same be approved in writing by a justice of the superior court, or, in case the same be tried in any court, by the justice presiding at such trial.

Reports.

Sec. 12. Every employer subject to the provisions of this act shall from time to time make to the commissioner of labor such returns as to its operation as said commissioner may require upon blanks to be furnished by said commissioner. Any employer failing to make such returns when required by said commissioner shall, until such returns are made, be subject to the provisions of section 2 of this act.

Act in effect, when.

Sec. 13. This act shall take effect January first, nineteen hundred and twelve.

Approved April 15, 1911.

## NEW JERSEY.

### ACTS OF 1911.

#### CHAPTER 95 (*As amended by Chapter 174, Acts of 1915*)—*Employers' liability—Compensation of workmen for injuries.*

##### SECTION I.—EMPLOYERS' LIABILITY.

Damages for personal injury.

1. When personal injury is caused to an employee by accident arising out of and in the course of his employment, of which the actual or lawfully imputed negligence of the employer is the natural and proximate cause, he shall receive compensation therefor from his employer, provided the employee was himself not willfully negligent at the time of receiving such injury, and the question of whether the employee was willfully negligent shall be one of fact to be submitted to the jury, subject to the usual superintending powers of a court to set aside a verdict rendered contrary to the evidence.

Questions of negligence.

Defenses abrogated.

2. The right to compensation as provided by Section I of this act shall not be defeated upon the ground that the injury was caused in any degree by the negligence of a fellow employee; or that the injured employee assumed the risks inherent in or incidental to or arising out of his employment or arising from the failure of the employer to provide and maintain safe premises and suitable appliances; which said grounds of defense are hereby abolished.

Employees of contractors.

3. If an employer enters into a contract, written or verbal, with an independent contractor to do part of such employer's work, or if such contractor enters into a contract, written or verbal, with a subcontractor to do all or any part of such work comprised in such contractor's contract with the employer, such contract or subcontract shall not bar the liability of the employer under this act for injury caused to an employee of such contractor or subcontractor by any defect in the condition of the ways, works, machinery or plant if the defect arose or had not been discovered and remedied through the negligence of the employer or some one intrusted by him with the duty of seeing that they were in proper condition. This paragraph shall apply only to actions arising under section one.

4. The provisions of paragraphs one, two and three shall apply to any claim for the death of an employee arising under an act entitled "An act to provide for the recovery of damages in cases where the death of a person is caused by wrongful act, neglect or default," approved March third, eighteen hundred and forty-eight, and the amendments thereof and supplements thereto. Injuries causing death.

5. In all actions at law brought pursuant to Section I of this act, the burden of proof to establish willful negligence in the injured employee shall be upon the defendant. Burden of proof.

6. No claim for legal services or disbursements pertaining to any demand made or suit brought under the provisions of this act shall be an enforceable lien against the amount paid as compensation, unless the same be approved in writing by the judge or justice presiding at the trial, or in case of settlement without trial, by the judge of the circuit court of the district in which such issue arose: *Provided*, That if notice in writing be given the defendant of such claim for legal services or disbursements, the same shall be a lien against the amount paid as compensation, subject to determination of the amount and approval hereinbefore provided. Attorneys' fees.

SECTION II.—ELECTIVE COMPENSATION.

7. When employer and employee shall by agreement either expressed or implied, as hereinafter provided, accept the provisions of Section II of this act, compensation for personal injuries to or for the death of such employee by accident arising out of and in the course of his employment shall be made by the employer without regard to the negligence of the employer, according to the schedule contained in paragraph eleven, in all cases except when the injury or death is intentionally self-inflicted, or when intoxication is the natural and proximate cause of injury, and the burden of proof of such fact shall be upon the employer. Compensation payable, when.

8. Such agreement shall be a surrender by the parties thereto of their rights to any other method, form or amount of compensation or determination thereof than as provided in Section II of this act, and an acceptance of all the provisions of Section II of this act, and shall bind the employee himself and for compensation for his death shall bind his personal representatives, his widow and next of kin, as well as the employer, and those conducting his business during bankruptcy or insolvency. Method to be exclusive.

9. Every contract of hiring made subsequent to the time provided for this act to take effect shall be presumed to have been made with reference to the provisions of Section II of this act, and unless there be as a part of such contract an express statement in writing, prior to any accident, either in the contract itself or by written notice from either party to the other, that the provisions of Section II of this act are not intended to apply, then it shall be presumed that the parties have accepted the provisions of Section II of this act and have agreed to be bound thereby. In the employment of minors, Section II shall be presumed to apply unless the notice be given by or to the parent or guardian of the minor. Presumptions as to contracts.

10. The contract for the operation of the provisions of Section II of this act may be terminated by either party upon sixty days' notice in writing prior to any accident. Termination of agreement.

11. Following is the schedule of compensation:

(a) For injury producing temporary disability, fifty per centum of the wages received at the time of injury, subject to a maximum compensation of ten dollars per week and a minimum of five dollars per week: *Provided*, That if at the time of injury the employee receives wages of less than five dollars per week, then he shall receive the full amount of such wages per week. This compensation shall be paid during the period of such disability, not, however, beyond three hundred weeks. Compensation for—  
Temporary disability;

(b) For disability total in character and permanent in quality, fifty per centum of the wages received at the time of injury, subject to a maximum compensation of ten dollars per week and a minimum of five dollars per week: *Provided*, That if at the time of injury the employee Permanent to-  
tal disability;

receives wages of less than five dollars per week, then he shall receive the full amount of wages per week. This compensation shall be paid during the period of such disability, not, however, beyond four hundred weeks.

Partial disa-  
bility.

(c) For disability partial in character but permanent in quality, the compensation shall be based upon the extent of such disability. In cases included by the following schedule the compensation shall be that named in the schedule, to wit:

Schedule.

For the loss of a thumb, fifty per centum of daily wages during sixty weeks.

For the loss of a first finger, commonly called index finger, fifty per centum of daily wages during thirty-five weeks.

For the loss of a second finger, fifty per centum of daily wages during thirty weeks.

For the loss of a third finger, fifty per centum of daily wages during twenty weeks.

For the loss of a fourth finger, commonly called little finger, fifty per centum of daily wages during fifteen weeks.

The loss of the first phalange of the thumb, or of any finger, shall be considered to be equal to the loss of one-half of such thumb, or finger, and compensation shall be for one-half of the periods of time above specified, and compensation for the loss of one-half of the first phalange shall be for one-fourth of the periods of time above specified.

The loss of more than one phalange shall be considered as the loss of the entire finger or thumb: *Providing, however,* That in no case shall the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand.

For the loss of a great toe, fifty per centum of daily wages during thirty weeks.

For the loss of one of the toes other than a great toe, fifty per centum of daily wages during ten weeks.

For the loss of the first phalange of any toe shall be considered to be equal to the loss of one-half of such toe, and compensation shall be one-half of the amount above specified.

The loss of more than one phalange shall be considered as the loss of the entire toe.

For the loss of a hand, fifty per centum of daily wages during one hundred and fifty weeks.

For the loss of an arm, fifty per centum of daily wages during two hundred weeks.

For the loss of a foot, fifty per centum of daily wages during one hundred and twenty-five weeks.

For the loss of a leg, fifty per centum of daily wages during one hundred and seventy-five weeks.

For the loss of an eye, fifty per centum of daily wages during one hundred weeks.

The loss of both hands, or both arms, or both feet, or both legs, or both eyes, or of any two thereof, shall constitute total and permanent disability, to be compensated according to the provisions of clause (b).

In all other cases in this class, or where the usefulness of a member or any physical function, is permanently impaired, the compensation shall bear such relation to the amounts stated in the above schedule as the disabilities bear to those produced by the injuries named in the schedule. Should the employer and the employee be unable to agree upon the amount of compensation to be paid in cases not covered by the schedule, the amount of compensation shall be settled according to the provisions of paragraph twenty hereof.

The amounts specified in this clause are all subject to the same limitations as to maximum and minimum as are stated in clause (a).

Death f r o m  
other cause.

In case of the death of a person from any cause other than the accident, during the period of payments for permanent injury, the remaining payments shall be paid to his or her dependents, according to the provisions of paragraph twelve of this act, or, if no dependents, the remaining amount due, but not exceeding one hundred dollars, shall be paid in a lump sum to the proper person for funeral expenses.

12. In case of death compensation shall be computed, but not distributed, on the following basis: Compensation for death.

(1) Actual dependents.

For one dependent, thirty-five per centum of wages.

For two dependents, forty per centum of wages.

For three dependents, forty-five per centum of wages.

For four dependents, fifty per centum of wages.

For five dependents, fifty-five per centum of wages.

For six or more dependents, sixty per centum of wages.

The term "dependents" shall apply to and include any or all of the following who are dependent upon the deceased at the time of accident or death, namely: husband, wife, parents, stepparents, grandparents, children, stepchildren, grandchildren, posthumous child, illegitimate children, brothers, sisters, half brothers, half sisters. Legally adopted children shall, in every particular, be considered as natural children: *Provided, however,* That dependency shall be presumed as to a widow who was living with her husband at the time of his decease, and children under the age of eighteen years; stepchildren and illegitimate children shall be presumed to be dependent when they were part of the decedent's household at the time of his death. Every provision of this act applying to one class shall be equally applicable to the other. Should any dependent of a deceased employee die during the period covered by such weekly payments, or should the widow of a deceased employee remarry during such period, the right of such dependent or of such widow to compensation under this section shall cease.

Compensation shall be computed upon the foregoing basis. Distribution shall be made among dependents, if more than one, according to the order of the judge of the court of common pleas, who shall, when applied to for that purpose, determine, upon the facts being presented to him, the proportion to be paid to or on behalf of each dependent according to the relative dependency. Payment on behalf of infants shall be made to the surviving parent, if any.

(2) No dependents.

Expenses of last sickness and burial, the cost of burial, however, not to exceed one hundred dollars.

In computing compensation to orphans or other children, only those under eighteen years of age shall be included, and only during the period in which they are under that age, at which time payment on account of such child shall cease: *Provided, however,* That payments to such physically or mentally deficient children as are for such reason dependent shall continue during the full term of compensation payment.

The compensation in case of death shall be subject to a maximum compensation of ten dollars per week and a minimum of five dollars per week: *Provided,* That if at the time of the injury the employee receives wages of less than five dollars per week, then the compensation shall be the full amount of such wages per week. This compensation shall be paid during three hundred weeks.

Compensation under this schedule shall not apply to alien dependents not residents of the United States.

13. No compensation shall be allowed for the first two weeks after the injury received, except as provided by paragraph fourteen, nor in any case unless the employer has actual knowledge of the injury or is notified thereof within the period specified in paragraph fifteen.

14. During the first two weeks after the injury the employer shall furnish reasonable medical and hospital services and medicines, as and when needed, not to exceed fifty dollars in value, unless the employee refuses to allow them to be furnished by the employer.

14. (a) Compensation for all classes of injuries shall run consecutively and not concurrently, as follows: First two weeks, medical and hospital services and medicines, as provided in paragraph fourteen. After the first two weeks, compensation during temporary disability. Following both, either or none of the above, compensation consecutively for each permanent injury. Following any or all or none of the above, if death results from the accident, expenses of last sickness and

Orphans.

Weekly scale.

Alliens.

Waiting time.

Medical, etc., services.

Sequence of classes of compensation payments.

burial. Following which compensation to dependents, if any. In no case shall the total number of weekly payments be more than four hundred.

**Notice.**

15. Unless the employer shall have actual knowledge of the occurrence of the injury, or unless the employee, or some one on his behalf, or some of the dependents, or some one on their behalf, shall give notice thereof to the employer within fourteen days of the occurrence of the injury, then no compensation shall be due until such notice is given or knowledge obtained. If the notice is given, or the knowledge obtained within thirty days from the occurrence of the injury, no want, failure or inaccuracy of a notice shall be a bar to obtaining compensation, unless the employer shall show that he was prejudiced by such want, defect or inaccuracy, and then only to the extent of such prejudice. If the notice is given, or the knowledge obtained within ninety days, and if the employee, or other beneficiary, shall show that his failure to give prior notice was due to his mistake, inadver[tence], ignorance of fact or law, or inability, or to the fraud, misrepresentation or deceit of another person, or to any other reasonable cause or excuse, then compensation may be allowed, unless, and then to the extent only that the employer shall show that he was prejudiced by failure to receive such notice. Unless knowledge be obtained, or notice given, within ninety days after the occurrence of the injury, no compensation shall be allowed.

**Service of notice.**

16. The notice referred to may be served personally upon the employer, or upon any agent of the employer upon whom a summons may be served in a civil action, or by sending it through the mail to the employer at the last known residence or business place thereof within the State, and shall be substantially in the following form:

To (name of employer):

You are hereby notified that a personal injury was received by (name of employe injured), who was in your employ at (place) while engaged as (nature of employment), on or about the (—) day of (—), nineteen hundred and (—) and that compensation will be claimed therefor.

Signed, (— —)

but no variation from this form shall be material if the notice is sufficient to advise the employer that a certain employee, by name, received an injury in the course of his employment on or about a specified time, at or near a certain place. Notice served at the office of, or on the person who was the employee's immediate superior, shall be a compliance with this act.

**Medical examinations.**

17. After an injury, the employee, if so requested by his employer, must submit himself for examination at some reasonable time and place within the State, and as often as may be reasonably requested, to a physician or physicians authorized to practice under the laws of this State. If the employee requests, he shall be entitled to have a physician or physicians of his own selection present to participate in such examination. The refusal of the employee to submit to such examination shall deprive him of the right to compensation during the continuance of such refusal. When a right to compensation is thus suspended no compensation shall be payable in respect of the period of suspension.

**Disputes.**

18. In case of a dispute over, or failure to agree upon a claim for compensation between employer and employee, or the dependents of the employee, either party may submit the claim, both as to questions of fact, the nature and effect of the injuries, and the amount of compensation therefor according to the schedule herein provided, to the judge of the court of common pleas of such county as would have jurisdiction in a civil case, or where there is more than one judge of said court, then to either or any of said judges of such court, which judge is hereby authorized to hear and determine such disputes in a summary manner, and his decision as to all questions of fact shall be conclusive and binding.

**Payment in case of death.**

19. In case of death, where no executor or administrator is qualified, the said judge shall, by order, direct payment to be made to such person as would be appointed administrator of the estate of such decedent

upon like terms as to bond for the proper application of compensation payments as are required of administrators.

20. Procedure in case of dispute shall be as follows:

Procedure.

Either party may present a petition to said judge setting forth the names and residences of the parties and the facts relating to employment at the time of injury, the injury in its extent and character, the amount of wages received at the time of injury, the knowledge of the employer or notice of the occurrence of said injury, and such other facts as may be necessary and proper for the information of the said judge, and shall state the matter or matters in dispute and the contention of the petitioner with reference thereto. This petition shall be verified by the oath or affirmation of the petitioner. Proceedings on behalf of an infant shall be instituted and executed by a guardian, and payment, if any, shall be made to such guardian.

Upon the presentation of such petition the same shall be filed with the clerk of the court of common pleas, and the judge shall by order fix a time and place for the hearing thereof, not less than three weeks after the date of the filing of said petition. A copy of said petition and order shall be served as summons in a civil action and may be served within six days thereafter upon the adverse party. Within seven days after the service of such notice the adverse party shall file an answer to said petition, unless the court for good cause shall grant further time, which shall admit or deny the substantial averments of the petition, and shall state the contention of the defendant with reference to the matters in dispute as disclosed by the petition. The answer shall be verified in like manner as required for a petition. Within thirty days after the final hearing the judge of the court of common pleas shall file his determination.

At the time fixed for hearing or any adjournment thereof the said judge shall hear such witnesses as may be presented by each party, and in a summary manner decide the merits of the controversy. This determination shall be filed in writing with the clerk of the common pleas court, and judgment shall be entered thereon in the same manner as in causes tried in the court of common pleas, and shall contain a statement of facts as determined by said judge. The employer may once every month file receipt of payment verified by affidavit that the receipts are accurate and true, with the clerk of the court, which shall be entered in satisfaction of the judgment to the extent of such payments. Subsequent proceedings thereon shall only be for the recovery of moneys thereby determined to be due: *Provided*, That nothing herein contained shall be construed as limiting the jurisdiction of the supreme court to review questions of law by certiorari. Costs may be awarded by said judge in his discretion, and when so awarded the same costs shall be allowed, taxed and collected as are allowed, taxed and collected for like services in the common pleas court.

No agreement between the parties for a lesser sum than that which may be determined by the judge of the court of common pleas to be due, shall operate as a bar to the determination of a controversy upon its merits, or to the award of a larger sum, if it shall be determined by the said judge that the amount agreed upon is less than the injured employee or his dependents are properly entitled to receive.

Agreements not bar.

21. The compensation herein provided may be commuted by said court of common pleas, at its present value when discounted at five per centum simple interest, upon application of either party, with due notice to the other, if it appear that such commutation will be for the best interest of the employee or the dependents of the deceased employee, or that it will avoid undue expense or undue hardship to either party, or that such employee or dependent has removed or is about to remove from the United States, or that the employer has sold or otherwise disposed of the greater part of his business or assets.

Commutation of payments.

In determining whether the commutation asked for will be for the best interest of the employee or the dependents of the deceased employee, or that it will avoid undue expense or undue hardship to either party, the judge of the court of common pleas will constantly bear in mind that it is the intention of this act that the compensation payments are in lieu of wages, and are to be received by the injured employee or his dependents in the same manner in which wages are ordinarily paid.

Therefore, commutation is a departure from the normal method of payment and is to be allowed only when it clearly appears that some unusual circumstances warrant such a departure. Commutation shall not be allowed for the purpose of enabling the injured employee, or the dependents of a deceased employee, to satisfy a debt, or to make payment to physicians, lawyers or any other persons.

**Attorneys' fees.**

When any proceedings have been taken under the provisions of paragraph twenty or paragraph twenty-one of this act, the judge of the court of common pleas shall, as a part of his determination and order, either for payment or for commutation of payment, settle and determine the amount of compensation to be paid by the injured employee or his dependents, on behalf of whom such proceedings are instituted, to his legal adviser or advisers, and it shall be unlawful for any lawyer, or other person acting in that behalf, to ask for, contract for or receive any larger sum than the amount so fixed; and in the order determining weekly payments where no commutation is made, the judge shall also determine the amount to be paid per week from the compensation payment on account of the legal fee thus awarded, and it shall be unlawful for the legal adviser, or other person acting in that behalf, to ask for, contract for or receive a larger sum per week than the allowance thus determined. Violation of the restrictions contained in this clause shall constitute contempt of court and shall be punished accordingly.

**Revision of awards.**

An agreement or award of compensation may be modified at any time by a subsequent agreement, or at any time after one year from the time when the same became operative, it may be reviewed upon the application of either party on the ground that the incapacity of the injured employee has subsequently increased or diminished. In such case the provisions of paragraph seventeen with reference to medical examination shall apply.

**Payments to trustees.**

21. (a) At any time after the entry of the award, a sum equal to all future installments of compensation may (where death or the nature of the injury renders the amount of future payments certain) by leave of court, be paid by the employer to any savings bank, trust company or life insurance company in good standing and authorized to do business in this State and having an office in the county in which the award was entered, and such sum, together with all interest thereon, shall thereafter be held in trust for the employee or the dependents of the employee, who shall have no further recourse against the employer. The payment of such sum by the employer, evidenced by the receipt of the trustee noted upon the docket of the clerk of the court, shall operate as a satisfaction of said award as to the employer. Payments from said fund shall be made by the trustee in the same amounts and at the same times as are herein required of the employer until said fund and interest shall be exhausted. In the appointment of the trustee, preference shall be given, in the discretion of the court, to the choice of the employee or the dependents of the deceased employee. The expense of administration of such trust shall be fixed by the court and paid by the employer.

**Compensation preferred.**

22. The right of compensation granted by this act shall have the same preference against the assets of the employer as is now or may hereafter be allowed by law for a claim for unpaid wages for labor. Claims or payments due under this act shall not be assignable, and shall be exempt from all claims of creditors and from levy, execution or attachment.

**Assignments.**

### SECTION III.—GENERAL PROVISIONS.

**Definitions.**

23. For the purposes of this act, willful negligence shall consist of (1) deliberate act or deliberate failure to act; or (2) such conduct as evidences reckless indifference to safety; or (3) intoxication, operating as the proximate cause of injury.

Wherever in this act the singular is used the plural shall be included; where the masculine gender is used, the feminine and neuter shall be included.

Employer is declared to be synonymous with master and includes natural persons, partnerships and corporations; employee is synonymous with servant and includes all natural persons who perform service for another for financial consideration, exclusive of casual employments.

Amputation between the elbow and the wrist shall be considered as the equivalent of the loss of a hand, and amputation between the knee and the ankle shall be considered as the equivalent of the loss of a foot.

No agreement, composition or release of damages made before the happening of any accident, except the agreement defined in section two of this act, shall be valid or shall bar a claim for damages for the injury resulting therefrom, and any such agreement, other than that defined in section two herein, is declared to be against the public policy of this State. The receipt of benefits from any association, society or fund to which the employee shall have been a contributor shall not bar the recovery of damages by action at law or the recovery of compensation under section two hereof.

Waivers.

Where a third person or corporation is liable to the employee or his dependents for an injury or death, the existence of a right of compensation from the employer under this statute shall not operate as a bar to the action of the employee or his dependents, nor be regarded as establishing a measure of damage therein. However, in event that the employee or his dependents shall recover from the said third person or corporation, a sum equivalent to or greater than the total compensation payments for which the employer is liable under this statute, the employer shall be released thereby from the obligation of compensation. If, however, the sum so recovered from the third person or corporation is less than the total of compensation payments, the employer shall be liable only for the difference. The obligation of the employer under this statute to make compensation shall continue until the payment, if any, by such third person or corporation is made. Such employer shall file with the third person or corporation so liable, at any time prior to payment, a statement of the compensation agreement or award between himself and his employee, or the dependents of the employee, and the employer shall thereafter be entitled to receive from such third person or corporation, upon the payment of any amount in release or in judgment by the third person or corporation on account of his or its liability to the injured employee or his dependents, a sum equivalent to the amount of compensation payments which the employer has theretofore paid to the injured employee or his dependents, which payments shall be deducted by the third person or corporation from the sum paid in release or judgment to the injured employee or his dependents.

Liability of third persons.

Wherever in section two of this act the term "wages" is used, it shall be construed to mean the money rate at which the service rendered is recompensed under the contract of hiring in force at the time of the accident, and shall not include gratuities received from the employer or others, nor shall it include board, lodging or similar advantages received from the employer, unless the money value of such advantages shall have been fixed by the parties at the time of hiring. Where prior to the accident the rate of wages is fixed by the output of the employee, his weekly wages shall be taken to be six times his average daily earnings for a working day of ordinary length, excluding overtime. This rate of weekly wages shall be calculated by dividing the total value of the employee's output during the actual number of full working days during the preceding six months, by the number of days the workman was actually employed. All parts of this calculation shall refer to employment by the same employer.

Wages defined.

In case of personal injuries or death all claims for compensation on account thereof shall be forever barred unless within one year after the accident the parties shall have agreed upon the compensation payable under this act, or unless within one year after the accident one of the parties shall have filed a petition for adjudication of compensation as provided herein.

Claim in one year.

24. In case for any reason any paragraph or any provision of this act shall be questioned in any court and shall be held to be unconstitutional or invalid, the same shall not be held to affect any other paragraph or provision of this act, except that Sections I and II are hereby declared to be inseparable, and if either section be declared void or inoperative in an essential part, so that the whole of such section must fall, the other section shall fall with it and not stand alone. Section I of this act shall not apply in cases where Section II becomes operative

Constitutionality and construction of act.



- in accordance with the provisions thereof, but shall apply in all other cases, and in such cases shall be in extension of the common law.
- Prior injuries.** 25. Every right of action for negligence, or to recover damages for injuries resulting in death, existing before this act shall take effect, is continued, and nothing in this act contained shall be construed as affecting any such right of action, nor shall the failure to give the notice provided for in Section II, paragraph fifteen of this act, be a bar to the maintenance of a suit upon any right of action existing before this act shall take effect.
- Repealer.** 26. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.
- Act in effect.** 27. This act shall take effect on the fourth day of July next succeeding its passage and approval.  
Approved April 4, 1911.

CHAPTER 368.—*Contracts of employment—Presumption as to election.*

- Prior contracts.** SECTION 1. Every contract of hiring, verbal, written or implied from circumstances, now in operation or made or implied prior to the time limited for the act to which this act is a supplement [chapter 95, Acts of 1911] to take effect, shall, after this act takes effect, be presumed to continue subject to the provisions of section two of the act to which this act is a supplement, unless either party shall, prior to accident, in writing, notify the other party to such contract that the provisions of section two of the act to which this act is a supplement are not intended to apply.
- Notice of rejection required.**
- Act in effect.** SEC. 2. This act shall take effect on the fourth day of July next succeeding its passage and approval.  
Approved May 2, 1911.

ACTS OF 1912.

CHAPTER 316.—*Compensation of workmen for injuries—Decisions to be reported.*

- Commissioner of labor to receive decisions.** SECTION 1. The clerk of each of the courts of common pleas in this State, whenever any order is filed by the judge of such court making a decision upon any matter arising under the provisions of an act entitled "An act prescribing the liability of an employer to make compensation for injuries received by an employee in the course of employment, \* \* \* [chapter 95, Acts of 1911] establishing an elective schedule of compensation, and regulating procedure for the determination of liability and compensation thereunder," approved April fourth, nineteen hundred and eleven, shall forthwith forward to the commissioner of labor of the State of New Jersey a copy of the said order, which need not be certified, without any charge being made therefor.  
Approved April 1, 1912.

ACTS OF 1913.

CHAPTER 145.—*Compensation of workmen for injuries—Public employees.*

- Who entitled to compensation.** SECTION 1. Every employee who shall be in the employ of the State, county, municipality or any board or commission, or any other governing body, including boards of education, within this State, shall be compensated under and by virtue of section two to which this act is a supplement: *Provided, however,* That no person receiving a salary greater than twelve hundred dollars per year, nor any person holding an elective office shall be entitled to compensation: *And provided further,* That nothing herein contained shall be construed as affecting any pension fund now or hereafter provided by law.
- How payments are to be made.** SEC. 2. When any payment shall be due under the provisions of this supplement or the act to which it is a supplement, the name of the injured employee, or in case of his death, the names of the persons to whom payment is to be made as his dependents, shall be carried upon

the pay roll, and payment shall be made in the same manner and from the same source in which and from which the wages of the injured employee were paid. In event that any extraordinary payment larger than the weekly rate of compensation shall be due, such payment shall be made from any fund available for the maintenance or incidental expenses of the institution, department, board or governing body under and by which the employee was employed.

Approved March 27, 1913.

**NEW YORK.**

**CONSTITUTION.**

*ARTICLE 1.—Safety of workmen—Compensation for injuries.*

SECTION 19. Nothing contained in this constitution shall be construed to limit the power of the legislature to enact laws for the protection of the lives, health, or safety of employees; or for the payment, either by employers, or by employers and employees or otherwise, either directly or through a State or other system of insurance or otherwise, of compensation for injuries to employees or for death of employees resulting from such injuries without regard to fault as a cause thereof, except where the injury is occasioned by the willful intention of the injured employee to bring about the injury or death of himself or of another, or where the injury results solely from the intoxication of the injured employee while on duty; or for the adjustment, determination and settlement, with or without trial by jury, of issues which may arise under such legislation; or to provide that the right of such compensation, and the remedy therefor shall be exclusive of all other rights and remedies for injuries to employees or for death resulting from such injuries; or to provide that the amount of such compensation for death shall not exceed a fixed or determinable sum: *Provided*, That all moneys paid by an employer to his employees or their legal representatives, by reason of the enactment of any of the laws herein authorized, shall be held to be a proper charge in the cost of operating the business of the employer.

Safety laws.

Compensation system.

Exclusive remedy.

Adopted November 4, 1913.

**CONSOLIDATED LAWS.**

*CHAPTER 31.—Compensation of workmen for injuries.—Elective statute.*

(Sections 205 to 212 added by chapter 352, Acts of 1910.)

SECTION 205. When and if any employer in this State and any of his employees shall consent to the compensation plan described in sections two hundred and six to two hundred and twelve, inclusive, of this article, hereinafter referred to as the plan, and shall signify their consent thereto in writing signed by each of them or their authorized agents, and acknowledged in the manner prescribed by law for taking the acknowledgment of a conveyance of real property, and such writing is filed with the county clerk of the county in which it is signed by the employee, then so long as such consent has not expired or been canceled as hereinafter provided, such employee, or in case injury to him results in death, his executor or administrator, shall have no other right of action against the employer for personal injury or death of any kind, under any statute or at common law, save under the plan so consented to, except where personal injury to the employee is caused in whole or in part by the failure of the employer to obey a valid order made by the commissioner of labor or other public authority authorized to require the employer to safeguard his employees, or where such injury is caused by the serious or willful misconduct of the employer. In such excepted cases thus described, no right of action which the employee has at common law or by any other statute shall be affected or lost by his consent to the plan, if such employee, or in case of death his executor or administrator, commences such action before accepting any

Consent to compensation plan.

Actions.

- benefit under such plan or giving any notice of injury as provided in section two hundred and six hereof. The commencing of any legal action whatsoever at common law or by any statute against the employer on account of such injury, except under the plan, shall bar the employee, and in the event of his death his executors, administrators, dependents and other beneficiaries, from all benefit under the plan.
- Railroads excluded.** This section and sections two hundred and six to two hundred and twelve, inclusive, of this article shall not apply to a railroad corporation, foreign or domestic, doing business in this State, or a receiver thereof, or to any person employed by such corporation or receiver.
- Compensation payable, when.** SEC. 206. If personal injury by accident arising out of and in the course of the employment is caused to the employee, the employer shall, subject as hereinafter mentioned, be liable to pay compensation under the plan at the rates set out in section two hundred and seven of this article: *Provided*, That the employer shall not be liable in respect of any injury which does not disable the employee for a period of at least two weeks from earning full wages at the work at which he was employed, and that the employer shall not be liable in respect of any injury to the employee which is caused by the serious and willful misconduct of that employee. No proceedings for recovery under the plan provided hereby shall be maintained unless notice of the accident has been given to the employer as soon as practicable after the happening thereof and before the employee has voluntarily left the employment in which he was injured and during such disability, and unless claim for compensation with respect to the accident has been made within six months from the occurrence of the accident, or in the case of death of the employee, or in the event of his physical or mental incapacity within six months after such death or removal of such physical or mental incapacity, or in the event that weekly payments have been made under the plan, within six months after such payments have ceased; but no want of or defect or inaccuracy of a notice shall be a bar to the maintenance of proceedings under the plan unless the employer proves that he is prejudiced by such want, defect or inaccuracy. Notice of the accident shall apprise the employer of the claim for compensation under this plan and shall state the name and address of the employee injured, the date and place of the accident and in simple language the cause thereof. The notice may be served personally or by sending it by mail in a registered letter addressed to the employer at his last known residence or place of business.
- Notice.**
- Amount payable in case of death.** SEC. 207. The amount of compensation under the plan shall be:
1. In case death results from injury:
    - (a) If the employee leaves a widow or next of kin at the time of his death wholly dependent on his earnings, a sum equal to twelve hundred times the daily earnings of the employee at the rate at which he was being paid by the employer at the time of the accident, but not more in any event than three thousand dollars. Any weekly payments previously made under the plan shall be deducted in ascertaining such amount payable on death.
    - (b) If such widow or next of kin or any of them are in part only dependent upon his earnings, such sum not exceeding that provided in subdivision (a) as may be determined to be reasonable and proportionate to the injury to such dependents.
    - (c) If he leaves no widow, or next of kin so dependent in whole or in part, the reasonable expenses of his medical attendance and burial, not exceeding one hundred dollars. Whatever sum may be determined to be payable under the plan, in case of death of the injured employee, shall be paid to his legal representative for the benefit of such dependents, or if he leaves no such dependents, for the benefit of the person to whom the expenses of medical attendance and burial are due.
  2. Where total or partial incapacity for work at any gainful employment results to the employee from the injury, a weekly payment commencing at the end of the second week after the injury and continuing during incapacity, subject as herein provided, not exceeding fifty per centum of his average weekly earnings when at work on full time during the preceding year during which he shall have been in the employment of the same employer, or if he shall have been employed less than a
- Of incapacity.**

year, then a weekly payment of not exceeding three times the average daily earnings on full time for such less period.

In fixing the amount of the weekly payment, regard shall be had to any payment, allowance or benefit which the workman may have received from the employer during the period of his incapacity, and in the case of partial incapacity the weekly payment shall in no case exceed the difference between the amount of the average weekly earnings of the workman before the accident and the average amount which he is earning or is able to earn in some suitable employment or business after the accident but shall amount to one-half of such difference. In no event shall any weekly payment payable under the plan exceed ten dollars per week or extend over more than eight years from the date of the accident. Any person entitled to receive weekly payments under the plan is required, if requested by the employer, to submit himself for examination by a duly qualified medical practitioner or surgeon provided and paid for by the employer, at a time and place reasonably convenient for the employee, within three weeks after the injury, and thereafter at intervals not oftener than once in six weeks. If the workman refuses so to submit or obstructs the same, his right to weekly payments shall be suspended until such examination shall have taken place and no compensation shall be payable under the plan during such period. In case an injured employee shall be mentally incompetent at the time when any right or privilege accrues to him under the plan, a committee or guardian of the incompetent appointed pursuant to law may, on behalf of such incompetent, claim and exercise any such right or privilege with the same force and effect as if the employee himself had been competent and had claimed or exercised any such right or privilege; and no limitation of time herein provided for shall run so long as said incompetent employee has no committee or guardian.

Medical examinations.

Sec. 208. Any question of law or fact arising in regard to the application of the plan in determining the compensation payable thereunder or otherwise shall be determined either by agreement or by arbitration as provided in the code of civil procedure, or by an action at law as herein provided. In case the employer shall be in default in any of his obligations to the employee under the plan, the injured employee or his committee or guardian, if such be appointed, or his executor or administrator, may then bring an action to recover compensation under the plan in any court having jurisdiction thereof as on a written contract. Such action shall be conducted in the same manner as an action at law for the recovery of damages for breach of a written contract, and shall for all purposes, including the determination of jurisdiction, be deemed such an action. The judgment in such action, in favor of the plaintiff, shall be for a lump sum equal to the amount of the payments then due and prospectively due under the plan. In such action by an executor or administrator the judgment may provide the proportions of the award or the costs to be distributed to or between the several dependents. If such determination is not made it shall be determined by the surrogate's court by which such executor or administrator is appointed, in accordance with the terms of this article on petition of any party on such notice as such court may direct.

Settlement of disputes.

Sec. 209. Any person entitled to weekly payments under the plan against any employer shall have the same preferential claim therefor against the assets of the employer as now allowed by law for a claim by such person against such employer for unpaid wages or personal services. Weekly payments due under the plan shall not be assignable or subject to attachment, levy or execution. No claim of an attorney for any contingent interest in any recovery under the plan for services in securing such recovery shall be an enforceable lien thereon, unless the amount of the same be approved in writing by a justice of the supreme court, or in case the same is tried in any court, before [by] the justice presiding at such trial.

Claims preferred.

Sec. 210. When a consent to the plan shall have been filed in the office of the county clerk as herein provided, it shall be binding upon both parties thereto as long as the relation of employer and employee exists between the parties, and expire at the end of such employment, but it may at any time be canceled on sixty days' notice in writing

Cancellation of consent.

from either party to the other. Such notice of cancellation shall be effective only if served personally or sent by registered letter to the last known post-office address of the party to whom it is addressed, but no notice of cancellation shall be effective as to a claim for injury occurring previous thereto.

**Reports of consent.** SEC. 211. Each employer who shall sign with any employee a consent to the plan shall, within thirty days thereafter, file with the commissioner of labor a statement thereof, signed by such employer, which shall show (a) the name of the employer and his post-office address, (b) the name of the employee and his last known post-office address, (c) the date of and office where the original consent is filed, (d) the weekly wage of the employee at the time the consent is signed; unless such statement is duly filed, such consent of the employee shall not be a bar to any proceeding at law commenced by the employee against the employer.

**Reports of operations.** SEC. 212. Each employer of labor in this State who shall have entered into the plan with any employee shall, on or before the first day of January, nineteen hundred and eleven, and thereafter and at such times as may be required by the commissioner of labor, make a report to such commissioners [commissioner] of all amounts, if any, paid by him under such plan to injured employees, stating the name of such employees, and showing separately the amounts paid under agreement with the employees, and the amounts paid after proceedings at law, and the proceedings at law under the plan then pending. Such reports shall be verified by the employer or a duly authorized agent in the same manner as affidavits.

Became a law May 24, 1910.

#### ACTS OF 1913.

#### CHAPTER 816.—*Compensation of workmen for injuries—Compulsory statute.*

##### *Article 1.*

**Title.** SECTION 1. This chapter shall be known as the "Workmen's Compensation Law."

SEC. 2. Compensation provided for in this chapter shall be payable for injuries sustained or death incurred by employees engaged in the following hazardous employments:

**Hazardous employments.** Group 1. The operation, including construction and repair, of railways operated by steam, electric or other motive power, street railways, and incline railways, but not their construction when constructed by any person other than the company which owns or operates the railway, including work of express, sleeping, parlor and dining car employees on railway trains.

Group 2. Construction and operation of railways not included in group one.

Group 3. The operation, including construction and repair, of car shops, machine shops, steam and power plants, and other works for the purposes of any such railway, or used or to be used in connection with it when operated, constructed or repaired by the company which owns or operates the railway.

Group 4. The operation, including construction and repair, of car shops, machine shops, steam and power plants, not included in group three.

Group 5. The operation, including construction and repair, of telephone lines and wires for the purposes of the business of a telephone company, or used or to be used in connection with its business, when constructed or operated by the company.

Group 6. The operation, including construction and repair, of telegraph lines and wires for the purposes of the business of a telegraph company, or used or to be used in connection with its business, when constructed or operated by the company.

Group 7. Construction of telegraph and telephone lines not included in groups five and six.

Group 8. The operation, within or without the State, including repair, of vessels other than vessels of other States or countries used in interstate or foreign commerce, when operated or repaired by the company.

Group 9. Shipbuilding, including construction and repair in a shipyard or elsewhere, not included in group eight.

Group 10. Longshore work, including the loading or unloading of cargoes or parts of cargoes of grain, coal, ore, freight, general merchandise, lumber or other products or materials, or moving or handling the same on any dock, platform or place, or in any warehouse or other place of storage.

Group 11. Dredging, subaqueous or caisson construction, and pile driving.

Group 12. Construction, installation or operation of electric light and electric power lines, dynamos, or appliances, and power transmission lines.

Group 13. Paving; sewer and subway construction, work under compressed air, excavation, tunneling and shaft sinking, well digging, laying and repair of underground pipes, cables and wires, not included in other groups.

Group 14. Lumbering; logging, river-driving, rafting, booming, saw mills, shingle mills, lath mills; manufacture of veneer and of excelsior; manufacture of staves, spokes, or headings.

Group 15. Pulp and paper mills.

Group 16. Manufacture of furniture, interior woodwork, organs, pianos, piano actions, canoes, small boats, coffins, wicker and rattan ware; upholstering; manufacture of mattresses or bed springs.

Group 17. Planing mills, sash and door factories, manufacture of wooden and corrugated paper boxes, cheese boxes, moldings, window and door screens, window shades, carpet sweepers, wooden toys, articles and wares or baskets.

Group 18. Mining; reduction of ores and smelting; preparation of metals or minerals.

Group 19. Quarries; sand, shale, clay or gravel pits, lime kilns; manufacture of brick, tile, terra-cotta, fire-proofing, or paving blocks, manufacture of calcium carbide, cement, asphalt or paving material.

Group 20. Manufacture of glass, glass products, glassware, porcelain or pottery.

Group 21. Iron, steel or metal foundries; rolling mills; manufacture of castings, forgings, heavy engines, locomotives, machinery, safes, anchors, cables, rails, shafting, wires, tubing, pipes, sheet metal, boilers, furnaces, stoves, structural steel, iron or metal.

Group 22. Operation and repair of stationary engines and boilers, not included in other groups.

Group 23. Manufacture of small castings or forgings, metal wares, instruments, utensils, and articles, hardware, nails, wire goods, screens, bolts, metal beds, sanitary, water, gas or electric fixtures, light machines, typewriters, cash registers, adding machines, carriage mountings, bicycles, metal toys, tools, cutlery, instruments, photographic cameras and supplies, sheet metal products, buttons.

Group 24. Manufacture of agricultural implements, threshing machines, traction engines, wagons, carriages, sleighs, vehicles, automobiles, motor trucks, toy wagons, sleighs, or baby carriages.

Group 25. Manufacture of explosives and dangerous chemicals, corrosive acids or salts, ammonia, gasoline, petroleum, petroleum products, celluloid, gas, charcoal, artificial ice, gunpowder or ammunition.

Group 26. Manufacture of paint, color, varnish, oil, japans, turpentine, printing ink, printers' rollers, tar, tarred, pitched or asphalted paper.

Group 27. Distilleries, breweries; manufacture of spirituous or malt liquors, alcohol, wine, mineral water or soda waters.

Group 28. Manufacture of drugs and chemicals, not specified in group twenty-five, medicines, dyes, extracts, pharmaceutical or toilet preparations, soaps, candles, perfumes, noncorrosive acids or chemical preparations, fertilizers, including garbage disposal plants; shoe blacking or polish.

Group 29. Milling; manufacture of cereals or cattle foods, warehousing; storage; operation of grain elevators.

Group 30. Packing houses, abattoirs, manufacture or preparation of meats or meat products or glue.

Group 31. Tanneries.

Group 32. Manufacture of leather goods and products, belting, saddlery, harness, trunks, valises, boots, shoes, gloves, umbrellas, rubber goods, rubber shoes, tubing, tires or hose.

Group 33. Canning or preparation of fruit, vegetables, fish or food stuffs; pickle factories and sugar refineries.

Group 34. Bakeries, including manufacture of crackers and biscuits, manufacture of confectionery, spices or condiments.

Group 35. Manufacture of tobacco, cigars, cigarettes or tobacco products.

Group 36. Manufacture of cordage, ropes, fiber, brooms or brushes; manila or hemp products.

Group 37. Flax mills; manufacture of textiles or fabrics, spinning, weaving and knitting manufactories; manufacture of yarn, thread, hosiery, cloth, blankets, carpets, canvas, bags, shoddy or felt.

Group 38. Manufacture of men's or women's clothing, white wear, shirts, collars, corsets, hats, caps, furs or robes.

Group 39. Power laundries; dyeing, cleaning or bleaching.

Group 40. Printing, photo-engraving, stereotyping, electrotyping, lithographing, embossing; manufacture of stationery, paper, cardboard boxes, bags, or wall paper; and bookbinding.

Group 41. The operation, otherwise than on tracks, on streets, highways, or elsewhere of cars, trucks, wagons or other vehicles, and rollers and engines, propelled by steam, gas, gasoline, electric, mechanical or other power or drawn by horses or mules.

Group 42. Stone cutting or dressing; marble works; manufacture of artificial stone; steel building and bridge construction; installation of elevators, fire escapes, boilers, engines or heavy machinery; brick-laying, tile laying, mason work, stone setting, concrete work, plastering; and manufacture of concrete blocks; structural carpentry; painting, decorating or renovating; sheet metal work; roofing; construction, repair and demolition of buildings and bridges; plumbing, sanitary or heating engineering; installation and covering of pipes or boilers.

#### Definitions.

SEC. 3. As used in this chapter, 1. "Hazardous employment" means a work or occupation described in section two of this chapter.

2. "Commission" means the State workmen's compensation commission, as constituted by this chapter.

3. "Employer," except when otherwise expressly stated, means a person, partnership, association, corporation, and the legal representatives of a deceased employer, or the receiver or trustee of a person, partnership, association or corporation, employing workmen in hazardous employments; but does not include the State or a municipal corporation or other political subdivision thereof.

4. "Employee" means a person who is engaged in a hazardous employment in the service of an employer carrying on or conducting the same upon the premises or at the plant, or in the course of his employment away from the plant of his employer; and shall not include farm laborers or domestic servants.

5. "Employment" includes employment only in a trade, business or occupation carried on by the employer for pecuniary gain.

6. "Compensation" means the money allowance payable to an employee or to his dependents as provided for in this chapter, and includes funeral benefits provided therein.

7. "Injury" and "personal injury" mean only accidental injuries arising out of and in the course of employment and such disease or infection as may naturally and unavoidably result therefrom.

8. "Death" when mentioned as a basis for the right to compensation means only death resulting from such injury.

9. "Wages" means the money rate at which the service rendered is recompensed under the contract of hiring in force at the time of the accident, including the reasonable value of board, rent, housing, lodging or similar advantage received from the employer.

10. "State fund" means the State insurance fund provided for in article five of this chapter.

11. "Child" shall include a posthumous child and a child legally adopted prior to the injury of the employee.

12. "Insurance carrier" shall include the State fund, stock corporations or mutual associations with which employers have insured, and employers permitted to pay compensation directly under the provisions of subdivision three of section fifty.

*Article 2.*

SECTION 10. Every employer subject to the provisions of this chapter shall pay or provide as required by this chapter compensation according to the schedules of this article for the disability or death of his employee resulting from an accidental personal injury sustained by the employee arising out of and in the course of his employment, without regard to fault as a cause of such injury, except where the injury is occasioned by the willful intention of the injured employee to bring about the injury or death of himself or of another, or where the injury results solely from the intoxication of the injured employee while on duty. Where the injury is occasioned by the willful intention of the injured employee to bring about the injury or death of himself or of another, or where the injury results solely from the intoxication of the injured employee while on duty, neither the injured employee nor any dependent of such employee shall receive compensation under this chapter.

Compensation payable, when.

SEC. 11. The liability prescribed by the last preceding section shall be exclusive, except that if an employer fail to secure the payment of compensation for his injured employees and their dependents as provided in section fifty of this chapter, an injured employee, or his legal representative in case death results from the injury, may, at his option, elect to claim compensation under this chapter, or to maintain an action in the courts for damages on account of such injury; and in such an action the defendant may not plead as a defense that the injury was caused by the negligence of a fellow servant or that the employee assumed the risk of his employment, or that the injury was due to the contributory negligence of the employee.

Failure of employer to secure payments.

SEC. 12. No compensation shall be allowed for the first fourteen days of disability, except the benefits provided for in section thirteen of this chapter.

Waiting time.

SEC. 13. The employer shall promptly provide for an injured employee such medical, surgical or other attendance or treatment, nurse and hospital service, medicines, crutches and apparatus as may be required or be requested by the employee, during sixty days after the injury. If the employer fail to provide the same, the injured employee may do so at the expense of the employer. The employee shall not be entitled to recover any amount expended by him for such treatment or services unless he shall have requested the employer to furnish the same and the employer shall have refused or neglected to do so. All fees and other charges for such treatment and services shall be subject to regulation by the commission as provided in section twenty-four of this chapter, and shall be limited to such charges as prevail in the same community for similar treatment of injured persons of a like standard of living.

Medical, etc., care.

SEC. 14. Except as otherwise provided in this chapter, the average weekly wages of the injured employee at the time of the injury shall be taken as the basis upon which to compute compensation or death benefits, and shall be determined as follows:

Wages computed, how.

1. If the injured employee shall have worked in the employment in which he was working at the time of the accident, whether for the same employer or not, during substantially the whole of the year immediately preceding his injury, his average annual earnings shall consist of three hundred times the average daily wage or salary which he shall have earned in such employment during the days when so employed;

2. If the injured employee shall not have worked in such employment during substantially the whole of such year, his average annual earnings shall consist of three hundred times the average daily wage or salary which an employee of the same class working substantially the



whole of such immediately preceding year in the same or in a similar employment in the same or a neighboring place shall have earned in such employment during the days when so employed;

3. If either of the foregoing methods of arriving at the annual average earnings of an injured employee cannot reasonably and fairly be applied, such annual earnings shall be such sum as, having regard to the previous earnings of the injured employee and of other employees of the same or most similar class, working in the same or most similar employment in the same or neighboring locality, shall reasonably represent the annual earning capacity of the injured employee in the employment in which he was working at the time of the accident;

4. The average weekly wages of an employee shall be one-fifty-second part of his average annual earnings;

5. If it be established that the injured employee was a minor when injured, and that under normal conditions his wages would be expected to increase, the fact may be considered in arriving at his average weekly wages.

Compensation for—  
Total permanent disability;

SEC. 15. The following schedule of compensation is hereby established:

1. Total permanent disability. In case of total disability adjudged to be permanent sixty-six and two-thirds per centum of the average weekly wages shall be paid to the employee during the continuance of such total disability. Loss of both hands, or both arms, or both feet, or both legs, or both eyes, or of any two thereof shall, in the absence of conclusive proof to the contrary, constitute permanent total disability. In all other cases permanent total disability shall be determined in accordance with the facts.

Temporary disability;

2. Temporary total disability. In case of temporary total disability, sixty-six and two-thirds per centum of the average weekly wages shall be paid to the employee during the continuance thereof, but not in excess of three thousand five hundred dollars, except as otherwise provided in this chapter.

Partial disability.

3. Permanent partial disability. In case of disability partial in character but permanent in quality the compensation shall be sixty-six and two-thirds per centum of the average weekly wages and shall be paid to the employee for the period named in the schedule as follows:

Schedule.

Thumb. For the loss of a thumb, sixty weeks.

First finger. For the loss of a first finger, commonly called index finger, forty-six weeks.

Second finger. For the loss of a second finger, thirty weeks.

Third finger. For the loss of a third finger, twenty-five weeks.

Fourth finger. For the loss of a fourth finger, commonly called the little finger, fifteen weeks.

Phalange of thumb or finger. The loss of the first phalange of the thumb or finger shall be considered to be equal to the loss of one-half of such thumb or finger, and compensation shall be one-half of the amount above specified. The loss of more than one phalange shall be considered as the loss of the entire thumb or finger; provided, however, that in no case shall the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand.

Great toe. For the loss of a great toe, thirty-eight weeks.

Other toes. For the loss of one of the toes other than the great toe, sixteen weeks.

Phalange of toe. The loss of the first phalange of any toe shall be considered to be equal to the loss of one-half of said toe, and the compensation shall be one-half of the amount specified. The loss of more than one phalange shall be considered as the loss of the entire toe.

Hand. The loss of a hand, two hundred and forty-four weeks.

Arm. For the loss of an arm, three hundred and twelve weeks.

Foot. For the loss of a foot, two hundred and five weeks.

Leg. For the loss of a leg, two hundred and eighty-eight weeks.

Eye. For the loss of an eye, one hundred and twenty-eight weeks.

Loss of use. Permanent loss of the use of a hand, arm, foot, leg, or eye shall be considered as the equivalent of the loss of such hand, arm, foot, leg or eye.

Amputations. Amputation between the elbow and the wrist shall be considered as the equivalent of the loss of a hand. Amputation

between the knee and the ankle shall be considered as the equivalent of the loss of a foot. Amputation at or above the elbow shall be considered as the loss of an arm. Amputation at or above the knee shall be considered as the loss of the leg.

The compensation for the foregoing specific injuries shall be in lieu of all other compensation, except the benefits provided in section thirteen of this chapter.

Other cases. In all other cases in this class of disability, the compensation shall be sixty-six and two-thirds per centum of the difference between his average weekly wages and his wage-earning capacity thereafter in the same employment or otherwise, payable during the continuance of such partial disability, but subject to reconsideration of the degree of such impairment by the commission on its own motion or upon application of any party in interest.

4. Temporary partial disability. In case of temporary partial disability, except the particular cases mentioned in subdivision three of this section, an injured employee shall receive sixty-six and two-thirds per centum of the difference between his average weekly wages and his wage earning capacity thereafter in the same employment or otherwise during the continuance of such partial disability, but not in excess of three thousand five hundred dollars, except as otherwise provided in this chapter.

5. Limitation. The compensation payment under subdivisions one, two and four and under subdivision three except in case of the loss of a hand, arm, foot, leg or eye, shall not exceed fifteen dollars per week nor be less than five dollars per week; the compensation payment under subdivision three in case of the loss of a hand, arm, foot, leg or eye, shall not exceed twenty dollars per week nor be less than five dollars a week; provided, however, that if the employee's wages at the time of injury are less than five dollars per week he shall receive his full weekly wages.

Minimum and maximum payments.

6. Previous disability. The fact that an employee has suffered previous disability or received compensation therefor shall not preclude him from compensation for a later injury nor preclude compensation for death resulting therefrom; but in determining compensation for the later injury or death his average weekly wages shall be such sum as will reasonably represent his earning capacity at the time of the later injury.

Previous injury.

SEC. 16. If the injury causes death, the compensation shall be known as a death benefit and shall be payable in the amount and to or for the benefit of the persons following:

Death.

1. Reasonable funeral expenses, not exceeding one hundred dollars;  
 2. If there be a surviving wife (or dependent husband) and no child of the deceased under the age of eighteen years, to such wife (or dependent husband) thirty per centum of the average wages of the deceased during widowhood (or dependent widowerhood) with two years' compensation in one sum, upon remarriage; and if there be surviving child or children of the deceased under the age of eighteen years, the additional amount of ten per centum of such wages for each such child until of the age of eighteen years, provided that the total amount payable shall in no case exceed sixty-six and two-thirds per centum of such wages.

3. If there be surviving child or children of the deceased under the age of eighteen years, but no surviving wife (or dependent husband) then for the support of each such child until of the age of eighteen years, fifteen per centum of the wages of the deceased, provided that the aggregate shall in no case exceed sixty-six and two-thirds per centum of such wages.

4. If the amount payable to surviving wife (or dependent husband) and to children under the age of eighteen years shall be less in the aggregate than sixty-six and two-thirds per centum of the average wages of the deceased, then for the support of grandchildren or brothers and sisters under the age of eighteen years, if dependent upon the deceased at the time of the accident, fifteen per centum of such wages for the support of each such person until of the age of eighteen years; and for the support of each parent, or grandparent, of the deceased if dependent upon him at the time of the accident, fifteen per centum of

such wages during such dependency. But in no case shall the aggregate amount payable under this subdivision exceed the difference between sixty-six and two-thirds per centum of such wages, and the amount payable as hereinbefore provided to surviving wife (or dependent husband) or for the support of surviving child or children.

Any excess of wages over one hundred dollars a month shall not be taken into account in computing compensation under this section. All questions of dependency shall be determined as of the time of the accident.

Aliens.

SEC. 17. Compensation under this chapter to aliens not residents (or about to become nonresidents) of the United States or Canada, shall be the same in amount as provided for residents, except that the commission may, at its option, or, upon the application of the insurance carrier, shall, commute all future installments of compensation to be paid to such aliens, by paying or causing to be paid to them one-half of the commuted amount of such future installments of compensation as determined by the commission.

Notice of injury.

SEC. 18. Notice of an injury for which compensation is payable under this chapter shall be given to the commission and to the employer within ten days after disability, and also in case of the death of the employee resulting from such injury, within thirty days after such death. Such notice may be given by any person claiming to be entitled to compensation, or by some one in his behalf. The notice shall be in writing, and contain the name and address of the employee, and state in ordinary language the time, place, nature and cause of the injury, and be signed by him or by a person on his behalf or, in case of death, by any one or more of his dependents, or by a person on their behalf. It shall be given to the commission by sending it by mail, by registered letter, addressed to the commission at its office. It shall be given to the employer by delivering it to him or sending it by mail, by registered letter, addressed to the employer at his or its last known place of residence; provided that, if the employer be a partnership then such notice may be so given to any one of the partners, and if the employer be a corporation, then such notice may be given to any agent or officer thereof upon whom legal process may be served, or any agent in charge of the business in the place where the injury occurred. The failure to give such notice, unless excused by the commission either on the ground that notice for some sufficient reason could not have been given, or on the ground that the state fund, insurance company, or employer, as the case may be, has not been prejudiced thereby, shall be a bar to any claim under this chapter.

Medical examinations.

SEC. 19. An employee injured claiming or entitled to compensation under this chapter shall, if requested by the commission, submit himself for medical examination at a time, and from time to time, at a place reasonably convenient for the employee, and as may be provided by the rules of the commission. If the employee or the insurance carrier request he shall be entitled to have a physician or physicians of his own selection to be paid by him present to participate in such examination. If an employee refuse to submit himself to examination, his right to prosecute any proceeding under this chapter shall be suspended, and no compensation shall be payable, for the period of such refusal.

Determination of claims.

SEC. 20. At any time after the expiration of the first fourteen days of disability on the part of an injured employee, or at any time after his death, a claim for compensation may be presented to the commission. The commission shall have full power and authority to determine all questions in relation to the payment of claims for compensation under the provisions of this chapter. The commission shall make or cause to be made such investigation as it deems necessary, and upon application of either party, shall order a hearing, and within thirty days after a claim for compensation is submitted under this section, or such hearing closed, shall make or deny an award, determining such claim for compensation, and file the same in the office of the commission, together with a statement of its conclusions of fact and rulings of law. The commission may, before making an award, require the claimant to appear before an arbitration committee appointed by it and consisting of one representative of employees, one representative of employers, and either a member of the commission or a person specially

deputized by the commission to act as chairman, before which the evidence in regard to the claim shall be adduced and by which it shall be considered and reported upon. Immediately after such filing the commission shall send to the parties a copy of the decision. Upon a hearing pursuant to this section either party may present evidence and be represented by counsel. The decision of the commission shall be final as to all questions of fact, and, except as provided in section twenty-three, as to all questions of law.

SEC. 21. In any proceeding for the enforcement of a claim for compensation under this chapter, it shall be presumed in the absence of substantial evidence to the contrary

Presumptions.

1. That the claim comes within the provisions of this chapter;
2. That sufficient notice thereof was given;
3. That the injury was not occasioned by the willful intention of the injured employee to bring about the injury or death of himself or of another;
4. That the injury did not result solely from the intoxication of the injured employee while on duty.

SEC. 22. Upon its own motion or upon the application of any party in interest, on the ground of a change in conditions, the commission may at any time review any award, and, on such review, may make an award ending, diminishing or increasing the compensation previously awarded, subject to the maximum or minimum provided in this chapter, and shall state its conclusions of fact and rulings of law, and shall immediately send to the parties a copy of the award. No such review shall affect such award as regards any moneys already paid.

Modification of awards.

SEC. 23. An award or decision of the commission shall be final and conclusive upon all questions within its jurisdiction, as against the State fund or between the parties, unless within thirty days after a copy of such award or decision has been sent to the parties, an appeal be taken to the appellate division of the supreme court of the third department. The commission may also, in its discretion, where the claim for compensation was not made against the State fund, on the application of either party, certify to such appellate division of the supreme court, questions of law involved in its decision. Such appeals and the questions so certified shall be heard in a summary manner and shall have precedence over all other civil cases in such court. The commission shall be deemed a party to every such appeal, and the attorney general, without extra compensation, shall represent the commission thereon. An appeal may also be taken to the court of appeals in all cases where such an appeal would lie from a decision of an appellate division, in the same manner and subject to the same limitations as is now provided in civil actions. \*Otherwise such appeal shall be subject to the law and practice applicable to appeals in civil actions. Upon the final determination of such an appeal, the commission shall make an award or decision in accordance therewith.

Appeals.

SEC. 24. If the commission or the court before which any proceedings for compensation or concerning an award of compensation have been brought, under this chapter, determines that such proceedings have not been so brought upon reasonable ground, it shall assess the whole cost of the proceedings upon the party who has so brought them. Claims for legal services in connection with any claim arising under this chapter, and claims for services or treatment rendered or supplies furnished pursuant to section thirteen of this chapter, shall not be enforceable unless approved by the commission. If so approved, such claim or claims shall become a lien upon the compensation awarded, but shall be paid therefrom only in the manner fixed by the commission.

Costs and fees.

SEC. 25. Compensation under the provisions of this chapter shall be payable periodically, in accordance with the method of payment of the wages of the employee at the time of his injury or death, and shall be so provided for in any award; but the commission may determine that all payments or payments as to any particular group may be made monthly or at any other period, as it may deem advisable. The commission, whenever it shall so deem advisable, may commute such periodical payments to one or more lump sum payments, provided the same shall be in the interest of justice. If the award requires payment of compensation otherwise than from the State fund all payments as required by

Payments.

the award shall be made directly to the commission or to a deputy specially authorized to receive the same, and disbursed in accordance with its award to the person entitled thereto. And employers and insurance companies shall for such purpose be permitted, or when necessary to protect the interest of the beneficiary may be required, to make deposits to secure the prompt and convenient payment of such compensation.

Enforcement of payments.

Sec. 26. If payment of compensation, or an installment thereof, due under the terms of an award, be not made within ten days after the same is due, by the employer or insurance corporation liable therefor, the amount of such payment shall constitute a liquidated claim for damages against such employer or insurance corporation, which with an added penalty of fifty per centum may be recovered in an action to be instituted by the commission in the name of the people of the State. If such default be made in the payment of an installment of compensation and the whole amount of such compensation be not due, the commission may, if the present value of such compensation be computable, declare the whole amount thereof due, and recover the amount thereof with the added penalty of fifty per centum, as provided by this section. Any such action may be compromised by the commission or may be prosecuted to final judgment as, in the discretion of the commission, may best serve the interests of the persons entitled to receive the compensation or the benefits. Compensation recovered under this section shall be disbursed by the commission to the persons entitled thereto in accordance with the award. A penalty recovered pursuant to this section shall be paid into the state treasury, and be applicable to the expenses of the commission.

Deposits.

Sec. 27. If an award under this chapter requires payment of compensation by an employer or an insurance corporation in periodical payments, and the nature of the injury makes it possible to compute the present value of all future payments with due regard for life contingencies, the commission may, in its discretion, at any time, compute and permit or require to be paid into the State fund an amount equal to the present value of all unpaid compensation for which liability exists, in trust; and thereupon such employer or insurance corporation shall be discharged from any further liability under such award and payment of the same shall be assumed by the State fund.

Limitations.

Sec. 28. The right to claim compensation under this chapter shall be forever barred unless within one year after the injury, or if death result therefrom, within one year after such death, a claim for compensation thereunder shall be filed with the commission.

Subrogation of employer to employee's rights.

Sec. 29. If a workman entitled to compensation under this chapter be injured or killed by the negligence or wrong of another not in the same employ, such injured workman, or in case of death, his dependents, shall, before any suit or claim under this chapter, elect whether to take compensation under this chapter or to pursue his remedy against such other. Such election shall be evidenced in such manner as the commission may by rule or regulation prescribe. If he elect to take compensation under this chapter, the cause of action against such other shall be assigned to the State for the benefit of the State insurance fund, if compensation be payable therefrom, and otherwise to the person or association or corporation liable for the payment of such compensation, and if he elect to proceed against such other, the State insurance fund, person or association or corporation, as the case may be, shall contribute only the deficiency, if any, between the amount of the recovery against such other person actually collected, and the compensation provided or estimated by this chapter for such case. Such a cause of action assigned to the State may be prosecuted or compromised by the commission. A compromise of any such cause of action by the workman or his dependents at an amount less than the compensation provided for by this chapter shall be made only with the written approval of the commission, if the deficiency of compensation would be payable from the State insurance fund, and otherwise with the written approval of the person, association or corporation liable to pay the same.

Exclusion of other benefits.

Sec. 30. No benefits, savings or insurance of the injured employee, independent of the provisions of this chapter, shall be considered in determining the compensation or benefits to be paid under this chapter.

SEC. 31. No agreement by an employee to pay any portion of the premium paid by his employer to the State insurance fund or to contribute to a benefit fund or department maintained by such employer or to the cost of mutual insurance or other insurance, maintained for or carried for the purpose of providing compensation as herein required, shall be valid, and any employer who makes a deduction for such purpose from the wages or salary of any employee entitled to the benefits of this chapter shall be guilty of a misdemeanor.

Contributions by employees.

SEC. 32. No agreement by an employee to waive his right to compensation under this chapter shall be valid.

Waivers.

SEC. 33. Claims for compensation or benefits due under this chapter shall not be assigned, released or commuted except as provided by this chapter, and shall be exempt from all claims of creditors and from levy, execution and attachment or other remedy for recovery or collection of a debt, which exemption may not be waived. Compensation and benefits shall be paid only to employees or their dependents.

Assignments, etc., of claims.

SEC. 34. The right of compensation granted by this chapter shall have the same preference or lien without limit of amount against the assets of the employer as is now or hereafter may be allowed by law for a claim for unpaid wages for labor.

Preferences.

*Article 3.*

SEC. 50. An employer shall secure compensation to his employees in one of the following ways:

Guaranty of payments.

1. By insuring and keeping insured the payment of such compensation in the State fund, or

2. By insuring and keeping insured the payment of such compensation with any stock corporation or mutual association authorized to transact the business of workmen's compensation insurance in this State. If insurance be so effected in such a corporation or mutual association the employer shall forthwith file with the commission, in form prescribed by it, a notice specifying the name of such insurance corporation or mutual association together with a copy of the contract or policy of insurance.

3. By furnishing satisfactory proof to the commission of his financial ability to pay such compensation for himself, in which case the commission may, in its discretion, require the deposit with the commission of securities of the kind prescribed in section thirteen of the insurance law, in an amount to be determined by the commission, to secure his liability to pay the compensation provided in this chapter.

If an employer fail to comply with this section, he shall be liable to a penalty for every day during which such failure continues of one dollar for every employee, to be recovered in an action brought by the commission.

The commission may, in its discretion, for good cause shown, remit any such penalty, provided the employer in default secure compensation as provided in this section.

SEC. 51. Every employer who has complied with section fifty of this chapter shall post and maintain in a conspicuous place or places in and about his place or places of business typewritten or printed notices in form prescribed by the commission, stating the fact that he has complied with all the rules and regulations of the commission and that he has secured the payment of compensation to his employees and their dependents in accordance with the provisions of this chapter.

Notice to be posted.

SEC. 52. Failure to secure the payment of compensation shall have the effect of enabling the injured employee or his dependents to maintain an action for damages in the courts, as prescribed by section eleven of this chapter.

Employer's failure to secure payments.

SEC. 53. An employer securing the payment of compensation by contributing premiums to the State fund shall thereby become relieved from all liability for personal injuries or death sustained by his employees, and the persons entitled to compensation under this chapter shall have recourse therefor only to the State fund and not to the employer. An employer shall not otherwise be relieved from the liability for compensation prescribed by this chapter except by the payment thereof by himself or his insurance carrier.

Payments to State fund a release.

- Insurers  
rectly liable.     di-     SEC. 54. 1. Every policy of insurance covering the liability of the employer for compensation issued by a stock company or by a mutual association authorized to transact workmen's compensation insurance in this State shall contain a provision setting forth the right of the commission to enforce in the name of the people of the State of New York for the benefit of the person entitled to the compensation insured by the policy either by filing a separate application or by making the insurance carrier a party to the original application, the liability of the insurance carrier in whole or in part for the payment of such compensation; provided, however, that payment in whole or in part of such compensation by either the employer or the insurance carrier shall to the extent thereof be a bar to the recovery against the other of the amount so paid.
- Community of  
knowledge.     2. Every such policy shall contain a provision that, as between the employee and the insurance carrier, the notice to or knowledge of the occurrence of the injury on the part of the employer shall be deemed notice or knowledge, as the case may be, on the part of the insurance carrier; that jurisdiction of the employer shall, for the purpose of this chapter, be jurisdiction of the insurance carrier and that the insurance carrier shall in all things be bound by and subject to the orders, findings, decisions or awards rendered against the employer for the payment of compensation under the provisions of this chapter.
- Insolvency of  
employers.     3. Every such policy shall contain a provision to the effect that the insolvency or bankruptcy of the employer shall not relieve the insurance carrier from the payment of compensation for injuries or death sustained by an employee during the life of such policy.
- Agreements to  
limit indemnity.     4. Every contract or agreement of an employer the purpose of which is to indemnify him from loss or damage on account of the injury of an employee by accidental means, or on account of the negligence of such employer or his officer, agent or servant, shall be absolutely void unless it shall also cover liability for the payment of the compensation provided for by this chapter.
- Cancellation of  
contracts of in-  
surance.     5. No contract of insurance issued by a stock company or mutual association against liability arising under this chapter shall be cancelled within the time limited in such contract for its expiration until at least ten days after notice of intention to cancel such contract, on a date specified in such notice, shall be filed in the office of the commission and also served on the employer. Such notice shall be served on the employer by delivering it to him or by sending it by mail, by registered letter, addressed to the employer at his or its last known place of residence; provided that, if the employer be a partnership, then such notice may be so given to any one of the partners, and if the employer be a corporation, then the notice may be given to any agent or officer of the corporation upon whom legal process may be served.

*Article 4.*

- Compensation  
commission.     SECTION 60. A State workmen's compensation commission is hereby created, consisting of five commissioners, to be appointed by the governor, by and with the advice and consent of the senate, one of whom shall be designated by the governor as chairman. The commissioner of labor shall also be an ex officio member of the commission but shall not have a vote on orders, decisions or awards. Appointments may be made during the recess of the senate, but shall be subject to confirmation by the senate at the next ensuing session of the legislature. The term of office of appointive members of the commission shall be five years, except that the first members thereof shall be appointed for such terms that the term of one member shall expire on January first, nineteen hundred and sixteen, and on January first of every succeeding year. Successors shall be appointed in like manner for a full term of five years. Vacancies shall be filled in like manner by appointment for the unexpired term. Each appointive member of the commission shall before entering upon the duties of his office execute an official undertaking in the sum of fifty thousand dollars to be approved by the comptroller and filed in his office. The governor may remove any appointive commissioner for inefficiency, neglect of duty or misconduct in office, giving him a copy of the charges and an opportunity of being publicly heard in person or by counsel, upon not less than ten days'

notice. If such a commissioner be removed, the governor shall file in the office of the secretary of state a complete statement of all charges made against him and a complete record of his proceedings and his findings thereon. Each appointive commissioner shall devote his entire time to the duties of his office, and shall not hold any position of trust or profit, or engage in any occupation or business interfering or inconsistent with his duties as such commissioner, or serve on or under any committee of a political party. The commission shall have an official seal which shall be judicially noticed.

SEC. 61. The commission may appoint one or more deputy commissioners and a secretary to hold office during its pleasure. It may also employ, during its pleasure, an actuary, accountants, medical doctors, clerks, stenographers, inspectors and other employees as may be needed to carry out the provisions of this chapter. The authority, duties and compensation of all subordinates and employees, except as provided by this chapter, shall be fixed by the commission.

Employees,  
etc., of commis-  
sion.

SEC. 62. The chairman of the commission shall receive an annual salary of ten thousand dollars, and each other commissioner, an annual salary of seven thousand dollars. The secretary shall receive an annual salary of five thousand dollars. The commissioners and their subordinates shall be entitled to their actual and necessary expenses while traveling on the business of the commission. The commission may also make the necessary expenditure to obtain statistical and other information to establish classifications of employments with respect to hazards and risks. The salaries and compensation of the subordinates and all other expenses of the commission, including the premiums to be paid by the State treasurer for the bond to be furnished by him, shall be paid out of the State treasury upon vouchers signed by at least two commissioners.

Salaries and ex-  
penses.

SEC. 63. The commission shall keep and maintain its principal office in the city of Albany, in rooms in the capitol assigned by the trustees of public buildings. The office shall be supplied with necessary office furniture, supplies, books, maps, stationery, telephone connections and other necessary appliances, at the expense of the State, payable in the same manner as other expenses of the commission.

Office.

SEC. 64. The commission shall be in continuous session and open for the transaction of business during all business hours of every day excepting Sundays and legal holidays. All sessions shall be open to the public and may be adjourned, upon entry thereof in its records, without further notice. Whenever convenience of parties will be promoted or delay and expense prevented, the commission may hold sessions in cities other than the city of Albany. A party may appear before such commission and be heard in person or by attorney. Every vote and official act of the commission shall be entered of record, and the records shall contain a record of each case considered, and the award, decision or order made with respect thereto, and all voting shall be by the calling of each commissioner's name by the secretary and each vote shall be recorded as cast. A majority of the commission shall constitute a quorum. A vacancy shall not impair the right of the remaining commissioners to exercise all the powers of the full commission so long as a majority remains.

Sessions.

SEC. 65. Any investigation, inquiry or hearing which the commission is authorized to hold or undertake may be held or taken by or before any commissioner or deputy commissioner, and the award, decision or order of a commissioner or deputy commissioner, when approved and confirmed by the commission and ordered filed in its office, shall be deemed to be the award, decision or order of the commission. Each commissioner and deputy shall, for the purposes of this chapter, have power to administer oaths, certify to official acts, take depositions, issue subpoenas, compel the attendance of witnesses and the production of books, accounts, papers, records, documents and testimony. The commission may authorize any deputy to conduct any such investigation, inquiry or hearing, in which case he shall have the power of a commissioner in respect thereof.

Powers of com-  
missioners.

SEC. 66. The secretary of the commission shall:

Secretary.

1. Maintain a full and true record of all proceedings of the commission, of all documents or papers ordered filed by the commission, of decisions



or orders made by a commissioner or deputy commissioner, and of all decisions or orders made by the commission or approved and confirmed by it and ordered filed, and he shall be responsible to the commission for the safe custody and preservation of all such documents at its office;

2. Have power to administer oaths in all parts of the State, so far as the exercise of such power is properly incident to the performance of his duty or that of the commission;

3. Designate, from time to time, with the approval of the commission, one of the clerks appointed by the commission to exercise the powers and duties of the secretary during his absence;

4. Under the direction of the commission, have general charge of its office, superintend its clerical business, and perform such other duties as the commission may prescribe.

**Rules.**

SEC. 67. The commission shall adopt reasonable rules, not inconsistent with this chapter, regulating and providing for

1. The kind and character of notices, and the service thereof, in case of accident and injury to employees;

2. The nature and extent of the proofs and evidence, and the method of taking and furnishing the same, to establish the right to compensation;

3. The forms of application for those claiming to be entitled to compensation;

4. The method of making investigations, physical examinations and inspections;

5. The time within which adjudications and awards shall be made;

6. The conduct of hearings, investigations and inquiries;

7. The giving of undertakings by all subordinates who are empowered to receive and disburse moneys, to be approved by the attorney general as to form and by the comptroller as to sufficiency.

8. Carrying into effect the provisions of this chapter;

9. The collection, maintenance and disbursement of the State insurance fund.

**Procedure.**

SEC. 68. The commission or a commissioner or deputy commissioner in making an investigation or inquiry or conducting a hearing shall not be bound by common law or statutory rules of evidence or by technical or formal rules of procedure, except as provided by this chapter; but may make such investigation or inquiry or conduct such hearing in such manner as to ascertain the substantial rights of the parties.

**Subpoenas.**

SEC. 69. A subpoena shall be signed and issued by a commissioner, a deputy commissioner or by the secretary of the commission and may be served by any person of full age in the same manner as a subpoena issued out of a court of record. If a person fail, without reasonable cause, to attend in obedience to a subpoena, or to be sworn or examined or answer a question or produce a book or paper, or to subscribe and swear to his deposition after it has been correctly reduced to writing, he shall be guilty of a misdemeanor.

**Contempt.**

SEC. 70. If a person in attendance before the commission or a commissioner or deputy commissioner refuses, without reasonable cause, to be examined or to answer a legal and pertinent question or to produce a book or paper, when ordered so to do by the commission or a commissioner or deputy commissioner, the commission may apply to a justice of the supreme court upon proof by affidavit of the facts for an order returnable in not less than two nor more than five days directing such person to show cause before the justice who made the order, or any other justice of the supreme court, why he should not be committed to jail. Upon the return of such order the justice shall examine under oath such person and give him an opportunity to be heard; and if the justice determine that he has refused without reasonable cause or legal excuse to be examined or to answer a legal and pertinent question, or to produce a book or paper which he was ordered to bring, he may forthwith, by warrant, commit the offender to jail, there to remain until he submits to do the act which he was so required to do or is discharged according to law.

**Fees, etc., of witnesses.**

SEC. 71. Each witness who appears in obedience to a subpoena before the commission or a commissioner or deputy commissioner, or person employed by the commission to obtain the required information, shall receive for his attendance the fees and mileage provided for witnesses in civil cases in the supreme court, which shall be audited and paid from

the State treasury in the same manner as other expenses of the commission. A witness subpoenaed at the instance of a party other than the commission, a commissioner, deputy commissioner or person acting under the authority of the commission shall be entitled to fees or compensation from the State treasury, if the commission certify that his testimony was material to the matter investigated, but not otherwise.

Sec. 72. The commission may cause depositions of witnesses residing within or without the State to be taken in the manner prescribed by law for like depositions in civil actions in the supreme court.

Sec. 73. A transcribed copy of the testimony, evidence and procedure or of a specific part thereof, or of the testimony of a particular witness or of a specific part thereof, on any investigation, by a stenographer appointed by the commission, being certified by such stenographer to be a true and correct transcript thereof and to have been carefully compared by him with his original notes, may be received in evidence by the commission with the same effect as if such stenographer were present and testified to the facts so certified, and a copy of such transcript shall be furnished on demand to any party upon payment of the fee provided for a transcript of similar minutes in the supreme court.

Sec. 74. The power and jurisdiction of the commission over each case shall be continuing, and it may, from time to time, make such modification or change with respect to former findings or orders relating thereto, as in its opinion may be just.

Sec. 75. Annually on or before the first day of February, the commission shall make a report to the legislature, which shall include a statement of the number of awards made by it and the causes of the accidents leading to the injuries for which the awards were made, a detailed statement of the expenses of the commission, the condition of the State insurance fund, together with any other matter which the commission deems proper to report to the legislature, including any recommendations it may desire to make.

Sec. 76. The commission shall prepare and cause to be distributed so that the same may be readily available blank forms of application for compensation, notice to employers, proofs of injury or death, of medical or other attendance or treatment, of employment and wage earnings, and for such other purposes as may be required. Insured employers shall constantly keep on hand a sufficient supply of such blanks.

*Article 5.*

SECTION 90. There is hereby created a fund to be known as "The State Insurance Fund," for the purpose of insuring employers against liability under this chapter and of assuring to the persons entitled thereto the compensation provided by this chapter. Such fund shall consist of all premiums received and paid into the fund, of property and securities acquired by and through the use of moneys belonging to the fund and of interest earned upon moneys belonging to the fund and deposited or invested as herein provided. Such fund shall be administered by the commission without liability on the part of the State beyond the amount of such fund. Such fund shall be applicable to the payment of losses sustained on account of insurance and to the payment of expenses in the manner provided in this chapter.

Sec. 91. The State treasurer shall be the custodian of the state insurance fund; and all disbursements therefrom shall be paid by him upon vouchers authorized by the commission and signed by any two members thereof. The State treasurer shall give a separate and additional bond in an amount to be fixed by the governor and with sureties approved by the State comptroller conditioned for the faithful performance of his duty as custodian of the State fund. The State treasurer may deposit any portion of the State fund not needed for immediate use, in the manner and subject to all the provisions of law respecting the deposit of other State funds by him. Interest earned by such portion of the State insurance fund deposited by the State treasurer shall be collected by him and placed to the credit of the fund.

Sec. 92. Ten per centum of the premiums collected from employers insured in the fund shall be set aside by the commission for the creation of a surplus until such surplus shall amount to the sum of one hundred

Depositions.

Transcripts of minutes.

Jurisdiction to be continuing.

Reports.

Blanks.

State Insurance Fund.

Custodian.

Surplus and reserve.

thousand dollars, and thereafter five per centum of such premiums, until such time as in the judgment of the commission such surplus shall be sufficiently large to cover the catastrophe hazard. The commission shall also set up and maintain a reserve adequate to meet anticipated losses and carry all claims and policies to maturity.

**Investment.**

SEC. 93. The commission may, pursuant to a resolution of the commission approved by the comptroller, invest any of the surplus or reserve funds belonging to the State insurance fund in the same securities and investments authorized for investment by savings banks. All such securities or evidences of indebtedness shall be placed in the hands of the State treasurer who shall be the custodian thereof. He shall collect the principal and interest thereof, when due, and pay the same into the State insurance fund. The State treasurer shall pay all vouchers drawn on the State insurance fund for the making of such investments when signed by two members of the commission, upon delivery of such securities or evidences of indebtedness to him, when there is attached to such vouchers a certified copy of the resolution of the commission authorizing the investment. The commission may, upon like resolution approved by the comptroller, sell any of such securities.

**Expense of administration.**

SEC. 94. The entire expense of administering the State insurance fund shall be paid in the first instance by the State, out of moneys appropriated therefor. In the month of January, nineteen hundred and eighteen, and annually thereafter in such month, the commission shall ascertain the just amount incurred by the commission during the preceding calendar year, in the administration of the State insurance fund exclusive of the expense for the examination, determination and payment of claims, and shall refund such amount to the State treasury. If there be employees of the commission other than the commissioners themselves and the secretary whose time is devoted partly to the general work of the commission and partly to the work of the State insurance fund, and in case there is other expense which is incurred jointly on behalf of the general work of the commission and the State insurance fund, an equitable apportionment of the expense shall be made for such purpose and the part thereof which is applicable to the State insurance fund shall be chargeable thereto. As soon as practicable after December thirty-one, nineteen hundred and seventeen, and annually thereafter, the commission shall calculate the total administrative expense incurred during the preceding calendar year in connection with the examination, determination and payment of claims and the percentage which this expense bore to the total compensation payments made during that year. The percentage so calculated and determined shall be assessed against the insurance carriers including the State fund as an addition to the payments required from them in the settlement of claims during the year immediately following, and the amounts so secured shall be transferred to the State treasury to reimburse it for this portion of the expense of administering this chapter.

**Risks and premiums.**

SEC. 95. Employments coming under the provisions of this chapter shall be divided for the purposes of the State fund, into the groups set forth in section two of this chapter. Separate accounts shall be kept of the amounts collected and expended in respect to each such group for convenience in determining equitable rates; but for the purpose of paying compensation the State fund shall be deemed one and indivisible. The commission shall have power to rearrange any of the groups set forth in section two by withdrawing any employment embraced in it and transferring it wholly or in part to any other group, and from such employments to set up new groups at its discretion. The commission shall determine the hazards of the different classes composing each group and fix the rates of premium therefor based upon the total payroll and number of employees in each of such classes of employment at the lowest possible rate consistent with the maintenance of a solvent State insurance fund and the creation of a reasonable surplus and reserve; and for such purpose may adopt a system of schedule rating in such a manner as to take account of the peculiar hazard of each individual risk.

**Associations for accident prevention.**

SEC. 96. The employers in any of the groups described in section two or established by the commission may with the approval of the commission form themselves into an association for accident prevention, and may make rules for that purpose. If the commission is of the opinion that an association so formed sufficiently represents the em-

ployers in such group, it may approve such rules, and when so approved and approved by the industrial board of the labor department they shall be binding on all employers in such group. If such an approved association appoint an inspector or expert for the purpose of accident prevention, the commission may at its discretion provide in whole or in part for the payment of the remuneration and expenses of such inspector or expert, such payment to be charged in the accounting to such group. Every such approved association may make recommendations to the commission concerning the fixing of premiums for classes of hazards, and for individual risks within such group.

SEC. 97. The following requirements shall be observed in classifying employments and fixing and adjusting premium rates:

Rules as to classifications, etc.

1. The commission shall keep an accurate account of the money paid in premiums by each of the several classes of employments or industries, and the disbursements on account of injuries and deaths of employees thereof, including the setting up of reserves adequate to meet anticipated losses and to carry the claims to maturity, and also, on account of the money received from each individual employer and the amount disbursed from the State insurance fund on account of injuries and death of the employees of such employer, including the reserves so set up;

2. On January first, nineteen hundred and fifteen, and every fifth year thereafter, and at such other times as the commission, in its discretion, may determine, a readjustment of the rate shall be made for each of the several groups of employment or industries and of each hazard class therein, which, in the judgment of the commission, shall have developed an average loss ratio, in accordance with the experience of the commission in the administration of the law as shown by the accounts kept as provided herein;

3. If any such accounting show an aggregate balance (deemed by the commission to be safely and properly divisible [divisible]) remaining to the credit of any class of employment or industry, after the amount required shall have been credited to the surplus and reserve funds and after the payment of all awards for injury or death lawfully chargeable against the same, the commission may in its discretion credit to each individual member of such group, who shall have been a subscriber to the State insurance fund for a period of six months or more prior to the time of such readjustment, and whose premium or premiums exceed the amount of the disbursements from the fund on account of injuries or death of his employees during such period, on the installment or installments of premiums next due from him such proportion of such balance as the amount of his prior paid premiums sustains to the whole amount of such premiums paid by the group to which he belongs since the last readjustment of rates;

4. If the amount of premiums collected from any employer at the beginning of any period of six months is ascertained and calculated by using the estimated expenditure of wages for the period of time covered by such premium payment as a basis, an adjustment of the amount of such premium shall be made at the end of such six months, and the actual amount of such premium shall be determined in accordance with the amount of the actual expenditure of wages for such period; and, if such wage expenditure for such period is less than the amount on which such estimated premium was collected, such employer shall be entitled to receive a refund from the State insurance fund of the difference between the amount so paid by him and the amount so found to be actually due, or to have the amount of such difference credited on succeeding premium payments, at his option; and if such actual premium, when so ascertained, exceeds in amount a premium so paid by such employer at the beginning of such six months, such employer shall immediately upon being advised of the true amount of such premium due, forthwith pay to the treasurer of the State an amount equal to the difference between the amount actually found to be due and the amount paid by him at the beginning of such six months' period.

SEC. 98. Except as otherwise provided in this chapter, all premiums shall be paid by every employer into the State insurance fund on or before July first, nineteen hundred and fourteen, and semiannually thereafter, or at such other time or times as may be prescribed by the commission. The commission shall mail a receipt for the same to the

Premiums payable, when.

- employer and place the same to the credit of the State insurance fund in the custody of the State treasurer.
- Collection of premiums.** Sec. 99. If an employer shall default in any payment required to be made by him to the State insurance fund, the amount due from him shall be collected by civil action against him in the name of the people of the State of New York, and it shall be the duty of the commission on the first Monday of each month after July first, nineteen hundred and fourteen, to certify to the attorneygeneral of the State the names and residences, or places of business, of all employers known to the commission to be in default for such payment or payments for a longer period than five days and the amount due from such employer, and it shall then be the duty of the attorneygeneral forthwith to bring or cause to be brought against each such employer a civil action in the proper court for the collection of such amount so due, and the same when collected, shall be paid into the State insurance fund, and such employer's compliance with the provisions of this chapter requiring payments to be made to the State insurance fund shall date from the time of the payment of said money so collected as aforesaid to the State treasurer for credit to the State insurance fund.
- Withdrawal of employers from fund.** Sec. 100. Any employer may, upon complying with subdivision two or three of section fifty of this chapter, withdraw from the fund by turning in his insurance contract for cancellation, provided he is not in arrears for premiums due the fund and has given to the commission written notice of his intention to withdraw within thirty days before the expiration of the period for which he has elected to insure in the fund; provided that in case any employer so withdraws, his liability to assessments shall, notwithstanding such withdrawal, continue for one year after the date of such withdrawal as against all liabilities for such compensation accruing prior to such withdrawal.
- Pay rolls.** Sec. 101. Every employer who is insured in the State insurance fund shall keep a true and accurate record of the number of his employees and the wages paid by him, and shall furnish to the commission, upon demand, a sworn statement of the same. Such record shall be open to inspection at any time and as often as the commission shall require to verify the number of employees and the amount of the pay roll.
- Falsification of pay rolls.** Sec. 102. An employer who shall willfully misrepresent the amount of the pay roll upon which the premiums chargeable by the State insurance fund is to be based shall be liable to the State in ten times the amount of the difference between the premiums paid and the amount the employer should have paid had his pay roll been correctly computed; and the liability to the State under this section shall be enforced in a civil action in the name of the State insurance fund, and any amount so collected shall become a part of such fund.
- Misrepresentations.** Sec. 103. Any person who willfully misrepresents any fact in order to obtain insurance in the State insurance fund at less than the proper rate for such insurance, or in order to obtain payment out of such fund, shall be guilty of a misdemeanor.
- Inspections.** Sec. 104. The commission shall have the right to inspect the plants and establishments of employers insured in the State insurance fund; and the inspectors designated by the commission shall have free access to such premises during regular working hours.
- Information confidential.** Sec. 105. Information acquired by the commission or its officers or employees from employers or employees pursuant to this chapter shall not be opened to public inspection, and any officer or employee of the commission who, without authority of the commission or pursuant to its rules or as otherwise required by law shall disclose the same shall be guilty of a misdemeanor.
- Article 6.*
- Penalties go to expense funds.** SECTION 110. All penalties imposed by this chapter shall be applicable to the expenses of the commission. When collected by the commission such penalties shall be paid into the State treasury and be thereafter appropriated by the legislature for the purposes prescribed by this section.
- Accidents to be reported.** Sec. 111. Every employer shall keep a record of all injuries, fatal or otherwise, received by his employees in the course of their employment. Within ten days after the occurrence of an accident resulting in personal injury a report thereof shall be made in writing by the

employer to the commission upon blanks to be procured from the commission for that purpose. Such report shall state the name and nature of the business of the employer, the location of his establishment or place of work, the name, address and occupation of the injured employee, the time, nature and cause of the injury and such other information as may be required by the commission. An employer who refuses or neglects to make a report as required by this section shall be guilty of a misdemeanor, punishable by a fine of not more than five hundred dollars.

SEC. 112. Every employer shall furnish the commission, upon request, any information required by it to carry out the provisions of this chapter. The commission, a commissioner, deputy commissioner, or any person deputized by the commission for that purpose, may examine under oath any employer, officer, agent or employee. An employer or an employee receiving from the commission a blank with directions to file the same shall cause the same to be properly filled out so as to answer fully and correctly all questions therein, or if unable to do so, shall give good and sufficient reasons for such failure. Answers to such questions shall be verified under oath and returned to the commission within the period fixed by the commission therefor.

Employers to furnish information.

SEC. 113. All books, records and pay rolls of the employers showing or reflecting in any way upon the amount of wage expenditures of such employers shall always be open for inspection by the commission or any of its authorized auditors, accountants or inspectors for the purpose of ascertaining the correctness of the wage expenditure and number of men employed and such other information as may be necessary for the uses and purposes of the commission in the administration of this chapter.

Inspection of employers' records.

SEC. 114. The provisions of this chapter shall apply to employers and employees engaged in intrastate, and also in interstate or foreign commerce, for whom a rule of liability or method of compensation has been or may be established by the Congress of the United States, only to the extent that their mutual connection with intrastate work may and shall be clearly separable and distinguishable from interstate or foreign commerce, except that such employer and his employees working only in this State may, subject to the approval and in the manner provided by the commission and so far as not forbidden by any act of congress, accept and become bound by the provisions of this chapter in like manner and with the same effect in all respects as provided herein for other employers and their employees.

Interstate commerce.

SEC. 115. If for the purpose of obtaining any benefit or payment under the provisions of this chapter, either for himself or any other person, any person willfully makes a false statement or representation, he shall be guilty of a misdemeanor.

False statements.

SEC. 116. No limitation of time provided in this chapter shall run as against any person who is mentally incompetent or a minor dependent so long as he has no committee, guardian or next friend.

Limitations as to incompetents.

SEC. 117. The commissioner of labor shall render to the commission any proper aid and assistance by the department of labor as in his judgment does not interfere with the proper conduct of such department.

Commissioner of labor.

SEC. 118. If any section or provision of this chapter be decided by the courts to be unconstitutional or invalid, the same shall not affect the validity of the chapter as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

Invalidity of part of law.

SEC. 119. This act shall not affect any action pending or cause of action existing or which accrued prior to July first, nineteen hundred and fourteen.

Pending causes.

*Article 7.*

SECTION 131. This chapter shall take effect January first, nineteen hundred and fourteen, provided that the application of this chapter as between employers and employees and the payment of compensation for injuries to employees or their dependents, in case of death, shall take effect July first, nineteen hundred and fourteen, but payments into the State insurance fund may be made prior to July first, nineteen hundred and fourteen.

Act takes effect, when.

Approved December 16, 1913.

## OHIO.

## CONSTITUTION.

ARTICLE II.—*Legislative—Compensation of workmen for injuries.*

Compulsory insurance system.

SECTION 35. For the purpose of providing compensation to workmen and their dependents, for death, injuries or occupational disease, occasioned in the course of such workmen's employment, laws may be passed establishing a State fund to be created by compulsory contribution thereto by employers, and administered by the State, determining the terms and conditions upon which payment shall be made therefrom, and taking away any or all rights of action or defenses from employees and employers; but no right of action shall be taken away from any employee when the injury, disease or death arise from failure of the employer to comply with any lawful requirement for the protection of the lives, health and safety of employees. Laws may be passed establishing a board which may be empowered to classify all occupations, according to their degree of hazard, to fix rates of contribution to such fund according to such classification, and to collect, administer and distribute such fund, and to determine all rights of claimants thereto.

Right of action.

Board of classification, etc.

Adopted, 1912.

*Industrial commission—Administration of workmen's insurance law.*

(Added by act, page 95, Acts of 1913.)

Appointment.

SECTION 871-1. There is hereby created the Industrial Commission of Ohio, to be composed of three members to be appointed by the governor within thirty days after this act goes into effect, one of the members of such commission shall be appointed for the term of two years, one member for four years, and one member for six years, and thereafter each member shall be appointed for the term of six years. Not more than one of the appointees to such commission shall be a person who, on account of his previous vocation, employment or affiliations, can be classed as a representative of employers, and not more than one of such appointees shall be a person who, on account of his previous vocation, employment or affiliations, can be classed as a representative of employees; not more than two of the members of the said commission shall belong to the same political party.

Removal.

SEC. 871-2. The governor at any time shall remove any member of the Industrial Commission of Ohio for inefficiency, neglect of duty, malfeasance, misfeasance or nonfeasance in office.

Inconsistent employments.

SEC. 871-3. No commissioner shall hold any position of trust or profit, or engage in any occupation or business, interfering or inconsistent with his duties as such commissioner, and no commissioner shall serve on any committee of any political party.

Salary.

SEC. 871-4. Each of said commissioners shall receive an annual salary of \$5,000, payable in the same manner as the salaries of other State officers are paid. Before entering upon the duties of his office, each commissioner shall take and subscribe the constitutional oath of office and shall swear or affirm that he holds no position under any committee of a political party, which oath or affirmation shall be filed in the office of the governor. Each member of the commission shall give a

Bonds.

bond in the sum of \$10,000, which bond shall be approved by the governor and filed with the treasurer of State. All employees or deputies of the commission receiving or disbursing funds of the State shall give bond to the State in amounts and with surety to be approved by the commission.

Offices.

SEC. 871-6. The commission shall keep and maintain its office in the city of Columbus, Ohio, \* \* \*. The commission may hold sessions in any place within the State of Ohio.

Seal.

SEC. 871-8. The commission shall have an official seal for the authentication of its orders and proceedings, upon which seal shall be engraved the words, "The Industrial Commission of Ohio," and such other design as the commission may prescribe; and the courts in this State shall take judicial notice of the seal of the said commission, and in all cases copies of orders, proceedings or records in the office of the Industrial Commission of Ohio, certified by the secretary of the said commission under its seal, shall be equal to the original as evidence.

SEC. 871-9. The commission shall be in continuous session and open for the transaction of business during all business hours of each and every day, excepting Sundays and legal holidays. The sessions shall be open to the public and the sessions of the commission shall stand and be adjourned without further notice thereof on its record. All of the proceedings of the commission shall be shown on its records, which shall be a public record, and all voting shall be had by calling each member's name by the secretary, and each member's vote shall be recorded on the proceedings as cast.

Sessions.  
Records.

SEC. 871-12 (as amended by act, page 656, Acts of 1913). The industrial commission shall supersede and perform all of the duties of the State liability board of awards, \* \* \* and said commission on and after the first day of September, 1913, as successor of the said liability board of awards, shall be vested with and assume and exercise all powers and duties cast by law upon said liability board of awards, and on the first day of September, 1913, the term of office of the members constituting the said State Liability Board of Awards of Ohio shall cease and terminate, together with all rights, privileges and emoluments connected therewith.

Additional duties.

*Workmen's insurance—State liability board.*

(Page 524, Acts of 1911; amended, pages 72 and 396, Acts of 1913.)

SECTION 1465-37. There is hereby created a State liability board of awards. [This body has been superseded by the Industrial Commission of Ohio. See section 871-1 et seq., above.]

Board created.

SEC. 1465-41. A majority of the board shall constitute a quorum for the transaction of business, and a vacancy shall not impair the right of the remaining members to exercise all the powers of the full board so long as a majority remains. Any investigations, inquiry or hearing which the board is authorized to hold, or undertake, may be held or undertaken by or before any one member of the board. All investigations, inquiries, hearings and decisions of the board, and every order made by a member thereof, when approved and confirmed by a majority of the members, and so shown on its record of proceedings, shall be deemed to be the order of the board.

Quorum.

The board may hold sessions at any place within the State.

SEC. 1465-43. The board may employ a secretary, actuaries, accountants, inspectors, examiners, experts, clerks, physicians, stenographers and other assistants, and fix their compensation. Such employment and compensation shall be first approved by the governor and shall be paid out of the State treasury. The members of the board, secretary, actuaries, accountants, inspectors, examiners, experts, clerks, physicians, stenographers, and other assistants that may be employed shall be entitled to receive from the State treasury their actual and necessary expenses while traveling on the business of the board, and the members of the board may confer and meet with officers of other States and officers of the United States on any matters pertaining to their official duties. Such expenses shall be itemized and sworn to by the person who incurred the expense and allowed by the board.

Employees.

Expenses.

SEC. 1465-44. The board shall adopt reasonable and proper rules to govern its procedure, regulate and provide for the kind and character of notices, and the services thereof, in cases of accident and injury to employees, the nature and extent of the proofs and evidence, and the method of taking and furnishing the same, to establish the right to benefits of compensation from the State insurance fund, hereinafter provided for, the forms of application of those claiming to be entitled to benefits or compensation therefrom, the method of making investigations, physical examinations and inspections, and prescribe the time within which adjudications and awards shall be made.

Rules.

SEC. 1465-45. Every employer shall furnish the board, upon request, all information required by it to carry out the purposes of this act. In the month of January of each year, every employer of the State, employing five or more employees regularly in the same business, or in or about the same establishment, shall prepare and mail to the board, at its main office in the city of Columbus, Ohio, a statement containing the following information, viz: the number of employees employed during the preceding year from January 1 to December 31st inclusive; the number of such employees employed at each kind of employment; and, the aggregate amount of wages paid to such employees, which in-

Duty of employers.



formation shall be furnished on a blank or blanks to be prepared by the board; and it shall be the duty of the board to furnish such blanks to employers free of charge, upon request therefor. Every employer receiving from the board any blank, with directions to fill out the same, shall cause the same to be properly filled out so as to answer fully and correctly all questions therein propounded, and to give all the information therein sought, or if unable to do so, he shall give to the board in writing good and sufficient reasons for such failure. The board may require that the information herein required to be furnished be verified under oath and returned to the board within the period fixed by it or by law. The board or any member thereof, or any person employed by the board for that purpose, shall have the right to examine, under oath, any employer, or the officer, agent or employee thereof for the purpose of ascertaining any information which such employer is required by this act to furnish to the board.

Any employer who shall fail or refuse to furnish to the board the annual statement herein required, or who shall fail or refuse to furnish such other information as may be required by the board under authority of this section, shall be liable to a penalty of five hundred dollars, to be collected in a civil action brought against said employer in the name of the State; all such penalties, when collected, shall be paid into the State insurance fund and become a part thereof.

Information  
confidential.

SEC. 1465-46. The information contained in the annual report provided for in the preceding section, and such other information as may be furnished to the board by employers in pursuance of the provisions of said section, shall be for the exclusive use and information of said board in the discharge of its official duties, and shall not be open to the public nor be used in any court in any action or proceeding pending therein unless the board is a party to such action or proceeding; but the information contained in said report may be tabulated and published by the department, in statistical form, for the use and information of other State departments and the public. Any person in the employ of the board who shall divulge any information secured by him in respect to the transactions, property or business of any company, firm, corporation, person, association, copartnership or public utility to any person other than the members of the board, while acting as an employee of the board, shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500), and shall thereafter be disqualified from holding any appointment or employment with the board.

Powers of mem-  
bers.

SEC. 1465-47. Each member of the board, the secretary and every inspector or examiner appointed by the board, shall, for the purposes contemplated by this act, have power to administer oaths, certify to official acts, take depositions, issue subpoenas, compel the attendance of witnesses and the production of books, accounts, papers, records, documents and testimony.

Compelling at-  
tendance.

SEC. 1465-48. In case of disobedience of any person to comply with the order of the board, or subpoena issued by it as [or] one of its inspectors, or examiners, or on the refusal of a witness to testify to any matter regarding which he may be lawfully interrogated, or refuse to permit an inspection as aforesaid, the probate judge of the county in which the person resides, on application of any member of the board, or any inspector or examiner appointed by it, shall compel obedience by attachment proceedings as for contempt, as in the case of disobedience of the requirements of subpoena issued from such court on a refusal to testify therein.

Officers' fees.

SEC. 1465-49. Each officer who serves such subpoena shall receive the same fees as a sheriff, and each witness who appears, in obedience to a subpoena, before the board or an inspector or examiner, shall receive for his attendance the fees and mileage provided for witnesses in civil cases in courts of common pleas, which shall be audited and paid from the State treasury in the same manner as other expenses are audited and paid, upon the presentation of proper vouchers approved by any two members of the board. No witness subpoenaed at the instance of a party other than the board or an inspector shall be entitled to compensation from the State treasury unless the board shall certify that his testimony was material to the matter investigated.

Witnesses' fees.

Depositions.

SEC. 1465-50. In an investigation, the board may cause depositions of witnesses residing within or without the State to be taken in the

manner prescribed by the law for like depositions in civil actions in the court of common pleas.

SEC. 1465-51. A transcribed copy of the evidence and proceedings, or any specific part thereof, or any investigation, by a stenographer appointed by the board, being certified by such stenographer to be a true and correct transcript of the testimony on the investigation, or of a particular witness, or of a specific part thereof, carefully compared by him with his original notes, and to be a correct statement of the evidence and proceedings had on such investigation so purporting to be taken and subscribed, may be received in evidence by the board with the same effect as if such stenographer were present and testified to the facts so certified. A copy of such transcript shall be furnished on demand to any party upon the payment of the fee therefor, as provided for transcript in courts of common pleas.

Transcripts.

SEC. 1465-52. The board shall prepare and furnish blank forms, and provide in its rules for their distribution so that the same may be readily available, of application for benefits or compensation from the State insurance fund, notices to employers, proofs of injury or death, of medical attendance, of employment and wage earnings, and such other blanks as may be deemed proper and advisable, and it shall be the duty of insured employers to constantly keep on hand a sufficient supply of such blanks.

Forms, etc.

SEC. 1465-53. The State liability board of awards shall classify occupations with respect to their degree of hazard, and determine the risks of the different classes and fix the rates of premium of the risks of the same, based upon the total pay roll and number of employees in each of said classes of occupation sufficiently large to provide an adequate fund for the compensation provided for in this act, and to maintain a State insurance fund from year to year.

Occupations to be classified.

SEC. 1465-54. It shall be the duty of the State liability board of awards, in the exercise of the powers and discretion conferred upon it in the preceding section, ultimately to fix and maintain, for each class of occupation, the lowest possible rates of premium consistent with the maintenance of a solvent State insurance fund and the creation and maintenance of a reasonable surplus, after the payment of legitimate claims for injury and death that it may authorize to be paid from the State insurance fund for the benefit of injured and the dependents of killed employees; and, in order that said object may be accomplished, the board shall observe the following requirements in classifying occupations and fixing the rates of premium for the risks of the same.

Premium rates.

1. It shall keep an accurate account of the money paid in premiums by each of the several classes of occupations or industries, and the disbursements on account of injuries and death of employes thereof, and it shall also keep an account of the money received from each individual employer and the amount disbursed from the State insurance fund on account of injuries and death of the employes of such employer.

Accounts.

2. Ten per cent of the money that has heretofore been paid into the State insurance fund and ten per cent of all that may hereafter be paid into such fund shall be set aside for the creation of a surplus until such surplus shall amount to the sum of one hundred thousand dollars (\$100,000) after which time the sum of five per cent of all the money paid into the State insurance fund shall be credited to such surplus fund, until such time as, in the judgment of the board, such surplus shall be sufficiently large to guarantee a State insurance fund from year to year.

Surplus fund.

3. On the first day of July, 1914, and semiannually thereafter, a readjustment of the rates shall be made for each of the several classes of occupation or industry which, in the judgment of the board, have developed an average loss ratio, in accordance with the experience of the board in the administration of the law as shown by the accounts kept as provided herein.

Readjustments.

4. Should any such accounting show a balance remaining to the credit of any class of occupation or industry, after the above-mentioned amounts have been credited to the surplus fund and after the payment of all awards for injury or death lawfully chargeable against the same, the premium rate for such class shall be reduced; and, each individual member of such class, who has been a subscriber to the State insurance

fund for a period of six months or longer prior to the time of such readjustment, and whose premium or premiums so paid to the fund exceeds the amount of the disbursements from the fund on account of injuries or death to his employees during such period, shall be entitled to a credit on the installment or installments of premium next due from him, the amount of which credit shall be such proportion of said balance as the amount of his prior paid premiums sustains to the whole amount of said premiums paid by the class to which he belongs since the last readjustment of rates.

**Rules as to fund.**      **Sec. 1465-55.** The State liability board of awards shall adopt rules and regulations with respect to the collection, maintenance and disbursement of the State insurance fund; one of which rules shall provide that in the event the amount of premiums collected from any employer at the beginning of any period of six months is ascertained and calculated by using the estimated expenditure of wages for the period of time covered by such premium payments as a basis, that an adjustment of the amount of such premium shall be made at the end of such six months period and the actual amount of such premium shall be determined in accordance with the amount of the actual expenditure of wages for said period; and, in the event such wage expenditure for said period is less than the amount on which such estimated premium was collected, then such employer shall be entitled to receive a refunder from the State insurance fund of the difference between the amount so paid by him and the amount so found to be actually due, or to have the amount of such difference credited on succeeding premium payments at his option, and should such actual premium, when ascertained as aforesaid exceed in amount the premium so paid by such employer at the beginning of such six months' period, such employer shall immediately upon being advised of the true amount of such premium due, forthwith pay to the treasurer of State an amount equal to the difference between the amount actually found to be due and the amount paid by him at the beginning of said six months' period.

**Custody.**      **Sec. 1465-56.** The treasurer of State shall be the custodian of the State insurance fund and all disbursements therefrom shall be paid by him upon vouchers authorized by the State liability board of awards and signed by any two members of the board; or, such vouchers may bear the facsimile signatures of the board members printed thereon, and the signature of the chief of the auditing department.

**Deposit of funds.**      **Sec. 1465-57.** The treasurer of State is hereby authorized to deposit any portion of the State insurance fund not needed for immediate use, in the same manner and subject to all the provisions of the law with respect to the deposit of State funds by such treasurer; and all interest earned by such portion of the State insurance fund as may be deposited by the State treasurer in pursuance of authority herein given, shall be collected by him and placed to the credit of such fund.

**Investment.**      **Sec. 1465-58.** The State liability board of awards shall have the power to invest any of the surplus or reserve belonging to the State insurance fund in bonds of the United States, the State of Ohio, or of any county, city, village or school district of the State of Ohio, at current market prices for such bonds: *Provided*, That such purchase be authorized by a resolution adopted by the board and approved by the governor; and it shall be the duty of the boards or officers of the several taxing districts of the State in the issuance and sale of bonds of their respective taxing districts, to offer in writing to the State liability board of awards, prior to advertising the same for sale, all such issues as may not have been taken by the trustees of the sinking fund of the taxing district so issuing such bonds; and said board shall, within ten days after the receipt of such written offer either accept the same and purchase such bonds or any portion thereof at par and accrued interest, or reject such offer in writing; and all such bonds so purchased forthwith shall be placed in the hands of the treasurer of State, who is hereby designated as custodian thereof, and it shall be his duty to collect the interest thereon as the same becomes due and payable, and also the principal thereof, and to pay the same, when so collected, into the State insurance fund. The treasurer of State shall honor and pay all vouchers drawn on the State insurance fund for the payment of such bonds when signed by any two members of the board, upon delivery of said bonds to him when there is attached to such voucher a certified copy of such resolution of the board

authorizing the purchase of such bonds; and the board may sell any of said bonds upon like resolution, and the proceeds thereof shall be paid by the purchaser to the treasurer of State upon delivery to him of said bonds by the treasurer.

SEC. 1465-59. The treasurer of State shall give a separate and additional bond in such amount as may be fixed by the governor, and with sureties to his approval, conditioned for the faithful performance of his duties as custodian of the State insurance fund.

Bond.

SEC. 1465-60. The following shall constitute employers subject to the provisions of this act:

Employers.

1. The State and each county, city, township, incorporated village and school district therein.

2. Every person, firm, and private corporation including any public service corporation that has in service five or more workmen or operatives regularly in the same business, or in or about the same establishment under any contract of hire, express, or implied, oral or written.

SEC. 1465-61. The terms "employee", "workman" and "operative" as used in this act, shall be construed to mean:

Employees.

1. Every person in the service of the State, or of any county, city, township, incorporated village or school district therein, including regular members of lawfully constituted police and fire departments of cities and villages, under any appointment or contract of hire, express or implied, oral or written, except any official of the State, or of any county, city, township, incorporated village or school district therein: *Provided*, That nothing in this act shall apply to policemen or firemen in cities where policemen's and firemen's pension funds are now or hereafter may be established and maintained by municipal authority under existing laws.

2. Every person in the service of any person, firm or private corporation, including any public service corporation employing five or more workmen or operatives regularly in the same business, or in or about the same establishment under any contract of hire, express or implied, oral or written, including aliens, and also including minors who are legally permitted to work for hire under the laws of the State, but not including any person whose employment is but casual, or not in the usual course of trade, business, profession or occupation of his employer.

SEC. 1465-62. Every employer mentioned in subdivision one of section thirteen [1465-60] hereof, shall contribute to the State insurance fund in proportion to the annual expenditure of money by such employer for the service of persons described in subdivision one of section fourteen [1465-61] hereof, the amount of such payments and the method of making the same to be determined as hereinafter provided.

Contributions to fund.

SEC. 1465-63. The amount of money to be contributed by the State itself, and by each county, city, incorporated village, school district or other taxing district of the State shall be, unless otherwise provided by law, a sum equal to one percentum of the amount of money expended by the State and for each county, city, incorporated village, school district or other taxing district respectively during the next preceding fiscal year for the service of persons described in subdivision one of section fourteen [1465-61] hereof.

Payments by municipalities.

SEC. 1465-64. In the month of January in the years 1914 and 1915, the auditor of State shall draw his warrant on the treasurer of State, in favor of said treasurer as custodian of the State insurance fund, and for deposit to the credit of said fund, for a sum equal to one percentum of the amount of money expended by the State during the last preceding fiscal year, for the service of persons described in subdivision one of section fourteen [1465-61] hereof, which said sums are hereby appropriated and made available for such payments; and thereafter in the month of January of each year, such sums of money shall in like manner be paid into the State insurance fund as may be provided by law; and it shall be the duty of the State liability board of awards to communicate to the general assembly on the first day of each regular session thereof, an estimate of the aggregate amount of money necessary to be contributed by the State during the two years next ensuing as its proper portion of the State insurance fund.

Payment by State.

SEC. 1465-65. In the month of December of each year, the auditor of State shall prepare a list for each county of the State, showing the amount of money expended by each township, city, village, school district or

County lists.

other taxing district therein for the service of persons described in subdivision one of section fourteen [1465-61] hereof, during the fiscal year last preceding the time of preparing such lists; and shall file a copy of each such list with the auditor of the county for which such list was made, and copies of all such lists with the treasurer of State. Such lists shall also show the amount of money due from the county itself, and from each city, township, village, school district and other taxing district thereof, as its proper contribution to the State insurance fund, and the aggregate sum due from the county and such taxing districts located therein.

Payments by  
counties.

SEC. 1465-66. In January of each year following the filing with him of the lists mentioned in the last preceding section hereof, beginning with January, 1914, the auditor of each county shall issue his warrant in favor of the treasurer of State of Ohio on the county treasurer of his county, for the aggregate amount due from such county and from the taxing districts therein, to the State insurance fund, and the county treasurer shall pay the amount called for by such warrant from the county treasury, and the county auditor shall charge the amount so paid to the county itself and the several taxing districts therein as shown by such lists; and the treasurer of State shall immediately upon receiving such money, convert the same into the State insurance fund.

Annual state-  
ments.

SEC. 1465-67. In February of each year the treasurer of State shall certify to the State liability board of awards the amount of money that has been paid to him for credit to the State insurance fund as provided in the foregoing sections and the amount paid by the State itself and by each county, city, incorporated village or school district therein, and at the same time shall certify to the board the names of such as may have made default in the payments hereinbefore provided and the respective amounts for which they are in default. When any default is made in the payment of the sums hereinbefore required to be contributed to the State insurance fund, or when any official fails, neglects or refuses to perform any act or acts required to be performed by him with reference to the making of such payments, it shall be the duty of the State liability board of awards forthwith to institute the proper proceedings in court to compel such payment or payments to be made.

The State liability board of awards shall keep a separate account of the money paid into the State insurance fund by the State and its political subdivisions as hereinbefore provided and the disbursements made therefrom on account of injuries to public employees.

Payments from  
funds.

SEC. 1465-68. Every employee mentioned in subdivision one of section fourteen [1465-61] hereof, who is injured, and the dependents of such as are killed in the course of employment, whosoever such injury has occurred, provided the same was not purposely self-inflicted, on or after January 1st, 1914, shall be paid such compensation out of the State insurance fund for loss sustained on account of such injury or death as is provided in the case of other injured or killed employees, and shall be entitled to receive such medical, nurse and hospital services and medicines, and such amount of funeral expenses as are payable in the case of other injured or killed employees.

Act in effect,  
when.

Every employe mentioned in subdivision two of section fourteen [1465-61] hereof, who is injured, and the dependents of such as are killed in the course of employment, whosoever such injury has occurred, provided the same was not purposely self-inflicted, on and after January 1st, 1914, shall be entitled to receive, either directly from his employer as provided in section twenty-two [1465-69] hereof, or from the State insurance fund, such compensation for loss sustained on account of such injury or death, and such medical, nurse and hospital services and medicines, and such amount of funeral expenses in case of death as is provided by sections thirty-two [1465-79] to forty [1465-87] inclusive of the act.

Employers'  
contributions.

SEC. 1465-69. Except as hereinafter provided, every employer mentioned in subdivision two of section thirteen [1465-60] hereof shall, in the month of January, 1914, and semiannually thereafter, pay into the State insurance fund the amount of premium determined and fixed by the State liability board of awards for the employment or occupation of such employer the amount of which premium to be so paid by each such employer to be determined by the classifications, rules and rates made and published by the board; and such employer

shall semiannually thereafter pay such further sum of money into the State insurance fund as may be ascertained to be due from him by applying the rules of the board, and a receipt or certificate certifying that such payment has been made shall immediately be mailed to such employer by the State liability board of awards, which receipt or certificate, attested by the seal of the board shall be prima facie evidence of the payment of such premium:

*Provided, however,* That as to all employers who are subscribers to the State insurance fund at the time of the taking effect of this act, or who may before January 1st, 1914[,] elect to become subscribers thereto, the foregoing provisions for the payment of such premiums in the month of January, 1914, and semiannually thereafter shall not apply, but such subsequent semiannual premiums shall be paid by such employers from time to time upon the expiration of the respective periods for which payments into the fund have been made by them: *Existing subscribers.*

*And provided further,* That such employers who will abide by the rules of the State liability board of awards and as may be of sufficient financial ability or credit to render certain the payment of compensation to injured employees or to the dependents of killed employees, and the furnishing of medical, surgical, nursing and hospital attention and services and medicines, and funeral expenses equal to or greater than is provided for in this act, or such employers as maintain benefit funds or departments or jointly with other employers maintain mutual associations of such said financial ability or credit, to which their employees are not required or permitted directly or indirectly to contribute, providing for the payment of such compensation and the furnishing of such medical, surgical, nursing and hospital services and attention and funeral expenses, may, upon a finding of such facts by the State liability board of awards elect to pay individually or from such benefit fund department or association such compensation, and furnish such medical, surgical, nursing and hospital services and attention and funeral expenses directly to such injured or the dependents of such killed employees; and the State liability board of awards may require such security or bond from said employers as it may deem proper, adequate and sufficient to compel, or secure to such injured employees, or to the dependents of such employees as may be killed, the payment of the compensation and expenses herein provided for, which shall in no event be less than that paid or furnished out of the State insurance fund, in similar cases, to injured employees or to the dependents of killed employees, whose employers contribute to said fund; and said board shall make and publish rules and regulations governing the mode and manner of making application and the nature and extent of the proof required to justify such finding of facts by the board as to permit such election by such employers, which rules and regulations shall be general in their applications, one of which rules shall provide that all employers electing directly to compensate their injured and the dependents of their killed employees as hereinbefore provided, shall pay into the State insurance fund such amount or amounts as are required to be credited to the surplus in paragraph two of section seven hereof. *Substitute schemes.*

The State liability board of awards may at any time change or modify its finding of facts herein provided for, if in its judgment such action is necessary or desirable to secure or assure a strict compliance with all the provisions of this act in reference to the payment of compensation and the furnishing of medical, nurse, and hospital services and medicines and funeral expenses to injured and the dependents of killed employees.

Secs. 1465-70. Employers who comply with the provisions of the last preceding section shall not be liable to respond in damages at common law or by statute, save as hereinafter provided, for injury or death of any employee, wherever occurring, during the period covered by such premium so paid into the State insurance funds, or during the interval of time in which such employer is permitted to pay such compensation direct to his injured or the dependents of his killed employees as herein provided. *Exemption from suits.*

Secs. 1465-71. Any employer who employs less than five workmen or operatives regularly in the same business, or in or about the same establishment, who shall pay into the State insurance fund the premi- *Employers of less than 5 workmen.*

ums provided by this act, shall not be liable to respond in damages at common law or by statute, save as hereinafter provided, for injuries or death of any such employees, wherever occurring, during the period covered by such premiums, provided the injured employee has remained in his service with notice that his employer has paid into the State insurance fund the premiums provided by this act; the continuation in the service of such employer with such notice shall be deemed a waiver by the employee of his right of action as aforesaid.

Each such employer paying the premiums provided by this act into the State insurance fund, or electing directly to pay compensation to his injured, or the dependents of his killed employees as provided in section twenty-two [1465-69] hereof, shall post in conspicuous places about his place or places of business typewritten or printed notices stating the fact that he has made such payment, or that he has complied with the provisions of said section twenty-two hereof and all of the rules and regulations of the State liability board of awards made in pursuance thereof, and has been authorized by said board directly to compensate such said employees or dependents; and the same, when so posted, shall constitute sufficient notice to his employees of the fact that he has made such payment, or that he has complied with such elective provision of section twenty-two [1465-69]; and of any subsequent payments he may make after such notices have been posted.

Disburse-  
ments to em-  
ployees.

Sec. 1465-72. The State liability board of awards shall disburse the State insurance fund to such employees of employers as have paid into said fund the premiums applicable to the classes to which they belong, who have been injured in the course of their employment, wheresoever such injuries have occurred, and which have not been purposely self-inflicted, or to their dependents in case death has ensued. All employers electing directly to compensate their injured employees, in compliance with this act, shall pay to such injured employees, or to the dependents of employees who have been killed in the course of their employment, unless such injury or death of such employee has been purposely self-inflicted, the compensation, and shall furnish such medical, surgical, nurse and hospital care and attention or funeral expenses as would have been paid and furnished by virtue of this act under a similar state of facts, by the State liability board of awards out of the State insurance fund, in case said employer had paid the premium provided by this act, into said fund:

*Provided, however,* That if any rule or regulation of such employer so directly compensating his employees, shall provide for or authorize the payment of greater compensation or more complete or extended medical care, nursing, surgical and hospital attention or funeral expenses to such injured employees, or to the dependents of such employees as may be killed, such employer shall be required to pay to such employees, or to the dependents of such as are killed, the amount of compensation and furnish such medical care, nursing, surgical and hospital attention or funeral expenses provided by his said rules and regulations.

And such payment or payments to such injured employees, or to their dependents in case death has ensued, shall be in lieu of any and all rights of action whatsoever against the employer of such injured or killed employees.

Employers lia-  
ble in damages.

Sec. 1465-73. Employers mentioned in subdivision two of section thirteen [1465-60] hereof, who shall fail to comply with the provisions of section twenty-two [1465-69] hereof, shall not be entitled to the benefits of this act during the period of such noncompliance, but shall be liable to their employees for damages suffered by reason of personal injuries sustained in the course of employment caused by the wrongful act, neglect or default of the employer, or any of the employer's officers, agents or employees, and also to the personal representatives of such employees where death results from such injuries, and in such action the defendant shall not avail himself or itself of the following common law defenses:

Defenses abro-  
gated.

The defense of the fellow-servant rule, the defense of the assumption of risk or the defense of contributory negligence.

And such employers shall also be subject to the provisions of the two sections next succeeding.

Claim for com-  
pensation.

Sec. 1465-74. Any employee whose employer has failed to comply with the provisions of section twenty-two [1465-69] hereof, who has been injured in the course of his employment, wheresoever such injury has

occurred, and which was not purposely self-inflicted, or his dependents in case death has ensued, may, in lieu of proceeding against his employer by civil action in the courts, as provided in the last preceding section, file his application with the State liability board of awards for compensation in accordance with the terms of this act, and the board shall hear and determine such application for compensation in like manner as in other claims before the board; and the amount of the compensation which said board may ascertain and determine to be due to such injured employee, or to his dependents in case death has ensued, shall be paid by such employer to the person entitled thereto within ten days after receiving notice of the amount thereof as fixed and determined by the board; and in the event of the failure, neglect or refusal of the employer to pay such compensation to the person entitled thereto, within said period of ten days, the same shall constitute a liquidated claim for damages against such employer in the amount so ascertained and fixed by the board, which with an added penalty of fifty per centum, may be recovered in an action in the name of the State for the benefit of the person or persons entitled to the same. And any employee whose employer has elected to pay compensation to his injured, or to the dependents of his killed employees in accordance with the provisions of section twenty-two [1465-69] hereof, may, in the event of the failure of his employer to so pay such compensation or furnish such medical, surgical, nursing and hospital services and attention or funeral expenses, file his application with the State liability board of awards for the purpose of having the amount of such compensation and such medical, surgical, nursing and hospital services and attention or funeral expenses determined; and thereupon like proceedings shall be had before the board and with like effect as hereinbefore provided.

Determination  
by board.

And the State liability board of awards shall adopt and publish rules and regulations governing the procedure before the board provided in this section, and shall prescribe forms of notices and the mode and manner of serving the same in all claims for compensation arising under this section. Any suit, action or proceeding brought against any employer under the provisions of this section, may be compromised by the board, or such suit, action or proceeding may be prosecuted to final judgment as in the discretion of the board may best subserve the interests of the persons entitled to receive such compensation.

Procedure.

Sec. 1465-75. If any employer shall default in any payment required to be made by him to the State insurance fund, the amount due from him shall be collected by civil action against him in the name of the State as plaintiff; and it shall be the duty of the State liability board of awards on the first Monday in February, 1914, and on the first Monday of each month thereafter, to certify to the attorney general of the State the names and residences of all employers known to the board to be in default for such payments for a longer period than five days, and the amount due from each such employer, and it shall then be the duty of the attorney general forthwith to bring, or cause to be brought against each such employer a civil action in the proper court for the collection of such amount so due, and the same when collected, shall be paid into the State insurance fund, and such employer's compliance with the provisions of this act requiring payments to be made to the State insurance fund shall date from the time of the payment of said money so collected as aforesaid to the treasurer of State for credit to the State insurance fund.

Defaults in pay-  
ments.

Sec. 1465-76. But where a personal injury is suffered by an employee, or where death results to an employee from personal injury while in the employ of an employer in the course of employment, and such employer has paid into the State insurance fund the premium provided for in this act, or is authorized directly to compensate such employee or dependents by virtue of compliance with section twenty-two [1465-69] of this act, and in case such injury has arisen from the willful act of such employer, or any of such employer's officers or agents, or from the failure of such employer or any of such employer's officers or agents to comply with any lawful requirement for the protection of the lives and safety of employees, then in such event, nothing in this act contained shall affect the civil liability of such employer, but such injured employee, or his legal representative in case death

Willful injuries.



- Choice of procedure. results from the injury, may, at his option, either claim compensation under this act or institute proceedings in the courts for his damage on account of such injury; and such employer shall not be liable for any injury to any employee or his legal representative in case death results, except as provided in this section; and in all actions authorized by this section the defendant shall be entitled to plead the defense of contributory negligence and the defense of the fellow-servant rule; and, in all cases determined in court as authorized by this section when a judgment is awarded the plaintiff, the court shall determine, fix and award the amount of fee or fees to be paid plaintiff's attorney or attorneys, any contract to the contrary notwithstanding.
- Defenses. Every employee, or his legal representative in case death results, who makes application for an award, or accepts compensation from an employer who elects, under section twenty-two [1465-69] of this act, directly to pay such compensation, waives his right to exercise his option to institute proceedings in any court, except as provided in section forty-three [1465-90] hereof. Every employee, or his legal representative in case death results, who exercises his option to institute proceedings in court as provided in this section, waives his right to any award, or direct payment of compensation from his employer under section twenty-two [1465-69] hereof, as provided in this act.
- Judgments preferred. SEC. 1465-77. All judgments obtained in any action prosecuted by the board or by the State under the authority of this act shall have the same preference against the assets of the employer as is now or may hereafter be allowed by law on judgments rendered for claims for taxes.
- First week. SEC. 1465-78. No compensation shall be allowed for the first week after the injury is received, except the disbursement hereinafter authorized for medical, nurse and hospital services and medicines, and for funeral expenses.
- Temporary total disability. SEC. 1465-79. In case of temporary disability, the employee shall receive sixty-six and two-thirds per cent of his average weekly wages so long as such disability is total, not to exceed a maximum of twelve dollars per week, and not less than a minimum of five dollars per week, unless the employee's wages shall be less than five dollars per week, in which event he shall receive compensation equal to his full wages; but in no case to continue for more than six years from the date of the injury, or to exceed three thousand, seven hundred and fifty dollars.
- Partial disability. SEC. 1465-80. In case of injury resulting in partial disability, the employee shall receive sixty-six and two-thirds per cent of the impairment of his earning capacity during the continuance thereof, not to exceed a maximum of twelve dollars per week, or a greater sum in the aggregate than thirty-seven hundred and fifty dollars. In cases included in the following schedule, the disability in each case shall be deemed to continue for the period specified and the compensation so paid for such injury shall be as specified herein, to wit:
- Schedule. For the loss of a thumb, 66 $\frac{2}{3}$ % of the average weekly wages during sixty weeks.
- For the loss of a first finger, commonly called index finger, 66 $\frac{2}{3}$ % of the average weekly wages during thirty-five weeks.
- For the loss of a second finger, 66 $\frac{2}{3}$ % of the average weekly wages during thirty weeks.
- For the loss of a third finger, 66 $\frac{2}{3}$ % of the average weekly wages during twenty weeks.
- For the loss of a fourth finger, commonly known as the little finger, 66 $\frac{2}{3}$ % of the average weekly wages during fifteen weeks.
- The loss of the second, or distal phalange, of the thumb shall be considered to be equal to the loss of one-half of such thumb; the loss of more than one-half of such thumb shall be considered to be equal to the loss of the whole thumb.
- The loss of the third, or distal phalange, of any finger shall be considered to be equal to the loss of one-third of such finger.
- The loss of the middle, or second phalange, of any finger shall be considered to be equal to the loss of two-thirds of such finger.
- The loss of more than the middle and distal phalanges of any finger shall be considered to be equal to the loss of the whole finger: *Provided, however,* That in no case will the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand.

For the loss of the metacarpal bone (bones of palm) for the corresponding thumb, finger, or fingers as above, add ten weeks to the number of weeks as above.

For ankylosis (total stiffness of) or contractures (due to scars or injuries) which makes the fingers more than useless, the same number of weeks apply to such finger or fingers (not thumb) as given above.

For the loss of a hand, 66 $\frac{2}{3}$ % of the average weekly wages during one hundred and fifty weeks.

For the loss of an arm, 66 $\frac{2}{3}$ % of the average weekly wages during two hundred weeks.

For the loss of a great toe, 66 $\frac{2}{3}$ % of the average weekly wages during thirty weeks.

For the loss of one of the toes other than the great toe, 66 $\frac{2}{3}$ % of the average weekly wages during ten weeks.

The loss of more than two-thirds of any toe shall be considered to be equal to the loss of the whole toe.

The loss of less than two-thirds of any toe shall be considered to be no loss.

For the loss of a foot, 66 $\frac{2}{3}$ % of the average weekly wages during one hundred and twenty-five weeks.

For the loss of a leg, 66 $\frac{2}{3}$ % of the average weekly wages during one hundred and seventy-five weeks.

For the loss of an eye, 66 $\frac{2}{3}$ % of the average weekly wages during one hundred weeks.

The amounts specified in this clause are all subject to the limitation as to the maximum weekly amount payable as hereinbefore specified in this section.

Sec. 1465-81. In cases of permanent total disability, the award shall be sixty-six and two-thirds per cent of the average weekly wages, and shall continue until the death of such person so totally disabled, but not to exceed a maximum of twelve dollars per week and not less than a minimum of five dollars per week, unless the employee's average weekly wages are less than five dollars per week at the time of the injury, in which event he shall receive compensation in an amount equal to his average weekly wages. Permanent disability.

The loss of both hands or both arms, or both feet or both legs, or both eyes, or of any two thereof, shall prima facie constitute total and permanent disability, to be compensated according to the provisions of this section.

Sec. 1465-82. In case the injury causes death within the period of two years, the benefits shall be in the amounts and to the persons following: Death.

1. If there be no dependents, the disbursements from the State insurance fund shall be limited to the expenses provided for in section forty-two hereof [1465-89].

2. If there are wholly dependent persons at the time of the death, the payment shall be sixty-six and two-thirds per cent of the average weekly wages, and to continue for the remainder of the period between the date of the death, and six years after the date of the injury, and not to amount to more than a maximum of thirty-seven hundred and fifty dollars, nor less than a minimum of one thousand five hundred dollars.

3. If there are partly dependent persons at the time of the death, the payment shall be sixty-six and two-thirds per cent of the average weekly wages, and to continue for all or such portion of the period of six years after the date of the injury, as the board in each case may determine, and not to amount to more than a maximum of thirty-seven hundred and fifty dollars.

4. The following persons shall be presumed to be wholly dependent for support upon a deceased employee: Dependents.

(A). A wife upon a husband with whom she lives at the time of his death.

(B). A child or children under the age of sixteen years (or over said age if physically or mentally incapacitated from earning) upon the parent with whom he is living at the time of the death of such parent.

In all other cases, question of dependency, in whole or in part, shall be determined in accordance with the facts in each particular case existing at the time of the injury resulting in the death of such employee,

- but no person shall be considered as dependent unless a member of the family of the deceased employee, or bears to him the relation of husband or widow, lineal descendant, ancestor or brother or sister. The word "child" as used in this act, shall include a posthumous child, and a child legally adopted prior to the injury.
- Payment of death benefits.** Sec. 1465-83. The benefits in case of death, shall be paid to such one or more of the dependents of the decedent, for the benefit of all the dependents as may be determined by the board, which may apportion the benefits among the dependents in such manner as it may deem just and equitable. Payment to a dependent subsequent in right may be made, if the board deems it proper, and shall operate to discharge all other claims therefor. The dependent or person to whom benefits are paid shall apply the same to the use of the several beneficiaries thereof according to their respective claims upon the decedent for support, in compliance with the finding and direction of the board.
- Basis of computing benefits.** Sec. 1465-84. The average weekly wage of the injured person at the time of the injury shall be taken as the basis upon which to compute the benefits.
- Young employees.** Sec. 1465-85. It [If] it is established that the injured employee was of such age and experience when injured as that under natural conditions his wages would be expected to increase, the fact may be considered in arriving at his average weekly wage.
- Jurisdiction continuing.** Sec. 1465-86. The powers and jurisdiction of the board over each case shall be continuing, and it may from time to time make such modification or change with respect to former findings or orders with respect thereto, as, in its opinion may be justified.
- Lump sums.** Sec. 1465-87. The board, under special circumstances, and when the same is deemed advisable, may commute periodical benefits to one or more lump sum payments.
- Payments exempt.** Sec. 1465-88. Compensation before payment shall be exempt from all claims or creditors and from any attachment or execution, and shall be paid only to such employees or their dependents.
- Medical, etc., expenses.** Sec. 1465-89. In addition to the compensation provided for herein, the board shall disburse and pay from the State insurance fund, such amounts for medical, nurse and hospital services and medicine as it may deem proper, not, however, in any instance, to exceed the sum of two hundred dollars; and, in case death ensues from the injury, reasonable funeral expenses shall be disbursed and paid from the fund in an amount not to exceed the sum of one hundred and fifty dollars, and the board shall have full power to adopt rules and regulations with respect to furnishing medical, nurse and hospital services and medicine to injured employees entitled thereto, and for the payment therefor.
- Decisions final.** Sec. 1465-90. The board shall have full power and authority to hear and determine all questions within its jurisdiction, and its decision thereon shall be final. *Provided, however,* In case the final action of such board denies the right of the claimant to participate at all in such fund on the ground that the injury was self-inflicted or on the ground that the accident did not arise in the course of employment, or upon any other ground going to the basis of the claimant's right, then the claimant, within thirty (30) days after the notice of the final action of such board, may, by filing his appeal in the common pleas court of the county wherein the injury was inflicted, be entitled to a trial in the ordinary way, and be entitled to a jury if he demands it. In such a proceeding, the prosecuting attorney of the county, without additional compensation, shall represent the State liability board of awards, and he shall be notified by the clerk forthwith of the filing of such appeal.
- Appeals.** Within thirty days after filing his appeal, the appellant shall file a petition in the ordinary form against such board as defendant, and further pleadings shall be had in said cause, according to the rules of civil procedure, and the court, or the jury, under the instructions of the court, if a jury is demanded, shall determine the right of the claimant; and if they determine the right in his favor, shall fix his compensation within the limits under the rules prescribed in this act; and any

final judgment so obtained shall be paid by the State liability board of awards out of the State insurance fund in the same manner as such awards are paid by such board.

The cost of such proceeding, including a reasonable attorney's fee to the claimant's attorney to be fixed by the trial judge, shall be taxed against the unsuccessful party.

Either party shall have the right to prosecute error as in the ordinary civil cases.

SEC. 1465-91. Such board shall not be bound by the usual common law or statutory rules of evidence or by any technical or formal rules of procedure, other than as herein provided; but may make the investigation in such manner as in its judgment is best calculated to ascertain the substantial rights of the parties and to carry out justly the spirit of this act.

Procedure.

SEC. 1465-92. No provision of this act relating to the amount of compensation shall be considered by, or called to the attention of the jury on the trial of any action to recover damages as herein provided.

Fixing damages.

SEC. 1465-93. A minor working at an age legally permitted under the laws of this State, shall be deemed sui juris for the purposes of this act, and no other person shall have any cause of action or right to compensation for an injury to such minor workman, but in the event of the award of a lump sum of compensation to such minor employee, such sum shall be paid only to the legally appointed guardian of such minor.

Minors.

SEC. 1465-94. No agreement by an employee to waive his rights to compensation under this act shall be valid. No agreement by an employee to pay any portion of the premium paid by his employer into the State insurance fund shall be valid, and any employer who deducts any portion of such premium from the wages or salary of any employee entitled to the benefits of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not more than one hundred dollars for each such offense.

Waivers.

Employees paying premiums.

SEC. 1465-95. Any employee claiming the right to receive compensation under this act may be required by the board or its chief medical examiner, to submit himself for medical examination at any time and from time to time at a place reasonably convenient for such employee, and as may be provided by the rules of the board. If such employee refuses to submit to any such examination or obstructs the same, his right to have his claim for compensation considered, if his claim be pending before the board, or to receive any payments for compensation theretofore granted shall be suspended during the period of such refusal or obstruction.

Medical examinations.

SEC. 1465-96. All books, records, and pay rolls of the employers of the State, showing or reflecting in any way upon the amount of wage expenditure of such employers, shall always be open for inspection by the board or any of its traveling auditors, inspectors or assistants, for the purpose of ascertaining the correctness of the wage expenditure, the number of men employed, and such other information as may be necessary for the uses and purposes of the board in its administration of the law. Refusal on the part of any employer to submit his books, records and pay rolls for the inspection of any member of the board or traveling auditor, inspector or assistant presenting written authority from the board, shall subject such employer to a penalty of one hundred dollars (\$100) for each such offense, to be collected by civil action in the name of the State, and paid into the State insurance fund to become a part thereof.

Employers' pay rolls, etc.

SEC. 1465-97. Any employer who misrepresents to the board the amount of pay roll upon which the premium under this act is based, shall be liable to the State in ten times the amount of the difference in premium paid and the amount the employer should have paid. The liability to the State under this section shall be enforced in a civil action in the name of the State, and all sums collected under this section shall be paid into the State insurance fund.

Misrepresentations.

SEC. 1465-98. The provisions of this act shall apply to employers and their employees engaged in intrastate and also in interstate and foreign commerce, for whom a rule of liability or method of compensation has been or may be established by the Congress of the United States, only to the extent that their mutual connection with intrastate work may and shall be clearly separable and distinguishable from interstate or foreign commerce, and then only when such employer

Railway, etc., employees.

and any of his workmen working only in this State, with the approval of the State liability board of awards, and so far as not forbidden by any act of Congress, voluntarily accept the provisions of this act by filing written acceptances, which, when filed with and approved by the board, shall subject the acceptors irrevocably to the provisions of this act to all intents and purposes as if they had been originally included in its terms, during the period or periods for which the premiums herein provided have been paid. Payment of premium shall be on the basis of the pay roll of the workmen who accept as aforesaid.

Accidents to be reported.

Sec. 1465-99. Every employer of the State shall keep a record of all injuries, fatal or otherwise, received by his employees in the course of their employment. Within a week after the occurrence of an accident resulting in personal injury, a report thereof shall be made in writing to the State liability board of awards upon blanks to be procured from the board for that purpose. Such report shall contain the name and nature of the business of the employer, the location of his establishment or place of work, the name, address and occupation of the injured employee, and shall state the time, the nature and cause of injury and such other information as may be required by the board. Any employer who refuses or neglects to make any report required by this section, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than five hundred dollars (\$500) for such offense.

Enforcement.

Sec. 1465-100. Upon the request of the board, the attorney general, or under his direction, the prosecuting attorney of any county shall institute and prosecute the necessary actions or proceedings for the enforcement of any of the provisions of this act, or for the recovery of any money due the State insurance fund, or any penalty herein provided for, arising within the county in which he was elected, and shall defend in like manner all suits, actions or proceedings brought against the board or the members thereof in their official capacity.

Agreements void.

Sec. 1465-101. All contracts or agreements entered into by any employer, the purpose of which is to indemnify him from loss or damage on account of the injury of such employee by accidental means or on account of the negligence of such employer or such employer's officer, agent or servant, shall be absolutely void, unless such contract or agreement shall specifically provide for the payment to such injured employee of such amounts for medical, nurse and hospital services and medicines, and such compensation as is provided by this act for injured employees; and in the event of death shall pay such amounts as are herein provided for funeral expenses and for compensation to the dependents of those partially dependent upon such employee; and no such contract shall agree, or be construed to agree, to indemnify such employer, other than hereinbefore designated, for any civil liability for which he may be liable on account of the injury to his employee by the willful act of such employer, or any of such employer's officers or agents, or the failure of such employer, his officers or agents, to observe any lawful requirement for the safety of employees.

Expenditures by board.

Sec. 1465-102. The board may make necessary expenditures to obtain statistical and other information to establish the classes provided for in section six hereof. The salaries and compensation of the members of the board, of the secretary and all actuaries, accountants, inspectors, examiners, experts, clerks, physicians, stenographers and other assistants, and all other expenses of the board herein authorized, including the premium to be paid by the State treasurer for the bond to be furnished by him, shall be paid out of the State treasury upon vouchers signed by two of the members of such board and presented to the auditor of State, who shall issue his warrant therefor as in other cases.

Annual reports.

Sec. 1465-103. Annually on or before the 15th day of December, such board, under the oath of at least two of its members, shall make a report to the governor for the preceding fiscal year, which shall include a statement of the number of awards made by it, and a general statement of the causes of accidents leading to the injuries for which the awards were made, a detailed statement of the disbursements from the expense fund, and the condition of its respective funds, together with any other matters which the board deems proper to call to the attention of the governor, including any recommendations it may have to make, and it shall be the duty of the board from time to time to publish and

distribute among employers and employees, such general information as to the business transacted by the department as in its judgment may be useful.

SEC. 1465-104. The board shall cause to be printed in proper form for distribution to the public its classifications, rates, rules, regulations and rules of procedure, and shall furnish the same to any person upon application therefor, and the fact that such classifications, rates, rules, regulations and rules of procedure are printed ready for distribution to all who apply for the same, shall be a sufficient publication of the same as required by this act. Rules, rates, etc., to be printed.

SEC. 1465-105. No injunction shall issue suspending or restraining any order, classification or rate adopted by the board, or any action of the auditor of State, treasurer of State, attorney general, or the auditor or treasurer of any county, required to be taken by them or any of them by any of the provisions of this act; but nothing herein shall effect any right or defense in any action brought by the board or the State in pursuance of authority contained in this act. Injunctions.

SEC. 1465-106. Should any section or provision of this act be decided by the courts to be unconstitutional or invalid, the same shall not affect the validity of the act as a whole or any part thereof other than the part so decided to be unconstitutional. Questions of constitutionality.

SEC. 1465-107. It shall be unlawful for the State liability board of awards, or any other body constituted by the statutes of the State of Ohio, or any court of said State, in awarding compensation to the dependents of employees, or others killed in Ohio, to make any discrimination against the widows, children, or other dependents, who shall reside in a foreign country; and it shall be the duty of the State liability board of awards, or any other board or court, in determining the amount of compensation to be paid to the dependents of killed employees, to pay to the alien dependents residing in foreign countries the same benefits as to those dependents residing in the State of Ohio. Nonresident alien beneficiaries.

SEC. 1465-108. When the dependents of killed employees reside in a foreign country, the consul general, consul, vice consul, or consular agent, duly accredited to the consular district within which such killed employee lived at the time of his decease by the country wherein such dependents of the killed employee reside, shall furnish the necessary information regarding such dependents of killed employees so that the State liability board of awards may transmit to such dependents the funds provided for in the compensation act of the State of Ohio, or any amendments thereto. Consular officers to act.

Approved June 15, 1911; amendments approved March 14, 1913, and May 3, 1913.

**OREGON.**

**ACTS OF 1913.**

**CHAPTER 112.—Compensation of workmen for injuries—State insurance fund.**

SECTION 1. The State of Oregon recognizes that the prosecution of the various industrial enterprises which must be relied upon to create and preserve the wealth and prosperity of the State involves the injury of large numbers of workmen, resulting in their partial or total incapacity or death, and that under the rules of the common law and the provisions of the statutes now in force an unequal burden is cast upon its citizens, and that in determining the responsibility of the employer on account of injuries sustained by his workmen, a great and unnecessary cost is now incurred in litigation, which cost is divided between the workmen, the employers and the taxpayers, who provide the public funds, without any corresponding benefit, to maintain courts and juries to determine the question of responsibility under the law as it now exists, and that the State and its taxpayers are subjected to a heavy burden in providing care and support for such injured workmen and their dependents, and that this burden should, in so far as may be consistent with the rights and obligations of the people of the State, be more fairly distributed as in this act provided. Grounds of law.

SEC. 2. A commission is hereby created which shall be known as the "State Industrial Accident Commission," to be composed of three commissioners. Immediately upon the taking effect of this act, the Commission created.

governor shall appoint such commissioners, not more than two of whom shall belong to one political party. Such commissioners shall be appointed for respective terms expiring on the first Monday in January in the years 1915, 1916 and 1917; that thereafter the commissioners shall be appointed for terms of four years by the same authority on the first Monday in December in each year next preceding the expiration of the term of a commissioner. Each commissioner appointed hereunder shall hold office until his successor is appointed and qualified. Any vacancy shall be filled by appointment by the governor. Inasmuch as the duties to be performed by such commissioners vitally concern the employers, the employees, as well as the whole people, of the State, it is hereby declared to be the purpose of this act that persons be appointed as commissioners who shall fairly represent the interests of all concerned in its administration.

**Removal of commissioners.**

Sec. 3. The governor may at any time remove any commissioner appointed by him for inefficiency, neglect of duty or malfeasance in office. Before such removal he shall give such commissioner a copy of the charges against him and shall fix the time when he can be heard in his own defense, which shall not be less than ten days thereafter, and such hearing shall be open to the public. If such commissioner shall be removed, the governor shall file in the office of the secretary of state a complete statement of all charges made against such commissioner and his findings thereon, with a record of the proceedings. Such power of removal shall be absolute and there shall be no right of review in any court whatsoever.

**Duty of commissioners.**

No commissioner shall hold any other office or position of profit or pursue any other business or vocation or serve on or under any committee of any political party, but shall devote his entire time to the duties of his office.

**Oath.**

Before entering on the duties of his office, each commissioner shall take and subscribe to an oath or affirmation that he will support the constitution of the United States and of this State and faithfully and honestly discharge the duties of such office of commissioner; that he holds no other office or position of profit, and that he pursues and will pursue while such commissioner no other calling or vocation, and that he holds, and while such commissioner will hold, no position under any political party, which oath or affirmation shall be filed in the office of the secretary of state.

**Bond.**

Each of the commissioners shall also, before entering upon the duties of his office, execute a bond payable to the State of Oregon, in the penal sum of \$10,000, with sureties to be approved by the governor, conditioned for the faithful discharge of the duties of his office, which bond when so executed and approved shall be filed in the office of the secretary of state.

**Salary.**

Each of the commissioners shall receive an annual salary of thirty-six hundred dollars (\$3,600), payable from the fund hereinafter provided.

**Organisation.**

Sec. 4. The commissioners so appointed under this act shall, within twenty days after their appointment, meet at the State capitol and organize by electing one of their number chairman, who shall serve until the commissioner to be appointed for the term commencing in January, 1915, shall have qualified and taken office. Immediately after the qualification of the commissioner for the term commencing in January, 1915, and biennially thereafter, the commissioners shall meet at the office of the commission, which shall be maintained at the State capitol, and shall elect a chairman, who shall serve for two years and until his successor is chosen.

**Quorum.**

Sec. 5. A majority of the commissioners shall constitute a quorum to transact business, and the act or decision of any two of the commissioners shall be deemed the act or decision of the commission. No vacancy shall impair the right of the remaining commissioners to exercise all the powers of the commission.

**Employees.**

Sec. 6. The commission may employ and terminate the employment of such assistants, experts and clerks as may be required in the administration of this act at a total expense not exceeding twenty-five thousand dollars (\$25,000) per annum.

**Powers.**

Sec. 7. The commission, in its name, may sue and be sued, and the commission shall have a seal which shall bear the name of the commission. The commission is hereby charged with the administration of the provisions of this act, and to that end may hold sessions at any

place within the State, and is hereby authorized to issue subpoenas requiring the attendance of witnesses and the production of documents, and obedience to such subpoenas may be compelled, on application of the commission, by the circuit court for the county where such subpoenas shall be returnable.

SEC. 8. The commission is hereby authorized to make and declare all rules and regulations which shall reasonably be required in the administration of the provisions of this act, and shall require the making of reports of accidents, reports of amounts paid or agreed to be paid as wages by employers to workmen and may prescribe and require the use of the pay roll form by employers which shall carry such specific information as may be deemed necessary by the commission, and may incur such expenses as the commission shall determine reasonably necessary in the administration of this act.

Rules, etc.

SEC. 9. The commission is hereby required to render to the governor of the State, quarter yearly, a report with full statistical information covering the acts of the commission and the receipt and disbursement of moneys hereunder.

Reports.

SEC. 10. All persons, firms and corporations engaged as employers in any of the hazardous occupations hereafter specified shall be subject to the provisions of this act: *Provided, however,* That any such person, firm or corporation may be relieved of certain of the obligations hereby imposed, and shall lose the benefits hereby conferred by filing with the commission written notice of an election not to be subject thereto in the manner hereinafter specified: *Provided, however,* That where an employer is engaged in a hazardous occupation, as hereinafter defined, and is also engaged in another occupation or other occupations not so defined as hazardous, he shall not be subject to this act as to such nonhazardous occupations, nor shall his workmen wholly engaged in such nonhazardous occupations be subject thereto except by an election as authorized by section 31 thereof: *Provided, however,* That employers and employees who are engaged in an occupation partly hazardous and partly nonhazardous shall come within the terms of this act the same as if said occupation were wholly hazardous.

Application of law.  
Provisos.

SEC. 11. All workmen in the employ of persons, firms or corporations who as employers are subject to this act shall also be subject thereto: *Provided, however,* That any such workman may be relieved of the obligations hereby imposed and shall lose the benefits hereby conferred by giving to his employer written notice of an election not to be subject thereto in the manner hereinafter specified. Any workman of the age of 16 years and upwards shall himself exercise the election hereby authorized. The right of election hereby authorized shall be exercised on behalf of any workman under the age of 16 years by his parent or guardian. This act shall not apply to workmen of less than the minimum age prescribed by law for the employment of minors in the occupation in which such workmen shall be engaged.

Employees subject.  
Proviso.

SEC. 12. Every workman subject to this act while employed by an employer subject to this act, who after June 30, next following the taking effect of this act, while so employed sustains personal injury by accident arising out of and in the course of his employment and resulting in his disability, or the beneficiaries as hereinafter defined, of such workman in case such injury results in death, shall be entitled to receive from the Industrial Accident Fund hereby created the sum or sums hereinafter specified and the right to receive such sum or sums shall be in lieu of all claims against his employer on account of such injury or death except as hereinafter specially provided: *Provided, however,* That if the injury to a workman occurring away from the plant of his employer is due to the negligence or wrong of another not in the same employ, the injured workman, or if death result from the injury, his widow, children or dependents, as the case may be, shall elect whether to take under this act or seek a remedy against such other, such election to be in advance of any suit, and if he take under this act the cause of action against such other shall be assigned to the State for the benefit of the accident fund. If the other choice is made the accident fund shall contribute only the deficiency, if any, between the amount of recovery against such third person actually collected and the compensation provided or estimated by this act for such case. Any such cause of action assigned to the State may be prosecuted or

Benefits payable, when.

Injuries caused by third persons.



compromised by the department in its discretion. Any compromise by the workman of any such suit which would leave a deficiency to be made good out of the accident fund may be made only with the written approval of the department.

Hazardous oc-  
cupations.

SEC. 13. The hazardous occupations to which this act is applicable are as follows:

Factories, mills and workshops where machinery is used; printing, electrotyping, photo-engraving and stereotyping plants where machinery is used; foundries, blast furnaces, mines, wells, gas works, waterworks, reduction works, breweries, elevators, wharves, docks, dredges, smelter, powder works, laundries operated by power; quarries; engineering works; logging, lumbering and shipbuilding operations; logging, street and interurban railroads not engaged in interstate commerce; buildings being constructed, repaired, moved or demolished; telegraph, telephone, electric light or power plants, or lines, steam heating or power plants, railroads not engaged in interstate commerce, steamboats, tugs and ferries.

Definitions.

SEC. 14. In the sense of this act words employed mean as here stated, to wit:

Factories mean undertakings in which the business of working at commodities is carried on with power-driven machinery, either in manufacture, repair or change, and shall include the premises, yard and plant of the concern.

Workshop means any plant, yard, premises, room or place wherein power-driven machinery is employed and manual labor is exercised by way of trade for gain or otherwise in or incidental to the process of making, altering, repairing, printing or ornamenting, finishing or adapting for sale or otherwise any article or part of article, machine or thing, over which premises, room or place the employer of the person working therein, has the right of access or control.

Mill means any plant, premises, room or place where machinery is used, any process of machinery, changing, altering or repairing any article or commodity for sale or otherwise, together with the yards and premises which are part of the plant, including elevators, warehouses and bunkers.

Mine means any mine where coal, clay, ore, mineral, gypsum or rock is dug or mined underground.

Quarry means an open cut from which coal is mined, or clay, ore, mineral, gypsum, sand, gravel, or rock is cut or taken for manufacturing, building or construction.

Engineering work means any work of construction, improvement or alteration or repair of buildings, structures, streets, highways, sewers, street railways, railroads not then engaged in interstate commerce, logging roads, interurban railroads not then engaged in interstate commerce, harbors, docks, canals, electric, steam or water power plants, telegraph and telephone plants and lines; electric light or power lines, and includes any other works for the construction, alteration or repair of which machinery driven by mechanical power is used.

The term "employer" used in this act shall be taken to mean any person, firm or corporation, but not including municipal corporations, that shall contract for and secure the right to direct and control the services of any person, and the term "workman" shall be taken to mean any person, male or female, who shall engage to furnish his or her services subject to the direction or control of an employer.

Dependent means any of the following named relatives of a workman whose death results from any injury and who leaves surviving no widow, widower or child under the age of sixteen years, viz: Invalid child over the age of sixteen years, daughter between sixteen and eighteen years of age, father, mother, grandfather, grandmother, stepfather, stepmother, grandson, granddaughter, stepson, stepdaughter, brother, sister, half sister, half brother, niece, nephew, who, at the time of the accident are dependent in whole or in part for their support upon the earnings of the workman. Except where otherwise provided by treaty, aliens other than father or mother, husband and wife or children, not residing within the United States at the time of the accident, are not included.

Beneficiary means a husband, wife, child or dependent of a workman, in whom shall vest a right to receive payment under this act.

Invalid means one who is physically or mentally incapacitated from earning.

The word "child," as used in this act, includes a posthumous child, a child legally adopted prior to the injury, and an illegitimate child legitimated prior to the injury.

Any member or officer of any corporate employer who shall be carried upon the pay rolls at a salary or wage not less than the average salary or wage of such pay roll, but not otherwise, shall be deemed to be a workman.

Sec. 15. Any employer engaged in any of such hazardous occupations who would otherwise be subject to this act, may on or before June 15 next following the taking effect of this act file with the commission a statement in writing declaring his election not to contribute to the Industrial Accident Fund hereby created, and thereupon such employer shall be relieved from all obligations to contribute thereto, and such employer shall be entitled to none of the benefits of this act, and shall be liable for injuries to or death of his workmen, which shall be occasioned by his negligence, default or wrongful act as if this act had not been passed, and in any action brought against such an employer on account of an injury sustained after June 30 next following the taking effect of this act, it shall be no defense for such employer to show that such injury was caused in whole or in part by the negligence of a fellow servant of the injured workman, that the negligence of the injured workman, other than in his willful act, committed for the purpose of sustaining the injury, contributed to the accident, or that the injured workman had knowledge of the danger or assumed the risk which resulted in his injury.

Election not to contribute.

Defenses abolished.

Any person, firm or corporation hereafter engaging as an employer in any of said hazardous occupations may file a like notice with said commission within ten days after becoming such employer and shall thereby and thereupon become relieved from making contributions to said fund and shall be liable to his workmen as in the case of existing employers so electing and shall as in the case of such employers lose all benefit of the defenses above described. From and after June 30 next following the taking effect of this act, all employers engaged in said hazardous occupations shall display in a conspicuous manner about their works and in a sufficient number of places reasonably to inform their workman of the fact, printed notices stating that they are or are not, as the case may be, contributors to the fund. The failure of an employer to display such notices shall be a misdemeanor.

Notices to be posted.

Sec. 16. All such employers who shall not as herein provided give to the commission written notice of their election not to contribute to said fund, shall be subject to all of the provisions of this act until and including the next succeeding thirtieth day of June, and thereafter until and including June 30 of each succeeding year, unless at least 60 days prior to June 30 in some year written notice shall be given to said commission of an election to cease contributing to such fund, whereupon from and after the succeeding first day of July the status of the employer giving such notice shall be that resulting from the giving of the notice first above prescribed.

Relation a continuing one.

Sec. 17. An employer who has so elected not to contribute hereunder may at any time by giving to said commission 30 days' written notice recall such election, and from and after the expiration of such 30 days such employer shall become and continue in all respects subject to this act.

Recall of election.

Sec. 18. On or before June 30 next following the taking effect of this act any workman in the employ of an employer subject to this act may give notice in writing to his employer of his election not to become subject to this act, and any workman entering the employment of such an employer after such date may at such time give a like notice and thereupon such workman shall be in no wise subject to the provisions or entitled to any of the benefits hereof. Any workman in the employ of an employer who shall have elected not to contribute to the fund hereby created and who shall have recalled such election, may within fifteen days after such recall by his employer has become effective, give notice in writing to his employer of his election not to become subject to this act, and thereupon such workman shall in no wise be subject to the provisions or entitled to any of the benefits hereof. But if such work-

Election by employees.

man shall sustain an injury within such period of fifteen days and before he shall have elected not to become subject to this act, he shall have the option to be exercised before suit brought, of taking the benefits hereby provided or of proceeding against his employer as if this act had not been passed. Any workman who shall be in the employ of an employer who shall hereafter engage in any of said hazardous occupations and who shall have become subject to this act, may give notice in writing to his employer within fifteen days after his employer shall have engaged in such hazardous occupations, of his election not to become subject to this act, and thereupon and thereafter such workman shall be in no wise subject to the provisions or entitled to any of the benefits hereof, but if such workman shall sustain an injury within such period of 15 days and before he shall have elected not to become subject to this act, he shall have the option, to be exercised before suit brought, of taking the benefit hereby provided or of proceeding against his employer as if this act had not been passed. Any workman who has so elected not to become subject to this act may at any time by giving to his employer who is then subject to this act, 30 days' notice, recall such election, and after expiration of such 30 days such workman shall become and continue in all respects subject to this act.

Any workman who has become subject to this act shall, if he remains in the service of the same employer, continue subject to this act to and including the next succeeding thirtieth day of June and thereafter until and including the thirtieth day of June of each succeeding year unless at least 30 days prior to June 30th in some year he shall give written notice to his employer of his election not to be longer subject to this act, whereupon and after the succeeding first day of July such workman shall be no longer subject to this act.

Monthly contribution by employers and employees.

SEC. 19. Every employer engaged in any of said hazardous occupations who shall not have served notice of his election not to contribute hereunder is hereby authorized and required to retain from the moneys earned by each of his workmen who is subject to the act a sum equal to five-tenths of one per cent of the moneys so earned in each calendar month, and in any event at least 25 cents each month, and is hereby required, on or before the fifteenth day of the next succeeding month to pay to the commission the sum so retained and an additional sum equal to six times such amount.

Employers and workmen shall be relieved from contribution to said fund under the following conditions:

For the purpose of this section all employers shall be held to be included in Class A or Class B.

Class A shall include the following industries:

Classes of industries.

Electric light and power companies, telephone and telegraph companies, railroads and street railroads, waterworks, mining of all kinds, logging and lumbering operations, quarries, smelting and reduction works, shipbuilding and stevedoring, stone crushing works, grain elevators, ice factories and cold storage plants, general construction work of all kinds, including excavation, erection of structures and wrecking and repair of same, grading, cement and concrete work, manufactories of chemicals, lumber, mineral waters, rope and cordage, fireworks, pulp and paper, paper boxes and bags, cement and furniture, wood-working plants of all kinds, including cooperage, packing houses, powder works, iron, steel and metal works, foundries, breweries, gas works, oil works, and cereal mills.

Class B shall include all other industries subject to this act, including those brought under its operation in pursuance of the provisions of section 31 hereof.

Exemption from payments.

Whenever an employer included in Class A shall have made payments into said fund, not including, however, moneys retained from his workmen's wages, of an amount equal to three per cent of his annual pay roll computed by taking twelve times his current monthly pay roll of workmen subject to this act, he shall thereafter be exempted from making further payment to such fund: *Provided*, That such employer shall not be entitled to such exemption if there shall have been paid out of said fund or set apart therefrom as hereinafter provided, on account of injuries sustained by his workmen, sums which when deducted from the amount so paid by him shall reduce his payments to an amount less than three per cent of his annual pay roll. Such ex-

emption shall continue until the amount paid by the employer shall either by subtracting therefrom payments made from such fund together with moneys set apart therefrom on account of injuries sustained by his workmen or by an increase in his pay roll fall below a sum equal to three per cent of his annual pay roll, so computed, whereupon his obligation to make such payments shall be the same as hereinbefore required.

Whenever an employer included in Class B shall have made payment into said fund, not including, however, moneys retained from his workmen's wages, of an amount equal to one and one-half per cent of his annual pay roll computed by taking twelve times his current monthly pay roll of workmen subject to this act, he shall thereafter be exempted from making further payment to such fund, provided that such employer shall not be entitled to such exemption if there shall have been paid out of said fund or set apart therefrom as hereinafter provided, on account of injuries sustained by his workmen, sums which when deducted from the amount so paid by him, shall reduce his payments to an amount less than one and one-half per cent of his annual pay roll. Such exemption shall continue until the amount paid by the employer shall either by subtracting therefrom payments made from such fund together with moneys set apart therefrom on account of injuries sustained by his workmen or by an increase in his pay roll fall below a sum equal to one and one-half per cent of his annual pay roll, so computed, whereupon his obligation to make such payments shall be the same as hereinbefore required.

In computing the amount paid out or set apart from said fund by reason of injuries sustained by the workmen of an employer for the purpose of determining the right of such employer to exemption from contributions hereunder, no account shall be taken of sums paid out or set apart in any calendar year in excess of six per cent of such employer's total pay roll for such year. Whenever any employer shall have been relieved of the obligation to continue payments to such fund as in this section provided, he shall during the period of such exemption cease retaining any sums hereunder from the wages of any workmen. Neither the employer nor the workman shall be entitled to the exemption provided by this section unless there shall be in said Industrial Accident Fund sufficient moneys to meet all payments which shall have then accrued with a surplus of ten per cent (10%) thereon, and unless there shall have been set apart by the State treasurer from said fund the amounts hereinafter required, on account of injuries resulting in death or permanent disability.

SEC. 20. There is hereby created a fund to be known as the Industrial Accident Fund, which fund shall be held by the State treasurer and by him deposited in such banks as are authorized to receive deposits of the general funds of the State. All moneys received by the commission hereunder shall be by it paid over forthwith to the State treasurer and shall become a part of the Industrial Accident Fund, and there is hereby appropriated out of any moneys in the general fund in the State treasury not otherwise appropriated the sum of fifty thousand dollars (\$50,000), which shall become a part of such fund. There is also appropriated annually out of any moneys in the State treasury not otherwise appropriated a sum equal to one-seventh of the total sum which shall be received by the State treasurer under the provisions of section 19 hereof, and the moneys so appropriated shall become a part of such fund. All payments authorized by this act, including all salaries, clerk hire and all other expenses, shall be made from the Industrial Accident Fund.

SEC. 21. If any workman while he is subject to this act and in the service of an employer who is thus bound to contribute to the Industrial Accident Fund shall sustain a personal injury by accident arising out of and in the course of his employment caused by violent or external means he, or his beneficiaries or dependents, if the injury result in death, shall receive compensation according to the following schedule:

(a) Where death results from the injury the expenses of burial shall be paid in all cases not to exceed one hundred dollars (\$100) in any case, and

Fund created.

Compensation for—

Death;

1. If the workman leaves a widow or invalid widower, a monthly payment of thirty dollars (\$30) shall be paid throughout the life of the surviving spouse, to cease at the end of the month in which remarriage shall occur; and the surviving spouse shall also receive six dollars (\$6) per month for each child of the deceased under the age of sixteen years at the time of the occurrence of the injury until such minor shall reach the age of sixteen years, but the total monthly payment under this paragraph (1) shall not exceed fifty dollars (\$50). Upon remarriage of a widow she shall receive once and for all a lump sum equal to ten times her monthly allowance, viz: The sum of three hundred dollars (\$300), but the monthly payments for the child or children shall continue as before.

(2) If the workman leaves no wife or husband but a child or children under the age of sixteen years, a monthly payment of fifteen dollars (\$15) shall be made to each child until such child shall reach the age of sixteen years: *Provided, however*, That if any child is under the age of sixteen years and over the age of fifteen years, he shall be entitled to recover such payments for a period of one year, but the total monthly payment shall not exceed fifty dollars (\$50), and any deficit shall be deducted proportionately among the beneficiaries.

(3) If the workman leaves no widow, widower, or child under the age of sixteen years, but leaves a dependent or dependents, a monthly payment shall be made to each dependent equal to 50 per cent of the average monthly support actually received by such dependent from the workman during the twelve months next preceding the occurrence of the injury, but the total payment to all dependents in any case, shall not exceed thirty dollars (\$30) per month. If any dependent is under the age of 16 years at the time of the occurrence of the injury, the payment to such dependent shall cease when such dependent shall reach the age of 16 years, excepting a daughter, the payment to whom shall cease when she shall have reached the age of eighteen years: *Provided, however*, That if any child is under the age of sixteen years and over the age of fifteen years, he shall be entitled to recover such payments for a period of one year. The payment to any dependent shall cease if, and when, under the same circumstances, the necessity creating the dependency would have ceased if the injury had not happened.

If the workman is under the age of 21 years and unmarried at the time of his death, the parents or parent of the workman shall receive twenty-five dollars (\$25) per month for each month after his death until the time at which he would have arrived at the age of 21 years: *Provided, however*, That such parents shall be entitled thereafter to compensation as dependents under the provisions of the first clause of this paragraph three.

(4) In the event a surviving spouse receiving monthly payments shall die leaving a child or children under the age of 16 years, the sum he or she shall be receiving on account of such child or children shall thereafter, until such child shall arrive at the age of 16 years, be paid to the child increased to fifteen dollars per month: *Provided, however*, That if any such child is under the age of sixteen years and over the age of fifteen years he shall be entitled to recover such payments for a period of one year, but the total to all children shall not exceed the sum of fifty dollars (\$50) per month.

Permanent  
total disability;

(5) Permanent total disability means the loss of both legs or both arms, or one leg and one arm, total loss of eyesight, paralysis, or other condition permanently incapacitating the workman from performing any work at any gainful occupation.

When permanent total disability results from the injury, the workman shall receive monthly during the period of such disability:

(1) If unmarried at the time of the injury the sum of thirty dollars (\$30).

(2) If the workman have a wife or invalid husband, but no child under the age of 16 years, the sum of thirty-five dollars (\$35). If the husband is not an invalid the monthly payment of thirty-five dollars (\$35) shall be reduced to thirty dollars (\$30).

(3) If the workman have a wife or husband and a child or children under the age of 16 years, or being a widow or widower, have any such child or children, the monthly payment provided in the preceding paragraph shall be increased by six dollars (\$6) for each such child

until such child shall arrive at the age of 16 years, but the total monthly payment shall not exceed fifty dollars (\$50).

(c) If the injured workman die during such period of total disability, whatever the cause of death, leaving a widow, invalid widower, or child under the age of 16 years, the surviving widow, or invalid widower, shall receive thirty dollars (\$30) per month until death or remarriage, to be increased six dollars (\$6) per month for each child under the age of 16 years until such child shall arrive at the age of 16 years; but if such child is, or shall be, without father or mother, such child shall receive fifteen dollars (\$15) per month until arriving at the age of 16 years: *Provided, however,* That if any child is under the age of 16 years and over the age of 15 years, he shall be entitled to recover such payment for the period of one year. The total combined monthly payment under this paragraph shall in no case exceed fifty dollars (\$50). Upon remarriage, the payments on account of a child or children shall continue as before to the child or children.

(d) When the total disability is only temporary the schedule of payments contained in paragraphs 1, 2 and 3 of the foregoing subdivision (b), shall apply so long as the total disability shall continue, increased 50 per cent for the first six months of such continuance, but in no case shall the increase operate to make the monthly payment exceed 60 per cent of the monthly wage (the daily wage multiplied by 26) the workman was receiving at the time of his injury. Temporary disability;

(e) When the disability is or becomes partial only and is temporary in character, the workman shall receive for a period not exceeding two years that proportion of the payments provided for total disability which his earning power at any kind of work bears to that existing at the time of the occurrence of the injury.

(f) Permanent partial disability means the loss of either one arm, one hand, one leg, one foot, loss of hearing in one or both ears, loss of one eye, one or more fingers, any dislocation where ligaments are severed, or any other injury known in surgery to be permanent partial disability. Where permanent partial disability shall result from any injury, the workman shall receive the sum of twenty-five dollars (\$25) a month for the period stated against such injury, respectively as follows: Partial disability.

In case of the loss by separation of one arm at or above the elbow joint, or the permanent and complete loss of the use of one arm, ninety-six (96) months. Schedule.

The loss by separation of one hand at or above the wrist joint, or the permanent and complete loss of the use of one hand, seventy-six (76) months.

The loss by separation of one leg, at or above the knee joint, or the permanent and complete loss of the use of one leg, eighty-eight (88) months.

The loss by separation of one foot at or above the ankle joint, or the permanent and complete loss of the use of one foot, sixty-four (64) months.

The permanent and complete loss of hearing in both ears, ninety-six (96) months.

The permanent and complete loss of hearing in one ear, forty-eight (48) months, or, at the option of the workman, nine hundred dollars (\$900) in a lump sum.

The permanent and complete loss of the sight of one eye forty (40) months, or, at the option of the workman, eight hundred and fifty dollars (\$850) in a lump sum.

The loss by separation of a thumb twenty-four (24) months, or, at the option of the workman, six hundred dollars (\$600) in a lump sum.

The loss by separation of a first finger, sixteen (16) months, or, at the option of the workman, three hundred fifty dollars (\$350) in a lump sum; the second finger nine (9) months, or, at the option of the workman, two hundred dollars (\$200) in a lump sum; a third finger, eight (8) months, or, at the option of the workman, one hundred and seventy-five dollars (\$175) in a lump sum; a fourth finger, six (6) months, or, at the option of the workman, one hundred and fifty dollars (\$150) in a lump sum.

The loss of one phalange of the thumb shall be considered equal to the loss of one-half a thumb; the loss of one phalange of a finger, equal

to the loss of one-third of a finger, and the loss of two phalanges of a finger, equal to the loss of one-half a finger, and the compensation for the respective proportions of the above period or in the respective proportions of the above lump sum shall be payable. The loss of more than one phalange of a thumb, or more than two phalanges of a finger shall be considered as the loss of an entire thumb or finger.

The loss by separation of a great toe, ten (10) months, or, at the option of the workman, two hundred and fifty dollars (\$250) in a lump sum; any other toe, four (4) months, or, at the option of the workman, one hundred dollars (\$100) in a lump sum.

In all other cases of injury resulting in permanent partial disability, the compensation shall bear such relation to the periods stated in this clause as the disabilities bear to those produced by the injuries named in this schedule, and payments shall be made for proportionate periods, not exceeding, however, ninety-six (96) months, and in all such cases where the period of payment shall not exceed twelve (12) months, but in none other, shall the workman be entitled to a lump sum equal to the present value of such monthly payments computed at an interest rate of four per cent per annum.

If any workman entitled to compensation on account of a permanent disability shall have received compensation for either temporary total disability or temporary partial disability by reason of the same injury which shall entitle him to compensation for permanent partial disability, the number of months during which he shall be entitled to payments for such permanent partial disability shall be reduced by the number of monthly payments which he shall have received on account of such temporary total disability or temporary partial disability.

Segregated ac-  
cident fund.

(g) For every case of injury resulting in death, or permanent total disability or permanent partial disability on account of which deferred payments are provided for a period exceeding twenty-four (24) months, it shall be the duty of the commission forthwith to notify the State treasurer in writing of the amount required to equal at four per cent interest per annum the present worth of the monthly installments payable on account of such injury, the number of such payments being computed in case of permanent total disability according to the age of the injured workman, and in the case of death according to the ages of the beneficiaries, both of such computations being according to the American Mortality Table and the expectation of life thereunder, and in the case of permanent partial disability according to the schedule above prescribed. Thereupon the State treasurer shall transfer from the Accident Fund to a fund to be known as the Segregated Accident Fund the amount so specified by the commission. All moneys comprised in the Segregated Accident Fund shall be invested by the State treasurer in the class of securities authorized for the investment by banks of savings deposits under the laws of this State. The Segregated Accident Fund and its earnings shall be charged with the payment of the installments on account of which such segregations shall be made. The State treasurer shall keep an accurate account of the earnings of and payments from the Segregated Accident Fund and may borrow from the Accident Fund to meet monthly payments pending conversion into cash of any security and in such case shall repay such temporary loan out of the cash realized from the security. Any deficiency in the Segregated Accident Fund shall be made good out of and any balance or overplus shall revert to the Accident Fund.

Succeeding ac-  
cidents.

(h) Should a further accident occur to a workman already receiving a monthly payment under this section for a disability, or who has been previously the recipient of a lump sum payment under this act, his future compensation shall be adjusted according to the other provisions of this section and with regard to the combined effect of his injuries and his past receipt of money under this act.

Readjustments.

(i) If aggravation, diminution or termination of disability takes place or be discovered after the rate of compensation shall have been established or compensation terminated in any case, the commission may, upon the application of the beneficiary, or upon its own motion, readjust for future application the rate of compensation in accordance with the rules in this section provided, or, in a proper case, terminate the payments.

(j) A husband or wife of an injured workman, who has deserted said injured workman for more than one year prior to the time of the injury or subsequently shall not be a beneficiary under this act. Spouses living apart.

(k) If a beneficiary shall reside or remove out of the State and shall have been such nonresident for a period of one year, the commission may, in its discretion, convert any monthly payments thereafter to become due to such beneficiary into a lump sum payment, not in any case exceeding four thousand dollars (\$4,000), by paying a sum equal to three-fourths of the present value of such monthly payments, estimated as to duration by the life expectancy of the beneficiary in case of death or total permanent disability and computed according to the American Mortality Table and on the basis of interest at the rate of four per cent per annum, or, with the consent of the beneficiary for a lesser sum, and in any case the commission may, in its discretion, pay over to any beneficiary in a lump sum an amount not exceeding one-fourth of the present value of the monthly installments payable to such beneficiary and computed as aforesaid, and thereupon all subsequent monthly installments shall be proportionately reduced. Nonresidents.

SEC. 22. If injury or death results to a workman from the deliberate intention of the workman himself to produce such injury or death, neither the workman nor the widow, widower, child or dependent of the workman shall receive any payment whatsoever out of the Accident Fund. If injury or death results to a workman from the deliberate intention of his employer to produce such injury or death, the workman, the widow, widower, child or dependent of the workman shall have the privilege to take under this act, and also have cause of action against the employer, as if this act had not been passed, for damages over the amount payable hereunder. Injuries caused willfully.

A minor working at an age legally permitted under the laws of this State shall be deemed sui juris for the purpose of this act, and no other person shall have any cause of action or right to compensation for an injury to such minor workman except as expressly provided herein, but in the event of a lump sum payment becoming due under this act to such minor workman, the control and management of any sum so paid shall be within the jurisdiction of the courts as in the case of other property of minors. Minors.

SEC. 23. The commission shall have authority to provide, under uniform rules and regulations, first aid to workmen who are entitled to benefits hereunder, together with transportation, medical and surgical attendance and hospital accommodations for injured workmen at an expense not exceeding two hundred and fifty dollars (\$250) in any one case, and to contract therefor in its discretion. The commission may in its discretion authorize employers to furnish or provide, at the expense of the commission and upon terms fixed by it, such transportation, attendance and accommodations: *Provided, however,* That all such transportation, attendance and accommodations shall be at all times subject to the supervision and control of the commission. Medical, etc., expenses.

SEC. 24. If any employer shall default in any payment to the Accident Fund hereinbefore required, the amount of such payment shall be collected by an action at law in the name of the commission as plaintiff, and such right of action shall be in addition to any other right of action or remedy. In respect to any injury happening to any of his workmen during the period of such default in any payment required hereunder, the defaulting employer shall not, if such default be after demand for payment, be entitled to any of the benefits of this act, but shall be liable to the injured workman (or the husband, wife, child or dependent of such workman in case death results from the injury) as he would have been prior to the passage of this act. Default in payments.

In case the recovery actually collected from the employer shall equal or exceed the compensation to which the claimant would be entitled under this act, the claimant shall be entitled to nothing out of the Accident Fund; if such amount shall be less than the compensation herein provided, the Accident Fund shall contribute such deficiency. The person entitled to claim under this section shall have the choice, to be exercised before commencing suit against such defaulting employer, of proceeding by suit against such employer or of taking under this act. If such person shall elect to take under this act, the cause of action shall be assigned to the commission for the benefit of the Accident Fund. In



any suit brought upon such cause of action the defenses withdrawn by section 15 hereof from employers electing not to contribute hereunder shall be inadmissible. Any such cause of action assigned to the commission may be prosecuted or compromised by it in its discretion. Any compromise by an individual claimant under this section which would result in a deficiency to be made good out of the Accident Fund may be made only upon the written approval of the commission.

Failure to provide safety devices.

Sec. 25. If any workman shall sustain an injury which the commission shall determine to have been caused in whole or in part by the failure of his employer to install or maintain any safety appliance, device or safeguard required by statute, such workman, or, if such injury result in death, then the husband, wife, child or dependent of such workman, shall have the same rights against such employer as in the case of an employer defaulting in payments due hereunder, and all of the provisions of the preceding section shall apply with respect to such claim, provided in case the workman or his beneficiary proceeds against the employer he shall have no claim against the Accident Fund.

Payments exempt.

Sec. 26. No moneys payable on account of injuries or death hereunder shall be subject to assignment prior to the receipt thereof by the beneficiary entitled thereto, nor shall the same pass by operation of law. All moneys paid or payable hereunder and the right to receive the same shall be exempt from seizure on execution, attachment or garnishment, or by the process of any court.

Filing claims.

Sec. 27. (a) Where a workman is entitled to compensation under this act he shall file with the commission his application for such, together with the certificate of the physician who attended him, and it shall be the duty of the physician to inform the injured workman of his rights under this act, and to lend all necessary assistance in making this application for compensation and such proof of other matters as required by the rules of the commission, without charge to the workman.

Duty of physician.

(b) Where death results from injury, the parties entitled to compensation under this act, or some one in their behalf, shall make application for the same to the commission, which application must be accompanied with proof of death and proof of relationship showing the parties to be entitled to compensation under this act, certificates of attending physician, if any, and such other proof as required by the rules of the commission.

(c) If change of circumstances warrant an increase or rearrangement of compensation, like application shall be made therefor. No increase or rearrangement shall be operative for any period prior to application therefor.

Limitation.

(d) No application shall be valid or claim thereunder enforceable unless filed within one year after the day upon which the injury occurred or the right accrued.

Medical examinations.

Sec. 28. Any workman entitled to receive compensation under this act is required, if requested by the commission, to submit himself for medical examination at a time and from time to time at a place reasonably convenient for the workman and as may be provided by the rules of the commission. If the workman refuses to submit to any such examination, or obstructs the same, his rights to monthly payments shall be suspended until such examination has taken place, and no compensation shall be payable during or for account of such period.

Accidents to be reported.

Sec. 29. Whenever any accident occurs to any workman it shall be the duty of the employer to at once report such accident and the injury resulting therefrom to the commission, and also to any local representative of the commission. Such report shall state—

1. The time, cause and nature of the accident and injuries, and the probable duration of the injury resulting therefrom.

2. Whether the accident arose out of or in the course of the injured person's employment.

3. Any other matters the rules and regulations of the commission may prescribe.

Employer's records.

Sec. 30. The books, records and pay rolls of the employer pertinent to the administration of this act shall always be open to inspection by the commission or its traveling auditor, agent or assistant, for the purpose of ascertaining the correctness of the pay roll, the men employed, and such other information as may be necessary for the commission

and its management under this act. Refusal on the part of the employer to report accidents or to submit said books, records and pay roll for such inspection to any member of the commission, or any assistant presenting written authority from the commission, shall subject the offending employer to a penalty of one hundred dollars (\$100) for each offense, to be collected by civil action in the name of the State and paid into the Accident Fund, and the individual who shall personally give such refusal shall be guilty of a misdemeanor.

Sec. 31. Any employer and his workman engaged in works other than those defined in section 13 hereof may accept the provisions of this act and become subject thereto and entitled to the benefits thereof by filing with the commission their written election to that effect. Employers out-  
side of act.

Sec. 32. Any employer, workman, beneficiary or person feeling aggrieved by any decision of the commission affecting his interests under this act may have the same reviewed by a proceeding in the nature of an appeal and initiated in the circuit court of the county in which the accident occurred, or in which he resides, and such appeal shall have precedence over all other cases except criminal cases, and the court shall determine whether the commission has justly considered all the facts concerning injury, whether it has exceeded the powers granted it by this act, whether it has misconstrued the law and facts applicable in the case decided. If the court shall determine that the commission has acted within its powers and has correctly construed the law and facts the decision of the commission shall be confirmed; otherwise, it shall be reversed or modified. Upon the hearing of such an appeal the court in its discretion may submit to a jury any question of fact involved in such an appeal. The proceedings in every such appeal shall be informal and summary, but full opportunity to be heard shall be had before judgment is pronounced. No such appeal shall be entertained unless notice of appeal shall have been served by mail or personally upon some member of the commission within thirty days following the rendition of the decision appealed from and actual communication thereof to the person affected thereby. No bond shall be required except that an appeal by the employer from a decision of the commission under section 25 shall be ineffectual unless within five days following the service of notice thereof a bond with surety satisfactory to the court shall be filed, conditioned to perform the judgment of the court. Except in the case last named an appeal shall not be a stay. If the decision of the commission shall be reversed or modified the fees of the medical and other witnesses and the costs shall be paid out of the Industrial Accident Fund if the Industrial Accident Fund is affected by the litigation. In other respects the practice in civil cases shall apply. Appeal shall lie from the judgment of the circuit court as in other civil cases. The attorney general shall be the legal adviser of the commission and shall represent it in all proceedings whenever so required by any of the commissioners. In all court proceedings under or pursuant to this act the decision of the commission shall be prima facie correct and the burden of proof shall be upon the party attacking same. Appeals to  
courts.

Sec. 33. Disbursements out of the funds shall be made only upon warrants drawn by the secretary of state upon vouchers therefor transmitted to him by the commission and audited by him. The State treasurer shall, to such extent as shall appear to him to be advisable, keep the moneys of the unsegregated portion of the Accident Fund invested at interest in the class of securities authorized for the investment by banks of savings deposits under the laws of this State. The State treasurer shall be liable on his official bond for the safe custody of the moneys and securities of the Accident Fund and the Segregated Accident Fund. Warrants for  
disbursements.

Sec. 34. Nothing in this act shall be deemed to abrogate the rights of the employee under the present employers' liability law, in all cases where the employee, under this act, is given the right to bring suit against his employer for an injury. Employers'  
liability law.

Filed in the office of the secretary of state, Feb. 25, 1913.

In effect 90 days after adjournment of session.

## RHODE ISLAND.

## ACTS OF 1912.

CHAPTER 831.—*Compensation of workmen for injuries.*

## ARTICLE I.

## ABROGATION OF REMEDIES AND DEFENSES.

- Defenses** SECTION 1. In an action to recover damages for personal injury sustained by accident by an employee arising out of and in the course of his employment, or for death resulting from personal injury so sustained, it shall not be a defense: (a) That the employee was negligent; (b) That the injury was caused by the negligence of a fellow employee; (c) That the employee has assumed the risk of the injury.
- abrogated.**
- Exemptions.** SEC. 2. The provisions of this act shall not apply to actions to recover damages for personal injuries, or for death resulting from personal injuries, sustained by employees engaged in domestic service or agriculture.
- Small em-  
ployers.** SEC. 3. The provisions of this act shall not apply to employers who employ five or less workmen or operatives regularly in the same business, but such employers may, by complying with the provisions of section 5 of this article become subject to the provisions of this act.
- Effect of elec-  
tion by em-  
ployers.** SEC. 4. The provisions of section 1 of this article shall not apply to actions to recover damages for personal injuries, or for death resulting from personal injuries, sustained by employees of an employer who has elected to become subject to the provisions of this act, as provided in section 5 of this article.
- Election made,  
how.** SEC. 5. Such election on the part of the employer shall be made by filing with the commissioner of industrial statistics a written statement to the effect that he accepts the provisions of this act, and by giving reasonable notice of such election to his workmen, by posting and keeping continuously posted copies of such statement in conspicuous places about the place where his workmen are employed, the filing of which statement and the giving of which notice shall operate to subject such employer to the provisions of this act and all acts amendatory thereof for the term of one year from the date of the filing of such statement, and thereafter, without further act on his part, for successive terms of one year, each, unless such employer shall, at least sixty days prior to the expiration of such first or any succeeding year, file with said commissioner a notice in writing to the effect that he desires to withdraw his election to be subject to the provisions of this act and shall give reasonable notice to his workmen as above provided. Blank forms of election and withdrawal as herein provided, shall be furnished by said commissioner.
- Term.**
- Election** by SEC. 6. An employee of an employer who shall have elected to become subject to the provisions of this act as provided in section 5 of this article shall be held to have waived his right of action at common law to recover damages for personal injuries, if he shall not have given his employer at the time of his contract of hire notice in writing that he claimed such right, and within ten days thereafter filed a copy thereof with the commissioner of industrial statistics, or, if the contract of hire was made before the employer so elected, if the employee shall not have given the said notice and filed the same with said commissioner within ten days after notice by the employer, as above provided, of such election; and such waiver shall continue in force for the term of one year, and thereafter without further act on his part, for successive terms of one year, each, unless such employee shall at least sixty days prior to the expiration of such first or any succeeding year, file with the said commissioner a notice in writing to the effect that he desires to claim his said right of action at common law and within ten days thereafter shall give notice thereof to his employer. A
- Minors.** minor working at an age legally permitted under the laws of this State shall be deemed sui juris for the purpose of this act and no other person shall have any cause of action or right to compensation for an injury to such minor employee except as expressly provided in this act; but

if said minor shall have a parent living or a guardian, such parent or guardian, as the case may be, may give the notice and file a copy of the same as herein provided by this section, and such notice shall bind the minor in the same manner that adult employees are bound under the provisions of this act. In case no such notice is given, such minor shall be held to have waived his right of action at common law to recover damages for personal injuries. Any employee, or the parent or guardian of any minor employee, who has given notice to the employer that he claimed his right of action at common law may waive such claim by a notice in writing which shall take effect five days after the delivery to the employer or his agent.

Waiver of common-law rights.

Sec. 7. The right to compensation for an injury, and the remedy therefor granted by this act, shall be in lieu of all rights and remedies as to such injury now existing, either at common law or otherwise; and such rights and remedies shall not accrue to employees entitled to compensation under this act while it is in effect.

Remedies exclusive.

ARTICLE II.

PAYMENTS.

SECTION 1. If an employee who has not given notice of his claim of common law rights of action or who has given such notice and has waived the same, as provided in section 6 of Article I, receives a personal injury by accident arising out of and in the course of his employment, he shall be paid compensation, as hereinafter provided, by the employer who shall have elected to become subject to the provisions of this act.

Payments due, when.

Sec. 2. No compensation shall be allowed for the injury or death of an employee where it is proved that his injury or death was occasioned by his wilful [willful] intention to bring about the injury or death of himself or of another, or that the same resulted from his intoxication while on duty.

Willful injuries or intoxication.

Sec. 3. Contingent fees of attorneys for services under this act shall be subject to the approval of the superior court.

Attorneys' fees.

Sec. 4. No compensation except as provided by section 12 of this article shall be paid under this act for any injury which does not incapacitate the employee for a period of at least two weeks from earning full wages, but, if such incapacity extends beyond the period of two weeks, compensation shall begin on the fifteenth day after the injury.

Waiting time.

Sec. 5. During the first two weeks after the injury the employer shall furnish reasonable medical and hospital services, and medicines when they are needed, the amount of the charge for such services to be fixed, in case of the failure of the employer and employee to agree, by the superior court.

Medical and hospital service.

Sec. 6. If death results from the injury, the employer shall pay the dependents of the employee wholly dependent upon his earnings for support at the time of his injury a weekly payment equal to one-half his average weekly wages, earnings, or salary, but not more than ten dollars nor less than four dollars a week, for a period of three hundred weeks from the date of the injury: *Provided, however,* That, if the dependent of the employee to whom the compensation shall be payable upon his death is the widow of such employee, upon her death the compensation thereafter payable under this act shall be paid to the child or children of the deceased employee, including adopted and step-children, under the age of eighteen years, or over said age, but physically or mentally incapacitated from earning, dependent upon the widow at the time of her death. In case there is more than one child thus dependent, the compensation shall be divided equally among them. If the employee leaves dependents only partly dependent upon his earnings for support at the time of his injury, the employer shall pay such dependents for a period of three hundred weeks from the date of the injury a weekly compensation equal to the same proportion of the weekly payments herein provided for the benefit of persons wholly dependent as the amount contributed annually by the employee to such partial dependents bears to the annual earnings of the deceased at the time of injury. When weekly payments have been

Compensation in case of death.

made to an injured employee before his death, the compensation to dependents shall begin from the date of the last of such payments, but shall not continue more than three hundred weeks from the date of the injury: *Provided, however,* That, if the deceased leaves no dependents at the time of the injury, the employer shall not be liable to pay compensation under this act except as specifically provided in section 9 of this article.

**Dependents.**

SEC. 7. The following persons shall be conclusively presumed to be wholly dependent for support upon a deceased employee:

(a) A wife upon a husband with whom she lives or upon whom she is dependent at the time of his death.

(b) A husband upon a wife with whom he lives or upon whom he is dependent at the time of her death.

(c) A child or children, including adopted and stepchildren, under the age of eighteen years, or over said age, but physically or mentally incapacitated from earning, upon the parent with whom he is or they are living or upon whom he or they are dependent at the time of the death of such parent, there being no surviving dependent parent. In case there is more than one child thus dependent, the compensation hereunder shall be divided equally among them.

In all other cases questions of entire or partial dependency shall be determined in accordance with the fact as the fact may have been at the time of the injury. In such other cases, if there is more than one person wholly dependent, the compensation shall be divided equally among them, and persons partly dependent, if any, shall receive no part thereof during the period in which compensation is paid to persons wholly dependent. If there is no one wholly dependent and more than one person partly dependent, the compensation shall be divided among them according to the relative extent of their dependency.

**Persons not dependent.**

SEC. 8. No person shall be considered a dependent unless he is a member of the employee's family or next of kin, wholly or partly dependent upon the wages, earnings or salary of the employee for support at the time of the injury.

**Persons without dependents.**

SEC. 9. If the employee dies as a result of the injury leaving no dependents at the time of the injury, the employer shall pay, in addition to any compensation provided for in this act the reasonable expense of his last sickness and burial, which shall not exceed two hundred dollars.

**Total disability.**

SEC. 10. While the incapacity for work resulting from the injury is total, the employer shall pay the injured employee a weekly compensation equal to one-half his average weekly wages, earnings, or salary, but not more than ten dollars nor less than four dollars a week; and in no case shall the period covered by such compensation be greater than five hundred weeks from the date of the injury. In the following cases it shall, for the purposes of this section, be conclusively presumed that the injury resulted in permanent total disability, to wit: The total and irrevocable loss of sight in both eyes, the loss of both feet at or above the ankle, the loss of both hands at or above the wrist, the loss of one hand and one foot, and injury to the spine, resulting in permanent and complete paralysis of the legs or arms, and an injury to the skull, resulting in incurable imbecility or insanity.

**Partial disability.**

SEC. 11. While the incapacity for work resulting from the injury is partial, the employer shall pay the injured employee a weekly compensation equal to one-half the difference between his average weekly wages, earnings, or salary, before the injury and the average weekly wages, earnings or salary which he is able to earn thereafter, but not more than ten dollars a week; and in no case shall the period covered by such compensation be greater than three hundred weeks from the date of the injury.

**Specific injuries.**

SEC. 12. In case of the following specified injuries the amounts named in this section shall be paid in addition to all other compensation provided for in this act:

(a) For the loss by severance of both hands at or above the wrist, or both feet at or above the ankle, or the loss of one hand and one foot, or the entire and irrecoverable loss of the sight of both eyes, one-half of the average weekly wages, earnings, or salary, of the injured person, but not more than ten dollars nor less than four dollars a week, for a period of one hundred weeks.

(b) For the loss by severance of either hand at or above the wrist, or either foot at or above the ankle, or the entire and irrecoverable loss of the sight of either eye, one-half the average weekly wages, earnings, or salary of the injured person, but not more than ten dollars nor less than four dollars a week, for a period of fifty weeks.

(c) For the loss by severance at or above the second joint of two or more fingers, including thumbs, or toes, one-half the average weekly wages, earnings, or salary of the injured person, but not more than ten dollars nor less than four dollars a week, for a period of twenty-five weeks.

(d) For the loss by severance of at least one phalange of a finger, thumb, or toe, one-half the average weekly wages, earnings, or salary of the injured person, but not more than ten dollars nor less than four dollars a week, for a period of twelve weeks.

SEC. 13. The "average weekly wages, earnings, or salary" of an injured employee shall be computed as follows: Wages computed, how.

(a) If the injured employee has worked in the same employment in which he was working at the time of the accident, whether for the same employer or not, during substantially the whole of the year immediately preceding his injury, his "average weekly wages" shall be three hundred times the average daily wages, earnings, or salary, which he has earned in such employment during the days when so employed and working the number of hours constituting a full working-day in such employment, divided by fifty-two. But where the employee is employed concurrently by two or more employers, for one of whom he works at one time and for another of whom he works at another time, his "average weekly wages" shall be computed as if the wages, earnings, or salary received by him from all such employers were wages, earnings, or salary earned in the employment of the employer for whom he was working at the time of the accident.

(b) If the injured employee has not so worked in such employment during substantially the whole of such immediately preceding year, his "average weekly wages" shall be three hundred times the average daily wages, earnings, or salary which an employee of the same class working substantially the whole of such immediately preceding year in the same or a similar employment, in the same or a neighboring place, has earned in such employment during the days when so employed and working the number of hours constituting a full working-day in such employment divided by fifty-two.

(c) In cases where the foregoing methods of arriving at the "average weekly wages, earnings, or salary" of the injured employee cannot reasonably and fairly be applied, such "average weekly wages, earnings, or salary" shall be taken at such sum as, having regard to the previous wages, earnings or salary of the injured employee, and of other employees of the same or most similar class, working in the same or most similar employment in the same or a neighboring locality, shall reasonably represent the weekly earning capacity of the injured employee at the time of the accident in the employment in which he was working at such time.

(d) Where the employer has been accustomed to pay to the employee a sum to cover any special expense incurred by said employee by the nature of his employment, the sum so paid shall not be reckoned as part of the employee's wages, earnings or salary.

(e) The fact that an employee has suffered a previous injury, or received compensation therefor, shall not preclude compensation for a later injury or for death; but in determining the compensation for the later injury or death, his "average weekly wages" shall be such sum as will reasonably represent his weekly earning capacity at the time of the later injury, in the employment in which he was working at such time, and shall be arrived at according to, and subject to the limitations of, the previous provisions of this section. Effect of prior injuries.

SEC. 14 (as amended by Chapter 937, Acts of 1913). No savings or insurance of the injured employee, independent of this act, shall be taken into consideration in determining the compensation to be paid hereunder, nor shall benefits derived from any other source than the employer be considered in fixing the compensation under this act. Any employer who shall refuse or delay payment under this act on account of the receipt by any injured employee of such savings, insur- Insurance, etc., not to be considered.

ance or benefits, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be liable to a fine of not less than one hundred dollars nor more than five hundred dollars, or imprisonment not exceeding one year, or both.

**Payments to be made to whom.**

Sec. 15. The compensation payable under this act in case of the death of the injured employee shall be paid to his legal representatives; or, if he has no legal representative, to his dependents entitled thereto, or, if he leaves no such dependents, to the person to whom the expenses for the burial and last sickness are due. If the payment is made to the legal representative of the deceased employee, it shall be paid by him to the dependents or other persons entitled thereto under this act. All payments of compensation under this act shall cease upon the death of the employee from a cause other than or not induced by the injury for which he is receiving compensation.

**Incompetent beneficiaries.**

Sec. 16. In case an injured employee is mentally incompetent, or, where death results from the injury, in case any of his dependents entitled to compensation hereunder are mentally incompetent or minors at the time when any right, privilege or election accrues to him or them under this act, his conservator, guardian, or next friend may, in his behalf, claim and exercise such right, privilege, or election, and no limitation of time in this act provided shall run so long as such incompetent or minor has no conservator or guardian.

**Notice.**

Sec. 17. No proceedings for compensation for an injury under this act shall be maintained unless a notice of the injury shall have been given to the employer within thirty days after the happening thereof; and unless the claim for compensation with respect to such injury shall have been made within one year after the occurrence of the same, or, in case of the death of the employee, or in the event of his physical or mental incapacity, within one year after death or the removal of such physical or mental incapacity.

**Claim.**

**Form of notice.**

Sec. 18. Such notice shall be in writing and shall state in ordinary language the nature, time, place and cause of the injury, and the name and address of the person injured and shall be signed by the person injured, or by a person in his behalf, or, in the event of his death, by his legal representative, or by a dependent, or by a person in behalf of either.

**Service.**

Sec. 19. Such notice shall be served upon the employer, or upon one employer, if there are more employers than one, if the employer is a corporation, upon any officer or agent upon whom process may be served, by delivering the same to the person on whom it is to be served, or by leaving it at his last known residence or place of business, or by sending it by registered mail addressed to the person to be served, or, in the case of a corporation, to the corporation itself, at his or its last known residence or place of business; and such mailing of the notice shall constitute completed service.

**Questions of invalidity.**

Sec. 20. A notice given under the provisions of this act shall not be held invalid or insufficient by reason of any inaccuracy in stating the nature, time, place or cause of the injury, or the name and address of the person injured, unless it is shown that it was the intention to mislead and the employer was in fact misled thereby. Want of notice shall not be a bar to the proceedings under this act, if it be shown that the employer or his agent had knowledge of the injury, or that failure to give such notice was due to accident, mistake or unforeseen cause.

**Medical examinations.**

Sec. 21. The employee shall, after an injury, at reasonable times during the continuance of his disability, if so requested by his employer, submit himself to an examination by a physician or surgeon authorized to practice medicine under the laws of the State, furnished and paid for by the employer. The employee shall have the right to have a physician, provided and paid for by himself, present at such examination.

**Examiners.**

Any justice of the superior court may, at any time after an injury, on the petition of the employer or employee, appoint a competent and impartial physician or surgeon to act as a medical examiner, and the reasonable fees of such medical examiner as fixed by the justice appointing him shall be paid by the party moving for such appointment.

Such medical examiner being first duly sworn to the faithful performance of his duties before the justice appointing him or clerk of the court shall thereupon, and as often as necessary, examine such injured employee in order to determine the nature, extent, and probable duration of the injury. Such medical examiner shall file a report of every examination made of such employee in the office of the clerk of the superior court having jurisdiction of the matter as provided in section 16 of Article III of this act, and such report shall be produced in evidence in any hearing or proceeding to determine the amount of compensation due such employee under the provisions of this act. If such employee refuses to submit himself for any examination provided for in this act, or in any way obstructs any such examination, his rights to compensation shall be suspended and his compensation during such period of suspension may be forfeited.

SEC. 22. No agreement by an employee, except as provided in Article IV, to waive his rights to compensation under this act shall be valid.

SEC. 23. No claims for compensation under this act, or under any alternative scheme permitted by Article IV of this act, shall be assignable, or subject to attachment, or liable in any way for any debts.

SEC. 24. The claim for compensation under this act, or under any alternative scheme permitted by Article IV of this act, and any decree on any such claim, shall be entitled to a preference over the unsecured debts of the employer hereafter contracted to the same amount as the wages of labor are now preferred by the laws of this State; but nothing herein shall be construed as impairing any lien which the employee may have acquired.

SEC. 25. In case payments have continued for not less than six months either party may, upon due notice to the other party, petition the superior court for an order commuting the future payments to a lump sum. Such petition shall be considered by the superior court and may be summarily granted where it is shown to the satisfaction of the court that the payment of a lump sum in lieu of future weekly payments will be for the best interest of the person or persons receiving or dependent upon such compensation, or that the continuance of weekly payments will, as compared with lump-sum payments, entail undue expense or undue hardship upon the employer liable therefor, or that the person entitled to compensation has removed or is about to remove from the United States. Where the commutation is ordered the superior court shall fix the lump sum to be paid at an amount which will equal the total sum of the probable future payments, capitalized at their present value upon the basis of interest calculated at five per centum per annum with annual rests. Upon paying such amount the employer shall be discharged from all further liability on account of the injury or death, and be entitled to a duly executed release, upon filing which, or other due proof of payment, the liability of such employer under any agreement, award, findings, or decree shall be discharged of record.

ARTICLE III.

PROCEDURE.

SECTION 1. If the employer and the employee reach an agreement in regard to compensation under this act, a memorandum of such agreement signed by the parties shall be filed in the office of the clerk of the superior court having jurisdiction of the matter as provided in section 16 of this article. The clerk shall forthwith docket the same in a book kept for that purpose, and shall thereupon present said agreement to a justice of the superior court, and when approved by the justice the agreement shall be enforceable by said superior court by any suitable process, including executions against goods, chattels and real estate, and including proceedings for contempt for willful failure or neglect to obey the provisions of said agreement. No appeal shall lie from the agreement thus approved unless upon allegation that such agreement had been procured by fraud or coercion. Such agreement shall be approved by the justice only when its terms conform to the provisions of this act.

Waivers.

Assignments.

Claims preferred.

Lump-sum payments.

Agreements between employers and employees.

Enforcement.



When death has resulted from the injury and the dependents of the deceased employee entitled to compensation are, or the apportionment thereof among them is, in dispute, such agreement may relate only to the amount of compensation.

- Reference to court.** **to** **SEC. 2.** If the employer and employee fail to reach an agreement in regard to compensation under this act, either employer or employee, and when death has resulted from the injury and the dependents of the deceased employee entitled to compensation are, or the apportionment thereof among them is, in dispute, any person in interest may file in the office of the clerk of the superior court having jurisdiction of the matter as provided in section 16 of this article, a petition in the nature of a petition in equity setting forth the names and residences of the parties, the facts relating to employment at the time of the injury, the cause, extent and character of the injury, the amount of wages, earnings, or salary received at the time of the injury, and the knowledge of the employer or notice of the occurrence of the injury, and such other facts as may be necessary and proper for the information of the court, and shall state the matter in dispute and the claims of the petitioner with reference thereto.
- Notice to respondent.** **re-** **SEC. 3.** Within four days after the filing of the petition, a copy thereof, attested by the petitioner or his attorney, shall be served upon the respondent in the same manner as a writ of summons in a civil action.
- Answer.** **SEC. 4.** Within ten days after the filing of the petition, the respondent shall file an answer to said petition, together with a copy thereof for the use of the petitioner, which shall state the claims of the respondent with reference to the matter in dispute as disclosed by the petition. No pleadings other than petition and answer shall be required to bring the cause to a hearing for final determination. The superior court may grant further time for filing the answer and allow amendments of said petition and answer at any stage of the proceedings. If the respondent does not file an answer, the cause shall proceed without formal default or decree pro confesso.
- Infants, etc.** If the respondent be an infant or person under disability, the superior court shall appoint a guardian ad litem for such infant or person under disability. Such guardian ad litem may be appointed on any court day after service of the copy referred to in section 3 of this article, upon motion of any party after notice given as required for motions made in the superior court, and opportunity to said infant or person under disability to be heard in regard to the choice of such guardian ad litem. The guardian ad litem so appointed shall file the answer required by this section.
- Hearing.** **SEC. 5.** The petition shall be in order for assignment for hearing on the motion day which occurs next after fifteen days from the filing of the petition. Upon the days upon which said petition shall be in order for hearing it shall take precedence of other cases upon the calendar, except cases for tenements let or held at will or by sufferance.
- Decision.** **SEC. 6.** The justice to whom said petition shall be referred by the court shall hear such witnesses as may be presented by each party, and in a summary manner decide the merits of the controversy. His decision shall be filed in writing with the clerk, and a decree shall be entered thereon. Such decree shall be enforceable by said superior court by any suitable process, including executions against goods, chattels and real estate, and including proceedings for contempt for wilful [willful] failure or neglect to obey the provisions of said decree. Such decree shall contain findings of fact, which, in the absence of fraud, shall be conclusive. The superior court may award as costs the actual expenditures, or such part thereof as to the court shall seem meet, but not including counsel fees, and shall include such costs in its decree. The superior court may refuse to award costs, and no costs shall be awarded against an infant or person under disability or against a guardian ad litem.
- Appeals.** **SEC. 7.** Any person aggrieved by the final decree of the superior court under this act may appeal to the supreme court upon any question of law or equity decided adversely to the appellant by said final decree or by any proceeding or ruling prior thereto appearing of record, the appellant having first had his objections noted to any adverse rulings

made during the progress of the trial at the time such rulings were made, if made in open court and not otherwise of record.

The appellant shall take the following steps:

(a) Within ten days after entry of said final decree he shall file a claim of appeal and, if a transcript of the testimony and rulings or any part thereof be desired, a written request therefor.

(b) Within such time as the justice of the superior court who heard the petition, or, in case of his inability to act from any cause within such time as any other justice thereof shall fix, whether by original fixing of the time, or by extension thereof, or by a new fixing after any expiration thereof, the appellant shall file reasons of appeal stating specifically all the questions of law or equity decided adversely to him which he desires to include in his reasons of appeal, together with a transcript of as much of the testimony and rulings as may be required. The supreme court may allow amendments of said reasons of appeal. Upon the filing of said reasons of appeal and transcript, the clerk of the superior court shall present the transcript to the justice who heard the cause for allowance. The justice after hearing and examination, shall restore the transcript to the files of the clerk with a certificate of his action thereon made within twenty days after filing the transcript, unless the twentieth day shall fall in vacation, in which event the certificate may be filed at any time before the first Monday in the following month of October.

If the transcript be not allowed by the justice who heard the cause within the time prescribed, or objection to his allowance be made by any party, the correctness of the transcript may be determined by the supreme court by petition filed within thirty days after filing the transcript, unless the thirtieth day shall fall in vacation, in which event the correctness of the transcript may be determined by petition, filed on or before the tenth day after the first Monday in the following month of October. In all other respects than in time of filing the same course shall be followed as provided in section 21 of chapter 298 of the General Laws for establishing the truth of exceptions.

SEC. 8. Upon the restoration of the transcript to the files, or, if there be no transcript, then upon the filing of the reasons of appeal, the clerk of the superior court shall certify the cause and all papers to the supreme court. Certification of cause.

SEC. 9. The claim of an appeal shall suspend the operation of the decree appealed from, but, in case of default in taking the procedure required, such suspension shall cease, and the superior court upon motion of any party shall proceed as if no claim of appeal had been made, unless it be made to appear to the superior court that the default no longer exists. Effect of appeal.

SEC. 10. Any court day in the supreme court shall be a motion day for the purpose of hearing a motion to assign the appeal for hearing. Motion day.

SEC. 11. The supreme court after hearing any appeal shall determine the same, and affirm, reverse or modify the decree appealed from, and may itself take, or cause to be taken by the superior court, such further proceedings as shall seem just. If a new decree shall be necessary, it shall be framed by the supreme court for entry by the superior court. Thereupon the cause shall be remanded to the superior court for such further proceedings as shall be required. Power of supreme court.

SEC. 12. No process for the execution of a final decree of the superior court from which an appeal may be taken shall issue until the expiration of ten days after the entry thereof, unless all parties against whom such decree is made waive an appeal by a writing filed with the clerk or by causing an entry thereof to be made on the docket. Execution.

SEC. 13. If, in the course of the proceedings in any cause, any question of law shall arise which in the opinion of the superior court is of such doubt and importance, and so affects the merits of the controversy, that it ought to be determined by the supreme court before further proceedings, the superior court may certify such question to the supreme court for that purpose, and stay all further proceedings except such as are necessary to preserve the rights of the parties. Questions may be certified.

SEC. 14. At any time before the expiration of two years from the date of the approval of an agreement, or the entry of a decree fixing compen- Review of agreements, etc.

sation, but not afterwards, and before the expiration of the period for which compensation has been fixed by such agreement or decree, but not afterwards, any agreement, award, findings, or decree may be from time to time reviewed by the superior court upon the application of either party, after due notice to the other party, upon the ground that the incapacity of the injured employee has subsequently ended, increased, or diminished. Upon such review the court may increase, diminish, or discontinue the compensation from the date of the application for review, in accordance with the facts, or make such other order as the justice of the case may require, but shall order no change of the status existing prior to the application for review. The finding of the court upon such review shall be served on the parties and filed with the clerk of the court having jurisdiction, in like time and manner and subject to like disposition as in the case of original decrees: *Provided*, That an agreement for compensation may be modified at any time by a subsequent agreement between the parties approved by the superior court in the same manner as original agreements in regard to compensation are required to be approved by the provisions of section 1 of Article III of this act.

- Forms as to procedure.**      **SEC. 15.** The superior court shall prescribe forms and make suitable orders as to procedure adapted to secure a speedy, efficient and inexpensive disposition of all proceedings under this act; and in making such orders said court shall not be bound by the provisions of the General Laws relating to practice. In the absence of such orders, special orders shall be made in each case.
- Place of action.**      **SEC. 16.** Proceedings shall be brought either in the county where the accident occurred or in the county where the employer or employee lives or has a usual place of business. The court where any proceeding is brought shall have power to grant a change of venue.
- Death no cause for abatement.**      **SEC. 17.** No proceedings under this act shall abate because of the death of the petitioner, but may be prosecuted by his legal representative or by any person entitled to compensation by reason of said death, under the provisions of this act.
- Limitation.**      **SEC. 18.** An employee's claim for compensation under this act shall be barred unless an agreement or a petition, as provided in this article, shall be filed within two years after the occurrence of the injury, or, in case of the death of the employee, or, in the event of his physical or mental incapacity, within two years after the death of the employee or the removal of such physical or mental incapacity.
- Payments to nonresidents.**      **SEC. 19.** If an employee receiving a weekly payment under this act shall cease to reside in the State, or, if his residence at the time of the accident is in an adjoining State, the superior court, upon the application of either party, may, in its discretion, having regard to the welfare of the employee and the convenience of the employer, order such payment to be made monthly or quarterly instead of weekly.
- Settlement of disagreements.**      **SEC. 20.** All questions arising under this act, if not settled by agreement of the parties interested therein, shall, except as otherwise herein provided, be determined by the superior court.
- Injuries caused by third persons.**      **SEC. 21.** Where the injury for which compensation is payable under this act was caused under circumstances creating a legal liability in some person other than the employer to pay damages in respect thereof, the employee may take proceedings both against that person to recover damages and against any person liable to pay compensation under this act for such compensation, but shall not be entitled to receive both damages and compensation; and if the employee has been paid compensation under this act, the person by whom the compensation was paid shall be entitled to indemnity from the person so liable to pay damages as aforesaid, and, to the extent of such indemnity, shall be subrogated to the rights of the employee to recover damages therefor.
- Record of proceedings.**      **SEC. 22 (added by Chapter 936, Acts of 1913).** The proceedings in all cases under this act shall be deemed matters of record; but the same shall not be required to be recorded at large, but shall be filed and numbered in the office of the clerk of the superior court, and a docket only, or short memorandum thereof, shall be kept by said clerk, in books provided for that purpose.

ARTICLE IV.

ALTERNATIVE SCHEMES PERMITTED.

SECTION 1. Any employer may enter into an agreement with his employees in any employment to which this act applies to provide a scheme of compensation, benefit, or insurance, in lieu of the compensation provided for in this act, subject to the approval of the superior court. Such approval shall be granted only on condition that the scheme proposed provides as great benefits as those provided by this act; and, if the scheme provides for contributions by employees, it shall confer additional benefits at least equivalent to these contributions. If such a scheme meets with the approval of said court, the clerk shall issue a certificate enabling the employer to contract with any or all of his employees in employments to which this act applies to substitute such scheme for the provisions of this act for a period of not more than five years.

Insurance, etc., schemes may be substituted.

SEC. 2. No scheme which provides for contributing by employees shall be so certified which does not contain suitable provisions for the equitable distribution of any money or securities held for the purpose of the scheme, after due provision has been made to discharge the liabilities already incurred, if and when such certificate is revoked or the scheme otherwise terminated.

What the schemes must provide.

SEC. 3. If at any time the scheme no longer fulfills the requirements of this article, or is not fairly administered, or any other valid and substantial reason therefor exists, the superior court, on reasonable notice to the interested parties, shall revoke the certificate and the scheme shall thereby be terminated.

Revocation of certificates.

ARTICLE V.

MISCELLANEOUS PROVISIONS.

SECTION 1. In this act, unless the context otherwise requires:

Definitions.

(a) "Employer" includes any person, copartnership, corporation or voluntary association, and the legal representative of a deceased employer.

(b) "Employee" means any person who has entered into the employment of, or works under contract of service or apprenticeship with, an employer, and whose remuneration does not exceed eighteen hundred dollars a year. It does not include a person whose employment is of a casual nature, and who is employed otherwise than for the purpose of the employer's trade or business. Any reference to an employee who has been injured shall, where the employee is dead, include a reference to his dependents as hereinbefore defined, or to his legal representative, or, where he is a minor, or incompetent, to his conservator or guardian.

SEC. 2. Nothing in this act shall affect the liability of the employer to a fine or penalty under any other statute.

Other statutes.

SEC. 3. The provisions of this act shall not apply to injuries sustained, or accidents which occur, prior to the taking effect hereof.

Prior accidents.

SEC. 4. If any section of this act shall be declared unconstitutional or invalid, such unconstitutionality or invalidity shall in no way affect the validity of any other portion thereof which can be given reasonable effect without the part so declared unconstitutional or invalid.

Sections to be construed separately.

SEC. 5. In all cases where an employer and employee shall have elected to become subject to the provisions of this act, the provisions of section 14 of chapter 283 of the General Laws [giving a right to sue for damages for death by wrongful act], shall not apply while this act is in effect.

Action for death not allowed.

SEC. 6. All acts and parts of acts inconsistent herewith are hereby repealed.

Repeal.

SEC. 7. This act may be cited as "Workmen's Compensation Act."

Title.

SEC. 8. This act shall take effect on the first day of October, nineteen hundred and twelve.

Act in effect.

Approved April 29, 1912.

## TEXAS.

## ACTS OF 1913.

CHAPTER 179.—*Compensation of workmen for injuries.*

## PART I.

- Defenses abolished.** SECTION 1. In an action to recover damages for personal injury sustained by an employee in the course of his employment, or for death resulting from personal injury so sustained, it shall not be a defense—
1. That the employee was guilty of contributory negligence; but in such event the damages shall be diminished in proportion to the amount of negligence attributable to such employee: *Provided*, That no such employee who may be injured or killed shall be held to have been guilty of contributory negligence where the violation by such employer of any statute enacted for the safety of the employee contributed to the injury or death of such employee.
  2. That the injury was caused by the negligence of a fellow employee.
  3. That the employee had assumed the risk of the injury incident to his employment; but such employer may defend in such action on the ground that the injury was caused by the willful intention of the employee to bring about the injury.
- Proviso.** 4. *Provided, however*, In all such actions against an employer who is not a subscriber as defined hereafter in this act, it shall be necessary to a recovery for the plaintiff to prove negligence of such employer or some agent or servant of such employer acting within the general scope of his employment.
- Employments exempted.** SEC. 2. The provisions of this act shall not apply to actions to recover damages for the personal injuries or for death resulting from personal injuries sustained by domestic servants, farm laborers, nor to the employees of any person, firm or corporation operating any railway as a common carrier, nor to laborers engaged in working for a cotton gin, nor to the employees of any person, firm or corporation having in his or their employ not more than five employees.
- Remedy exclusive.** SEC. 3. The employees of a subscriber shall have no right of action against their employer for damages for personal injuries and the representatives and beneficiaries of deceased employees shall have no right of action against such subscribing employers for damages for injuries resulting in death, but such employees, and their representatives and beneficiaries shall look for compensation solely to the Texas Employees Insurance Association as the same is hereinafter provided for: *Provided*, That all compensation allowed under the succeeding sections herein, shall be exempt from garnishment, attachment and all other suits or claims, as are current wages now exempted by law.
- Benefits exempt.** SEC. 4. Employees whose employers are not at the time of injury subscribers to said association and the representatives and beneficiaries of deceased employees who at the time of injury were working for non-subscribing employers cannot participate in the benefits of said insurance association, but they shall be entitled to bring suit, and may recover judgment against such employers, or any of them, for all damages sustained by reason of any personal injury received in the course of employment, or by reason of death resulting from such injury, and the provisions of section 1 of this act shall be applied in all such actions.
- Employees of nonsubscribers.** SEC. 5. Nothing in this act shall be taken or held to prohibit the recovery of exemplary damages by the surviving husband, wife and heirs, or such of them as there may be, of any deceased employee whose death is occasioned by homicide, through the willful act or omission or gross negligence of any person, firm or corporation, the employer of such employee at the time of the injury causing the death of the latter, and in all cases where exemplary damages are sought under this section, in case the injured party has already been awarded actual damages by the board herein provided, said fact and said amount so received shall be made known to the court or jury trying said cause for exemplary damages; and on the issue for exemplary damages he shall have the same defenses as under the existing law.
- Willful and gross negligence.**

- SEC. 6. No compensation shall be paid under this act for an injury which does not incapacitate the employee for a period of at least one week from earning full wages, but if incapacity extends beyond one week, compensation shall begin on the eighth day after injury. Waiting time.
- SEC. 7. During the first week of the injury the association shall furnish reasonable medical aid, hospital services, and medicines when needed, and if it does not furnish these immediately as and when needed, it shall repay all sums reasonably paid or incurred for same: *Provided*, Reasonable notice of injury shall be given to the said association, and this provision requiring notice shall apply to all subsequent sections of this act providing for compensation. Medical, etc., benefits.
- SEC. 8. If death should result from the injury, the association hereinafter created, shall pay to the legal beneficiary of the deceased employee a weekly payment equal to 60 per cent of his average weekly wages, but not more than \$15.00 nor less than \$5.00 a week, for a period of three hundred and sixty weeks from the date of injury: *Provided*, That the compensation herein provided for shall be distributed according to the law providing for the distribution of other property of deceased. Compensation for death.
- SEC. 9. If the deceased employee leaves no legal beneficiaries or creditors, the association shall pay all expenses incident to his last sickness, and in addition a funeral benefit not to exceed one hundred dollars: *Provided*, Where the deceased leaves no beneficiaries as provided herein, but leaves creditors, the association shall be liable to such creditors for an amount not exceeding the amount that would otherwise have been due beneficiaries, which amount paid shall not exceed amount due such creditor or creditors. No dependents.
- SEC. 10. While the incapacity for work resulting from the injury is total, the association shall pay the injured employee a compensation equal to 60 per cent of his average weekly wages but not more than \$15.00 nor less than \$5.00 a week, and in no case shall the period covered by such compensation be greater than four hundred weeks. Total disability.
- SEC. 11. While the incapacity for work resulting from the injury is partial, the association shall pay the injured employee a weekly compensation equal to 60 per cent of the difference between his average weekly wages before the injury and the average weekly wages he is able to earn thereafter, but in no case to be more than \$15.00 a week; and the period covered by such compensation to be in no case greater than three hundred weeks. Partial disability.
- SEC. 12. In case of the following specified injuries the amounts hereinafter named shall be paid by the association in addition to all other compensation: Specific injuries.
- (a) For the loss by severance of both hands, at or above the wrists, or of both feet at or above the ankle, or the loss of one hand and one foot, or the reduction to one-tenth of the normal vision in both eyes, 60 per cent of the average weekly wages of the injured employee, but not more than \$15.00 nor less than \$5.00 a week for a period of one hundred weeks.
- (b) For the loss by severance of either hand at or above the wrist, or either foot above the ankle, or the reduction to one-tenth of normal vision in either eye, 60 per cent of the average weekly wages of the injured employee, but not more than \$15.00 nor less than \$5.00 a week, for a period of fifty weeks.
- (c) For the loss by severance at or above the second joint of two or more fingers, including thumbs, and toes, 60 per cent of the average weekly wages of the injured employee, but not more than \$15.00 nor less than \$5.00 a week, for a period of twenty-five weeks.
- (d) For the loss by severance of at least one joint of a finger, thumb or toe, 60 per cent of the average weekly wages of the injured employee, but not more than \$15.00 nor less than \$5.00 a week, for a period of twelve weeks.
- SEC. 13. If an injured employee is mentally incompetent or is a minor at the time when any rights or privileges accrued to him under this act, his guardian or next friend may in his behalf claim and exercise such rights and privileges. Incompetence.
- SEC. 14. No agreement by an employee to waive his rights to compensation under this act shall be valid. Waivers.
- SEC. 15. In cases where death or total permanent disability results from an injury, the liability of the association may be redeemed by pay- Lump-sum payments.

ment of a lump sum by agreement of the parties thereto, subject to the approval of the "Industrial Accident Board" hereinafter created.

Survival of  
action.

SEC. 16. In all cases of injury resulting in death, where such injury was received in the course of employment, cause of action shall survive.

## PART II.

Industrial ac-  
cident board.

SECTION 1. There shall be an "Industrial Accident Board" consisting of three members, and the same is hereby created to be appointed by the governor, one of whom shall be designated as chairman, and the term of office shall be two years for members of the board.

Membership.

SEC. 2. One member of the Industrial Accident Board shall be at the time of his appointment, an employer of labor in some industry or business covered by this act; one shall be at the time of his appointment, a wage earner employed in some industry or business covered by this act, and the third member shall be, at the time of his appointment, a practicing attorney of recognized ability, said member to act in the capacity of legal adviser to the board in addition to his other duties as a member thereof.

Salaries, etc.

SEC. 3. The salaries and expenses of the Industrial Accident Board shall be paid by the State. The salary of the chairman shall be three thousand dollars a year, and the salaries of the other members of the board shall be two thousand and five hundred dollars a year each. The board may appoint a secretary at a salary of not more than two thousand dollars a year and may remove him at any time, furnishing him, upon demand, with a statement of the cause of his removal. It shall also be allowed an annual sum not exceeding five thousand dollars a year, for clerical services, traveling and other necessary expenses. The board shall be provided suitable offices in the capitol or some other convenient building in the City of Austin, where its records shall be kept.

Powers.

SEC. 4. The board may make rules not inconsistent with this act for carrying out and enforcing its provisions, and may require any employee claiming to have sustained injury, to submit himself for examination before such board or some one acting under its authority at some reasonable time and place within the State and as often as may be reasonably ordered by the board, to a physician or physicians authorized to practice under the laws of this State. If the employee requests, he shall be entitled to have a physician or physicians of his own selection present to participate in such examination. Refusal of the employee to submit to such examination shall deprive him of the right to compensation during the continuance of such refusal. When a right to compensation is thus suspended no compensation shall be payable in respect of the period of suspension. Process and procedure shall be as summary as may be under this act. The board or any member thereof shall have power to subpoena witnesses, administer oaths, inquire into matters of fact, and to examine such parts of the books and records of the parties to a proceeding as relate to questions in dispute. All rulings or decisions of the board relating to disputed claims shall be based upon questions of fact, and in accord with the provisions of this act.

Medical exami-  
nations.

Procedure.

Notice.

Claim.

Settlement of  
disputes.

SEC. 4a. No proceedings for compensation for injury under this act, shall be maintained unless a notice of the injury shall have been given to the association or subscriber, as soon as practicable after the happening thereof, and unless the claim for compensation with respect to such injury shall have been made within six months after the occurrence of the same; or, in case of the death of the employee, or in the event of his physical or mental incapacity, within six months after death or the removal of such physical or mental incapacity.

Suits.

SEC. 5. All questions arising under this act, if not settled by agreement of the parties interested therein, shall, except as otherwise herein provided, be determined by the Industrial Accident Board. Any interested party who is not willing, and does not consent to abide by the final ruling and decision of said board on any disputed claim may sue on such claim or may require suit to be brought thereon in some court of competent jurisdiction, and the board shall proceed no further toward the adjustment of such claim: *Provided, however,* That when-

ever any such suit is brought, the rights and liabilities of the parties thereto shall be determined by the provisions of this act, and the suit of the injured employee, or persons suing on account of the death of such employee, shall be against the association, if the employer of such injured or deceased employee is at the time of such injury or death a subscriber, as defined in this act, in which case the recovery shall not exceed the maximum compensation allowed under the provisions of this act, and the court shall determine the issues in such case instead of said board.

SEC. 6. If a subscriber enters into a contract, written or oral, with an independent contractor to do such subscriber's work, or if a contractor enters into a contract with a subcontractor to do all or any part of the work comprised in such contract with the subscriber, and the association would, if such work was executed by employees immediately employed by the subscriber, be liable to pay compensation under this act to such employees, the association shall pay to such employees any compensation which would be payable to them under this act if the independent or subcontractors were subscribers. The association shall, however, be entitled to recover indemnity from any other persons who would have been liable to such employees independently of this section, and if the association has paid compensation under the terms of this section, it may enforce in the name of the employees or in its own name and for its own benefit, the liability of such other persons. This section shall not apply to independent or subcontractors or any contract which is merely auxiliary and incidental to, and is no part of or process in, the trade or business carried on by the subscriber.

Employees of contractors.

SEC. 7. Every employer shall hereafter keep a record of all injuries, fatal or otherwise, received by his employees in the course of their employment. Within eight days after the occurrence of an accident resulting in a personal injury to an employee, a report thereof shall be made in writing to the Industrial Accident Board on blanks to be procured from the board for that purpose. Upon the termination of the disability of the injured employee, or if such disability extends beyond a period of sixty days, the employer shall make a supplemental report upon blanks to be procured for that purpose. The said report shall contain the name and nature of the business of the employer, the location of the establishment, the name, age, sex and occupation of the injured employee, and shall state the date and hour of the accident, and the nature and cause of injury, and such other information as the board may require. Any employer failing or refusing to make any such report within the time herein provided or failing or refusing to give to said board any information demanded by said board relating to any injury to an employee, which information is in the possession of, or could have been ascertained by the employer by the use of reasonable diligence, shall be liable for and shall pay to the State of Texas a penalty of not more than one thousand (\$1,000.00) dollars for each and every offense, the same to be recovered in a suit to be instituted and prosecuted by the attorney general, or under his direction, either in the district court of Travis County, or in the county in which any defendant resides, at the option of the said attorney general.

Injuries to be reported.

PART III.

SECTION 1. The "Texas Employers' Insurance Association" is hereby created a body corporate with the powers provided in this act and with all the general corporate powers incident thereto.

Employers' insurance association.

SEC. 2. The governor shall appoint a board of directors of the association consisting of twelve members, who shall serve for a term of one year, or until their successors are elected by ballot by the subscribers at such time and for such term as the by-laws shall provide.

Directors.

SEC. 3. Until the first meeting of the subscribers, the board of directors shall have and exercise all of the powers of the subscribers, and may adopt by-laws not inconsistent with the provisions of this act, which shall be in effect until amended or repealed by the subscribers.

Powers.

SEC. 4. The board of directors shall annually choose by ballot a president who shall be a member of the board, a secretary, a treasurer, and such other officers as the by-laws may provide.

Officers.



- Quorum.** SEC. 5. Seven or more of the directors shall constitute a quorum for the transaction of business. Vacancies in any office may be filled in such manner as the by-laws shall provide.
- Subscribers.** SEC. 6. Any employer of labor in the State may become a subscriber excepting as provided in Part I, section 2 of this act.
- First meeting.** SEC. 7. The board of directors shall, within thirty days of the subscription of twenty-five employers, call the first meeting of the subscribers by a notice in writing mailed to each subscriber at his residence or place of business not less than ten days before the date fixed for the meeting.
- Votes.** SEC. 8. In any meeting of the subscribers each subscriber shall have one vote, and if a subscriber has five hundred employees to whom the association is bound to pay compensation, he shall be entitled to two votes and he shall be entitled to one additional vote for each additional five hundred employees to whom the association is bound to pay compensation, but no subscriber shall cast, by his own right, or by right of proxy, more than ten votes.
- When policies may issue.** SEC. 9. No policy shall be issued by the association until not less than fifty employers have subscribed, who have not less than two thousand employees to whom the association may be bound to pay compensation.
- Data to be filed.** SEC. 10. No policy shall be issued by the association until a list of the subscribers, with the number of employees of each; together with such other information as the commissioner of banking and insurance may require, shall have been filed with the department of banking and insurance, nor until the president and secretary of the association shall have certified under oath that every subscription on the list so filed is genuine and made with an agreement with every subscriber that he will take the policies so subscribed for by him within thirty days of the granting of a license to the association by the commissioner of banking and insurance to issue policies.
- Issue of policies suspended, when.** SEC. 11. If the number of subscribers falls below fifty or the number of employees to whom the association may be bound to pay compensation falls below two thousand, no further policies shall be issued until other employers have subscribed, who, together with existing subscribers, amount to not less than fifty, who have not less than two thousand employees, to whom the association may be bound to pay compensation, said subscriptions to be subject to the provisions of the preceding section.
- License.** SEC. 12. Upon the filing of the certificates provided for in the two preceding sections the commissioner of banking and insurance shall make such investigations as he may deem proper and if his findings warrant it, grant a license to the association to issue policies.
- Classification.** SEC. 13. The board of directors shall distribute the subscribers into groups in accordance with the nature of the business and the degree of hazard incident thereto. Subscribers within each group shall annually pay in cash, such premiums as may be required to pay the compensation herein provided for the injuries which may occur in that year.
- Contingent liability.** SEC. 14. The association may in its by-laws and policies fix the mutual contingent liability of the subscribers for the payment of losses and expenses not provided for by its cash fund, but such contingent liability of a subscriber shall not be less than an amount equal to and in addition to the cash premium.
- Assessments.** SEC. 15. If the association is not possessed of cash funds above its insured premiums sufficient for the payment of incurred losses and expenses, it shall make an assessment for the amount needed to pay such losses and expenses upon the subscribers liable to assessment therefor in proportion to their several liability. Every subscriber shall pay his proportional part of any assessment which may be levied by the association, in accordance with the laws and his contract, on account of injuries sustained and expenses incurred while he is a subscriber.
- Dividends.** SEC. 16. The board of directors may from time to time, by vote fix the amount to be paid as dividends upon the policies expiring during each year after retaining sums sufficient to pay all compensation which may be payable on account of injuries sustained and expenses incurred. All premiums, assessments and dividends shall be fixed by and for

groups as heretofore provided in accordance with the experience of such group, but all the funds of the association and the contingent liability of all of the subscribers shall be available for the payment of any approved claim for compensation against the association.

SEC. 17. Any proposed premium, assessment, dividend or distribution of subscribers shall be filed with the commissioner of banking and insurance and shall not take effect until approved by him after such investigation as he may deem proper and necessary. Premiums, etc.,  
to be approved.

SEC. 18. The board of directors shall make and enforce reasonable rules for the prevention of injuries on the premises of subscribers, and for this purpose the inspector of the association shall have free access to all such premises during regular working hours. Any subscriber aggrieved by such rule or regulation may petition the Industrial Accident Board for a review, and it may affirm, amend or annul the rule or regulation. Prevention of  
accidents.

SEC. 19. Every subscriber shall, as soon as he secures a policy, give notice, in writing or print, to all persons under contract of hire with him that he has provided for payment of compensation for injuries with the association. Notice to em-  
ployees.

SEC. 20. Every subscriber shall, after receiving a policy, give notice in writing or print, to all persons with whom he is about to enter into a contract of hire, that he has provided for payment of compensation for injuries by the association. If any employer ceases to be a subscriber, he shall, on or before the day on which his policy expires, give notice to that effect in writing or print to all persons under contract of hire with him. In case of the renewal of his policy no notice shall be required under this act. He shall file a copy of said notice with the Industrial Accident Board. Same subject.

SEC. 21. If a subscriber, who has complied with all the rules, regulations and demands of the association, is required by any judgment of a court of law to pay any employee any damages on account of any personal injury sustained by such employee during the period of subscription, the association shall pay to the subscriber the full amount of the judgment and the cost assessed therewith, if the subscriber shall have given the association notice of the bringing of the action upon which the judgment was recovered, and an opportunity to appear and defend same. Employers to  
be reimbursed,  
when.

SEC. 22. The corporate powers of the association shall not expire because of failure to issue policies or make insurance. Association to  
continue.

SEC. 23. The board of directors appointed by the governor under the provisions of Part III, section 2, of this act, may incur such expenses in the performance of its duties as may be approved by the governor; such expenses shall be paid by the State out of any funds not otherwise appropriated, not to exceed five thousand dollars. Expenses.

PART IV.

SECTION 1. The following words and phrases, as used in this act, shall, unless a different meaning is plainly required by the context, have the following meaning: "Employer" shall include the legal representatives of any original employer. Definitions.

"Employee" shall include every person in the service of another under any contract of hire, expressed or implied, oral or written, except one whose employment is but casual, or is not in the usual course of the trade, business, profession or occupation of the employer. Any reference to any employee who has been injured shall when the employee is dead, also include the legal beneficiaries of such employee to whom compensation may be payable.

"Average weekly wages" shall mean the earnings of the injured employee during the period of twelve calendar months immediately preceding the date of injury divided by fifty-two; but if the injured employee lost more than two weeks during such period, then the earnings for the remainder of the twelve calendar months shall be divided by the number of weeks remaining after the time lost has been deducted. When, by reason of the shortness of the time of the employ-

ment of the employee, it is impracticable to compute the average weekly wages as above defined, it shall be computed by the Industrial Accident Board in any manner which may seem just and fair to both parties.

"Association" shall mean the "Texas Employees Insurance Association" or any other insurance company authorized under this act to insure the payment of compensation to injured employees, or to the beneficiaries of deceased employees.

"Subscriber" shall mean any employer who has become a member of the association by paying a year's premium in advance and receiving the receipts of the association therefor: *Provided*, That the association holds a license issued by the commissioner of banking and insurance as provided for in Part III, section 12 of this act.

Insurance com-  
panies.

SEC. 2. Any insurance company, which term shall include mutual and reciprocal insurance companies lawfully transacting a liability or accident business within this State, shall have the same right to insure the liability to pay the compensation provided for by Part I of this act, and when such company issues a policy conditioned to pay such compensation the holder of such policy shall be regarded as a subscriber so far as applicable under this act; and when such company insures such payment of compensation it shall be subject to the provisions of Parts I, II and IV and of sections 10, 17 and 21 of Part III of this act, and shall file with the commissioner of banking and insurance its classification of premiums none of which shall take effect until the commissioner of banking and insurance has approved same as adequate to the risks to which they respectively apply and not greater than charged by the association, and such company may have and exercise all of the rights and powers conferred by this act on the association created hereby but such rights and powers shall not be exercised by a mutual or reciprocal organization unless such organization has at least fifty subscribers, who have not less than two thousand employees.

Refund of pre-  
miums.

SEC. 3. Any subscriber who has paid his annual premium as provided in section 1, Part IV of this act, but who ceases to be an employer after three months and before the expiration of one year, may by satisfactory proof of such fact made to the Industrial Accident Board as herein created be entitled to a refund of such portion of the annual premium so paid by him as the portion of the year in which he is not an employer bears to the whole year: *Provided*, That in no event shall more than three-fourths of the annual premium by any subscriber who claims the benefit of this refund ever be refunded.

SEC. 4. Should any part of this act be, for any reason held to be invalid or inoperative, no other part or parts shall be affected thereby, and if any exception to or limitation upon any general provision herein contained shall be held to be unconstitutional or invalid or ineffective the general provision shall nevertheless stand effective and valid as if it had been enacted without exception or limitation.

Repealer.

SEC. 5. All laws or parts of laws in conflict herewith are hereby repealed.

Act in effect.

SEC. 6. This act shall take effect and be in force on and after the first day of September, Nineteen Hundred and Thirteen.

Approved April 16, 1913.

## VERMONT.

### CONSTITUTION.

#### *Compensation for injuries to employees.*

Legislation au-  
thorized.

ARTICLE 32. The general assembly may pass laws compelling compensation for injuries received by employees in the course of their employment resulting in death or bodily hurt, for the benefit of such employees, their widows or next of kin. It may designate the class or classes of employers and employees to which such laws shall apply.

Ratified March 4, 1913.

## WASHINGTON.

## ACTS OF 1911.

CHAPTER 74.—*Workmen's insurance—Industrial insurance department.*

SECTION 1. The common-law system governing the remedy of workmen against employers for injuries received in hazardous work is inconsistent with modern industrial conditions. In practice it proves to be economically unwise and unfair. Its administration has produced the result that little of the cost of the employer has reached the workman and that little only at large expense to the public. The remedy of the workman has been uncertain, slow and inadequate. Injuries in such works, formerly occasional, have become frequent and inevitable. The welfare of the State depends upon its industries, and even more upon the welfare of its wageworker. The State of Washington, therefore, exercising herein its police and sovereign power, declares that all phases of the premises are withdrawn from private controversy, and sure and certain relief for workmen, injured in extra hazardous work, and their families and dependents is hereby provided regardless of questions of fault and to the exclusion of every other remedy, preceding or compensation, except as otherwise provided in this act; and to that end all civil actions and civil causes of action for such personal injuries and all jurisdiction of the courts of the State over such causes are hereby abolished, except as in this act provided.

Grounds of law.

Suits abolished.

SEC. 2. There is a hazard in all employment, but certain employments have come to be, and to be recognized as being inherently constantly dangerous. This act is intended to apply to all such inherently hazardous works and occupations, and it is the purpose to embrace all of them, which are within the legislative jurisdiction of the State, in the following enumeration, and they are intended to be embraced within the term "extra hazardous" wherever used in this act, to-wit:

Extrahazardous employments.

Factories, mills and workshops where machinery is used; printing, electrotyping, photo-engraving and stereotyping plants where machinery is used; foundries, blast furnaces, mines, wells, gas works, water-works, reduction works, breweries, elevators, wharves, docks, dredges, smelters, powder works; laundries operated by power; quarries; engineering works; logging, lumbering and shipbuilding operations; logging, street and interurban railroads; buildings being constructed, repaired, moved or demolished; telegraph, telephone, electric light or power plants or lines, steam heating or power plants, steamboats, tugs, ferries and railroads. If there be or arise any extra hazardous occupation or work other than those hereinabove enumerated, it shall come under this act, and its rate of contribution to the accident fund hereinafter established, shall be, until fixed by legislation, determined by the department hereinafter created, upon the basis of the relation which the risk involved bears to the risks classified in section 4.

SEC. 3. In the sense of this act words employed mean as here stated, to wit:

Definitions.

Factories mean undertakings in which the business of working at commodities is carried on with power-driven machinery, either in manufacture, repair or change, and shall include the premises, yard and plant of the concern.

Workshop means any plant, yard, premises, room or place wherein power-driven machinery is employed and manual labor is exercised by way of trade for gain or otherwise in or incidental to the process of making, altering, repairing, printing or ornamenting, finishing or adapting for sale or otherwise any article or part of article, machine or thing, over which premises, room or place the employer of the person working therein has the right of access or control.

Mill means any plant, premises, room or place where machinery is used, any process of machinery, changing, altering or repairing any article or commodity for sale or otherwise, together with the yards and premises which are a part of the plant, including elevators, warehouses and bunkers.

Mine means any mine where coal, clay, ore, mineral, gypsum or rock is dug or mined underground.

Quarry means an open cut from which coal is mined, or clay, ore, mineral, gypsum, sand, gravel or rock is cut or taken for manufacturing, building or construction.

Engineering work means any work of construction, improvement or alteration or repair of buildings, structures, streets, highways, sewers, street railways, railroads, logging roads, interurban railroads, harbors, docks, canals; electric, steam or water power plants; telegraph and telephone plants and lines; electric light or power lines, and includes any other works for the construction, alteration or repair of which machinery driven by mechanical power is used.

Except when otherwise expressly stated, employer means any person, body of persons, corporate or otherwise, and the legal personal representatives of a deceased employer, all while engaged in this State in any extra hazardous work.

Workman means every person in this State, who, after September 30, 1911, is engaged in the employment of an employer carrying on or conducting any of the industries scheduled or classified in section 4, whether by way of manual labor or otherwise, and whether upon the premises or at the plant or, he being in the course of his employment, away from the plant of his employer: *Provided, however,* That if the injury to a workman occurring away from the plant of his employer is due to the negligence or wrong of another not in the same employ, the injured workman, or if death results from the injury, his widow, children, or dependents, as the case may be, shall elect whether to take under this act or seek a remedy against such other, such election to be in advance of any suit under this section; and if he take under this act, the cause of action against such other shall be assigned to the State for the benefit of the accident fund; if the other choice is made, the accident fund shall contribute only the deficiency, if any, between the amount of recovery against such third person actually collected, and the compensation provided or estimated by this act for such case. Any such cause of action assigned to the State may be prosecuted, or compromised by the department, in its discretion. Any compromise by the workman of any such suit, which would leave a deficiency to be made good out of the accident fund, may be made only with the written approval of the department.

Certain injuries  
away from plant  
of employer.

Any individual employer or any member or officer of any corporate employer who shall be carried upon the pay roll at a salary or wage not less than the average salary or wage named in such pay roll and who shall be injured, shall be entitled to the benefit of this act as and under the same circumstances as and subject to the same obligations as a workman.

Dependent means any of the following-named relatives of a workman whose death results from any injury and who leaves surviving no widow, widower, or child under the age of sixteen years, viz: invalid child over the age of sixteen years, daughter, between sixteen and eighteen years of age, father, mother, grandfather, grandmother, step-father, step-mother, grandson, granddaughter, step-son, step-daughter, brother, sister, half-sister, half-brother, niece, nephew, who, at the time of the accident, are dependent, in whole or in part, for their support upon the earnings of the workman. Except where otherwise provided by treaty, aliens, other than father or mother, not residing within the United States at the time of the accident, are not included.

Beneficiary means a husband, wife, child or dependent of a workman, in whom shall vest a right to receive payment under this act.

Invalid means one who is physically or mentally incapacitated from earning.

The word "child," as used in this act, includes a posthumous child, a child legally adopted prior to the injury, and an illegitimate child legitimated prior to the injury.

The words injury or injured, as used in this act, refer only to an injury resulting from some fortuitous event as distinguished from the contraction of disease.

Sec. 4. Inasmuch as industry should bear the greater portion of the burden of the cost of its accidents, each employer shall, prior to January 15th of each year, pay into the State treasury, in accordance with the following schedule, a sum equal to a percentage of his total pay roll for that year, to wit: (the same being deemed the most accurate method of equitable distribution of burden in proportion to relative hazard):

Schedule of  
premium rates.

CONSTRUCTION WORK.

|   |       |
|---|-------|
| Tunnels; bridges; trestles; subaqueous works; ditches and canals (other than irrigation without blasting); dock excavation; fire escapes; sewers; house moving; house wrecking.....   | 0.065 |
| Iron, or steel frame structures or parts of structures.....   | .080  |
| Electric light or power plants or systems; telegraph or telephone systems; pile driving; steam railroads.....   | .050  |
| Steeples, towers or grain elevators, not metal framed; dry-docks without excavations; jetties; breakwaters; chimneys; marine railways; waterworks or systems; electric railways with rock work or blasting; blasting; erecting fireproof doors or shutters.....   | .050  |
| Steam heating plants; tanks, water towers or windmills, not metal frames.....   | .040  |
| Shaft sinking.....  | .060  |
| Concrete buildings; freight or passenger elevators; fireproofing of buildings; galvanized iron or tin works; gas works, or systems; marble, stone or brick work; road making with blasting; roof work; safe moving; slate work; outside plumbing work; metal smokestacks or chimneys.....   | .050  |
| Excavations not otherwise specified; blast furnaces.....  | .040  |
| Street or other grading; cable or electric street railways without blasting; advertising signs; ornamental metal work in buildings.....   | .035  |
| Ship or boat building or wrecking with scaffolds; floating docks.   | .045  |
| Carpenter work not otherwise specified.....   | .035  |
| Installation of steam boilers or engines; placing wire in conduits; installing dynamos; putting up belts for machinery; marble, stone or tile setting, inside work; mantel setting; metal ceiling work; mill or ship wrighting; painting of buildings or structures; installation of automatic sprinklers; ship or boat rigging; concrete laying in floors, foundations of street paving; asphalt laying; covering steam pipes or boilers; installation of machinery not otherwise specified..... | .030  |
| Drilling wells; installing electrical apparatus or fire alarm systems in buildings; house heating or ventilating systems; glass setting; building hot houses; lathing; paper hanging; plastering; inside plumbing; wooden stair building; road making.....  | .020  |

OPERATION (INCLUDING REPAIR WORK) OF—

(All combinations of materials take the higher rate when not otherwise provided).

|  |       |
|--|-------|
| Logging railroads; railroads; dredges; interurban electric railroads using third rail system; dry or floating docks.....   | 0.050 |
| Electric light or power plants; interurban electric railroads not using third-rail system; quarries.....   | .040  |
| Street railways, all employees; telegraph or telephone systems; stone crushing; blasting furnaces; smelters; coal mines; gas works; steamboats; tugs; ferries..... | .030  |
| Mines, other than coal; steam heating or power plants.....   | .025  |
| Grain elevators; laundries; waterworks; paper or pulp mills; garbage works.....  | .020  |

FACTORIES USING POWER-DRIVEN MACHINERY.

|  |        |
|--|--------|
| Stamping tin or metal.....   | 0. 045 |
| Bridge work; railroad car or locomotive making or repairing; cooperage; logging with or without machinery; sawmills; shingle mills; staves; veneer; box; lath; packing cases; sash, door or blinds; barrel; keg; pail; basket; tub; woodenware or wooden-fibre ware; rolling mills; making steam shovels or dredges; tanks; water towers; asphalt; building material not otherwise specified; fertilizer; cement; stone with or without machinery; kindling wood; masts and spars with or without machinery; canneries, metal stamping extra; creosoting works; pile treating works..... | . 025  |
| Excelsior; iron, steel, copper, zinc, brass or lead articles or wares not otherwise specified; working in wood not otherwise specified; hardware; tile; brick; terra cotta; fire clay; pottery; earthenware; porcelain ware; peat fuel; brickettes.....  | . 020  |
| Breweries; bottling works; boiler works; foundries; machine shops not otherwise specified.....   | . 020  |
| Cordage; working in foodstuffs, including oils, fruits and vegetables; working in wool, cloth, leather, paper, broom, brush, rubber or textiles not otherwise specified.....   | . 015  |
| Making jewelry, soap, tallow, lard, grease, condensed milk....   | . 015  |
| Creameries; printing; electrotyping; photo-engraving; engraving; lithographing.....  | . 015  |

MISCELLANEOUS WORK.

|   |       |
|---|-------|
| Stevedoring; longshoring.....   | . 030 |
| Operating stock yards, with or without railroad entry; packing houses.....  | . 025 |
| Wharf operation; artificial ice, refrigerating or cold storage plants; tanneries; electric systems not otherwise specified..... | . 020 |
| Theater stage employees.....  | . 015 |
| Fire works manufacturing.....   | . 050 |
| Powder works.....   | . 100 |

Act in effect,  
when.

The application of this act as between employers and workmen shall date from and include the first day of October, 1911. The payment for 1911 shall be made prior to the day last named, and shall be preliminarily collected upon the pay roll of the last preceding three months of operation. At the end of each year an adjustment of accounts shall be made upon the basis of the actual pay roll. Any shortage shall be made good on or before February 1st, following. Every employer who shall enter into business at any intermediate day shall make his payment for the initial year or portion thereof before commencing operation; its amount shall be calculated upon his estimated pay roll, an adjustment shall be made on or before February 1st of the following year in the manner above provided.

Industry ac-  
counts.

For the purpose of such payments accounts shall be kept with each industry in accordance with the classification herein provided and no class shall be liable for the depletion of the accident fund from accidents happening in any other class. Each class shall meet and be liable for the accidents occurring in such class. There shall be collected from each class as an initial payment into the accident fund as above specified on or before the 1st day of October, 1911, one-fourth of the premium of the next succeeding year, and one-twelfth thereof at the close of each month after December, 1911: *Provided*, Any class having sufficient funds credited to its account at the end of the first three months or any month thereafter, to meet the requirements of the accident fund, that class shall not be called upon for such month. In case of accidents occurring in such class after lapsed payment or payments said class shall pay the said lapsed or deferred payments commencing at the first lapsed payment, as may be necessary to meet such requirements of the accident fund.

The fund thereby created shall be termed the "accident fund" which shall be devoted exclusively to the purpose specified for it in this act. Accident fund.

In that the intent is that the fund created under this section shall ultimately become neither more [n]or less than self-supporting, exclusive of the expense of administration, the rates in this section named are subject to future adjustment by the legislature, and the classifications to rearrangement following any relative increase or decrease of hazard shown by experience.

It shall be unlawful for the employer to deduct or obtain any part of the premium required by this section to be by him paid from the wages or earnings of his workmen or any of them, and the making or attempt to make any such deduction shall be a gross misdemeanor. If, after this act has come into operation, it is shown by experience under the act, because of poor or careless management, any establishment or work is unduly dangerous in comparison with other like establishments or works, the department may advance its classification of risks and premium rates in proportion to the undue hazard. In accordance with the same principle, any such increase in classification or premium rate, shall be subject to restoration to the schedule rate. Any such change in classification of risks or premium rates, or any change caused by change in the class of work, occurring during the year shall, at the time of the annual adjustment, be adjusted by the department in proportion to its duration in accordance with the schedule of this section. If, at the end of any year, it shall be seen that the contribution to the accident fund by any class of industry shall be less than the drain upon the fund on account of that class, the deficiency shall be made good to the fund on the 1st day of February of the following year by the employers of that class in proportion to their respective payments for the past year. No deductions from wages.

For the purposes of such payment and making good of deficit the particular classes of industry shall be as follows:

CONSTRUCTION WORK.

- Class 1. Tunnels; sewer; shaft sinking; drilling wells. Classes of industries.
- Class 2. Bridges; millwrighting; trestles; steeples, towers or grain elevators not metal framed; tanks, water towers, windmills not metal framed.
- Class 3. Subaqueous works; canal other than irrigation or docks with or without blasting; pile driving; jetties; breakwaters; marine railways.
- Class 4. House moving; house wrecking; safe moving.
- Class 5. Iron or steel frame structures or parts of structures; fire escapes; erecting fireproof doors or shutters; blast furnaces; concrete chimneys; freight or passenger elevators; fire proofing of buildings; galvanized iron or tin work; marble, stone or brick work; roof work; slate work; plumbing work; metal smoke stack or chimneys; advertising signs; ornamental metal work in buildings; carpenter work not otherwise specified; marble, stone or tile setting; mantle setting; metal ceiling work; painting of buildings or structures; concrete laying in floors or foundations; glass setting; building hot houses; lathing; paper hanging; plastering; wooden stair building.
- Class 6. Electric light and power plants or system; telegraph or telephone systems; cable or electric railways with or without rock work or blasting; waterworks or systems; steam heating plants; gas works or systems; installation of steam boilers or engines; placing wires in conduits; installing dynamos; putting up belts for machinery; installation of automatic sprinklers; covering steam pipes or boilers; installation of machinery not otherwise specified; installing electrical apparatus or fire alarm systems in buildings; house heating or ventilating systems.
- Class 7. Steam railroads; logging railroads.
- Class 8. Road making; street or other grading; concrete laying in street paving; asphalt laying.
- Class 9. Ship or boat building with scaffolds; shipwrighting; ship or boat rigging; floating docks.



## OPERATION (INCLUDING REPAIR WORK) OF.

Class 10. Logging; sawmills; shingle mills; lath mills; masts and spars with or without machinery.

Class 12. Dredges; dry or floating docks.

Class 13. Electric light or power plants or systems; steam heat or power plants or systems; electric systems not otherwise specified.

Class 14. Street railways.

Class 15. Telegraph systems; telephone systems.

Class 16. Coal mines.

Class 17. Quarries; stone crushing; mines other than coal.

Class 18. Blast furnaces; smelters; rolling mills.

Class 19. Gas works.

Class 20. Steamboats; tugs; ferries.

Class 21. Grain elevators.

Class 22. Laundries.

Class 23. Waterworks.

Class 24. Paper or pulp mills.

Class 25. Garbage works; fertilizer.

## FACTORIES (USING POWER-DRIVEN MACHINERY).

Class 26. Stamping tin or metal.

Class 27. Bridge work; making steam shovels or dredges; tanks; water towers.

Class 28. Railroad car or locomotive making or repairing.

Class 29. Cooperage; staves; veneer; box; packing cases; sash[,] door or blinds; barrel; keg; pail; basket; tub; wood ware or wood fiber ware; kindling wood; excelsior; working in wood not otherwise specified.

Class 30. Asphalt.

Class 31. Cement; stone with or without machinery; building material not otherwise specified.

Class 32. Canneries of fruits or vegetables.

Class 33. Canneries of fish or meat products.

Class 34. Iron, steel, copper, zinc, brass or lead articles or wares; hardware; boiler works; foundries; machine shops not otherwise specified.

Class 35. Tile; brick; terra cotta; fire clay; pottery; earthenware; porcelain ware.

Class 36. Peat fuel; brickettes.

Class 37. Breweries; bottling works.

Class 38. Cordage; working in wool, cloth, leather, paper, brush, rubber or textile not otherwise specified.

Class 39. Working in foodstuffs, including oils, fruits, vegetables.

Class 40. Condensed milk; creameries.

Class 41. Printing; electrotyping; photo-engraving; engraving; lithographing; making jewelry.

Class 42. Stevedoring; longshoring; wharf operation.

Class 43. Stockyards; packing houses; making soap, tallow, lard, grease; tanneries.

Class 44. Artificial ice, refrigerating or cold-storage plants.

Class 45. Theater stage employees.

Class 46. Fireworks manufacturing; powder works.

Class 47. Creosoting works; pile treating works.

Classes in same establishment.

If a single establishment or work comprises several occupations listed in this section in different risk classes, the premium shall be computed according to the pay roll of each occupation if clearly separable; otherwise an average rate of premium shall be charged for the entire establishment, taking into consideration the number of employees and the relative hazards. If an employer besides employing workmen in extra hazardous employment shall also employ workmen in employments not extra hazardous the provisions of this act shall apply only to the extra hazardous departments and employments and the workmen employed therein. In computing the pay roll the entire compensation received by every workman employed in extra hazardous employment shall be included, whether it be in the form of salary, wage, piecework, overtime, or any allowance in the way

of profit sharing, premium or otherwise, and whether payable in money, board, or otherwise.

SEC. 5. (As amended by Chapter 148, Acts of 1913). Each workman who shall be injured whether upon the premises or at the plant or, he being in the course of his employment, away from the plant of his employer, or his family or dependents in case of death of the workman, shall receive out of the accident fund compensation in accordance with the following schedule, and, except as in this act otherwise provided, such payment shall be in lieu of any and all rights of action whatsoever against any person whomsoever.

Compensation.

(a) Where death results from the injury the expenses of burial shall be paid in all cases, not to exceed \$75 in any case, and

Death.

(1) If the workman leaves a widow or invalid widower, a monthly payment of twenty dollars (\$20) shall be made throughout the life of the surviving spouse, to cease at the end of the month in which remarriage shall occur; and the surviving spouse shall also receive five dollars (\$5) per month for each child of the deceased under the age of sixteen years at time of the occurrence of the injury until such minor child shall reach the age of sixteen years, but the total monthly payment under this paragraph (1) of subdivision (a) shall not exceed thirty-five dollars (\$35). Upon remarriage of a widow she shall receive, once and for all, a lump sum equal to twelve times her monthly allowance, viz: the sum of two hundred and forty dollars (\$240), but the monthly payment for the child or children shall continue as before.

(2) If the workman leaves no wife or husband, but a child or children under the age of sixteen years, a monthly payment of ten dollars (\$10) shall be made to each such child until such child shall reach the age of sixteen years, but the total monthly payment shall not exceed thirty-five dollars (\$35), and any deficit shall be deducted proportionately among the beneficiaries.

(3) If the workman leaves no widow, widower, or child under the age of sixteen years, but leaves a dependent or dependents, a monthly payment shall be made to each dependent equal to fifty per cent of the average monthly support actually received by such dependent from the workman during the twelve months next preceding the occurrence of the injury, but the total payment to all dependents in any case shall not exceed twenty dollars (\$20) per month. If any dependent is under the age of sixteen years at the time of the occurrence of the injury, the payment to such dependent shall cease when such dependent shall reach the age of sixteen years. The payment to any dependent shall cease if and when, under the same circumstances, the necessity creating the dependency would have ceased if the injury had not happened.

If the workman is under the age of twenty-one years and unmarried at the time of his death, the parents or parent of the workman shall receive twenty dollars (\$20) per month for each month after his death until the time at which he would have arrived at the age of twenty-one years.

(4) In the event a surviving spouse receiving monthly payments shall die, leaving a child or children under the age of sixteen years, the sum he or she shall be receiving on account of such child or children shall be thereafter, until such child shall arrive at the age of sixteen years, paid to the child increased 100 per cent, but the total to all children shall not exceed the sum of thirty-five dollars (\$35) per month.

(b) Permanent total disability means the loss of both legs or both arms, or one leg and one arm, total loss of eyesight, paralysis or other condition permanently incapacitating the workman from performing any work at any gainful occupation.

Total disability.

When permanent total disability results from the injury the workman shall receive monthly during the period of such disability:

Permanent.

(1) If unmarried at the time of the injury, the sum of twenty dollars (\$20).

(2) If the workman have a wife or invalid husband, but no child under the age of sixteen years, the sum of twenty-five dollars (\$25). If the husband is not an invalid, the monthly payment of twenty-five dollars (\$25) shall be reduced to fifteen dollars (\$15).

(3) If the workman have a wife or husband and a child or children under the age of sixteen years, or, being a widow or widower, have any such child or children, the monthly payment provided in the preceding paragraph shall be increased by five dollars (\$5) for each such child until such child shall arrive at the age of sixteen years, but the total monthly payment shall not exceed thirty-five dollars (\$35).

Death during disability.

(c) If the injured workman die during the period of permanent total disability, whatever the cause of death, leaving a widow, invalid widower or child under the age of sixteen years, the surviving widow or invalid widower shall receive twenty dollars (\$20) per month until death or remarriage, to be increased five dollars (\$5) per month for each child under the age of sixteen years until such child shall arrive at the age of sixteen years; but if such child is or shall be without father or mother, such child shall receive ten dollars (\$10) per month until arriving at the age of sixteen years. The total combined monthly payment under this paragraph shall in no case exceed thirty-five dollars (\$35). Upon remarriage the payments on account of a child or children shall continue as before to the child or children.

Temporary disability.

(d) When the total disability is only temporary, the schedule of payment contained in paragraphs (1), (2) and (3) of the foregoing subdivision (b) shall apply so long as the total disability shall continue, increased fifty per cent for the first six months of such continuance, but in no case shall the increase operate to make the monthly payment exceed sixty per cent of the monthly wage (the daily wage multiplied by twenty-six) the workman was receiving at the time of his injury. As soon as recovery is so complete that the present earning power of the workman, at any kind of work, is restored to that existing at the time of the occurrence of the injury the payments shall cease. If and so long as the present earning power is only partially restored the payments shall continue in the proportion which the new earning power shall bear to the old. No compensation shall be payable out of the accident fund unless the loss of earning power shall exceed five per cent.

Partial recovery.

Capital values set aside.

(e) For every case of injury resulting in death or permanent total disability it shall be the duty of the department to forthwith notify the State treasurer, and he shall set apart out of the accident fund a sum of money for the case, to be known as the estimated lump value of the monthly payments provided for it, to be calculated upon the theory that a monthly payment of twenty dollars (\$20) to a person thirty years of age, is equal to a lump sum payment, according to the expectancy of life as fixed by the American Mortality Table, of four thousand dollars (\$4,000), but the total in no case to exceed the sum of four thousand dollars (\$4,000). The State treasurer shall invest said sum at interest in the class of securities provided by law for the investment of the permanent school fund, and out of the same and its earnings shall be paid the monthly installments and any lumpsum payment then or thereafter arranged for the case. Any deficiency shall be made good out of, and any balance or overplus shall revert to the accident fund. The State treasurer shall keep accurate account of all such investments of the accident fund, and may borrow from the main fund to meet monthly payments pending conversion into cash of any security, and in such case shall repay such temporary loan out of the cash realized from the security.

Partial disability.

(f) Permanent partial disability means the loss of either one foot, one leg, one hand, one arm, one eye, one or more fingers, one or more toes, any dislocation where ligaments are severed, or any other injury known in surgery to be permanent partial disability. For any permanent partial disability resulting from an injury, the workman shall receive compensation in a lump sum in an amount equal to the extent of the injury, to be decided in the first instance by the department, but not in any case to exceed the sum of fifteen hundred dollars (\$1,500). The loss of one major arm at or above the elbow shall be deemed the maximum permanent partial disability. Compensation for any other permanent partial disability shall be in the proportion which the extent of such disability shall bear to the said maximum. If the injured workman be under the age of twenty-one years and unmarried, the parents or parent shall also receive a lump sum payment equal to ten per cent of the amount awarded the minor workman.

(g) Should a further accident occur to a workman already receiving a monthly payment under this section for a temporary disability, or who has been previously the recipient of a lump-sum payment under this act, his future compensation shall be adjusted according to the other provisions of this section and with regard to the combined effect of his injuries, and his past receipt of money under this act.

(h) If aggravation, diminution, or termination of disability takes place or be discovered after the rate of compensation shall have been established or compensation terminated in any case the department may, upon the application of the beneficiary or upon its own motion, readjust for future application the rate of compensation in accordance with the rules in this section provided for the same, or in a proper case terminate the payments.

Readjustments.

(i) A husband or wife of an injured workman, living in a state of abandonment for more than one year at the time of the injury or subsequently, shall not be a beneficiary under this act.

Spouses living apart.

(j) If a beneficiary shall reside or remove out of the State the department may, in its discretion, convert any monthly payments provided for such case into a lump sum payment (not in any case to exceed \$4,000.00) upon the theory, according to the expectancy of life as fixed by the American Mortality Table, that a monthly payment of twenty dollars (\$20) to a person thirty years of age is worth four thousand dollars (\$4,000), or, with the consent of the beneficiary, for a smaller sum.

Removal from State.

(k) Any court review under this section shall be initiated in the county where the workman resides or resided at the time of the injury, or in which the injury occurred.

Reviews.

Sec. 6. If injury or death results to a workman from the deliberate intention of the workman himself to produce such injury or death, neither the workman nor the widow, widower, child or dependent of the workman shall receive any payment whatsoever out of the accident fund. If injury or death results to a workman from the deliberate intention of his employer to produce such injury or death, the workman, the widow, widower, child or dependent of the workman shall have the privilege to take under this act and also have cause of action against the employer, as if this act had not been enacted, for any excess of damage over the amount received or receivable under this act.

Intentional injuries.

A minor working at an age legally permitted under the laws of this State shall be deemed sui juris for the purpose of this act, and no other person shall have any cause of action or right to compensation for an injury to such minor workman except as expressly provided in this act, but in the event of a lump-sum payment becoming due under this act to such minor workman, the management of the sum shall be within the probate jurisdiction of the courts the same as other property of minors.

Minors.

Sec. 7. In case of death or permanent total disability the monthly payment provided may be converted, in whole or in part, into a lump-sum payment (not in any case to exceed \$4,000), on the theory, according to the expectancy of life as fixed by the American Mortality Table, that a monthly payment of \$20 to a person thirty years of age is worth the sum of \$4,000, in which event the monthly payment shall cease in whole or in part accordingly or proportionately. Such conversion may only be made after the happening of the injury and upon the written application of the beneficiary (in case of minor children, the application may be by either parent) to the department, and shall rest in the discretion of the department. Within the rule aforesaid the amount and value of the lump-sum payment may be agreed upon between the department and the beneficiary.

Lump-sum payments.

Sec. 8. If any employer shall default in any payment to the accident fund hereinbefore in this act required, the sum due shall be collected by action at law in the name of the State as plaintiff, and such right of action shall be in addition to any other right of action or remedy. In respect to any injury happening to any of his workmen during the period of any default in the payment of any premium under section 4, the defaulting employer shall not, if such default be after demand for payment, be entitled to the benefits of this act, but shall be liable to suit by the injured workman (or the husband, wife, child or dependent of such workman in case death result from the accident), as he would have been prior to the passage of this act.

Default in payment of premiums.

In case the recovery actually collected in such suit shall equal or exceed the compensation to which the plaintiff therein would be entitled under this act, the plaintiff shall not be paid anything out of the accident fund; if the said amount shall be less than such compensation under this act, the accident fund shall contribute the amount of the deficiency. The person so entitled under the provisions of this section to sue shall have the choice (to be exercised before suit) of proceeding by suit or taking under this act. If such person shall take under this act, the cause of action against the employer shall be assigned to the State for the benefit of the accident fund. In any suit brought upon such cause of action the defense of fellow servant and assumption of risk shall be inadmissible, and the doctrine of comparative negligence shall obtain. Any such cause of action assigned to the State may be prosecuted or compromised by the department in its discretion. Any compromise by the workman of any such suit, which would leave a deficiency to be made good out of the accident fund, may be made only with the written approval of the department.

Compensation where statute is violated.

Sec. 9. If any workman shall be injured because of the absence of any safeguard or protection required to be provided or maintained by, or pursuant to, any statute or ordinance, or any departmental regulation under any statute, or be, at the time of the injury, of less than the maximum age prescribed by law for the employment of a minor in the occupation in which he shall be engaged when injured, the employer shall, within ten days after demand therefor by the department, pay into the accident fund, in addition to the same required by section 4 to be paid:

(a) In case the consequent payment to the workman out of the accident fund be a lump sum, a sum equal to 50 per cent of that amount.

(b) In case the consequent payment to the workman be payable in monthly payments, a sum equal to 50 per cent of the lump value of such monthly payment, estimated in accordance with the rule stated in section 7.

The foregoing provisions of this act shall not apply to the employer if the absence of such guard or protection be due to the removal thereof by the injured workman himself or with his knowledge by any of his fellow workmen, unless such removal be by order or direction of the employer or superintendent or foreman of the employer, or any one placed by the employer in control or direction of such workman. If the removal of such guard or protection be by the workman himself or with his consent by any of his fellow workmen, unless done by order or direction of the employer or the superintendent or foreman of the employer, or any one placed by the employer in control, or direction of such workman, the schedule of compensation provided in section 5 shall be reduced 10 per cent for the individual case of such workman.

Payments exempt.

Sec. 10. No money paid or payable under this act out of the accident fund shall, prior to issuance and delivery of the warrant therefor, be capable of being assigned, charged, nor ever be taken in execution or attached or garnished, nor shall the same pass to any other person by operation of law. Any such assignment or charge shall be void.

Waivers.

Sec. 11. No employer or workman shall exempt himself from the burden or waive the benefits of this act by any contract, agreement, rule or regulation, and any such contract, agreement, rule or regulation shall be pro tanto void.

Applications.

Sec. 12. (a) Where a workman is entitled to compensation under this act he shall file with the department, his application for such, together with the certificate of the physician who attended him, and it shall be the duty of the physician to inform the injured workman of his rights under this act and to lend all necessary assistance in making this application for compensation and such proof or other matters as required by the rules of the department without charge to the workman.

(b) Where death results from injury the parties entitled to compensation under this act, or some one in their behalf, shall make application for same to the department, which application must be accompanied with proof of death and proof of relationship showing the parties to be entitled to compensation under this act, certificates of attending physician, if any, and such other proof as required by the rules of the department.

(c) If change of circumstance warrants an increase or rearrangement of compensation, like application shall be made therefor. No increase or rearrangement shall be operative for any period prior to application therefor.

(d) No application shall be valid or claim thereunder enforceable unless filed within one year after the day upon which the injury occurred or the right thereto accrued.

SEC. 13. Any workman entitled to receive compensation under this act is required, if requested by the department, to submit himself for medical examination at a time and from time to time at a place reasonably convenient for the workman and as may be provided by the rules of the department. If the workman refuses to submit to any such examination, or obstructs the same, his rights to monthly payments shall be suspended until such examination has taken place, and no compensation shall be payable during or for account of such period.

Medical examinations.

SEC. 14. Whenever any accident occurs to any workman it shall be the duty of the employer to at once report such accident and the injury resulting therefrom to the department, and also to any local representative of the department. Such report shall state:

Report of accidents.

1. The time, cause and nature of the accident and injuries, and the probable duration of the injury resulting therefrom.

2. Whether the accident arose out of or in the course of the injured person's employment.

3. Any other matters the rules and regulations of the department may prescribe.

SEC. 15. The books, records and pay rolls of the employer pertinent to the administration of this act shall always be open to inspection by the department or its traveling auditor, agent or assistant, for the purpose of ascertaining the correctness of the pay roll, the men employed, and such other information as may be necessary for the department and its management under this act. Refusal on the part of the employer to submit said books, records and pay rolls for such inspection to any member of the commission, or any assistant presenting written authority from the commission, shall subject the offending employer to a penalty of one hundred dollars for each offense, to be collected by civil action in the name of the State and paid into the accident fund, and the individual who shall personally give such refusal shall be guilty of a misdemeanor.

Inspection of books, etc.

SEC. 16. Any employer who shall misrepresent to the department the amount of pay roll upon which the premium under this act is based shall be liable to the State in ten times the amount of the difference in premium paid and the amount the employer should have paid. The liability to the State under this section shall be enforced in a civil action in the name of the State. All sums collected under this section shall be paid into the accident fund.

Misrepresentations.

SEC. 17. Whenever the State, county or any municipal corporation shall engage in any extra hazardous work in which workmen are employed for wages, this act shall be applicable thereto. The employer's payments into the accident fund shall be made from the treasury of the State, county or municipality. If said work is being done by contract, the pay roll of the contractor and the subcontractor shall be the basis of computation, and in the case of contract work consuming less than one year in performance the required payment into the accident fund shall be based upon the total pay roll. The contractor and any subcontractor shall be subject to the provisions of the act, and the State for its general fund, the county or municipal corporation shall be entitled to collect from the contractor the full amount payable to the accident fund, and the contractor, in turn shall be entitled to collect from the subcontractor his proportionate amount of the payment. The provisions of this section shall apply to all extra hazardous work done by contract, except that in private work the contractor shall be responsible, primarily and directly, to the accident fund for the proper percentage of the total pay roll of the work and the owner of the property affected by the contract shall be surety for such payments. Whenever and so long as, by State law, city charter or municipal ordinance, provision is made for municipal employees injured in the course of employment, such employees shall not be entitled to the benefits of this act and shall not be included in the pay roll of the municipality under this act.

Public works.

Interstate com-  
merce.

SEC. 18. The provisions of this act shall apply to employers and workmen engaged in intrastate and also in interstate or foreign commerce, for whom a rule of liability or method of compensation has been or may be established by the Congress of the United States, only to the extent that their mutual connection with intrastate work may and shall be clearly separable and distinguishable from interstate or foreign commerce, except that any such employer and any of his workmen working only in this State may, with the approval of the department, and so far as not forbidden by any act of Congress, voluntarily accept the provisions of this act by filing written acceptances with the department. Such acceptances, when filed with and approved by the department, shall subject the acceptors irrevocably to the provisions of this act to all intents and purposes as if they had been originally included in its terms. Payment of premium shall be on the basis of the pay roll of the workmen who accept as aforesaid.

Works not  
extrahazardous.

SEC. 19. Any employer and his employees engaged in works not extra hazardous may, by their joint election, filed with the department, accept the provisions of this act, and such acceptances, when approved by the department, shall subject them irrevocably to the provisions of this act to all intents and purposes as if they had been originally included in its terms. Ninety per cent of the minimum rate specified in section 4 shall be applicable to such case until otherwise provided by law.

Appeals.

SEC. 20. Any employer, workman, beneficiary, or person feeling aggrieved at any decision of the department affecting his interests under this act may have the same reviewed by a proceeding for that purpose, in the nature of an appeal, initiated in the superior court of the county of his residence (except as otherwise provided in subdivision (1) of section numbered (5) in so far as such decision rests upon questions of fact, or of the proper application of the provisions of this act, it being the intent that matters resting in the discretion of the department shall not be subject to review. The proceedings in every such appeal shall be informal and summary, but full opportunity to be heard shall be had before judgment is pronounced. No such appeal shall be entertained unless notice of appeal shall have been served by mail or personally upon some member of the commission within twenty days following the rendition of the decision appealed from and communication thereof to the person affected thereby. No bond shall be required, except that an appeal by the employer from a decision of the department under section 9 shall be ineffectual unless, within five days following the service of notice thereof, a bond, with surety satisfactory to the court, shall be filed, conditioned to perform the judgment of the court. Except in the case last named an appeal shall not be a stay. The calling of a jury shall rest in the discretion of the court except that in cases arising under sections 9, 15 and 16 either party shall be entitled to a jury trial upon demand. It shall be unlawful for any attorney engaged in any such appeal to charge or receive any fee therein in excess of a reasonable fee, to be fixed by the court in the case, and, if the decision of the department shall be reversed or modified, such fee and the fees of medical and other witnesses and the costs shall be payable out of the administration fund, if the accident fund is affected by the litigation. In other respects the practice in civil cases shall apply. Appeal shall lie from the judgment of the superior court as in other civil cases. The attorney general shall be the legal adviser of the department and shall represent it in all proceedings, whenever so requested by any of the commissioners. In all court proceedings under or pursuant to this act the decision of the department shall be prima facie correct, and the burden of proof shall be upon the party attacking the same.

Industrial in-  
surance depart-  
ment.

SEC. 21. The administration of this act is imposed upon a department, to be known as the industrial insurance department, to consist of three commissioners to be appointed by the governor. One of them shall hold office for the first two years, another for the first four years, and another for the first six years following the passage and approval of this act. Thereafter the term shall be six years. Each commissioner shall hold until his successor shall be appointed and shall have qualified. A decision of any question arising under this act concurred in by two of the commissioners shall be the decision of the department. The

governor may at any time remove any commissioner from office in his discretion, but within ten days following any such removal the governor shall file in the office of the secretary of state a statement of his reasons therefor. The commission shall select one of their members as chairman. The main office of the commission shall be at the State capitol, but branch offices may be established at other places in the State. Each member of the commission shall have power to issue subpoenas requiring the attendance of witnesses and the production of books and documents.

SEC. 22. The salary of each of the commissioners shall be thirty-six hundred dollars per annum, and he shall be allowed his actual and necessary traveling and incidental expenses; and any assistant to the commissioners shall be paid for each full day's service rendered by him, his actual and necessary traveling expenses and such compensation as the commission may deem proper, not to exceed six dollars per day to an auditor, or five dollars per day to any other assistant.

Salaries.

SEC. 23. The commissioners may appoint a sufficient number of auditors and assistants to aid them in the administration of this act, at an expense not to exceed \$5,000 per month. They may employ one or more physicians in each county for the purpose of official medical examinations, whose compensation shall be limited to five dollars for each examination and report therein. They may procure such record books as they may deem necessary for the record of the financial transactions and statistical data of the department, and the necessary documents, forms and blanks. They may establish and require all employers to install and maintain an uniform form of pay roll.

Assistants.

SEC. 24. The commission shall, in accordance with the provisions of this act:

Regulations,  
etc.

1. Establish and promulgate rules governing the administration of this act.
2. Ascertain and establish the amounts to be paid into and out of the accident fund.
3. Regulate the proof of accident and extent thereof, the proof of death and the proof of relationship and the extent of dependency.
4. Supervise the medical, surgical and hospital treatment to the intent that same may be in all cases suitable and wholesome.
5. Issue proper receipts for moneys received, and certificates for benefits accrued and accruing.
6. Investigate the cause of all serious injuries and report to the governor from time to time any violations or laxity in performance of protective statutes or regulations coming under the observation of the department.
7. Compile and preserve statistics showing the number of accidents occurring in the establishment or works of each employer, the liabilities and expenditures of the accident fund on account of, and the premium collected from the same, and hospital charges and expenses.
8. Make annual reports to the governor (one of them not more than sixty nor less than thirty days prior to each regular session of the legislature) of the workings of the department, and showing the financial status and the outstanding obligations of the accident fund, and the statistics aforesaid.

SEC. 25. Upon the appeal of any workman from any decision of the department affecting the extent of his injuries or the progress of the same, the court may appoint not to exceed three physicians to examine the physical condition of the appellant, who shall make to the court their report thereon, and they may be interrogated before the court by or on behalf of the appellant in relation to the same. The fee of each shall be fixed by the court, but shall not exceed ten dollars per day each.

Medical board.

SEC. 26. Disbursements out of the funds shall be made only upon warrants drawn by the State auditor upon vouchers therefor transmitted to him by the department and audited by him. The State treasurer shall pay every warrant out of the fund upon which it is drawn. If, at any time, there shall not be sufficient money in the fund on which any such warrant shall have been drawn wherewith to pay the same, the employer on account of whose workman it was that the warrant was drawn shall pay the same, and he shall be credited

Disbursements.



upon his next following contribution to such fund the amount so paid with interest thereon at the legal rate from the date of such payment to the date such next following contribution became payable, and if the amount of the credit shall exceed the amount of the contribution, he shall have a warrant upon the same fund for the excess, and if any such warrant shall not be so paid, it shall remain, nevertheless, payable out of the fund. The State treasurer shall to such extent as shall appear to him to be advisable keep the moneys of the unsegregated portion of the accident fund invested at interest in the class of securities provided by law for the investment of the permanent school fund. The State treasurer shall be liable on his official bond for the safe custody of the moneys and securities of the accident fund, but all the provisions of an act approved February 21, 1907, entitled "An act to provide for State depositories and to regulate the deposits of State moneys therein," shall be applied to said moneys and the handling thereof by the State treasurer.

Employers  
outside of act.

Sec. 27. If any employer shall be adjudicated to be outside the lawful scope of this act, the act shall not apply to him or his workman, or if any workman shall be adjudicated to be outside the lawful scope of this act because of remoteness of his work from the hazard of his employer's work, any such adjudication shall not impair the validity of this act in other respects, and in every such case an accounting in accordance with the justice of the case shall be had of moneys received. If the provisions of section 4 of this act for the creation of the accident fund, or the provisions of this act making the compensation to the workman provided in it exclusive of any other remedy on the part of the workman shall be held invalid the entire act shall be thereby invalidated except the provisions of section 31, and an accounting according to the justice of the case shall be had of moneys received. In other respects an adjudication of invalidity of any part of this act shall not affect the validity of the act as a whole or any other part thereof.

If law is de-  
clared unconsti-  
tutional, what.

Sec. 28. If the provisions of this act relative to compensation for injuries to or death of workmen become invalid because of any adjudication, or be repealed, the period intervening between the occurrence of an injury or death, not previously compensated for under this act by lump payment or completed monthly payments, and such repeal or the rendition of the final adjudication of the invalidity shall not be computed as a part of the time limited by law for the commencement of any action relating to such injury or death: *Provided*, That such action be commenced within one year after such repeal or adjudication; but in any such action any sum paid out of the accident fund to the workman on account of injury, to whom the action is prosecuted, shall be taken into account or disposed of as follows: If the defendant employer shall have paid without delinquency into the accident fund the payment provided by section 4, such sum shall be credited upon the recovery as payment thereon, otherwise the sums shall not be so credited but shall be deducted from the sum collected and be paid into the said fund from which they had been previously disbursed.

Administration  
fund.

Sec. 29. There is hereby appropriated out of the State treasury the sum of one hundred and fifty thousand dollars, or so much thereof as may be necessary, to be known as the administration fund, out of which the salaries, traveling and office expenses of the department shall be paid, and also all other expenses of the administration of the accident fund; and there is hereby appropriated out of the accident fund for the purpose to which said fund is applicable the sum of \$1,500,000, or so much thereof as shall be necessary for the purposes of this act.

Existing laws.

Sec. 30. Nothing in this act contained shall repeal any existing law providing for the installation or maintenance of any device, means or method for the prevention of accidents in extrahazardous work or for a penalty or punishment for failure to install or maintain any such protective device, means or method, but sections 8, 9, and 10 of the act approved March 6, 1905, entitled: "An act providing for the protection and health of employees in factories, mills or workshops, where machinery is used, and providing for suits to recover damages sustained by the violation thereof, and prescribing a punishment for

the violation thereof and repealing an act entitled, 'An act providing for the protection of employees in factories, mills, or workshops where machinery is used, and providing for the punishment of the violation thereof, approved March 6, 1903,' and repealing all other acts or parts of acts in conflict herewith," are hereby repealed, except as to any cause of action which shall have accrued thereunder prior to October 1, 1911.

SEC. 31. If this act shall be hereafter repealed, all moneys which are in the accident fund at the time of the repeal shall be subject to such disposition as may be provided by the legislature, and in default of such legislative provision distribution thereof shall be in accordance with the justice of the matter, due regard being had to obligations of compensation incurred and existing. If act repealed, what.

SEC. 32. This act shall not affect any action pending or cause of action existing on the 30th day of September, 1911. Act in effect, when.

Approved by the governor March 14, 1911.

## WEST VIRGINIA.

### ACTS OF 1913.

#### CHAPTER 10.—*Compensation of workmen for injuries—State insurance fund.*

SECTION 1. The commission created by the act entitled, "An act to create a public service commission and to prescribe its power and duties, etc.," passed on the twenty-first day of February, one thousand nine hundred and thirteen, which commission, for the purpose of this act, shall be a body politic and corporate under the name prescribed by said act, shall administer the workmen's compensation fund provided for in this act. The said commission, in the administration of said fund, shall be governed by the provisions of this act if there be conflict between the same and the provisions of said act creating said commission. Who to administer fund.

SEC. 2. It is the intent of this act that the expenses of the administration of said fund, including a proportionate share of the salaries or other compensation of the members of said commission, and employees thereof, whose services are connected both with the regulation of public utilities and the administration of said fund, and all other joint expenses, be paid by the State, so that the fund created as hereinafter provided shall be applied solely to the payment of the benefits provided for in this act; and all expenses peculiar to the administration of this act, including the premium to be paid for the bond of the State treasurer required under this act, and salaries or other compensation, traveling and other expenses, of all officers or employees of the commission, whose services are devoted solely to the administration of this act, and all expenses for furniture, books, maps, stationery, appliances and property of all kinds acquired or used solely in connection with the administration of this act, shall be paid by the State; and a justly proportional part of the salaries or other compensation of the members of the commission and other officers and employees thereof who are jointly employed or used, and all expenses of such officers or employees, and all of the expenses for furniture, books, maps, stationery and appliances which are jointly employed or used, shall be paid by the State; and no expenses herein provided to be paid by the State shall be paid out of or charged to the fund to be raised for the expenses of the commission as provided in said act of February twenty-one, one thousand nine hundred and thirteen, creating said public service commission. State to bear expenses.

SEC. 3. The apportionment of salaries or other expenses of members and other officers of the commission, employees thereof, and other expenses hereinbefore mentioned, shall be made by the commission at the time of payment, and such apportionment shall be based upon the relative time spent in the service of, or in the relative use of the property or facilities devoted to, the two branches of the work of the commission, respectively. All payments shall be made by the State treasurer upon order or voucher approved and signed by the chairman or acting Apportionment.

Payments.

chairman and secretary of the commission, directed to the auditor of the State, who shall draw his warrant therefor, and any such payment shall be charged to the fund provided by the said act of February twenty-one, one thousand nine hundred and thirteen, for the administration thereof, or to the appropriations which shall be made from time to time hereafter by the State for the administration of this act, or part to such fund and part to such appropriations as may be directed by the commission in each case.

**Sessions.**

SEC. 4. The commission shall be in continuous session and open for the transaction of business during all the business hours of each and every day, excepting Sundays and legal holidays. All sessions shall be open to the public, and shall stand and be adjourned without further notice thereof on its record. All proceedings of the commission shall be shown on its record of proceedings, which shall be a public record, and shall contain a record of each case considered, and the award with respect thereto and of all salaries or other compensation paid or allowed to any employee of the commission or to any other person for services, and all voting shall be had by the calling of each member's name by the secretary, and each vote shall be recorded as cast.

**Quorum.**

SEC. 5. A majority of the commission shall constitute a quorum for the transaction of business, and a vacancy shall not impair the right of the remaining members to exercise all the powers of the full commission, so long as a majority remain. Any investigation, inquiries or hearings which the commission is authorized to hold, or undertake, may be held or undertaken by or before any one member of the commission, and every order made by a member thereof, when approved and confirmed by a majority of the members, and so shown on its record of proceedings, shall be deemed to be the order of the commission.

**Office.**

SEC. 6. The commission shall keep and maintain its office at the seat of government, and shall provide a suitable room or rooms, necessary office furniture, supplies, books, periodicals, maps and other equipment. After due notice showing the time and place, the commission may hold hearings anywhere within the State.

**Employees.**

SEC. 7. The commission may employ a secretary, actuary, accountants, inspectors, examiners, experts, clerks, stenographers and other assistants, and fix their compensation, which shall be paid out of the State treasury. The members of the commission, actuaries, accountants, inspectors, examiners, experts, clerks, stenographers and other assistants that may be employed shall be entitled to receive from the State treasury their actual and necessary expenses while traveling on the business of the commission. Such expenses shall be itemized and sworn to by the person who incurred the expense, and allowed by the commission.

**Rules.**

SEC. 8. The commission shall adopt reasonable and proper rules to govern its procedure, regulate and provide for the kind and character of notices, and the service thereof, in cases of accident and injury to employees, the nature and extent of the proofs and evidence, and the method of taking and furnishing the same, to establish the rights to benefits or compensation from the fund hereinafter provided for, the forms of application of those claiming to be entitled to benefits or compensation therefrom, the method of making investigations, physical examinations and inspections, and prescribe the time within which adjudications and awards shall be made.

**To whom act applies.**

SEC. 9. All persons, firms and corporations regularly employing other persons for profit, or for the purpose of carrying on any form of industry in the State of West Virginia, are employers within the meaning of this act, and are subject to its provisions. All persons in the service of employers, as herein defined, and employed by them for the purpose of carrying on the industries in which they are engaged (persons casually employed excepted) are employees within the meaning of this act, and subject to the provisions thereof: *Provided*, That this act shall not apply to employers of employees in domestic or agricultural service, to employees of any employer who are employed wholly without the State, nor shall a member of a firm of employers, or any officer of a corporation employer, including managers, superintendents and assistant managers and assistant superintendents be deemed an employee within the meaning of this act.

SEC. 10. Every employer shall furnish the commission, upon request, all information required by it to carry out the purposes of this act. The commission or any member thereof, or any person employed by the commission for that purpose, shall have the right to examine under oath any employer or officer, agent or employee thereof.

Duty of employers.

SEC. 11. Within thirty days from the organization of the commission, every employer subject to this act shall notify the commission of such fact. The commission shall prepare blank reports for the use of, and furnish the same to employers subject to this act, and every employer receiving from the commission any blank or blanks with direction for filling out and returning the same, shall return the same filled out so as to answer fully and correctly all pertinent questions therein propounded and if unable to do so, shall give good and sufficient reasons for such failure. Answers to such questions shall be verified under oath and returned to the commission within the period fixed by the commission for such return.

Information from employers.

SEC. 12. Each member of the board, the secretary and every inspector or examiner appointed by the board shall, for the purposes contemplated by this act, have power to administer oaths, certify to official acts, take depositions, issue subpoenas and compel the attendance of witnesses and the production of pertinent books, accounts, papers, records, documents and testimony.

Powers of board.

SEC. 13. In case of failure, or refusal of any person to comply with the order of the commission, or subpoena issued by it or one of its inspectors, or examiners, or on the refusal of a witness to testify to any matter regarding which he may be lawfully interrogated, or refuse to permit an inspection as aforesaid, the circuit judge of the county in which the person resides, on application of any member of the commission, or any inspector or examiner appointed by it, shall compel obedience by attachment proceedings as for contempt, as in the case of disobedience of the requirements of a subpoena issued from such court on a refusal to testify therein.

Contempt proceedings.

SEC. 14. Each officer who serves such subpoena shall receive the same fees as a sheriff, and each witness who appears, in obedience to a subpoena, before the commission or an inspector or an examiner, shall receive for his attendance the fees and mileage provided for witnesses in civil cases in the circuit court, which shall be audited and paid from the State treasury in the same manner as other expenses are audited and paid, upon the presentation of proper vouchers approved by any two members of the commission. No witness subpoenaed at the instance of a party other than the commission, or an inspector, shall be entitled to compensation from the State treasury unless the commission shall certify that his testimony was material to the matter investigated.

Fees.

SEC. 15. In an investigation, the commission may cause depositions of witnesses residing within or without the State to be taken in the manner prescribed by law for like depositions as provided for transcripts in the circuit court.

Depositions.

SEC. 16. A transcribed copy of the evidence and proceedings, or any specific part thereof, on any investigation, taken by a stenographer appointed by the commission, being certified and sworn to by such stenographer to be a true and correct transcript of the testimony in the investigation, or of a particular witness, or of a specific part thereof, or to be a correct transcript of the proceedings had on such investigation so purporting to be taken and subscribed, may be received in evidence by the commission with the same effect as if such stenographer were present and testified to the facts certified. A copy of such transcript shall be furnished on demand to any party upon payment of the fee therefor, as provided for transcripts in the circuit court.

Evidence.

SEC. 17. The commission shall prepare and furnish free of cost blank forms, and provide in its rules for their distribution so that the same may be readily available, of applications for benefits for compensation from the workmen's compensation fund, notices to employers, proofs of injury or death, of medical attendance, of employment and wage earnings, and such other blanks as may be deemed proper and advisable, and it shall be the duty of employers to constantly keep on hand a sufficient supply of such blanks.

Forms.

Classes of in-  
dustries.

SEC. 18. For the purposes of this act the following classification of the industries subject thereto is adopted:

(1) Coal mines, including their tipples, power, light, heating and ventilating plants, tramways, private tracks and sidings, and accessory and auxiliary plants working in or with by-products.

(2) Paint manufactories, oil refineries, oil and gas wells, including their pipe lines, storage, power or light plants, tramways, private tracks and sidings, and accessory and auxiliary plants working in or with by-products.

(3) Iron and steel mills, including blast furnaces, smelters, tube works, rolling mills, and their accessory and auxiliary plants, working in or with by-products, and plants generating power, light or heat and tramways, private tracks and sidings.

(4) Sheet and tin plate mills, including their accessory and auxiliary plants working in or with by-products, and plants generating power, light or heat, and tramways, private tracks or sidings.

(5) Foundries, machine shops, fire-arms factories, tool factories, car building and repairing, structural iron works, and working in or with iron or steel, not otherwise specified, where power-driven machinery is used, together with their accessory and auxiliary plants working in or with by-products, and plants generating power, light or heat, and tramways, private tracks and sidings.

(6) Stamped metal works, can factories, enamel iron works, and working in or with sheet iron or tin plate, not otherwise specified, where power-driven machinery is used, together with their accessory and auxiliary plants working in or with by-products, and plants generating power, light or heat, and tramways, private tracks and sidings.

(7) Logging, logging railroads and tramways, sawmills, including their accessory and auxiliary plants working in or with by-products, and plants generating power, light or heat, and tramways, private tracks and sidings.

(8) Planing mills, wood pulp, cordage and paper mills, box factories, cooperage plants, furniture factories, woodenware or wood fiber ware manufactories, vehicle works of every kind, including their accessory and auxiliary plants working in or with by-products, and plants generating power, light or heat, and tramways, private tracks and sidings.

(9) Glass houses of all kinds, including manufactories of tableware, bar goods, bottles, tumblers, lamps, glass light fixture parts, lamps, window and plate glass, potteries of all kinds, including tile, brick, terra cotta, fire clay, earthenware, porcelain, china and crockery ware using automatic machinery, together with accessory and auxiliary plants working in or with by-products, and plants generating light or heat, and tramways, private tracks and sidings.

(9-a) Glass houses of all kinds, including manufactories of tableware, bar goods, bottles, tumblers, lamps, glass light fixture parts, lamps, window and plate glass, potteries of all kinds, including tile, brick, terra cotta, fire clay, earthenware, porcelain, china and crockery ware not using automatic machinery, together with accessory and auxiliary plants working in or with by-products, and plants generating power, light or heat, and tramways, private tracks and sidings.

(10) Printing plants of all kinds, electrotyping, photo-engraving, engraving, lithographing, embossing, book binding, and accessory and auxiliary lines of work and manufacture.

(11) Woolen mills, knitting mills, cotton mills, carpet and rug mills, clothing manufactories of every kind and working in or with textiles not otherwise specified.

(12) Breweries, bottling works, canneries of fruits, vegetables, oils, fish, milk or meat, manufactories of preserves, jellies, ketchup, sauces, relishes, pickles, flour and feed mills, bakeries, confectioneries, drug and extract manufactories, tobacco, cigar and stogie and cigarette manufactories, in which power-driven machinery is used.

(13) Slaughter and packing houses, stock yards, soap, tallow, lard and grease manufactories, tanneries, artificial ice, and refrigerating and cold storage plants, creameries, and carbon-black factories, in which power-driven machinery is used.

(14) Steam laundries, dyeing and cleaning plants, stamping, embossing and working with leather, shoe and harness manufactories,

mattress and bedding factories, upholstering factories, manufacturers of rubber goods, and auxiliary and accessory lines of work and manufacture not otherwise specified.

(15) Steam and other railroads and transportation systems not otherwise specified.

(16) Street and interurban railways, whether propelled by electricity or other power.

(17) Telegraph and telephone plants and systems, electric light and power plants and systems, steam heat and power plants and systems, waterworks systems, gas works and systems, grain elevators, and all lighting, heating or power systems not otherwise specified.

(18) Quarries, stone crushers, gravel pits, mines, other than coal mines, and working with asphalt, cement, stone or other building material not otherwise specified, power-propelled ferries, sand diggers and other water craft.

(19) Such works, occupations and manufactories specified in the foregoing eighteen classifications as are operated without power-driven machinery.

(20) Match factories, powdermills, fireworks factories, and works in which articles of an explosive nature are mixed or manufactured.

(21) Construction of tunnels, shafts, bridges, trestles, steeples, towers, grain elevators, tanks, water towers, windmills, subaqueous works, iron or steel frame structures, or parts of structures, blast furnaces, smoke stacks, cupolas or chimneys more than fifty feet high, waterworks and systems, electric lights and power plants and systems, gas works and systems, installation of steam boilers, engines and dynamos, steam railroads, logging railroads, street railways and systems, boat building with scaffolds, floating docks, engineering works, structural work on buildings over three stories in height, not otherwise specified, and drilling of wells.

(22) Construction and installation of sewers, fire escapes, freight or passenger elevators, advertising signs, ornamental metal work on or in buildings, metal ceilings, plate or window glass, electrical wiring, stairways, buildings which require galvanized iron or tin work, marble, stone or brick work, roof work, slate work, plumbing work, carpenter work, electric work, installing automatic sprinklers, electric or fire alarm systems, heating or ventilating systems, or machinery not otherwise specified, covering steam pipes and boilers, road and street making, street or other grading, and structural work not otherwise specified.

(23) Such works or occupations not specified in the foregoing classifications in connection with which employer and employees shall voluntarily apply to the commission for the benefit and protection of this act.

And it shall be the duty of the commission to classify and place in one of the classes aforesaid any industries subject to this act not hereinbefore specifically mentioned. And the commission shall have the power on or before the first day of January of each year to reclassify the industries subject to this act or to create additional classifications with respect to their respective degrees of hazard and determine the risk of the different classes and fix the rates of premium for each class, according to the risks of the same, sufficiently large to provide an adequate fund for the compensation provided for in this act, and to create a surplus sufficiently large to guarantee a workmen's compensation fund from year to year. The classification so determined and the rates of premium established shall be applicable for such year: *Provided*, That the rate so fixed shall not exceed the maximum of one dollar on each one hundred dollars of the gross annual pay roll of each employer in any class: *Provided, also*, That for the purpose of this act the pay of any employee employed partly within and partly without this State shall be deemed to be such proportion of the total pay of such employee as his service within this State bears to his service outside the same. A mine worker shall be deemed to be wholly employed in the State in which the tippie or principal mine entrance of the mine in or about which he works is situate.

The State shall pay the salaries of the members and employees of the commission, and other expenses of the administration of the workmen's compensation fund upon order or voucher approved and signed

- by the chairman and secretary of the commission, directed to the auditor of the State, who shall draw his warrant therefor.
- Fund to be established.** SEC. 19. The commission shall establish a workmen's compensation fund from premiums paid thereto by employers and employees as herein provided, for the benefit of employees of employers that have paid the premiums applicable to the classes to which they belong and for the benefit of the dependents of such employees, and shall adopt rules and regulations with respect to the collection, maintenance and disbursement of said fund, not in conflict with the provisions of this act.
- Custody.** SEC. 20. The treasurer of the State shall be the custodian of the workmen's compensation fund, and all disbursements therefrom shall be paid by him upon order or voucher, approved and signed by the chairman and secretary of the commission, and directed to the auditor of the State, who shall draw his warrant therefor.
- Bond.** SEC. 21. The treasurer of the State shall give a separate and additional bond, in such amount as may be fixed by the governor, and with sureties to be approved by him, conditioned for the faithful performance of his duties as custodian of the workmen's compensation fund herein provided for.
- Effect of election.** SEC. 22. Any employer subject to this act who shall elect to pay into the workmen's compensation fund the premiums provided by this act, shall not be liable to respond in damages at common law or by statute for the injury or death of any employee, however occurring, after such election and during any period in which such employer shall not be in default in the payment of such premiums: *Provided*, The injured employee has remained in his service with notice that his employer has elected to pay into the workmen's compensation fund the premiums provided by this act. The continuation in the service of such employer with such notice shall be deemed a waiver by the employee of his right of action as aforesaid.
- Notice to be posted.** SEC. 23. Each employer electing to pay the premiums provided by this act into the workmen's compensation fund shall post in conspicuous places about his place or places of business typewritten or printed notices stating the fact that he has made such election, and the same when so posted shall constitute sufficient notice to all his employees of the fact that he has made such election.
- Waivers.** No employer or employee shall exempt himself from the burden or waive the benefits of this act by any contract, agreement, rule or regulation, and any such contract, agreement, rule or regulation shall be pro tanto void.
- Act in effect, when.** SEC. 24. The application of this act as between employers and employees shall date from and include the first day of October, one thousand nine hundred and thirteen; and for the purpose of creating such workmen's compensation fund each employer subject to this act shall pay into the State treasury the premiums of liability based upon and being such a percentage of the pay roll of such employer as may have been determined and published by the commission and be then in effect. The premiums provided for in this act shall be paid by the employers to the treasurer of the State, and be contributed in the proportion of ninety per cent by the employers and ten per cent by the employees. The premiums shall be paid monthly on or before the twenty-fifth day of each month for the preceding month, and shall be the prescribed percentage of the total wages paid to all employees subject to the act for such preceding month. Each employer is authorized to deduct from the pay of his employees (excepting persons casually [casually] employed), for any month, ten per cent of the premium paid or to be paid for such month in proportion to the pay received by them respectively for such month, the proper percentage to be deducted from each installment of pay, whether paid monthly or more frequently, the minimum deduction from the earnings of each employee for any month or part thereof for which settlement is made to be five cents. Each employer shall give a receipt or statement to each employee showing the amount which has been deducted for the workmen's compensation fund, and shall file with the commission, on making his next payment to the fund, a sworn statement showing what per cent of said premium herein provided to be paid by the employees (disregarding fractions of a cent) had been deducted, and that no more than ten per cent (subject to

the minimum requirement aforesaid) had been so deducted. The State treasurer shall issue his receipt for any sums paid him hereunder in duplicate, the original to be delivered to the person, firm or corporation paying the same and the duplicate to be filed with the commission: *Provided*, That in order to create a fund available upon the application of this act as aforesaid, on October first, one thousand nine hundred and thirteen, the payment for the months of October to December, one thousand nine hundred and thirteen, inclusive, shall be made on or before October first, one thousand nine hundred and thirteen, and be preliminarily based upon the pay roll of the operations of the first four months of the year one thousand nine hundred and thirteen. If any employer be found to have overpaid for such three months he may deduct such overpayment from the first monthly payments made to the fund; if any employer be found to have underpaid for such three months he shall pay the deficiency with the first monthly payment made by him after the end of said three months.

Advance pay-  
ments.

SEC. 25. The commission shall disburse the workmen's compensation fund to such employees (within the meaning of this act) of employers as have paid into said fund the premiums for the month in which the injury occurs applicable to the classes to which they belong, as shall have received injuries in this State in the course of and resulting from their employment, or to the dependents, if any, of such employees in case death has ensued according to the provisions hereinafter made.

Disbursements.

SEC. 26. All employers subject to this act who shall not have elected to pay into the workmen's compensation fund the premiums provided by this act, or having so elected, shall be in default in the payment of same, shall be liable to their employees (within the meaning of this act) for damages suffered by reason of personal injuries sustained in the course of employment caused by the wrongful act, neglect or default of the employer, or any of the employer's officers, agents or employees, and also to the personal representatives of such employees where death results from such injuries, and in any action by any such employee or personal representative thereof such defendant shall not avail himself of the following common law defenses:

Employers  
liable, when.

The defense of the fellow-servant rule; the defense of the assumption of risk; or the defense of contributory negligence; and further shall not avail himself of any defense that the negligence in question was that of some one whose duties are prescribed by statute.

Defenses  
abrogated.

SEC. 27. The commission shall disburse and pay from the fund for such injury to such employees as may be entitled thereto hereunder such amounts for medical, nurse and hospital services and medicines as it may deem proper, not, however, in any case to exceed the sum of one hundred and fifty dollars in addition to such award to such employees, payment to be made to the employee, or to the persons who may have furnished the service and supplies, or to the persons who may have advanced payment for same, as to the commission shall deem proper: *Provided*, That in case any injured employee be entitled, under contract connected with his employment or otherwise, to hospital or medical service without further charge to him, no payment shall be made out of the workmen's compensation fund for hospital or medical service.

Medical, etc.,  
expenses.

SEC. 28. Notwithstanding anything hereinbefore or hereinafter contained, no employee or dependent of any employee shall be entitled to receive any sum from the workmen's compensation fund on account of any injury to or death of an employee caused by a self-inflicted injury, the willful misconduct or the intoxication of such employee. If injury or death result to an employee from the deliberate intention of his employer to produce such injury or death, the employee, the widow, widower, child or dependent of the employee shall have the privilege to take under this act, and also have cause of action against the employer as if this act had not been enacted, for any excess of damages over the amount received or receivable under this act.

Injuries due to  
willful miscon-  
duct, etc.

SEC. 29. In case death ensues from the injury, reasonable funeral expenses, not to exceed seventy-five dollars, shall be paid from the fund to the personal representative of the employee, or to such other person as shall have advanced the same, in addition to such award to the employee's dependents.

Funeral ex-  
penses.



**Waiting time.** SEC. 30. No benefit shall be allowed for one week after the injury is received, except the disbursement provided for in sections twenty-seven and twenty-nine.

**Temporary or partial disability.** SEC. 31. In case of temporary or partial disability, the employee shall receive during the continuance thereof fifty per cent of the impairment of his earning capacity, not to exceed a maximum of eight dollars per week, nor to be less than a minimum of four dollars per week, for not to exceed a period of twenty-six weeks: *Provided*, That if such partial disability consist of the loss of an arm or leg at or above the wrist in one case or the ankle in the other, or the loss of an eye, the period for which compensation shall be paid may be, but shall not exceed, one hundred and fifty-six weeks.

**Permanent total disability.** SEC. 32. In case of permanent total disability the award shall be fifty per cent of the average weekly wage, and shall continue until the death of such person so totally disabled, but not to exceed a maximum of six dollars per week nor to be less than a minimum of three dollars per week.

**Death benefits.** SEC. 33. In case the injury causes death within the period of ninety days, the benefits shall be in the amounts and to the persons following:

(1) If there be no parent or dependents, the disbursement from the workmen's compensation fund shall be limited to the expense provided for in sections twenty-seven and twenty-nine.

(2) If the deceased employee be under the age of twenty-one and unmarried and leave a dependent father or mother, the father, or if there be no father, the mother shall be entitled to a payment of fifty per cent of the average weekly wage, not exceeding six dollars per week, to continue until the employee would have been twenty-one years of age.

(3) Dependent, as used in this act, means a widow, invalid widower, child under the age at which he or she may be lawfully employed in any industry, invalid child over such age, father, mother, grandfather or grandmother, who at the time of the injury causing death is dependent in whole or in part for his or her support upon the earnings of the employee.

(4) If the deceased employee leave a widow or invalid widower the payment shall be twenty dollars per month until the death or remarriage of such widow or widower; and in addition five dollars per month for each child under the age at which he or she may be lawfully employed in any industry, to be paid until such child reaches such age: *Provided*, That the total payment shall not exceed thirty-five dollars per month.

(5) If the deceased employee be an adult and there be no widow, widower or child under the age at which he or she may be lawfully employed in any industry, but there are wholly dependent persons at the time of death, the payment shall (except in the case named in clause two of this section) be fifty per cent of the average monthly support actually received from the employee during the preceding twelve months, and to continue for the remainder of the period between the date of death and six years after the date of injury, and not to amount to more than a maximum of twenty dollars per month.

(6) If there be no widow, widower, or child under the age at which he or she may be lawfully employed in any industry, or dependent persons, but there are partly dependent persons at the time of death, the payment shall be fifty per cent of the average monthly support actually received from the employee during the preceding twelve months, and to continue for such portion of the period of six years after the date of injury as the commission in case may determine, and not to amount to more than a maximum of twenty dollars per month.

**Payment of death benefits.** SEC. 34. The benefits, in case of death, shall be paid to such one or more dependents of the decedent, or to such other person, for the benefit of all the dependents, as may be determined by the commission which may apportion the benefits among the dependents in such manner as it may deem just and equitable. Payment to a dependent subsequent in right may be made if the commission deem proper, and shall operate to discharge all other claims therefor.

**Distribution.** SEC. 35. The employee or person to whom benefits are paid shall apply the same to the use of the several beneficiaries thereof according to

their respective claims upon the decedent for support, in compliance with the finding and direction of the commission.

SEC. 36. Notwithstanding anything herein contained, no sum shall be paid to a widow or widower who shall have been living separate and apart from, or have been abandoned by the employee for twelve months next preceding the injury, and who shall not have been supported by him or her during such time. But in the event a chancery suit or other action be pending concerning the relations of said widow, or widower to said employee, then payment shall be made subject to the final adjudication of said suit or action.

Spouses living apart.

SEC. 37. The average weekly wage or earnings of the injured person at the time of injury shall be taken as the basis upon which to compute the benefits. The time of injury within the meaning of this act shall be such reasonable time prior to the injury as shall enable the commission to make a fair award, taking into consideration both the rate of wage or earning of such person prior to his entering the service in which he was injured.

Earnings as basis.

SEC. 38. Payments may be made in such periodical installments as may seem best to the commission in each case. Notwithstanding anything herein contained, the commission may direct the repayment of and pay out of any installment any advances for necessities that may have been made by any person pending the payment of such installment.

Installments.

SEC. 39. To entitle any employee or dependent of a deceased employee to compensation under this act the application therefor must be made in due form within six months from and after the date of injury or death, as the case may be. No person shall be excluded as a dependent by reason of being a nonresident alien, and nonresident aliens may be officially represented by the consular officers of the country of which such aliens may be citizens or subjects.

Claims.

Nonresident aliens.

SEC. 40. The power and jurisdiction of the commission over each case shall be continuing, and it may from time to time make such modification or change with respect to former findings or orders with respect thereto, as, in its opinion, may be justified.

Jurisdiction continuing.

SEC. 41. The commission, under special circumstances, and when the same is deemed advisable, may commute periodical benefits to one or more lump sum payments.

Lump sums.

SEC. 42. Benefits before payment shall be exempt from all claims of creditors and from any attachment or execution and shall be paid only to or for the use of such employees or their dependents as hereinbefore provided.

Payments exempt.

SEC. 43. The commission shall have full power and authority to hear and determine all questions within its jurisdiction, and its decision thereon shall be final: *Provided, however,* In case the final action of said commission denies the right of the claimant to participate at all in such fund, on the ground that the injury was self-inflicted, or on the ground that the accident did not arise in the course of employment, or upon any other ground going to the basis of the claimant's right, then the claimant may, within sixty days after notice of the final action of such commission, apply for an appeal to the supreme court of appeals. The appellant shall file a petition before said supreme court of appeals against such commission as defendant, within said period of sixty days, and the commission shall be notified by the clerk of said court, forthwith, of the filing of such petition for appeal. And the commission shall, within ten days after the receipt of such proceedings before the commission, including the receipt of such notice, file with the clerk of said court the record of such proceedings before the commission, including a transcript of the evidence. The court, or any judge thereof, may thereupon decide whether an appeal shall be granted or not. If granted, the commission and the claimant or the claimant's attorney shall be notified of the fact by mail. If an appeal is granted the case shall be tried by said court in the same manner as other cases before it, save and except that neither the record nor briefs need be printed, and that every such appeal granted prior to thirty days before the beginning of any term shall be on the docket for such term, and such appeals shall have precedence over

Decisions by commission.

Appeals.

other cases on such docket. The attorney general, without extra compensation, or other counsel, if the commission see fit to employ the same, shall represent the commission on such appeal. The supreme court, on such appeal, shall determine the right of the claimant and certify its decision to the commission, and, if it determines the right in his favor, the commission shall fix his compensation within the limits and under the rules prescribed in this act. The costs of such proceedings, including a reasonable attorney's fee, not exceeding one hundred dollars, to the claimant's attorney, to be fixed by the court, shall be taxed against the unsuccessful party. No fees, expenses or costs shall be paid out of any compensation awarded.

**Procedure.**

SEC. 44. Such commission shall not be bound by the usual common law or statutory rules of evidence, or by any technical or formal rules of procedure, other than herein provided, but may make the investigation in such manner as in its judgment is best calculated to ascertain the substantial rights of the parties and to carry out justly and liberally the spirit of this act.

**Expenditures.**

SEC. 45. The commission may make necessary expenditures to obtain statistical and other information to establish the classes provided for in section eighteen.

**Annual reports.**

SEC. 46. Annually on or about the fifteenth day of September in each year, such commission, under the oath of at least two of its members, shall make a report as of the thirtieth day of June, to the governor, which shall include a statement of the number of awards made by it, a general statement of the causes of the accidents leading to the injuries for which the awards were made; a detailed statement of all disbursements, and the condition of its fund, together with any other matters which such commission deems it proper to call to the attention of the governor, including any recommendations it may have to make, and the commission whenever required by the governor shall report to him as to any designated subject or matter, and furnish such information as may be required.

**Suits by commission.**

SEC. 47. The commission may sue in the circuit court of Kanawha county in its own name for any premiums owing from any employer for any part of the period intervening between notice given by such employer as hereinbefore provided of his election to pay into the fund the premiums provided by this act, and notice similarly given of the election of such employer to discontinue the payment of such premium, and such employer shall be liable in any action so brought for such premium and interest thereon with costs.

**Warrants for disbursements.**

SEC. 48. The auditor shall issue his warrant for any disbursement hereunder only when approved in writing by the chairman or acting chairman and secretary of the commission, and the chairman or acting chairman and secretary shall not issue any such approval unless authorized by the commission by an order entered of record. Whenever it shall appear that the chairman will be absent or unable to act at sessions of the commission for one week or more, another member of the commission may be designated by the commission as acting chairman during the absence or inability to act of the chairman, and during such period shall have all the duties and powers of the chairman.

**Failure to report.**

SEC. 49. Any person, firm or corporation, knowingly failing to make any report or perform any duty required by the commission within the time specified, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than twenty-five hundred dollars. Any person, or firm, or the officer of any corporation, who knowingly makes a false report or statement under oath, or affidavit respecting any information required by the commission, or who shall knowingly testify falsely in any proceeding before the commission, shall be deemed guilty of perjury and upon conviction thereof shall be punished as provided by law.

**Fraudulent compensation.**

SEC. 50. Any person who shall knowingly secure or attempt to secure larger compensation, or compensation for a longer term than he is entitled to, from said workman's compensation fund, or knowingly secure or attempt to secure compensation from said fund when he is not entitled to any, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not exceeding five hundred dollars or impris-

oned not exceeding twelve months, or both, in the discretion of the court, and shall, from and after such conviction, cease to receive any compensation from such fund.

SEC. 51. Whenever and as often as there shall be in the hands of the treasurer any sum belonging to the workmen's compensation fund not likely, in the opinion of the commission, to be required for immediate use, it shall be the duty of the board of public works, when called upon by the commission, to loan such sum or to invest the same in interest-bearing securities, and when and as it may become necessary or expedient to use the moneys so loaned or invested the board of public works shall, when called upon by the commission, collect or sell or otherwise realize upon any such loan or investment, and any interest accruing upon any such loan or investment, as well as any interest received upon the deposit of moneys belonging to said fund, shall be credited to said fund.

Investment of funds.

SEC. 52. The provisions of this act shall apply to employers and employees engaged in intrastate and also in interstate or foreign commerce for whom a rule of liability or method of compensation has been or may be established by the Congress of the United States only to the extent that their mutual connection with intrastate work may and shall be clearly separable and distinguishable from interstate or foreign commerce, except that any such employer and any of his employees working only in this State may with the approval of the commission, and so far as not forbidden by any act of Congress, voluntarily accept the provisions of this act by filing written acceptances with the commission, and such acceptances, when filed with and approved by the commission, shall subject the acceptors irrevocably to the provisions of the act to all intents and purposes as if they had been originally included in its terms. Payments of premium shall be on the basis of the pay roll of the employees who accept as aforesaid.

Employees of railroads, etc.

SEC. 53. If any employer shall be adjudicated to be outside the lawful scope of this act, the act shall not apply to him or his employee; or if any employee shall be adjudicated to be outside the lawful scope of this act, because of remoteness of his work from the hazard of his employer's work, any such adjudication shall not impair the validity of this act in other respects, and in every such case an accounting in accordance with the justice of the case shall be had of moneys received. If the provisions of this act for the creation of the fund, or the provisions of this act making the compensation to the employee provided in it exclusive of any other remedy on the part of the employee shall be held invalid, the entire act shall be thereby invalidated and an accounting according to the justice of the case shall be had of money received. In other respects an adjudication of invalidity of any part of this act shall not affect the validity of the act as a whole or part thereof.

Persons outside act.

Invalidity of act.

SEC. 54. If deemed best by it the commission may insure in any liability insurance company, or companies, authorized to do business in West Virginia, all or any part or class of, or one or more individual risks of, the liabilities of the workmen's compensation fund for any year or series of years, and apply so much as may be necessary of the premiums collected for such year or years toward the payment of the premiums for such insurance.

Reinsurance.

SEC. 55. If the provisions of this act relating to compensation for injuries to, or death of workmen shall be repealed or adjudged invalid or unconstitutional, the period intervening between the occurrence of any injury or death and such appeal, or the final adjudication of invalidity or unconstitutionality, shall not be computed as a part of the time limited by law for the commencement of any action relating to such injuries or death, but the amount of any compensation which may have been paid on account of such injury or death, shall be deducted from any judgment for damages recovered on account of such injury or death.

Repeal or invalidity of act.

SEC. 56. All acts and parts of acts in conflict with this act are hereby repealed.

Repealed.

Approved February 22, 1913.

[The pertinent portions of the act creating a public service commission, referred to in section 1 above, are as follows:]

**CHAPTER 9.—Public service commission—Administration of workmen's compensation law.**

**Commission created.**

**SECTION 1.** A commission is hereby created by the name of Public Service Commission, which shall be composed of four members, who shall be appointed by the governor, by and with the advice and consent of the senate. The first commissioners shall be appointed in the month of May, 1913, and shall continue in office for the term of two, four, six, and eight years, respectively, from the first day of May, 1913, the term of each to be designated by the governor; but their successors shall be appointed for the term of eight years each, except that any person appointed to fill a vacancy shall serve only for the unexpired term of the commissioner whom he succeeds. Any commissioner may be removed by the governor for incompetency, neglect of duty, gross immorality or malfeasance in office, after giving him notice and a copy of the charges and the right to be heard in an investigation of the truth thereof. A record of the proceedings, including the evidence, shall be kept. Not more than two shall belong to the same political party. One member shall be a lawyer of not less than ten years actual experience at the bar. The commission shall organize by electing one of its members chairman. The concurring judgment of three of the commissioners shall be deemed the action of the commission. The attorney general shall perform all legal services required by the commission under the provisions of this act.

**Disqualifications.**

No person while in the employ of or holding any official relation to any public service corporation subject to the provision of this act, or holding any stock or bonds thereof, or who is pecuniarily interested therein, shall enter upon the duties of or hold said office. Nor shall any of said commissioners be a candidate for or hold any public office, or be a member of any political committee while acting as such commissioner; nor shall any commissioner or employee of said commission receive any pass, free transportation or other thing of value, either directly or indirectly, from any person, firm or corporation subject to the provisions of this act; and in case any of said commissioners shall become a candidate for any other public office, or shall become a member of any political committee, his office as commissioner shall be ipso facto vacated.

**Employees.**

The commission is hereby empowered and directed to employ a secretary, who shall hold that position at the pleasure of the commission, and such other employees as may be necessary to carry out the purpose of this act. The secretary and all other employees shall perform such duties as may be prescribed by the commission, not inconsistent with law. The compensation of the secretary and all other employees shall be fixed by the commission at such sum as their services are reasonably worth. The actual expenses necessarily incurred by the commissioners and employees while absent from the general office of the commission and engaged about the business of the commission, shall be paid as other claims against the State are paid, out of any appropriation for such purpose, upon an itemized statement thereof rendered monthly by the secretary, under his oath, and approved by the commission.

**Expenses.**

**Office.**

Each of the commissioners shall receive a salary of six thousand dollars per annum, to be paid monthly. The general office shall be kept at the capitol of the State, and kept open each working day between the hours of nine o'clock a. m., and five o'clock p. m., and in charge of the secretary or some other competent person. But hearings and the taking of evidence may be had at such times and places and in each particular case as the commission may designate.

**Procedure.**

**SEC. 2.** The commission shall prescribe the rules of procedure and for taking evidence in all matters that may come before it, and enter such final orders as may be just and lawful.

In the investigations, preparations and hearings of cases, the commission may not be bound by the strict technical rules of pleading and evidence, but in that behalf it may exercise such discretion as will

facilitate their efforts to understand and learn all the facts bearing upon the right and justice of the matters before them.

SEC. 3.

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\* \* \* The commission shall also perform such duties as may be imposed upon it by law in connection with any workmen's compensation law or fund which may be passed or established. Duties as to workmen's compensation.

Approved February 22, 1913.

**WISCONSIN.**

**ACTS OF 1913.**

*CHAPTER 599.—Liability of employers for injuries—Workmen's compensation.*

SECTION 1. Sections 2394-1 to 2394-31, inclusive, of the statutes are amended to read:

Section 2394-1. 1. In any action to recover damages for a personal injury sustained within this State by an employee while engaged in the line of his duty as such, or for death resulting from personal injury so sustained, in which recovery is sought upon the ground of want of ordinary care of the employer, or of any officer, agent, or servant of the employer, it shall not be a defense— Defenses abolished.

(1) That the employee either expressly or impliedly assumed the risk of the hazard complained of.

(2) When such employer has at the time of the accident in a common employment four or more employees, that the injury or death was caused in whole or in part by the want of ordinary care of a fellow servant.

(3) When such employer has at the time of the accident, in a common employment four or more employees, that the injury or death was caused in whole or in part by the want of ordinary care of the injured employee, where such want of ordinary care was not willful.

2. Any employer who has elected to pay compensation as hereinafter provided shall not be subject to the provisions of this section 2394-1. Who exempt.

SEC. 2394-2. No contract, rule, or regulation, shall exempt the employer from any of the provisions of section 2394-1. Waivers.

SEC. 2394-3. Liability for the compensation hereinafter provided for, in lieu of any other liability whatsoever, shall exist against an employer for any personal injury accidentally sustained by his employee, and for his death, in those cases where the following conditions of compensation concur: Compensation payable, when.

(1) Where, at the time of the accident, both the employer and employee are subject to the provisions of sections 2394-3 to 2394-31, inclusive.

(2) Where, at the time of the accident, the employee is performing service growing out of and incidental to his employment.

Every employee going to and from his employment in the ordinary and usual way, while on the premises of his employer, shall be deemed to be performing service growing out of and incidental to his employment.

(3) Where the injury is proximately caused by accident, and is not intentionally self-inflicted.

And where such conditions of compensation exist for any personal injury or death, the right to the recovery of such compensation pursuant to the provisions of sections 2394-3 to 2394-31, inclusive, and acts amendatory thereof, shall be the exclusive remedy against the employer for such injury or death; in all other cases, the liability of the employer shall be the same as if this and the succeeding sections of sections 2394-3 to 2394-31, inclusive, had not been passed, but shall be subject to the provisions of sections 2394-1 to 2394-2.

Who are em- SEC. 2394-4. The following shall constitute employers subject to the  
 ployers. provisions of sections 2394-3 to 2394-31, inclusive, within the meaning  
 of section 2394-3:

(1) The State, and each county, city, town, village, and school district therein.

(2) Every person, firm, and private corporation (including any public service corporation), who has any person in service under any contract of hire, express or implied, oral or written, and who, at or prior to the time of the accident to the employee for which compensation under sections 2394-3 to 2394-31, inclusive, may be claimed, shall, in the manner provided in section 2394-5, have elected to become subject to the provisions of sections 2394-3 to 2394-31, inclusive, and who shall not, prior to such accident, have effected a withdrawal of such election, in the manner provided in subsection 1 of section 2394-5.

Election made, SEC. 2394-5. 1. Such election on the part of the employer shall be  
 how. made by filing with the industrial commission, a written statement to the effect that he accepts the provisions of sections 2394-3 to 2394-31, inclusive, the filing of which statement shall operate, within the meaning of section 2394-4, to subject such employer to the provisions of sections 2394-3 to 2394-31, inclusive, for the term of one year from the date of filing such statement, and thereafter, without further act on his part, for successive terms of one year each, unless such employer shall, at least sixty days prior to the expiration of such first or any succeeding year, file in the office of said commission a notice in writing to the effect that he desires to withdraw his election to be subject to the provisions of sections 2394-3 to 2394-31, inclusive.

Presumption as to certain em- 2. On and after September 1, 1913, every employer of four or more  
 ployers. employees in a common employment shall be deemed to have elected to accept the provisions of sections 2394-3 to 2394-31, inclusive, unless prior to that date such employer shall have filed with the industrial commission a notice in writing to the effect that he elects not to accept the provisions hereof: *Provided*, That any employer commencing business subsequent to September 1, 1913, may make his election not to become subject to sections 2394-3 to 2394-31, inclusive, at any time prior to becoming an employer of four or more employees in a common employment. Such employer may withdraw from the provisions of sections 2394-3 to 2394-31, inclusive, at the expiration of one year or at the expiration of any succeeding year in the manner provided in subsection 1 of section 2394-5.

Contractors' employees. SEC. 2394-6. An employer subject to the provisions of sections 2394-3 to 2394-31, inclusive, shall be liable for compensation to an employee of a contractor or subcontractor under him who is not subject to sections 2394-3 to 2394-31, inclusive, and has not complied with the conditions of subsection 2 of section 2394-24 in any case where such employer would have been liable for compensation if such employee had been working directly for such employer. The contractor or subcontractor shall also be liable for such compensation, but the employee shall not recover compensation for the same injury from more than one party. The employer who shall become liable for and pay such compensation may recover the same from such contractor or subcontractor for whom the employee was working at the time of the accident.

Section 2394-6 shall be in force as to all contracts made subsequent to August 31, 1913.

Who are em- SEC. 2394-7 (as amended by Chapter 707, Acts of 1913). The term  
 ployees. "employee" as used in sections 2394-1 to 2394-31, inclusive, shall be construed to mean—

(1) Every person in the service of the State, or of any county, city, town, village, or school district therein under any appointment, or contract of hire, express or implied, oral or written, except any official of the State, or of any county, city, town, village, or school district therein. The State and any county or municipality may require a bond from a contractor to protect the State, county or municipality against compensation to employees of such contractor or employees of a subcontractor under him.

Nothing herein contained shall be construed to prevent municipalities from paying policemen, firemen and other employees full salaries during disability, nor to interfere in any manner with any pension

funds now or hereafter established, nor to prevent payment to policemen or firemen therefrom.

Policemen and firemen shall be deemed employees within the meaning of subdivision (1) of section 2394-7: *Provided*, That any policeman or fireman claiming compensation under sections 2394-3 to 2394-31, inclusive, shall have deducted from such compensation any sum which such policemen or fireman may receive from any pension or other benefit fund to which the municipality may contribute.

(2) Every person in the service of another under any contract of hire, express or implied, oral or written, including aliens, and also including minors who are legally permitted to work under the laws of the State (who, for the purposes of section 2394-8, shall be considered the same and shall have the same power of contracting as adult employees), but not including any person whose employment is but casual or is not in the usual course of the trade, business, profession, or occupation of his employer.

Sec. 2394-8. Any employee as defined in subdivision (1) of section 2394-7 shall be subject to the provisions of sections 2394-3 to 2394-31, inclusive. Any employee as defined in subdivision (2) of section 2394-7 shall be deemed to have accepted and shall, within the meaning of section 2394-3, be subject to the provisions of sections 2394-3 to 2394-31, inclusive, if, at the time of the accident upon which liability is claimed—

Presumption as to employees.

(1) The employer charged with such liability is subject to the provisions of sections 2394-3 to 2394-31, inclusive, whether the employee has actual notice thereof or not; and

(2) Such employee shall not, at the time of entering into his contract of hire, express or implied, with such employer, have given to his employer notice in writing that he elects not to be subject to the provisions of sections 2394-3 to 2394-31, inclusive; or, in the event that such contract of hire was made in advance of such employer becoming subject to the provisions of sections 2394-3 to 2394-31, inclusive, such employee shall have given to his employer notice in writing that he elects to be subject to such provisions, or without giving either of such notices, shall have remained in the service of such employer for thirty days after the employer has filed with said commission an election to be subject to the terms of sections 2394-3 to 2394-31, inclusive, or when such employer has become subject to sections 2394-3 to 2394-31, inclusive, pursuant to subsection 2 of section 2394-5.

(3) The provisions of sections 2394-3 to 2394-31, inclusive, shall not apply to employees operating, running or riding upon, or switching freight or other trains, engines or cars for a railroad company operating a steam railroad as a common carrier, unless both employer and employee shall specifically, in writing, have voluntarily accepted the provisions of said sections, and have filed notice thereof with the industrial commission, and shall not apply to employees of such common carriers injured or killed while the common carrier and the employee are engaged in interstate commerce.

Railroads.

Sec. 2394-9. Where liability for compensation under sections 2394-3 to 2394-31, inclusive, exists, the same shall be as provided in the following schedule:

Compensation.

(1) Such medical, surgical and hospital treatment, medicines, medical and surgical supplies, crutches, and apparatus, as may be reasonably required at the time of the injury and thereafter during the disability, but not exceeding ninety days, to cure and relieve from the effects of the injury, the same to be provided by the employer; and in case of his neglect or refusal seasonably to do so, the employer to be liable for the reasonable expense incurred by or on behalf of the employee in providing the same.

Medical, etc., service.

(2) If the accident causes disability, an indemnity which shall be payable as wages on the eighth day after the injured employee leaves work as the result of the injury, and weekly thereafter, which weekly indemnity shall be as follows:

Waiting time.

(a) If the accident causes total disability, sixty-five per cent of the average weekly earnings during the period of such total disability: *Provided*, That, if the disability is such as not only to render the injured employee entirely incapable of work, but also so helpless as to

Total disability.



|                               |  |
|-------------------------------|--|
|                               | require the assistance of a nurse, the weekly indemnity during the period of such assistance after the first ninety days shall be increased to one hundred per cent of the average weekly earnings.  |
| Partial disability.           | (b) If the accident causes partial disability, sixty-five per cent of the weekly loss in wages during the period of such partial disability.   |
|                               | (c) If the disability caused by the accident is at times total and at times partial, the weekly indemnity during the periods of each such total or partial disability shall be in accordance with said subdivisions (a) and (b), respectively.   |
|                               | (d) Said subdivisions (a), (b) and (c) shall be subject to the following limitations:  |
| Maximum benefits.             | In case of temporary or partial disability aggregate indemnity for injury to a single employee caused by a single accident shall not exceed four times the average annual earnings of such employee, and in case of permanent total disability aggregate indemnity for injury to a single employee caused by a single accident shall not exceed six times the average annual earnings of such employee.  |
| Permanent total disability.   | Total blindness of both eyes, or the loss of both arms at or near the shoulder, or of both legs at or near the hip, or of one arm at the shoulder and one leg at the hip, shall constitute permanent total disability. This enumeration shall not be exclusive but in other cases the commission shall find the facts.   |
| Maximum term.                 | The aggregate disability period shall not, in any event, extend beyond fifteen years from the date of the accident.  |
| Pay for first week.           | The weekly indemnity due on the eighth day after the employee leaves work as the result of the injury may be withheld until the twenty-ninth day after he so leaves work; if recovery from the disability shall then have occurred, such first weekly indemnity shall not be recoverable; if the disability still continues, it shall be added to the weekly indemnity due on said twenty-ninth day and be paid therewith.   |
|                               | If the period of disability does not last more than one week from the day the employee leaves work as the result of the injury, no indemnity whatever shall be recoverable.  |
| Compensation for death.       | (3) Where death proximately results from the injury and the deceased leaves a person or persons wholly dependent upon him for support, the death benefit shall be as follows:  |
|                               | (a) In case the injured employee was permanently totally disabled, a sum equal to four times his average annual earnings, but which, when added to the disability indemnity paid and due at the time of death, shall not exceed six times his average annual earnings.   |
|                               | (b) In case the injured employee was not permanently totally disabled, such sum which, when added to the disability indemnity paid and due at the time of his death, shall equal four times his average annual earnings.   |
|                               | (4) If death occurs to an injured employee other than as a proximate result of the accident, before disability indemnity ceases, death benefit shall be as follows:  |
| Permanent total disability.   | (a) Where the accident proximately causes permanent total disability, it shall be the same as if the accident had caused death.  |
| Permanent partial disability. | (b) Where the accident proximately causes permanent partial disability, liability shall exist for such benefit as shall fairly represent the proportionate extent of the impairment of earning capacity in the employment in which the deceased was working at the time of the accident or other suitable employment, caused by such disability.   |
| Partial dependents.           | (c) In case the deceased employee leaves no one wholly dependent upon him for support, but one or more persons partially dependent therefor, the death benefit shall not exceed four times the amount devoted by deceased, during the year immediately preceding his death, to the support of such dependents and shall be apportioned according to the percentage that the amount devoted by the deceased to the support of such person or persons, for the year immediately prior to the accident, bears to the average annual earnings of the deceased. |
| Funeral expenses.             | (d) If the deceased employee leaves no person dependent upon him for support, and the accident proximately causes death, the death benefit shall consist of the reasonable expense of his burial, not exceeding one hundred dollars.   |

(e) Death benefit shall be paid in weekly installments corresponding in amount to sixty-five per cent of the weekly earnings of the employee, until otherwise ordered by the commission.

(5) In cases included by the following schedule, the compensation to be paid, subject to the provisions of this act for maximum and minimum payments, shall be sixty-five per cent of the average weekly earnings of the employee for the periods named in the schedule, to wit:

Schedule for  
payments.

- The loss of one arm at or near the shoulder, 240 weeks;
- The loss of an arm at the elbow, 200 weeks;
- The loss of a forearm at the lower half thereof, 160 weeks;
- The loss of a hand, 160 weeks;
- The loss of a palm where the thumb remains, 80 weeks;
- The loss of a thumb and the metacarpal bone thereof, 60 weeks;
- The loss of a thumb at the proximal joint, 40 weeks;
- The loss of a thumb at the second or distal joint, 20 weeks;
- The loss of an index finger and the metacarpal bone thereof, 30 weeks;
- The loss of an index finger at the proximal joint, 20 weeks;
- The loss of an index finger at the second joint, 15 weeks;
- The loss of an index finger at the distal joint, 10 weeks;
- The loss of a second finger and the metacarpal bone thereof, 20 weeks;
- The loss of a middle finger at the proximal joint, 15 weeks;
- The loss of a middle finger at the second joint, 10 weeks;
- The loss of a middle finger at the distal joint, 5 weeks;
- The loss of a third or ring finger and the metacarpal bone thereof, 12 weeks;
- The loss of a ring finger at the proximal joint, 8 weeks;
- The loss of a ring finger at the second joint, 6 weeks;
- The loss of a ring finger at the distal joint, 4 weeks;
- The loss of a little finger and the metacarpal bone thereof, 15 weeks;
- The loss of a little finger at the proximal joint, 10 weeks;
- The loss of a little finger at the second joint, 8 weeks;
- The loss of a little finger at the distal joint, 4 weeks;
- The loss of all the fingers of one hand where the thumb and palm remain, 60 weeks;
- The loss of a leg at the hip joint, or so near thereto as to preclude the use of an artificial limb, 240 weeks;
- The loss of a leg at or above the knee, where stump remains sufficient to permit the use of an artificial limb, 160 weeks;
- The loss of a foot at the ankle, 120 weeks;
- The loss of a great toe with the metatarsal bone thereof, 30 weeks;
- The loss of a great toe at the proximal joint, 20 weeks;
- The loss of a great toe at the second joint, 10 weeks;
- The loss of any other toe with the metatarsal bone thereof, 12 weeks;
- The loss of any other toe at the proximal joint, 4 weeks;
- The loss of any other toe at the second or distal joint, 4 weeks;
- The loss of all the toes of one foot, 40 weeks;
- The loss of an eye by enucleation, 160 weeks;
- The loss of the second eye, by enucleation, 320 weeks;
- Total blindness of one eye, 120 weeks;
- Total blindness of the second eye, 240 weeks;
- Total deafness of both ears, 160 weeks;
- Total deafness of one ear, 40 weeks;
- Total deafness of the second ear, 120 weeks.

When by reason of infection or other cause not due to the neglect or misconduct of the injured employee, he is actually disabled longer than the time specified in the foregoing schedule from earning a wage, compensation shall be paid such employee for such loss of wage within the limits otherwise provided.

For the purposes of this schedule permanent and complete paralysis of any member shall be deemed equivalent to the loss thereof.

Whenever an amputation is made between any two joints mentioned in this schedule (except amputations between the knee and hip joint) the resultant loss shall be estimated as if the amputation had been made at the joint nearest thereto.

In all other cases in this class the compensation shall bear such relation to the amount stated in the above schedule as the disabilities bear to those produced by the injuries named in the schedule.

If an employee is seriously permanently disfigured about the face or head, the commission may allow such sum for compensation on account thereof, as it may deem just, not exceeding \$750.

In case of permanent injury to an employee who is over fifty-five years of age, the compensation herein shall be reduced by 5 per cent; in case he is over sixty years of age, by 10 per cent; in case he is over sixty-five years of age, by 15 per cent.

Violations of safety laws, etc.

(a) Where injury is caused by the failure of the employer to comply with any statute of the State or any lawful order of the industrial commission, compensation as provided in sections 2394-3 to 2394-31, inclusive, shall be increased fifteen per cent.

(b) Where injury is caused by the willful failure of the employee to use safety devices where provided by the employer, or

(c) Where injury results from the employee's willful failure to obey any reasonable rule adopted by the employer for the safety of the employee, or

Intoxication.

(d) Where injury results from the intoxication of the employee, the compensation provided herein shall be reduced fifteen per cent.

Lump-sum payments.

(e) Any time after six months have elapsed from the date of the injury, the commission may order payment in gross or in such manner as it may determine to the best interest of the parties. When payment in gross is ordered, the commission shall fix the gross amount to be paid based on the present worth of partial payments, considering interest at three per cent per annum.

Earnings computed, how.

SEC. 2394-10. 1. The average weekly earnings referred to in section 2394-9 shall be one fifty-second of the average annual earnings of the employee.

The average annual earnings for employees operating, running, riding upon, or switching passenger, freight or other trains, engines or cars for a railroad company operating a steam railroad as a common carrier, shall be taken at not less than \$500 nor more than \$1,250 per annum; and for all other employees such average annual earnings shall be taken at not less than \$375 nor more than \$750. Between said limits such average annual earnings shall be determined as follows:

(a) If the injured employee has worked in the employment in which he was working at the time of the accident, whether for the same employer or not, during substantially the whole of the year immediately preceding his injury, his average annual earnings shall consist of three hundred times the average daily wage or salary which he has earned in such employment during the days when so employed.

(b) If the injured employee has not so worked in such employment during substantially the whole of such immediately preceding year, his average annual earnings shall consist of three hundred times the average daily wage or salary which an employee of the same class working substantially the whole of such immediately preceding year in the same or a similar employment in the same or a neighboring place shall have earned in such employment during the days when so employed.

(c) In cases where the foregoing methods of arriving at the average annual earnings of the injured employee can not reasonably and fairly be applied, such average annual earnings shall be taken at such sum as, having regard to the previous earnings of the injured employee, and of other employees of the same or most similar class, working in the same or most similar employment, in the same or a neighboring locality, shall reasonably represent the average annual earning capacity of the injured employee at the time of the accident in the employment in which he was working at such time.

Minors.

If an employee is a minor and is permanently disabled, his weekly earnings shall be determined on the basis of the earnings that such minor, if not disabled, probably would earn after attaining the age of twenty-one years.

Subsequent injuries.

(d) The fact that an employee has suffered a previous disability, or received compensation therefor, shall not preclude compensation for a later injury, or for death, but in determining compensation for the later injury, or death, his average annual earnings shall be such sum as will reasonably represent his average annual earning capacity at the time of the later injury, in the employment in which he was working at such

time, and shall be arrived at according to, and subject to the limitations of the previous provisions of this section.

2. The weekly loss in wages referred to in section 2394-9 shall consist of such percentage of the average weekly earnings of the injured employee, computed according to the provisions of this section, as shall fairly represent the proportionate extent of the impairment of his earning capacity in the employment in which he was working at the time of the accident, and other suitable employments, the same to be fixed as of the time of the accident, but to be determined in view of the nature and extent of the injury.

Wage loss.

3. The following shall be conclusively presumed to be solely and wholly dependent for support upon a deceased employee:

Dependents.

(a) A wife upon a husband with whom she is living at the time of his death.

(b) A husband upon a wife with whom he is living at the time of her death.

(c) A child or children under the age of eighteen years (or over said age, but physically or mentally incapacitated from earning), upon the parent with whom he or they are living at the time of the death of such parent, there being no surviving dependent parent. In case there is more than one child thus dependent, the death benefit shall be divided between such dependents in such proportion as may be determined by the commission after considering the ages of such dependents and other facts bearing on such dependency.

In all other cases questions of entire or partial dependency shall be determined in accordance with the fact, as the fact may be at the time of the accident to the employee; and in such other cases, if there is more than one person wholly dependent, the death benefit shall be divided equally among them, and persons partially dependent, if any, shall receive no part thereof; and if there is more than one person partially dependent, the death benefit shall be divided among them according to the relative extent of their dependency.

4. No person shall be considered a dependent unless a member of the family of the deceased employee, or one who bears to him the relation of husband or widow, or lineal descendent, or ancestor, or brother, or sister.

5. Questions as to who constitute dependents and the extent of their dependency shall be determined as of the date of the accident to the employee, and their right to any death benefit shall become fixed as of such time, irrespective of any subsequent change in conditions; and the death benefit shall be directly recoverable by and payable to the dependent or dependents entitled thereto or their legal guardians or trustees: *Provided*, That in case of the death of a dependent whose right to a death benefit has thus become fixed, so much of the same as is then unpaid shall be recoverable by and payable to his personal representatives in gross. No person shall be excluded as a dependent who is a nonresident alien.

6. No dependent of an injured employee shall be deemed, during the life of such employee, a party in interest to any proceeding by him for the enforcement or collection of any claim for compensation, nor as respects the compromise thereof by such employee.

SEC. 2394-11. No claim to recover compensation under sections 2394-3 to 2394-31, inclusive, shall be maintained unless, within thirty days after the occurrence of the accident which is claimed to have caused the injury or death, notice in writing, stating the name and address of the person injured, the time and place where the accident occurred, and the nature of the injury, and signed by the person injured or by some one on his behalf, or in case of his death, by a dependent or some one on his behalf, shall be served upon the employer, either by delivering to and leaving with him a copy of such notice, or by mailing to him by registered mail a copy thereof in a sealed and postpaid envelope addressed to him at his last known place of business or residence. Such mailing shall constitute completed service: *Provided however*, That any payment of compensation under sections 2394-3 to 2394-31, inclusive, in whole or in part, made by the employer before the expiration of said thirty days, shall be equivalent to the notice herein required: *And provided, further*, That the failure to give any

Notice.

- such notice, or any defect or inaccuracy therein, shall not be a bar to recovery under sections 2394-3 to 2394-31, inclusive, if it is found as a fact in the proceedings for collection of the claim that there was no intention to mislead the employer, and that he was not in fact misled thereby: *And provided, further*, That if no such notice is given and no payment of compensation made, within two years from the date of the accident, the right to compensation therefor shall be wholly barred.
- Limitation.** SEC. 2394-12. Wherever in case of injury the right to compensation under sections 2394-3 to 2394-31, inclusive, would exist in favor of any employee, he shall, upon the written request of his employer, submit from time to time to examination by a regular practicing physician, who shall be provided and paid for by the employer, and shall likewise submit to examination from time to time by any regular physician selected by said industrial commission, or a member or examiner thereof. The employee shall be entitled to have a physician, provided and paid for by himself, present at any such examination. So long as the employee, after such written request of the employer, shall refuse to submit to such examination, or shall in any way obstruct the same, his right to begin or maintain any proceeding for the collection of compensation shall be suspended; and if he shall refuse to submit to such examination after direction by the commission, or any member or examiner thereof, or shall in any way obstruct the same, his right to the weekly indemnity which shall accrue and become payable during the period of such refusal or obstruction, shall be barred. Any physician who shall make or be present at any such examination may be required to testify as to the results thereof. Any physician having attended an employee in a professional capacity may be required to testify before the commission when it shall so direct.
- Medical examinations.**
- Who administers act.** SEC. 2394-13. Sections 2394-3 to 2394-31, inclusive, shall be administered by the industrial commission. A majority of the commission shall constitute a quorum for the exercise of any of the powers or authority conferred by sections 2394-3 to 2394-31, inclusive, and an order or award made by a majority shall be valid. In case of a vacancy, the remaining two members of the commission shall exercise all the powers and authority of the commission until such vacancy is filled.
- Powers of commission.** SEC. 2394-14 (as amended by Chapter 772, Acts of 1913). Subject to the provisions of sections 2394-3 to 2394-31, inclusive, the commission may adopt its own rules of procedure and may change the same from time to time in its discretion. The commission, when it shall deem it necessary to expedite its business, may, from time to time, employ one or more expert examiners for such length of time as may be required, such examiners to be exempt from the operation of sections 990-1 to 990-32, inclusive, of the statutes. It may employ such deputies, inspectors, clerks, stenographers, and other employees as it may deem necessary. It shall provide itself with a seal for the authentication of its orders, awards and proceedings, upon which shall be inscribed the words "Industrial Commission—Wisconsin—Seal."
- Disputes.** SEC. 2394-15. Any dispute or controversy concerning compensation under sections 2394-3 to 2394-31, inclusive, including any in which the State may be a party, shall be submitted to said industrial commission in the manner and with the effect provided in sections 2394-3 to 2394-31, inclusive. Every compromise of any claim for compensation under sections 2394-3 to 2394-31, inclusive, shall be subject to be reviewed by, and set aside, modified or confirmed by the commission upon application made within one year from the time of such compromise.
- Hearings.** SEC. 2394-16. Upon the filing with the commission by any party in interest of an application in writing stating the general nature of any claim as to which any dispute or controversy may have arisen, it shall fix a time for the hearing thereof, which shall not be more than forty days after the filing of such application. The commission shall cause notice of such hearing, embracing a general statement of such claim, to be given to each party interested, by service of such notice on him personally or by mailing a copy thereof to him at his last known post-office address at least ten days before such hearing. Such hearing may be adjourned from time to time in the discretion of the commis-

sion, and hearings may be held at such places as the commission shall designate. Either party shall have the right to be present at any hearing, in person or by attorney, or any other agent, and to present such testimony as may be pertinent to the controversy before the commission; but the commission, may, with or without notice to either party, cause testimony to be taken, or an inspection of the premises where the injury occurred to be had, or the time books and pay roll of the employer to be examined by any member of the commission or any examiner appointed by it, and may from time to time direct any employee claiming compensation to be examined by a regular physician; the testimony so taken, and the results of any such inspection or examination, to be reported to the commission for its consideration upon final hearing. All ex parte testimony taken by the commission shall be reduced to writing and either party shall have opportunity to rebut the same on final hearing. The commission, or any member thereof, or any examiner appointed thereby, shall have power and authority to issue subpoenas, to compel the attendance of witnesses or parties, and the production of books, papers, or records, and to administer oaths.

Any person who shall willfully fail or neglect to appear and testify or to produce books, papers and records as required by such subpoena duly served upon him, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than twenty-five dollars nor more than one hundred dollars, or imprisoned in the county jail not longer than thirty days for each such offense. Each day such person shall so refuse or neglect shall constitute a separate offense.

Failure to appear, etc.

The circuit court of the county wherein such person resides, upon application of the commission or any member thereof or any such examiner, may issue an order compelling the attendance and testimony of witnesses and the production of books, papers and records before such commission or any member thereof or any such examiner.

SEC. 2394-17. After final hearing by said commission, it shall make and file (1) its findings upon all the facts involved in the controversy, and (2) its award, which shall state its determination as to the rights of the parties. Pending the hearing and determination of any controversy before it, the commission shall have power to order the payment of such, or any part, of the compensation, which is or may fall due, as to which the party from whom the same is claimed does not deny liability in good faith within ten days after the giving of notice of hearing provided for in the preceding section; and if the same shall not be paid as required by such order, the facts with respect to the liability therefor, and the determination of the commission as to the rights of the parties, shall be embraced in, and constitute a part of, its finding and award; and the commission shall have the power to include in its award, as a penalty for noncompliance with any such order, if it shall find that non-compliance was not in good faith, not exceeding twenty-five per cent of each amount which shall not have been paid as directed thereby.

Findings and award.

The commission may on its own motion, modify or change its order, findings or award at any time within ten days from the date thereof if it shall discover any mistake therein.

SEC. 2394-18. Either party may present a certified copy of the award to the circuit court for any county, whereupon said court shall, without notice, render a judgment in accordance therewith; which judgment, until and unless set aside as hereinafter provided, shall have the same effect as though duly rendered in an action duly tried and determined by said court, and shall, with like effect, be entered and docketed.

Judgment by court.

SEC. 2394-19. 1. The findings of fact made by the commission acting within its powers shall, in the absence of fraud, be conclusive; and the order or award, whether judgment has been rendered thereon or not, shall be subject to review only in the manner and upon the grounds following: Within twenty days from the date of the order or award, any party aggrieved thereby may commence, in the circuit court for Dane County, an action against the commission for the review of such order or award, in which action the adverse party shall also be made defendant. In such action a complaint, which shall state the grounds upon which a review is sought, shall be served with the summons. Service upon the secretary of the commission, or any member of the commission,

Findings conclusive.

Review.

shall be deemed completed service. The commission shall serve its answer within twenty days after the service of the complaint, and, within the like time, such adverse party shall, if he so desires, serve his answer to said complaint. With its answer, the commission shall make return to said court of all documents and papers on file in the matter, and of all testimony which may have been taken therein, and of its order, findings and award. Such return of the board when filed in the office of the clerk of the circuit court shall, with the papers mentioned in section 2398 of the statutes, constitute a judgment roll in such action; and it shall not be necessary to settle a bill of exceptions in order to make such return part of the record of such court in such action. Said action may thereupon be brought on for hearing before said court upon such record by either party on ten days' notice to the other; subject, however, to the provisions of law for a change of the place of trial or the calling in of another judge. Upon such hearing, the court may confirm or set aside such order or award; and any judgment which may theretofore have been rendered thereon; but the same shall be set aside only upon the following grounds:

- (1) That the commission acted without or in excess of its powers.
- (2) That the order or award was procured by fraud.
- (3) That the findings of fact by the commission do not support the order or award.

**Time for trial.**

2. Any action commenced in court under section 2394-19 to set aside or modify any order or award of the commission must be brought to trial within thirty days after issue shall be joined, unless continued on order of the court for good cause shown. No continuance shall be for longer than thirty days at one time, and further continuance may be had only upon order of the court for cause.

3. Upon the trial of any such action the court shall disregard any irregularity or error of the commission unless it be made to affirmatively appear that the plaintiff was damaged thereby.

4. The record in any case shall be transmitted to the commission within twenty days after the order or judgment of the court, unless appeal shall be taken from such order or judgment.

**If order set aside, what.**

Sec. 2394-20. Upon the setting aside of any order or award the court may recommit the controversy and remand the record in the case to the commission, for further hearing or proceedings; or it may enter the proper judgment upon the findings, as the nature of the case shall demand. An abstract of the judgment entered by the trial court upon the review of any order or award shall be made by the clerk thereof upon the docket entry of any judgment which may theretofore have been rendered upon such order or award, and transcripts of such abstract may thereupon be obtained for like entry upon the dockets of the courts of other counties.

**Who may appeal.**

Sec. 2394-21. Said commission, or any party aggrieved by a judgment entered upon the review of any order or award, may appeal therefrom within the time and in the manner provided for an appeal from the orders of the circuit court, except that it shall not be necessary for said commission or any party to said action to execute, serve or file the undertaking required by section 3052 of the statutes in order to perfect such appeal; but all such appeals shall be placed on the calendar of the supreme court and brought to a hearing in the same manner as State causes on such calendar.

**Fees.**

Sec. 2394-22. No fees shall be charged by the clerk of any court for the performance of any official service required by sections 2394-3 to 2394-31, inclusive, except for the docketing of judgments and for certified copies of transcripts thereof. In proceedings to review an order or award, costs as between the parties shall be allowed or not in the discretion of the court, but no costs shall be taxed against said commission. In any action for the review of an order or award, and upon any appeal therein to the supreme court, it shall be the duty of the attorney general, personally, or by an assistant, to appear on behalf of the commission, whether any other party defendant shall have appeared or be represented in the action or not. Unless previously authorized by the commission, no lien shall be allowed, nor any contract be enforceable, for any contingent attorney's fee for the enforcement or collection of any claim for compensation where such contingent fee, inclusive of all tax-

**Attorney for commission.**

able attorney's fees paid or agreed to be paid for the enforcement or collection of such claim, exceeds ten per cent of the amount at which such claim shall be compromised, or of the amount awarded, adjudged or collected.

SEC. 2394-23. No claim for compensation under sections 2394-3 to 2394-31, inclusive, shall be assignable before payment, but this provision shall not affect the survival thereof; nor shall any claim for compensation, or compensation awarded, adjudged or paid, be subject to be taken for the debts of the party entitled thereto. Claims not assignable.

SEC. 2394-24. 1. The whole claim for compensation for the injury or death of any employee or any award or judgment thereon, shall be entitled to a preference over the unsecured debts of the employer hereafter contracted, but this section shall not impair the lien of any judgment entered upon any award. Preference.

2. An employer liable under this act to pay compensation shall insure payment of such compensation in some company authorized to insure such liability in this State unless such employer shall be exempted from such insurance by the industrial commission. An employer desiring to be exempt from insuring his liability for compensation shall make application to the industrial commission showing his financial ability to pay such compensation, whereupon the commission by written order may make such exemption. The commission may from time to time require further statement of financial ability of such employer to pay compensation and may upon ten days' notice in writing, revoke its order granting such exemption, in which case such employer shall immediately insure his liability. Security of payments.

3. An employer who shall fail to comply with the provisions of subsection 2 of section 2394-24 shall be guilty of a misdemeanor and upon conviction thereof shall forfeit twenty-five dollars for each offense. Each day's failure shall be a separate offense. Upon complaint of the commission, such forfeitures may be collected by the State in an action in debt.

SEC. 2394-25. 1. The making of a lawful claim against an employer for compensation under section 2394-3 to 2394-31, inclusive, for the injury or death of his employee shall operate as an assignment of any cause of action in tort which the employee or his personal representative may have against any other party for such injury or death; and such employer may enforce in his own name the liability of such other party. Claims against third parties.

2. The making of a claim by an employee against a third party for damages by reason of an accident covered by sections 2394-3 to 2394-31, inclusive, shall operate as a waiver of any claim for compensation against the employer.

SEC. 2394-26. Nothing in sections 2394-3 to 2394-31, inclusive, shall affect the organization of any mutual or other insurance company, or any existing contract for insurance of employers' liability, nor the right of the employer to insure in mutual or other companies, in whole or in part, against such liability, or against the liability for the compensation provided for by sections 2394-3 to 2394-31, inclusive, or to provide by mutual or other insurance, or by arrangement with his employees, or otherwise, for the payment to such employees, their families, dependents or representatives, of sick, accident or death benefits in addition to the compensation provided for by sections 2394-3 to 2394-31, inclusive. But liability for compensation under sections 2394-3 to 2394-31, inclusive, shall not be reduced or affected by any insurance, contribution or other benefit whatsoever, due to or received by the person entitled to such compensation, and the person so entitled shall, irrespective of any insurance or other contract, have the right to recover the same directly from the employer; and in addition thereto, the right to enforce in his own name, in the manner provided in sections 2394-3 to 2394-31, inclusive, the liability of any insurance company which may, in whole or in part, have insured the liability for such compensation: *Provided, however,* That payment in whole or in part of such compensation by either the employer or the insurance company, shall, to the extent thereof, be a bar to recovery against the other of the amount so paid: *And provided further,* That as between the employer and the insurance company, payment by either directly to the employee, or Insurance.

Liability not to be reduced.



to the person entitled to compensation, shall be subject to the conditions of the insurance contract between them.

insurance gov-  
erned by act.

SEC. 2394-27. 1. Every contract for the insurance of the compensation herein provided for, or against liability therefor, shall be deemed to be made subject to the provisions of sections 2394-3 to 2394-31, inclusive, and provisions thereof inconsistent with section 2394-3 to 2394-31, inclusive, shall be void. No company shall enter into any such contract of insurance unless such company shall have been approved by the commissioner of insurance, as provided by law. For the purposes of sections 2394-3 to 2394-31, inclusive, each employee shall constitute a separate risk within the meaning of section 1898d of the statutes: *Provided*, That at least five employers shall join in the organization of a mutual company under subdivision (5) of section 1897 and no such company organized by employers shall be licensed or authorized to effect such insurance unless such company shall have in force or put in force simultaneously, insurance on at least one thousand five hundred separate risks.

Inspection of  
insurance com-  
panies.

2. The industrial commission, by itself or its employees, may examine from time to time the books and records of any liability insurance company insuring liability or compensation for an employer in this State. Any such company that shall refuse or fail to allow the industrial commission to examine its books and records or to file the report required by subsection 3 of section 2394-27, shall have its license to do business in the State revoked.

Companies to  
report.

3. Every company transacting the business of compensation insurance, in addition to all other reports required by law to be made, shall, on or before the first day of March in each year, on blanks furnished for such purpose, make and file with the industrial commission an annual statement of its business and accident experience covering the year ending on the preceding thirty-first day of December.

Rates and clas-  
sifications to be  
filed.

4. Every insurance company, including any interinsurer or other insurer authorized to do business within this State and insuring the liability of employers for compensation as herein provided, shall file with the industrial commission its classifications of risks and rates of premium relating thereto, and any changes in or additions to such classifications or rates of premium. No such company shall issue in this State any policy insuring against such liability for compensation except upon the classifications and rates of premiums so filed with the industrial commission. No such company shall discriminate between insured having risks in the same class and degree of hazard by the granting of any rebate or deduction in such rate of premium, or by any change of classification for the purpose of granting such deduction, or in any other manner. Any such company or agent violating any provision of this section shall be subject to the penalties provided by section 1955o. Upon the filing of any complaint with the commissioner of insurance alleging any violation of this section, proceedings shall be had thereon as provided for violations of section 1955o.

Employers'  
options.

SEC. 2394-28. Any employer against whom liability may exist for compensation under sections 2394-3 to 2394-31, inclusive, may, with the approval of the industrial commission, be relieved therefrom by—

(1) Depositing the present value of the total unpaid compensation for which such liability exists, assuming interest at three per cent per annum, with such trust company of this State as shall be designated by the employee (or by his dependents, in case of his death, and such liability exists in their favor), or in default of such designation by him (or them) after ten days' notice in writing from the employer, with such trust company of this State as shall be designated by the commission; or

(2) By the purchase of an annuity, within the limitations provided by law, in any insurance company granting annuities and licensed in this State, which may be designated by the employee, or his dependents, or the commission, as provided in subdivision (1) of section 2394-28.

Blanks, etc., to  
be furnished.

SEC. 2394-29. The commission shall cause to be printed and furnished free of charge to any employer or employee such blank forms as it shall deem requisite to facilitate or promote the efficient administration of sections 2394-3 to 2394-31, inclusive; it shall provide such

proper record books or records as it shall deem required for the proper and efficient administration of sections 2394-3 to 2394-31, inclusive; all such records to be kept in the office of the commission. The commission shall cause notice of employers subject to this act to be given to employees, in such manner as the commission shall deem most effective; and the commission shall likewise cause notice to be given of the filing of any withdrawal of such election; but notwithstanding the failure to give, or the insufficiency of, any such notice, knowledge of the fact shall conclusively be imputed to all employees.

SEC. 2394-31. The legislature intends the contingency in subdivision (3) of section 2394-1 to be a separable part thereof, and the subdivision likewise separable from the rest of sections 2394-1 to 2394-31, inclusive, and that part of said section 2394-1 that follows subdivision (3) likewise separable from the rest of sections 2394-1 to 2394-31, inclusive; so that any part of said subdivision, or the whole, or that part which follows said subdivision (3), may fail without affecting any other part of sections 2394-1 to 2394-31, inclusive. Sections separable.

SEC. 2. This act shall take effect and be in force from and after June 30, 1913. Act in effect.

Approved June 26, 1913.

### WYOMING.

#### ACTS OF 1913.

#### CHAPTER 79.—*Amendment to constitution—Compensation of workmen for injuries.*

SECTION 1. The following constitutional amendment shall be submitted to the qualified voters of the State of Wyoming at the next general election for their approval or rejection, and when ratified by a majority of the electors voting at said election the same shall be valid as a part of the constitution: Amendment to be submitted.

"As to all extra hazardous employments, the legislature shall provide by law for the accumulation and maintenance of a fund or funds out of which shall be paid compensation as may be fixed by law according to proper classifications to each person injured in such employment or to the dependent families of such as die as the result of such injuries, except in case of injuries due solely to the culpable negligence of the injured employee. Such fund or funds shall be accumulated, paid into the State treasury and maintained in such manner as may be provided by law. The right of each employee to compensation from such fund shall be in lieu of and shall take the place of any and all rights of action against any employer contributing as required by law to such fund in favor of any person or persons by reason of any such injuries or death." State insurance fund.

Approved February 26, 1913.

### UNITED STATES.

#### ACTS OF 1907-8.

#### CHAPTER 236.—*Compensation for injuries to certain employees of the United States.*

SECTION 1. When, on or after August first, nineteen hundred and eight, any person employed by the United States as an artisan or laborer in any of its manufacturing establishments, arsenals, or navy yards, or in the construction of river and harbor or fortification work or in hazardous employment on construction work in the reclamation of arid lands or the management and control of the same, or in hazardous employment under the Isthmian Canal Commission, is injured in the course of such employment, such employee shall be entitled to receive for one year thereafter, unless such employee, in the opinion of the Secretary of Commerce and Labor, be sooner able to resume work, the same pay as if he continued to be employed, such payment to be made under Who to receive compensation.

- Amount.  
Proviso. such regulations as the Secretary of Commerce and Labor may prescribe: *Provided*, That no compensation shall be paid under this act where the injury is due to the negligence or misconduct of the employee injured, nor unless said injury shall continue for more than fifteen days. All questions of negligence or misconduct shall be determined by the Secretary of Commerce and Labor.
- Injuries causing death. **SEC. 2.** If any artisan or laborer so employed shall die during the said year by reason of such injury received in the course of such employment, leaving a widow, or a child or children under sixteen years of age, or a dependent parent, such widow and child or children and dependent parent shall be entitled to receive, in such portions and under such regulations as the Secretary of Commerce and Labor may prescribe, the same amount, for the remainder of the said year, that said artisan or laborer would be entitled to receive as pay if such employee were alive and continued to be employed: *Provided*, That if the widow shall die at any time during the said year her portion of said amount shall be added to the amount to be paid to the remaining beneficiaries under the provisions of this section, if there be any.
- Reports of accidents. **SEC. 3.** Whenever an accident occurs to any employee embraced within the terms of the first section of this act, and which results in death or a probable incapacity for work, it shall be the duty of the official superior of such employee to at once report such accident and the injury resulting therefrom to the head of his bureau or independent office, and his report shall be immediately communicated through regular official channels to the Secretary of Commerce and Labor. Such report shall state, first, the time, cause, and nature of the accident and injury and the probable duration of the injury resulting therefrom; second, whether the accident arose out of or in the course of the injured person's employment; third, whether the accident was due to negligence or misconduct on the part of the employee injured; fourth, any other matters required by such rules and regulations as the Secretary of Commerce and Labor may prescribe. The head of each department or independent office shall have power, however, to charge a special official with the duty of making such reports.
- Claims to be filed. **SEC. 4.** In the case of any accident which shall result in death, the persons entitled to compensation under this act or their legal representatives shall, within ninety days after such death, file with the Secretary of Commerce and Labor an affidavit setting forth their relationship to the deceased and the ground of their claim for compensation under the provisions of this act. This shall be accompanied by the certificate of the attending physician setting forth the fact and cause of death, or the nonproduction of the certificate shall be satisfactorily accounted for. In the case of incapacity for work lasting more than fifteen days, the injured party desiring to take the benefit of this act shall, within a reasonable period after the expiration of such time, file with his official superior, to be forwarded through regular official channels to the Secretary of Commerce and Labor, an affidavit setting forth the grounds of his claim for compensation, to be accompanied by a certificate of the attending physician as to the cause and nature of the injury and probable duration of the incapacity, or the nonproduction of the certificate shall be satisfactorily accounted for. If the Secretary of Commerce and Labor shall find from the report and affidavit or other evidence produced by the claimant or his or her legal representatives, or from such additional investigation as the Secretary of Commerce and Labor may direct, that a claim for compensation is established under this act, the compensation to be paid shall be determined as provided under this act and approved for payment by the Secretary of Commerce and Labor.
- Medical examinations. **SEC. 5.** The employee shall, whenever and as often as required by the Secretary of Commerce and Labor, at least once in six months, submit to medical examination, to be provided and paid for under the direction of the secretary, and if such employee refuses to submit to or obstruct such examination his or her right to compensation shall be lost for the period covered by the continuance of such refusal or obstruction.
- Payments. **SEC. 6.** Payments under this act are only to be made to the beneficiaries or their legal representatives other than assignees, and shall not be subject to the claims of creditors.

SEC. 7. The United States shall not exempt itself from liability under this act by any contract, agreement, rule, or regulation, and any such contract, agreement, rule, or regulations shall be pro tanto void.

Waivers.

SEC. 8. All acts or parts of acts in conflict herewith or providing a different scale of compensation or otherwise regulating its payment are hereby repealed.

Repealer.

Approved May 30, 1908.

ACTS OF 1908-9.

CHAPTER 179.—*Compensation for injuries to employees of the Isthmian Canal Commission.*

SECTION 1. Nothing contained in the act approved May thirtieth, nineteen hundred and eight, entitled "An act granting to certain employees of the United States the right to receive from it compensation for injuries sustained in the course of their employment," shall prevent the Isthmian Canal Commission, under rules to be fixed by the commission, from granting to its injured employees, whether engaged in a hazardous employment or otherwise, leave of absence with pay for time necessarily lost as a result of injuries received in the course of employment, not exceeding in the aggregate thirty days per annum: *Provided, however,* That compensation paid to such injured employees under such regulations shall be deducted from any compensation which such employees may be entitled to receive under the terms of the act.

Commission may grant leave of absence.

Approved February 24, 1909.

ACTS OF 1910-11.

CHAPTER 285.—*Compensation for injured employees of the Isthmian Canal Commission.*

SECTION 5. Hereafter the act granting to certain employees of the United States the right to receive from it compensation for injuries sustained in the course of their employment shall apply to all employees under the Isthmian Canal Commission, when injured in the course of their employment; and claims for compensation on account of injury or death resulting from an accident occurring hereafter shall be settled by the chairman of the Isthmian Canal Commission, who shall, as to such claims and under such regulations as he may prescribe, perform all the duties now devolving upon the Secretary of Commerce and Labor: *Provided,* That when an injury results in death, claim for compensation on account thereof shall be filed within one year after such death.

Scope of law. Compensation.

Administration.

Filing claim.

\* \* \* \* \*

Approved March 4, 1911.

ACTS OF 1911-12.

CHAPTER 57.—*Compensation for injuries of employees of the United States—Bureau of Mines—Forestry Service.*

SECTION 1. The provisions of the act approved May thirtieth, nineteen hundred and eight, entitled "An act granting to certain employees of the United States the right to receive from it compensation for injuries sustained in the course of their employment," shall, in addition to the classes of persons therein designated, be held to apply to any artisan, laborer, or other employee engaged in any hazardous work under the Bureau of Mines or the Forestry Service of the United States: *Provided,* That this act shall not be held to embrace any case arising prior to its passage.

Act of 1908 extended.

Approved March 11, 1912.

CHAPTER 255.—*Compensation for injuries of employees of the United States—Lighthouse Service.*

## SEC. 2.

Act of 1908 extended.

\* \* \* \* \*

Hereafter the benefits of the act of May thirtieth, nineteen hundred and eight (Thirty-fifth Statutes, page five hundred and fifty-six), entitled "An act granting to certain employees of the United States the right to receive from it compensation for injuries sustained in the course of their employment," shall be extended to persons employed by the United States in any hazardous employment in the Lighthouse Service.

\* \* \*

Approved July 27, 1912.

## CANAL ZONE.

## ACTS OF U. S. CONGRESS, 1911-12.

CHAPTER 390.—*Compensation for injuries of employees on the Isthmian Canal and the Panama Railroad.*

## SECTION 5.

System to be provided.

\* \* \* \* \*

The President shall provide a method for the determination and adjustment of all claims arising out of personal injuries to employees thereafter occurring while directly engaged in actual work in connection with the construction, maintenance, operation, or sanitation of the canal or of the Panama Railroad, or of any auxiliary canals, locks, or other works necessary and convenient for the construction, maintenance, operation, or sanitation of the canal, whether such injuries result in death or not, and prescribe a schedule of compensation therefor, and may revise and modify such method and schedule at any time; and such claims, to the extent they shall be allowed on such adjustment, if allowed at all, shall be paid out of the moneys hereafter appropriated for that purpose or out of the funds of the Panama Railroad Company, if said company was responsible for said injury, as the case may require.

And after such method and schedule shall be provided by the President, the provisions of the act entitled "An act granting to certain employees of the United States the right to receive from it compensation for injuries sustained in the course of their employment," approved May thirtieth, nineteen hundred and eight, and of the act entitled "An act relating to injured employees on the Isthmian Canal," approved February twenty-fourth, nineteen hundred and nine, shall not apply to personal injuries thereafter received and claims for which are subject to determination and adjustment as provided in this section.

Acts superseded.

Approved August 24, 1912.

[In accordance with the foregoing act the following order was issued:]

## EXECUTIVE ORDER.

Basis of order.

By virtue of the authority vested in me by section 5 of the Panama Canal Act, approved August 24, 1912, directing the President to "provide a method for the determination and adjustment of all claims arising out of personal injuries to employees thereafter occurring while directly engaged in actual work in connection with the construction, maintenance, operation or sanitation of the canal, or of the Panama Railroad, or of any auxiliary canals, locks or other works necessary and convenient for the construction, maintenance, operation or sanitation of the canal, whether such injuries result in death or not, and prescribe a schedule of compensation therefor," I hereby establish the following order for the Canal Zone:

Who to receive compensation.

SECTION 1. The United States or the Panama Railroad Company shall pay compensation as hereinafter specified for personal injuries to their respective employees occurring after March 1st, 1913, while such employees are directly engaged in actual work in connection with the

construction, maintenance, operation or sanitation of the canal, or of the Panama Railroad, or of any auxiliary canals, locks or other works necessary and convenient for the construction, maintenance, operation or sanitation of the canal, whether such injuries result in death or not; but no compensation shall be paid if the injury is caused (1) by the employee's intention to bring about the injury or death of himself or of another, or (2) by his intoxication.

Exceptions.

SEC. 2. Except as provided in this order, the United States and the Panama Railroad Company shall not be liable for personal injury to or the death of an employee for which compensation is provided in section 1 hereof.

System exclusive.

SEC. 3. During the first five days of disability resulting from the injury the employee shall not be entitled to compensation, except as provided in section 9. No compensation shall at any time be paid for such period.

Waiting time.

SEC. 4. If the injury results in total disability, there shall be paid to the employee a monthly compensation equal to fifty per cent of his monthly pay. This compensation shall be paid during such disability, not exceeding a period of six years from the fifth day of disability of any kind resulting from the injury. After such period of six years there shall be paid to the employee during such disability a monthly compensation equal to not more than forty per cent and not less than twenty-five per cent of his monthly pay.

Compensation for total disability.

SEC. 5. If the injury results in partial disability, there shall be paid to the employee a monthly compensation equal to fifty per cent of the difference between his monthly pay and his wage-earning capacity per month after the beginning of such partial disability. This compensation shall be paid during such disability for a period not exceeding six years from the fifth day of disability of any kind resulting from the injury. After such period of six years, there shall be paid to the employee during such disability a monthly compensation equal to not more than forty per cent and not less than twenty-five per cent of the difference between his monthly pay and his wage-earning capacity per month after such period of six years.

Partial disability.

SEC. 6. After the beginning of partial disability the governor of the Panama Canal may, from time to time, require the injured employee to make an affidavit as to the wages per month which he is receiving. In the statement of the wages the value of rent, board, lodging and other advantages received from the employer, which can be estimated in money, shall be taken into account. If the employee at any time fails to make such affidavit, he shall not be entitled to any compensation while such failure continues, and the period of such failure shall be deducted from the period during which compensation is payable to the employee.

Earnings of beneficiaries.

SEC. 7. If the employee refuses to work after suitable work is furnished to or secured for him by the United States or the Panama Railroad Company he shall not be entitled to any compensation while such refusal continues, and the period of such refusal shall be deducted from the period during which compensation is payable to the employee.

Refusal to work.

SEC. 8. If at the time disability begins the employee has to his credit any unused sick leave, he may, at his option, subject to the approval of the governor of the Panama Canal, use such leave until exhausted. During such time no compensation shall accrue, and any period of sick leave allowed on account of such disability after the first five days of disability shall be deducted from the period of six years referred to in sections 4 and 5.

Sick leave.

SEC. 9. There shall be furnished to the injured employee reasonable medical, surgical and hospital services and supplies, unless the employee elects to furnish his own physician or to care for himself. If in the opinion of the governor of the Panama Canal a surgical operation is necessary, either to save the life of the injured employee or to render the disability less serious, and the employee refuses to submit to such operation, he shall not be entitled to any compensation thereafter, but in case of his death, compensation shall be paid as hereinafter provided.

Medical, etc., attendance.

Transportation  
of injured em-  
ployees.

SEC. 10. If in the opinion of the governor of the Panama Canal it is not desirable to continue the injured employee in the service, such employee, as soon as he is able to travel, shall, in the discretion of the governor of the Panama Canal, be furnished transportation to his home. If at the time of the injury the employee is on the Isthmus, the governor of the Panama Canal may, in his discretion, suspend, for such period as such employee remains on the Isthmus after free transportation has been offered to him as herein provided, the compensation payable to such employee.

Compensation  
for death.

SEC. 11. If the injury results in death within six years, there shall be paid to the following persons for the following periods a monthly compensation equal to the following percentages of the deceased employee's monthly pay:

**A To the widow or widower if there is no child:**

If wholly dependent for support upon the deceased employee at the time of the death, thirty-five per cent for a period of six years from the date of the death, unless before that time such widow or widower dies or marries; after such period of six years not less than twenty per cent nor more than thirty per cent until death or marriage; if partly dependent, the compensation shall be a proportionate amount of the above compensation.

**B To the widow or widower if there is a child:**

The compensation payable under Clause A, and in addition thereto ten per cent for each child, not to exceed a total of fifty per cent for self and children; after the expiration of six years from the date of the death the total for self and children shall not exceed twenty-five to forty per cent. Compensation payable on account of any child shall cease when he dies, marries, or reaches the age of eighteen, or if over the age of eighteen and incapable of self-support, becomes capable of self-support.

**C To the children if there is no widow or widower:**

Twenty-five per cent for one child and ten per cent additional for each additional child not to exceed a total of fifty per cent divided among such children share and share alike. After the expiration of six years from the date of the death of the deceased employee, the total shall not exceed twenty-five to forty per cent. The compensation of each child shall be paid until he dies, marries or reaches the age of eighteen years, or if over the age of eighteen and incapable of self-support, becomes capable of self-support.

**D To the parents, if there is no widow, widower or child:**

If one is wholly dependent for support upon the deceased employee at the time of his death and the other is not dependent to any extent, twenty-five per cent; if both are wholly dependent, twenty per cent to each; if one is or both are partly dependent a proportionate amount in the discretion of the governor of the Panama Canal. This compensation shall be paid for a period of eight years from the time of the death, unless before that time the parent dies, marries or ceases to be independent.

**E To the brothers, sisters, grandchildren and grandparents, if there is no widow, widower, child or dependent parent:**

If one is wholly dependent upon the deceased employee for support at the time of the death, twenty per cent; if more than one are wholly dependent, thirty per cent, divided among them share and share alike. If there is no one of them wholly dependent, but one or more are partly dependent, ten per cent divided among them share and share alike. The compensation of each beneficiary shall be paid for a period of eight years from the time of the death unless before that time he, if a grandparent dies, marries or ceases to be dependent, or, if a brother, sister or grandchild, dies, marries or reaches the age of eighteen years, or if over that age and incapable of self-support becomes capable of self-support.

- F As used in this section, the term "child" and "children" include stepchildren, adopted children, posthumous children and illegitimate children, but do not include married children. The terms "brother" and "sister" and their plurals include stepbrothers, and stepsisters, half brothers and half sisters, and brothers and sisters adopted by the parent of the deceased employee, but do not include married brothers and married sisters. The terms "grandchild" and "grandchildren" include children of adopted children, and children of stepchildren, but do not include stepchildren of children, stepchildren of stepchildren, stepchildren of adopted children or married grandchildren. All of the above terms include only persons under eighteen years of age or over that age and incapable of self-support. The terms "parent" and "parents" include stepparents and the parents by whom the deceased employee was adopted. The terms "grandparent" and "grandparents" include the parents of the parents by whom the deceased employee was adopted, but do not include parents of stepparents, stepparents of parents, or stepparents of stepparents. The term "widow" and "widower" include only the decedent's wife or husband actually dependent upon him or her for support at the time of the death.
- G The period during which compensation was payable to the deceased employee before his death shall be deducted from the period of six years referred to in Clauses A, B, and C, and from the period of eight years referred to in Clauses D and E.
- H Upon the cessation of compensation under this section to or on account of any person, the compensation of the remaining persons entitled to compensation for the unexpired part of the period during which their compensation is payable, shall be that which such persons would have received if they had been the only persons entitled to compensation at the time of the decedent's death.

SEC. 12. If the employee dies as a result of the injury away from his home, office or outside of the United States and compensation has not ceased, his body shall, if practicable, or if desired by his relatives, and if transportation has not been furnished the employee under section 10 before his death, be embalmed and transported in a hermetically sealed casket to the home of the employee if such home is within the United States. If death occurs on the Isthmus and the body is not transported away from the Isthmus, the body shall be interred on the Isthmus at the expense of the United States or of the Panama Railroad.

Transportation  
and burial.

SEC. 13. If the monthly pay of the employee is over two hundred dollars a month, the monthly pay shall be considered to be two hundred dollars. Subject to this maximum, the monthly pay shall be computed as follows:

Computation of  
pay.

- (A) If the employee is paid by the year divide his yearly pay at the time of the injury by twelve;
- (B) If the employee is paid by the month, take his monthly pay at the time of the injury;
- (C) If the employee is paid by the week, multiply his weekly pay at the time of the injury by fifty-two and divide the result by twelve;
- (D) If the employee is paid by the day, multiply his daily pay at the time of the injury by twenty-six;
- (E) If the employee is paid by the hour, multiply his hourly pay at the time of the injury by the number of hours constituting a day's work and multiply the result by twenty-six;
- (F) If the employee is paid by his output; find his hourly pay at the time of the injury by dividing the total amount earned by him in the employment in which and at the rate of pay at which he was employed at the time of the injury, during so much of the thirty days next preceding the injury, including the day of the injury, as he was so employed, by the number of hours so employed during such thirty days, then proceed as in (E);



(G) In making the computation provided in clauses (E) and (F) of this section, overtime shall not be taken into account;

(H) Subsistence shall be included as part of the pay.

Lump-sum  
payments.

SEC. 14. If the monthly payments to the beneficiary are less than five dollars per month, or if the beneficiary is not a citizen of the United States, or is or is about to become a nonresident of the United States, or if the governor of the Panama Canal determines that it is for the best interests of the beneficiary, the liability of the United States or of the Panama Railroad Company for compensation to such beneficiary shall be discharged by the payment of a lump sum equal to two-thirds of all future payments of compensation. The probability of the beneficiary's death before the expiration of the period during which he is entitled to compensation, shall be determined according to the American Table of Mortality. The probability of the happening of any other contingency affecting the amount or duration of the compensation shall be disregarded.

Until such time as the President, under the authority of section 4 of maintenance, protection and operation of the Panama Canal and the act of August 24, 1912, entitled "An Act to provide for the opening, maintenance, protection and operation of the Panama Canal, and the sanitation and government of the Canal Zone," shall discontinue the Isthmian Canal Commission, compensation shall be paid in a lump sum in all cases, unless the chairman of the Isthmian Canal Commission in any case determines that payment in instalments for any part or all of the period during which compensation is payable is for the best interests of the United States or of the Panama Railroad Company or of the beneficiary.

Payments  
made, to whom.

SEC. 15. Payment of the compensation shall be made to the beneficiary or to such representative as the governor of the Panama Canal may determine.

Earnings  
beneficiaries.

SEC. 16. In the determination of the employee's wage-earning capacity after the beginning of partial disability the value of rent, board, lodging and other advantages which are received from his employer and which can be estimated in money, shall be taken into account.

Notice.

SEC. 17. Immediately after the injury, the injured employee or some one on his behalf shall give to the immediate superior of such employee a written notice of the injury, and if the injury results in the death of the employee, one of the persons entitled to compensation or some person on his behalf, within 90 days thereafter, shall give to the immediate superior of such employee or to the governor of the Panama Canal a written notice of such death. The notice shall state the name of the employee, his class of service, the year, month, day and hour when and the particular locality where the injury or death occurred, the cause of the injury or death, the nature of the injury, the nature and extent of the disability resulting therefrom, and the address of the employee and of the person giving the notice. The notice may be given personally or sent by mail. The governor of the Panama Canal may, in his discretion, waive the giving of a notice.

Reports of in-  
jury.

SEC. 18. Immediately after an injury to an employee resulting in his death or in his probable disability, the immediate superior of the employee shall at once make a report to the governor of the Panama Canal, containing such information as the governor of the Panama Canal may, by regulation, require.

Claims.

SEC. 19. No compensation under this order shall be allowed to any person unless he, or some one on his behalf, shall make a written claim therefor upon the governor of the Panama Canal within the time specified in section 21. The claim may be served personally upon or sent by mail to the governor of the Panama Canal or to such person as he may, by regulation, require.

Claims to state,  
what.

SEC. 20. The claim shall be signed by the person making the claim and shall state the name of the employee, his age, sex, nationality and class of service, the year, month, day and hour when and the particular locality where the injury or death occurred, the cause of the injury or death, the nature of the injury, the nature and extent of the disability resulting therefrom; the monthly pay of the employee at the time of the injury, the relationship of the person entitled to compensation to

the employee, the names and addresses of all persons entitled to compensation on account of such injury or death, the amount and duration of the compensation claimed, and the address of the person making the claim. The claim shall be sworn to by the person entitled to compensation or by the person acting on his behalf, and, except in case of death, or as otherwise provided in regulations prescribed by the governor of the Panama Canal, shall be accompanied by a certificate of the employee's physician, if any, stating the nature of the injury, and the nature and extent of the disability. The claim shall, wherever possible, be made on forms furnished by the governor of the Panama Canal, and in addition to the statements above required, shall contain such other information as the governor of the Panama Canal may require.

The governor of the Panama Canal may waive the making of and swearing to claims and the inclusion therein of any of the above requirements in such cases as he may deem proper.

SEC. 21. Claims for compensation shall be made within sixty days after the injury, or, in case of death, within one year after the death. For any reasonable cause shown, the governor of the Panama Canal may allow claim for injury to be filed within one year after the injury.

SEC. 22. The governor of the Panama Canal may, after receipt of the claim, demand a further claim specifying in the demand in what particular the claim is defective. Failure to make such demand shall constitute a waiver by the United States or by the Panama Railroad Company, as the case may be, of all defects which the claim may contain. After receipt of such demand, the person making the claim may, at any time within 60 days, make an amended claim which shall supersede the first claim and have the same effect as an original claim.

SEC. 23. After the injury and during disability the employee shall as frequently and at such times and places as may be reasonably required submit himself to examination by a medical officer of the United States or by a duly qualified physician designated by the governor of the Panama Canal and paid by the United States or by the Panama Railroad Company, as the case may be. The employee may have a duly qualified physician designated and paid by him present to participate in such examination. For all examinations after the first, the employee shall, in the discretion of the governor of the Panama Canal, be paid his reasonable traveling and other expenses and loss of wages incurred in order to submit to such examination. If the employee refuses to submit himself for or in any way obstructs any examination, his right to claim compensation under this order shall be suspended until such refusal or obstruction ceases. No compensation shall be payable while such refusal or obstruction continues and such period shall be deducted from the period for which compensation would otherwise be payable.

SEC. 24. In case of any disagreement between the physician making an examination on the part of the United States or the Panama Railroad Company and the employee's physician, the governor of the Panama Canal shall appoint a third physician, duly qualified. The decision of the majority shall be final. A reasonable fee shall be allowed and paid by the United States or by the Panama Railroad Company, as the case may be, to such third physician if he is not a medical officer of the United States.

SEC. 25. If an injury or death for which compensation is payable under this order is caused under circumstances creating a legal liability in some person other than the United States or the Panama Railroad Company to pay damages therefor, no compensation shall be payable to any beneficiary for such injury or death until he assigns to the United States or to the Panama Railroad Company, as the case may be, any right of action which he may have to enforce such liability of such other person, or any right which he may have to share in any money (or other property) received in satisfaction of such liability of such other person. The United States or the Panama Railroad Company, as the case may be, if it prosecutes such right to judgment or settlement shall after deducting the amount of any compensation already paid to the beneficiary and the costs of such prosecution, pay over to the beneficiary any surplus remaining. Such surplus so paid over shall be credited on future installments of compensation as they become due. The

Time for claim.

Amendment.

Medical examinations.

Referee physician.

Liability of third persons.

Assignment of right.

- governor of the Panama Canal may waive the requirement of such assignment or may waive it for such period as he may deem proper.
- Liability of Panama R. R. Co.** Sec. 26. If an injury or death for which compensation is payable under this order is caused under circumstances creating a legal liability in the Panama Railroad Company to pay damages therefor under the laws of any State, Territory or possession of the United States or of the District of Columbia or of any foreign country, no compensation shall be payable to any beneficiary for such injury or death until he releases to the Panama Railroad Company, any right of action which he may have to enforce such liability of the Panama Railroad or until he assigns to the United States or to the Panama Railroad Company, as the case may be, any right which he may have to share in any money (or other property) received in satisfaction of such liability of the Panama Railroad Company. The governor of the Panama Canal may waive the requirement of such assignment or release for such period as he may deem proper.
- Assignment of right.**
- Claims exempt.** Sec. 27. No claims for compensation under this order shall be assignable, and all compensation and claims therefore [therefor] shall be exempt from all claims of creditors. This section is hereby constituted a part of the Laws of the Canal Zone.
- Attorneys' fees.** Sec. 28. No claim for legal services in connection with any claim arising under this order shall be enforceable unless approved by the governor of the Panama Canal. This section is hereby constituted a part of the Laws of the Canal Zone.
- Revision of compensation.** Sec. 29. The governor of the Panama Canal may at any time review, and, in accordance with the facts found in such review, end, diminish, or increase any compensation previously fixed or determined.
- Recovery of wrong payments.** Sec. 30. If any compensation is paid under mistake of law or of fact the governor of the Panama Canal shall immediately cancel any order under which such compensation has been paid, and shall recover, as far as practicable, any amount which has been so paid.
- Powers of governor.** Sec. 31. The governor of the Panama Canal shall make all necessary rules and regulations for the proper, effective, and economical enforcement of this order, and shall decide all questions arising under this order or in regard to the interpretation thereof. His determination of any fact necessary to or underlying any claim hereunder, shall be final and conclusive upon all parties and claimants or beneficiaries.
- Powers of chairman of commission.** Sec. 32. Until such time as the President, under the authority of section 4 of the act of August 24, 1912, entitled "An act to provide for the opening, maintenance, protection and operation of the Panama Canal, and the sanitation and government of the Canal Zone" shall discontinue the Isthmian Canal Commission, and until the governor of the Panama Canal is appointed and has qualified, all the rights, powers and duties vested in the governor of the Panama Canal by this order shall be exercised by the chairman of the Isthmian Canal Commission.
- False claims.** Sec. 33. Whoever shall make in any affidavit required under section 6 or in any claim required by section 19, any statement, knowing it to be false, shall be deemed guilty of perjury and shall be punished by a fine of not more than \$5,000, or by imprisonment for not more than 2 years, or by both such fine and imprisonment. This section is hereby constituted a part of the Laws of the Canal Zone.
- Definition.** Sec. 34. Wherever used in this order the singular includes the plural and the masculine gender includes the feminine and neuter.
- Mutual releases.** Sec. 35. If the payment of compensation under this order on account of an injury or death is to be made from the funds of the United States, the Panama Railroad Company shall be released and discharged from all liability on account of such injury or death, and if it is to be made from the funds of the Panama Railroad Company the United States shall be released and discharged from all liability on account of such injury or death. This section is hereby constituted a part of the Laws of the Canal Zone.
- Repealer.** Sec. 36. All laws of the Canal Zone inconsistent with any of the provisions of this order are hereby repealed. This section is hereby constituted a part of the Laws of the Canal Zone.
- Act in effect.** Sec. 37. This order shall take effect March 1, 1913.  
February 26, 1913.  
[Operation of order suspended by order of March 24, 1913.]

SIXTY-THIRD CONGRESS.

SENATE BILL 959.—*Compensation for employees of railroads engaged in interstate commerce.*

(April 15, 1913.)

SECTION 1. Every common carrier, including express companies, engaged in interstate or foreign commerce by railroad, including commerce between the District of Columbia and a State (hereinafter designated employer), shall pay compensation in the amounts hereinafter specified to any employee who, while employed in such commerce by such employer, sustains personal injury by accident arising out of and in the course of his employment and resulting in his disability, or to the dependents, as hereinafter defined, of such employee in case such injury results in his death.

Compensation payable, to whom.

SEC. 2. Every common carrier, including express companies, by railroad in the District of Columbia (hereinafter designated employer) shall pay compensation in the amounts hereinafter specified to any employee who sustains personal injury by accident arising out of and in the course of his employment and resulting in his disability, or to the dependents, as hereinafter defined, of such employee in case such injury results in his death.

Law applies to District of Columbia.

SEC. 3. Except as provided herein no such employer shall be civilly liable for any personal injury to or death of any such employee resulting from any such accident.

Remedy exclusive.

SEC. 4. The first fourteen calendar days of disability resulting from any injury shall be excluded from the period of time for which compensation is hereinafter specified, but this shall not be construed to reduce the length of time over which payments shall extend wherever specific periods are herein fixed: *Provided, however,* That during said fourteen days the employer shall furnish all medical and surgical aid and assistance that may be reasonably required, including hospital services.

Waiting time.

Medical, etc., services.

SEC. 5. After the expiration of the fourteen days mentioned in the foregoing section the employer shall continue to furnish such medical and surgical aid and assistance as may be reasonably required, including hospital services, in an amount not exceeding \$200, unless such employee elects to furnish his own physician or surgeon or care for himself. The compensation hereinafter provided shall be in addition to all such surgical, medical, and hospital services as set forth in this and the preceding section.

Amount of services.

SEC. 6. No compensation or benefits shall be allowed for the injury or death of any employee where it is proved that his injury or death was occasioned by his willful intention to bring about the injury or death of himself or of another, or that the same resulted from his intoxication while on duty: *Provided,* That this clause as to intoxication shall not apply if the employer knew or in the exercise of ordinary care might have known that the employee was intoxicated or that he was in the habit of becoming intoxicated.

Compensation not allowed, when.

SEC. 7. It shall be the duty of the injured employee, immediately upon the happening of the accident, or as soon thereafter as practicable, and not later than ninety days thereafter, and likewise in case of his death by such accident the duty of one or more of the dependents of an employee, within ninety days thereafter, to give or cause to be given to the employer written notice of the accident causing such injury or death, stating in ordinary language the time and place thereof, the name of the injured or dead employee, his class of service, and the address of the injured employee or person giving the notice: *Provided,* That where it is made to appear that the party herein required to give such written notice has been prevented from giving it through or by reason of mental or physical incapacity, ignorance of law or of fact, or the fraud or deceit of some other person, or from other good cause, the same may be given after the expiration of said ninety days, but not later than six months from the date of the accident or death.

Notice.

In the absence of such written notice the employer shall not be liable to pay any compensation under this act unless, in cases where the injury has resulted in the absence from work of the employee for at least two days, and in case of death, it is made to appear that within such period of ninety days such employer had actual knowledge of the injury or death: *Provided,* That in case of death resulting within forty-eight hours from the time of the accident notice thereof shall not be required.

No defect or inaccuracy in the written notice herein required shall be deemed material unless the employer shall show that he was prejudiced thereby, and then only to the extent of such prejudice; and such written notice may be substantially in the following form:

"FORM OF NOTICE OF ACCIDENT AND CLAIM.

"To be filled out by an injured employee or by a dependent of a deceased employee or by a person acting for either.

"To \_\_\_\_\_:

"You are hereby notified that \_\_\_\_\_, your employee, met  
(Name of deceased or injured employee.)  
with an accident on or about the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at or  
near \_\_\_\_\_, in the State of \_\_\_\_\_, and that the accident occurred in  
the course of his employment by you as \_\_\_\_\_, and resulted in his \_\_\_\_\_  
(Class of service.) (Disability or death.)  
on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and claim for compensation is  
hereby made under the provisions of the Federal accident compensa-  
tion act of nineteen hundred and fourteen.

"Name \_\_\_\_\_,  
(Person giving notice.)

"Address \_\_\_\_\_."

Variations.

But no variation from this form shall be material if the notice is sufficient to advise the employer that a certain employee by name met with an accident in the course of his employment (stating the nature of such employment) on or about a specified time at or near a certain place which resulted in his disability or death. The notice may be served personally upon the employer, or upon any agent of the employer upon whom a summons may be served in a civil action under the laws of the State or the District of Columbia where the accident occurred, or upon any station agent, or by sending it by registered mail to the employer, addressed to the principal office or to any division superintendent of such employer.

Service.

Agreements.

SEC. 8. It shall be lawful at any time after the expiration of fourteen days from the date of an injury, unless an award or findings shall have previously been made, for the employer and employee to settle by agreement according to the limitations of amount and time in this act established, the compensation due under this act, which agreement shall be in writing signed and acknowledged by the parties, and shall specify the compensation, if any, due and unpaid by the employer to the employee up to the date of the agreement, and, if agreed upon, the amount of the monthly payments thereafter to be made by the employer to the employee, and the time such monthly payments shall continue. In case of death it shall be lawful for the employer and any of the dependents of the deceased employee to settle by agreement in like manner and with the same effect the compensation payable to such dependent under this act. The periods of compensation provided for permanent total disabilities or for the permanent partial disabilities specifically mentioned in subdivision one, clause (D) of section twenty-one, or for death, and the provisions of this act with respect to periodic payments and the percentage which such payments shall bear to the monthly wages shall not be varied by such agreement. Such agreement may be substantially as follows:

"In the matter of the claim of \_\_\_\_\_ for personal injury received by \_\_\_\_\_, in the service of \_\_\_\_\_

\_\_\_\_\_ and \_\_\_\_\_, an employee of said \_\_\_\_\_, injured in \_\_\_\_\_ service (or in case of death, \_\_\_\_\_, dependent of \_\_\_\_\_, deceased, an employee injured in the service of said \_\_\_\_\_,) hereby agree to the following adjustment under the Federal accident compensation act of nineteen hundred and fourteen of the liability for injuries (or death resulting from injuries) to \_\_\_\_\_, received in the course of and arising out of his employment by said \_\_\_\_\_ (or receiver, as the case may be), in interstate (or foreign) commerce (or in the District of Columbia), at \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ (here state the facts generally as to the work in which employee was engaged when injured), the said adjustment being as follows: (Here state the terms of the adjustment, referring to the appropriate sections and subsections of the act.)

"(Signed)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

"Employee (or dependent of employee)."

Said agreement shall be executed in triplicate, one of which may be retained by the employer, one by the employee or his dependents, and the other shall be filed with the adjuster, as provided in section twelve. Any modification or alteration of said agreement, if made by the parties, shall be in writing and executed and filed in the same manner and with like effect. If the employer shall fail for a period of ten days, after written demand, to make any payment provided for in said agreement, the employee or dependent at his election may maintain an action in any State or Federal court of competent jurisdiction to enforce such agreement, or may treat such agreement as rescinded and proceed to enforce the claim for compensation under the provisions of this act. Save as provided in this section no agreement purporting to settle compensation due under this act shall be valid.

Agreements to be filed.

SEC. 9. It shall be competent for any employer subject to the provisions of this act and his employees to organize and constitute, in such manner as they may determine, a committee or committees for the purpose of settling disputes and awarding compensation under and in accordance with the limitations as to amount and time prescribed in this act; and it shall thereupon be the duty of the employer to file a written notice with the adjuster or adjusters having jurisdiction within the territory for which said committee is constituted, giving the names and post-office addresses of the members of the committee or committees. If the compensation due under this act be not settled by the agreement of the parties, and any such committee exists, the differences between the employer and employee arising under this act shall, upon the request in writing of either party and the written consent of the other filed with the committee, be settled by such committee in accordance with the provisions of this act, and after the filing of such consent the provisions of this act with reference to instituting original proceedings before the adjuster shall not apply. Such committee shall not be bound by technical rules and shall give the parties and their witnesses ample opportunity to be heard. The award made by such committee shall be final, except as provided in section eleven, and shall be filed by the committee with the adjuster having jurisdiction within thirty days after the same is made, and the provisions of section twelve, so far as applicable, shall apply thereto. The adjuster shall file such award with the clerk of the court having jurisdiction in the same manner and with the same effect as findings made by the adjuster, and said award, except that it shall be final, shall be treated in all respects as such findings. If the committee shall fail to make an award within ninety days after the filing of such consent, the same shall, by the said committee at the request of either party in writing, be immediately referred to the adjuster having jurisdiction thereof, who shall proceed to hear and determine the same as if the claim for compensation were originally before him upon petition and answer.

Committees.

Awards.

SEC. 10. Before any agreement or award has been made or after the making of any such agreement or award, and at any time before the expiration of two years from the date of the accident, it shall be the duty of the injured employee, if so requested by the employer, to submit himself one or more times, at reasonable times and places, for examination by a duly qualified physician or physicians furnished and paid by the employer. It shall also be the duty of such employee in like manner to submit himself to one or more such examinations whenever his original claim for compensation or the matter of the review of compensation is pending before an adjuster or the court. The employee shall have the right to have a duly qualified physician or physicians, provided and paid for by himself, present at any such examination. If the employee refuses to submit himself to any such examination, or in any way obstructs the same, his right to payments or compensation and his right to take or prosecute any proceeding under this act shall be suspended until he shall have submitted himself for such examination, and no compensation shall at any time be payable in respect to the period of such suspension. Upon request a copy of the report of the employer's physician or physicians of such examination shall be furnished to the employee, and a copy of the report of the employee's physician or physicians, if any, shall be furnished to the employer, within six days after any such examination.

Medical examinations.

The United States court, upon application of the employer, may in any case of death, for good cause, order an autopsy at the expense of the employer.

**Revision of agreements.** SEC. 11. An agreement for compensation may be modified at any time within two years after the accident by a subsequent agreement. At any time before the expiration of two years from the date of the accident, but not afterwards, and before the expiration of the period for which payment of compensation has been fixed thereby, but not afterwards, any agreement, award, findings, or judgment may be from time to time reviewed by the adjuster upon the application of either party after due notice to the other party upon the ground that the incapacity of the injured employee has subsequently ended, increased, or diminished. Upon such review the adjuster may increase, diminish, or discontinue the compensation from the date of the application for review, in accordance with the facts, or make such other order as the justice of the case may require, but such order shall have no retroactive effect. The findings of the adjuster upon such review shall be served on the parties and filed with the clerk of the court having jurisdiction in like time and manner and subject to like disposition as in the case of original findings.

**Filing.** SEC. 12. It shall be the duty of the employer to file, or cause to be filed, every agreement for compensation, or modification thereof, to which he is a party, in the office of the adjuster having jurisdiction, as hereinafter provided, within sixty days after it is made; otherwise it shall be voidable by the employee or dependent. The same shall be received and filed by said adjuster and recorded and indexed. A copy thereof, certified by the adjuster, may be admitted in evidence with like effect as the original; and it shall be the duty of the adjuster to furnish a certified copy at the request of any person in interest: *Provided*, That the employee or dependent who is a party to said agreement may file the same with the same effect as though filed by the employer: *And provided further*, That where there are two or more adjusters having concurrent territorial jurisdiction such agreement shall be filed with the adjuster senior in date of appointment.

**Adjusters.** SEC. 13. (1) The United States district court in each judicial district shall, within thirty days after this act takes effect, and thereafter whenever necessary to fill a vacancy, appoint a competent person to be known as adjuster of accident compensation, and may, from time to time, whenever the business in any such district in the judgment of the Attorney General of the United States justifies it, appoint additional adjusters. Each of such adjusters shall receive a salary of not less than \$1,800 nor more than \$3,000 per annum, to be paid by the United States in equal monthly installments in like manner as salaries of district judges are paid. It shall be the duty of the Attorney General of the United States, as soon as practicable, to make inquiry and fix and establish the salary to be paid to each adjuster within the limits aforesaid, the determination by him of the amount to be based upon the extent of the business done or to be done by said adjuster under this act. Each adjuster shall have jurisdiction of all cases arising under this act within the judicial district for which he is appointed: *Provided, however*, That where more than one adjuster is appointed for a judicial district, the court making the appointment may, in its discretion, determine the manner in which the authority of the respective adjusters shall be exercised under this act within the same district or limit the jurisdiction of any adjuster appointed by it to one or more counties or other territorial subdivision within the district, in which case the jurisdiction of such adjuster shall extend to such county or counties, or territorial subdivision only, except as hereinafter provided: *And provided further*, That every appointment of an adjuster shall be certified by the district court making it to the circuit court of appeals having jurisdiction of the district, and said circuit court of appeals may, within thirty days after the receipt of the same, for good cause, disapprove such appointment, in which case it shall become of no effect, and such district court shall make another appointment, but the acts of such adjuster in the meantime shall be valid.

**Who eligible.** (2) No person shall be appointed as adjuster who, at the time of his appointment, holds any office of profit or emolument under the laws of

the United States or of any State other than the office of commissioner of deeds, justice of the peace, or notary public, or who has been in the employment of any railroad as claim agent or attorney within a period of twelve months prior to his appointment, or who is related by marriage or by consanguinity or affinity, within the third degree as determined by the common law, to any judge of the district court of the United States, or judge or justice of an appellate court, having jurisdiction of the district wherein he may be appointed. The adjuster shall be a resident of the territorial district for which he is appointed. He shall hold his office for a term of four years, but may be removed at any time by the court or by the President, on the recommendation of the Attorney General of the United States, if his services are no longer required in the public interest, or for good cause shown. Each adjuster before entering upon the duties of his office shall take an oath of office for the faithful and impartial performance of his duties. In case any adjuster shall be removed, or for any reason shall cease to act, he shall transfer all his official records, files, and papers to his successor in office, or, if none, then to the clerk of the district court having jurisdiction, and the court shall have power to enforce this provision by order: *Provided, however,* That nothing herein shall operate to render any adjuster ineligible to act in a like capacity under the law of any State.

(3) It shall be the duty of the said adjuster to keep a record of his proceedings, and he shall have the power to preserve and enforce order in his presence while transacting business; to subpoena witnesses; to administer oaths in any proceeding and in all other cases where it may be necessary in the exercise of his powers and duties; to formulate, issue, amend, and control his processes and orders consistent with law as may be necessary to carry into effect the powers and jurisdiction possessed by him; to examine persons as witnesses, take evidence, require the production of documents, and to do all other things conformable to law which may be necessary to enable him effectively to discharge the duties of his office.

Duties.

(4) If any person shall, in proceedings before an adjuster, disobey or resist any lawful order or process, or misbehave during a hearing or so near the place thereof as to obstruct the same, neglect to produce after having been ordered to do so any pertinent document, or refuse to appear after having been subpoenaed, or, upon appearing, refuse to take the oath as a witness, or after having taken the oath refuse to be examined according to law, the adjuster shall certify the facts to the district court having jurisdiction, which shall thereupon in a summary manner hear the evidence as to the acts complained of, and if the evidence so warrant, punish such person in the same manner and to the same extent as for a contempt committed before the court, or commit such person upon the same conditions as if the doing of the forbidden act had occurred with reference to the process of or in the presence of the court: *Provided,* That no person shall be required to attend as a witness before an adjuster at a place outside of the State of his residence and more than one hundred miles from such place of residence, or unless his lawful mileage and fee for one day's attendance shall be first paid or tendered to him: *Provided,* That either party may take the testimony to be used before the adjuster, of a witness, either by deposition or interrogatories, according to the rules of practice of force in the United States district in which the case is pending.

Contempt.

(5) It shall be the duty of said adjuster to maintain and keep open during reasonable business hours an office at the place of his residence for the transaction of business under this act, at which office he shall keep his records and papers. He shall, however, hear cases at such other place or places within the limits of his territorial jurisdiction as will be most convenient for the parties and witnesses, including the place where the accident occurred and the residence of the injured or deceased employee. He shall be allowed all necessary traveling expenses in going to and from his place of residence for the purpose of conducting such hearings, and his necessary and reasonable expense of subsistence actually incurred while so absent not exceeding \$5 per day. Accounts for all such expenses shall be approved by the district court and transmitted to the Attorney General of the United States and paid as allowed by him. Said accounts shall be rendered quarter

Place of business.



- yearly, beginning with the first day of October next after this law goes into effect. The Attorney General, upon requisition, shall, at the expense of the United States, furnish each adjuster with necessary records, books, blanks, and stationery supplies.
- Not to act, when. (6) No adjuster shall act in any case in which he is interested, or when he is employed by either party or related to either party by marriage or by consanguinity or affinity within the third degree, as determined by the common law. Whenever it shall be made to appear, by the application of either party, to the satisfaction of the district court having jurisdiction, that the adjuster before whom any case is pending is disqualified, or that he entertains bias or prejudice, so that a fair and impartial hearing of the case can not be had before him, it shall be the duty of the court to order the case transferred for hearing and disposition to another adjuster within the judicial district, or if none, to another adjuster within the State, or if none, then to appoint a competent person to act in the case as adjuster pro tempore. Such adjuster pro tempore shall possess all the powers conferred upon the adjuster by this act, and shall proceed in the same manner and with the same effect. His compensation shall be fixed by the court appointing him, and such compensation shall be paid by the United States on the approval of the judge and the allowance of the Attorney General. The parties may agree to transfer any case to another adjuster in the same State, and in case of such agreement or order all papers and a certified copy of any record in the case shall without cost be forthwith transmitted by the adjuster before whom the case is pending to the adjuster agreed upon or designated, who shall, upon receipt of such papers and copy of record, proceed as though the case had been originally brought before him.
- Adjusters pro tempore. (7) Neither an adjuster nor the partner of an adjuster shall appear as attorney for either party in any proceedings under this act.
- Not to act as attorney. Examining physician. (8) The adjuster may, in any case upon application of either party or of his own motion, appoint a disinterested and duly qualified physician to make any necessary medical examination of the employee and testify in respect thereto. Said physician shall be allowed a reasonable fee, to be fixed by the adjuster, not exceeding for each examination \$10, which shall be included by the adjuster in his account and paid as provided in paragraph five of section thirteen: *Provided, however,* That the adjuster shall in every case receive the testimony of any physician called by either the employer or the employee.
- Fees and mileage. (9) Witness fees and mileage shall be computed at the rate allowed for witnesses in the United States district courts, and fees and mileage for serving the petition or other papers shall be computed at the rate allowed for service of summons from said court in civil suits by the United States marshal. Costs legally incurred may be taxed against either party, or apportioned between the parties, in the sound discretion of the adjuster or of the court, as the case may be, and as the justice of the case may require.
- District of Columbia. (10) The adjuster or adjusters for the District of Columbia shall be appointed by the Supreme Court of the District, and such adjuster or adjusters shall hold the same tenure of office as prescribed for adjusters appointed by the United States district courts, subject to removal by the Supreme Court of the District of Columbia, or by the President on the recommendation of the Attorney General of the United States, for like cause, and shall have the same power and jurisdiction under this act within the limits of the District of Columbia, and shall be governed by all the provisions of this act, so far as the same may be applicable, in the same manner as adjusters appointed by the United States district courts. The findings of the adjuster or adjusters shall be transmitted to the said supreme court, and shall be disposed of by said court in the same manner and under the same rules as are prescribed herein for the disposal of such matters by the United States district courts. The said supreme court and the justices thereof shall have and exercise the same power in all cases arising under this act within the District of Columbia as are conferred by this act upon the United States district courts.
- Reference adjuster. to SEC. 14. (1) In default of agreement between the parties interested, or submission to a committee as hereinbefore provided, the employer, employee, or any dependent may, after giving notice of the accident when the same is required, or without giving notice where such notice

is not required, and within one year from the date of the injury or death, institute proceedings for the settlement and adjustment of the claim before an adjuster having jurisdiction within the territory where the accident occurred. Such proceedings may be instituted by petition, setting forth in ordinary language the facts constituting the claim and asking that compensation be fixed and awarded in accordance with the provisions of this act. Unless service is accepted by the party defendant a copy of such petition shall be served upon him and return of such service made in the manner provided by law.

(2) Within ten days after such service the party defendant may answer the petition, and in such answer shall include such questions of law and fact as it may be desired to put in issue. As soon as practicable after the answer has been received, the adjuster shall proceed to hear the case and decide the same, his decision both upon questions of fact and law being reviewable in the district court as herein provided. If no answer has been filed within ten days after the service of the petition, or such other time as may be fixed by the adjuster, the said adjuster shall enter a default and proceed to hear the evidence and determine the case with the same effect as though answer had been made. If no proceedings shall be instituted for the settlement and adjustment of a claim arising under this act within one year, as above provided, the same shall be forever barred, unless the adjuster shall find that the failure to institute proceedings within such time was chargeable to the employer or to circumstances clearly beyond the control of the employee or dependent. But under no circumstances shall any claim for compensation be maintainable after the lapse of two years from the date of injury or death, except in cases in this act otherwise provided for: *Provided*, That in any case where the period during which payments are to be made is not made final by agreement, award, findings, or final judgment, such claim shall be maintainable within three months from the date when the last payment was due according to the terms of such agreement, award, findings, or judgment, or, when no such time has been fixed, or where payments are discontinued by the employer as set forth in section eight, from the date of the last actual payment: *Provided*, That where an employee institutes suit for an injury claiming that same did not take place while he was employed in interstate or foreign commerce and fails to recover in such suit, on the ground that he was employed in such commerce, the limitation of the time for his right to proceed under this act shall begin with the termination of such suit, and not with the time when the injury to him occurred.

(3) The adjuster shall allow either party to be represented by counsel, or an agent, who need not be a member of the bar, and after hearing any evidence that may be presented and considering any arguments that may be made he shall promptly make and render his findings in writing, a copy of which shall be served on each of the parties, and shall return such findings, together with the petition and answer, if any, into the clerk's office of the United States district court for the district in which he was appointed, or the clerk's office of the Supreme Court of the District of Columbia, as the case may be. The clerk of the court shall forthwith file the same and make an entry thereof on his docket without charge. At any time within twenty days after receiving a copy of the findings either party may file exceptions with the clerk of the court and serve a copy thereof on the adverse party, stating generally that the findings of the adjuster are excepted to on the ground that they are contrary to the law and evidence, whereupon the case shall be tried and determined in said court, all questions of law and fact being open for consideration de novo. And said court may regulate by rule the practice in such cases in all respects not provided for by statute. The party filing exceptions shall at the same time pay to the clerk of the court the sum of \$5, which shall be in lieu of all other clerk's fees and charges, and no other or additional charge for any service rendered by said clerk in said cause except as herein otherwise provided shall be made. Any such amount shall be taxed by the court as costs against the losing party. If no exceptions shall be filed by either party as above provided, the said findings shall become final and have the effect of and, subject to payment of fees as in other cases, be enforced as a judgment of the court, and the clerk shall,

Proceedings.

Representation.

Findings to be rendered.

Exceptions.

Enforcement.

without charge, record said findings and index the same as in the case of other judgments: *Provided*, That if the employer shall file exceptions to the findings of the adjuster, and shall not on the trial de novo in the district court reduce the amount awarded by the adjuster to the employee, there shall be added by the court when judgment is entered on the finding of the court, or the verdict of the jury on the trial in said district court, twenty-five per centum on the sum awarded to the employee by said court in its findings or by the verdict.

Trial on exceptions.

(4) Where exceptions are filed, either party shall have the right to a trial by jury, upon the claim for compensation under this act, as in cases at common law. But a jury trial may be waived by consent of the parties, and the court shall thereupon hear and determine the case without a jury. Where the case is tried by jury the court may submit special interrogatories, to be answered by the jury in the form of a special verdict. If the evidence produced before the adjuster shall be taken in writing or in shorthand, it may be, in case of appeal from the finding of the adjuster, transcribed and duly authenticated, and filed with the clerk of the United States court; and may be thereafter read in evidence in any future hearing or trial in said cause under the same circumstances and with the same force and effect as a deposition may now be read in suits at law.

Attorneys' fees.

(5) Wherever counsel or agent for the employee has stipulated for a fee, the agreement for which such fee shall be made in writing and filed with the adjuster or clerk of the court in which the case is pending, and the employee shall not be liable to pay any fee in excess of the amount allowed by the adjuster or the court. In every case it shall be the duty of the adjuster or the court, as the case may be, regardless of any agreement, to fix the compensation, which shall not exceed a fair and reasonable sum for the services actually rendered, and which shall not be greater than the sum agreed upon.

Appeals.

(6) Appeals and writs of error may be taken from the district courts to the circuit courts of appeals and to the Supreme Court of the United States as provided in sections one hundred and twenty-eight and two hundred and thirty-eight of the Judicial Code, and it shall be competent for the Supreme Court of the United States to require, by certiorari or otherwise, any case to be certified to it for review and determination as provided in section two hundred and fifty-one of the Judicial Code. In cases arising in the District of Columbia appeals may be taken from the Supreme Court of the District to the Court of Appeals of the District as in other cases, and appeals and writs of error may be taken to the Supreme Court of the United States as in other cases, and said court may require, by certiorari or otherwise, any case to be certified to it for review and determination as in other cases.

Service of petitions, etc.

(7) Any petition may be served by the United States marshal for the district where the proceedings are pending, or by any deputy. Any subpoena, process, or order of an adjuster, or any notice or paper requiring service, may be served by such United States marshal or deputy, or by any citizen of the United States over the age of twenty-one years, being a resident of such district, or by registered mail sent by the adjuster to the person or employer to be served, postage prepaid, and addressed to the principal place of business of such employer or to the place of residence of such person. The affidavit of such citizen, or the return registry receipt signed by the person or employer to be served, shall be prima facie proof of service.

Incompetent persons.

SEC. 15. While any person entitled to compensation under this act shall be an infant or mentally incompetent, his natural guardian, or guardian or committee, appointed pursuant to law, may on his behalf perform any duty required or exercise any right conferred by this act with the same force and effect as if such person was legally capable to act in his own behalf. No limitation respecting the time within which any right under this act is to be asserted shall, as against such infant or incompetent person, run while such infant or incompetent person has no guardian or committee: *Provided, however*, That the foregoing shall not apply to cases of infancy where the infant is over the age of eighteen years, but such infant shall be treated for all purposes of this act as though of full age.

Assignments of causes of action.

SEC. 16. The assignment of any cause of action arising under this act, or of any payments due or to become due under the provisions

hereof, shall be void. Every liability and all payments due or to become due under this act shall be exempt from levy or sale for private debt. In case of insolvency every liability for compensation under this act shall constitute a first lien upon all the property of the employer liable therefor paramount to all other claims or liens except for wages and taxes, and such lien shall be enforced by order of the court.

Payments exempt, etc.

SEC. 17. Nothing in this act shall interfere with any proceeding by the United States to enforce any act of Congress regulating the appliances or conduct of any common carrier, or affect the liability of any such common carrier to a fine or penalty under any such act. Nothing in this act shall be so construed as to affect the power and jurisdiction of the courts, under the established principles of equity, to reform or cancel any agreement or award.

Construction of act.

SEC. 18. Where an injury or death for which compensation is payable under this act was caused under circumstances also creating a legal liability for damages on the part of any carrier subject to the provisions of this act other than the employer, the employer shall be subrogated to the right of the employee or dependents to recover against such other carrier, and such employer may bring legal proceedings against such carrier to recover the damages sustained by the injured employee or dependents in an amount not exceeding the aggregate amount of compensation payable to the injured employee or dependents under this act. That where the injury or death for which compensation is payable under this act was caused under circumstances also creating a legal liability for damages on the part of any person other than the employer, such person not being subject to the provisions of this act, legal proceedings may be taken against such other person to recover damages, notwithstanding the payment of or liability to pay compensation under this act; but in such case, if the action against such other person is brought by the injured employee, or in case of his death by his dependents, and judgment is obtained and paid, or settlement is made with such other person, either with or without suit, the employer shall be entitled to deduct from the compensation payable by him the amount actually received by such employee or dependents: *Provided*, That if the injured employee, or in case of his death his dependents, shall agree to receive compensation from the employer, or institute proceedings to recover the same, or accept from the employer any payment on account of such compensation, such employer shall be subrogated to all the rights of such employee or dependents and may maintain, or in case an action has already been instituted, may continue an action either in the name of the employee or dependents, or in his own name, against such other person for the recovery of damages, but such employer shall nevertheless pay over to the injured employee or dependents all sums collected from such other person by judgment or otherwise in excess of the amount of such compensation already paid under this act, and costs, attorneys' fees, and reasonable expenses incurred by such employer in making such collection or enforcing such liability, and shall to the extent thereof be relieved from future payments.

Injuries caused by third persons.

SEC. 19. No contract, rule, regulation, or device whatsoever shall operate to relieve the employer in whole or in part from any liability created by this act.

Waivers.

SEC. 20. For all the purposes of this act the monthly wages of an employee unless the monthly wage is ascertained by the contract of employment shall be twenty-six times the established day's pay prevailing in the business of his employer for the class of service for which such employee was receiving pay at the time of the accident, or, if payment be by the hour, by the piece, or by the job, shall be twenty-six times the average of one day's earnings in such business and class of service ascertained by taking the aggregate of the earnings for the month next preceding the accident and dividing this aggregate by the number of days work which the employee performed during the month. Calculations of the percentage of wages herein mentioned shall be based on the monthly wages ascertained by the contract of employment or on the amount thereof determined as aforesaid, as the case may be. For the purpose of such calculation, no employee's wages shall be considered to be less than \$50 a month; except that where in any case the monthly wages of the employee are less than \$25

Computing wages.

per month, payment for the first twenty-four months of disability shall not exceed the full amount of such monthly wages: *Provided*, That where the employee is engaged in a class of service in which employees habitually and with the sanction of the employer receive for their own use gratuities from the traveling public, the monthly wages of such employee shall not be considered to be less than \$50 a month.

Payments  
monthly.

Compensation  
for—

Death;

All compensation under this act shall be paid monthly unless commuted as hereinafter provided.

SEC. 21. Compensation under this act shall be made in accordance with the following schedule:

(A) Where death results from any injury, except in the cases provided for in section twenty-three [twenty-two], and except in those cases in which, in certain contingencies, a reduced period is hereinafter provided for, the following amounts shall be paid for a period of eight years from the date of the death: *Provided, however*, That this limitation shall not apply to any male child under the age of sixteen years or female child under the age of twenty years; but payments shall continue to such child until it shall have attained the age of sixteen years, or twenty years, as the case may be.

(1) If the deceased employee leave a widow and no male child under the age of sixteen and no female child under the age of twenty, and no dependent child over such age of sixteen, or twenty, respectively, there shall be paid to the widow forty per centum of the monthly wages of the deceased.

(2) If the deceased employee leave a widow and any male child under the age of sixteen or female child under the age of twenty, or any dependent child over such age of sixteen or twenty, respectively, there shall be paid to the widow for the benefit of herself and such child or children fifty per centum of the monthly wages of the deceased.

(3) If the deceased employee leave any male child under the age of sixteen, or female child under the age of twenty, or dependent child over such age of sixteen, or twenty, respectively, but no widow, there shall be paid, if one such child, twenty-five per centum of the monthly wages of the deceased to such child, and if more than one such child ten per centum additional for each of such children, not to exceed a total of fifty per centum of the monthly wages of the deceased divided among the children, share and share alike: *Provided*, That if the number of children entitled to payment be subsequently reduced to less than four, the amount of the payments shall be correspondingly diminished.

(4) In the event of the death or remarriage of a widow receiving payments under subdivision (2) of this clause, the amounts stated in subdivision (3) shall thereafter be paid to the child or children of the deceased employee therein specified for the unexpired part of the period of eight years from the date of the employee's death, but to continue in any event until the youngest male child shall have attained the age of sixteen years and the youngest female child shall have attained the age of twenty years, subject to the provisions of subdivisions (3) and (9) of this clause (A).

(5) If the deceased employee leave no widow or children entitled to any payment hereunder, but leave a parent or parents, there shall be paid, in case of partial dependency, fifteen per centum of the monthly wages of the deceased to such parent or parents, and if either is or both are wholly dependent on the deceased there shall be paid in lieu of the fifteen per centum, if only one parent, twenty-five per centum of the monthly wages of the deceased, or if both parents, forty per centum of the monthly wages of the deceased, to such parent or parents.

(6) If the deceased leave no widow or child or parent entitled to any payment hereunder, but leave any brother, sister, grandparent, or grandchild wholly dependent upon him for support, there shall be paid to such dependent relative, if but one, twenty per centum of the monthly wages of the deceased, or if more than one, thirty per centum of the monthly wages of the deceased, divided among them share and share alike. If none of such relatives is wholly dependent and the deceased leave any such relative or relatives partially dependent upon him for support, there shall be paid to such dependent relative or relatives ten per centum of the monthly wages of the deceased, divided among them share and share alike.

(7) The foregoing subdivisions of this clause (A) shall apply only to dependents who at the time of the death of the deceased employee are actual residents of the United States or contiguous countries, except (a) if the nonresident dependent be a widow and there be no resident child or children entitled to compensation under this act, there shall be paid to her a lump sum equal to one year's wages of the deceased employee, as hereinbefore defined and limited, for the benefit of herself and nonresident children, if any; (b) if the nonresident dependent be a child or children under the age of sixteen years and there be no widow, resident or nonresident, and no resident children entitled to compensation under this act, there shall be paid to such nonresident child or children a like lump sum to be divided among them share and share alike, it being the intention of the foregoing to exclude from the benefits of this act any such nonresident widow, child, or children if there be any resident child or children entitled to compensation under this act, and to exclude from the benefits of this act all other resident dependents if there be any nonresident widow, child, or children entitled to take under the provisions of this subdivision.

(8) If the monthly payments for a death hereunder are at the rate of not more than \$15 per month, there shall be paid by the employer a contribution of \$75 toward the burial expenses: *Provided, however,* That where no compensation for death of an employee caused as defined by sections one and two of this act is payable hereunder there shall be furnished by the employer a reasonable burial expense not exceeding \$150.

Burial expenses;

(9) If compensation is being paid under this act to any dependent, such compensation, unless otherwise provided for herein, shall cease, in any event, upon the death or marriage of such dependent, and in the case of a dependent child over the age of sixteen or twenty years, as the case may be, shall, subject to the limitations of time hereinbefore imposed, cease, in any event, when such child shall cease to be dependent.

(B) Where permanent total disability results from any injury, there shall be paid to the injured employee fifty per centum of the monthly wages of such employee during the remainder of his life. In the following cases it shall, for the purposes of this section, be conclusively presumed that the injury resulted in permanent total disability, to wit: The total and irrevocable loss of sight in both eyes, the loss of both feet at or above the ankle, the loss of both hands at or above the wrist, the loss of one hand and one foot, an injury to the spine resulting in permanent and complete paralysis of the legs or arms, or an arm and a leg, and an injury resulting in incurable imbecility or insanity.

Permanent total disability;

(C) Where temporary total disability results from any injury there shall be paid fifty per centum of the monthly wages of the injured employee during the continuance of such temporary total disability.

Temporary total disability;

(D) Where permanent partial disability results from any injury—

Permanent partial disability;

(1) An amount equal to fifty per centum of his wages shall be paid to the injured employee for the periods stated against such injuries, respectively, as follows: In case of—

The loss by separation of one arm at or above the elbow joint, or the permanent and complete loss of the use of one arm, seventy-two months.

The loss by separation of one hand at or above the wrist joint, or the permanent and complete loss of the use of one hand, fifty-seven months.

The loss by separation of one leg at or above the knee joint, or the permanent and complete loss of the use of one leg, sixty-six months.

The loss by separation of one foot at or above the ankle joint, or the permanent and complete loss of the use of one foot, forty-eight months.

The permanent and complete loss of hearing in both ears, seventy-two months.

The permanent and complete loss of hearing in one ear, thirty-six months.

The permanent and complete loss of the sight of one eye, thirty months.

The loss by separation of a thumb, thirteen months; a first finger, nine months; a second finger, seven months; a third finger, six months; a fourth finger, five months.

The loss of one phalanx of a thumb or two phalanges of a finger shall be considered equal to the loss of one-half of a thumb or of a finger, and compensation for one-half of the above periods shall be payable.

The loss of more than one phalanx of a thumb and more than two phalanges of a finger shall be considered as the loss of an entire thumb or finger.

The loss by separation of a great toe, nine months; any other toe, four months.

(2) In all other cases of injury resulting in permanent partial disability the compensation shall bear such relation to the periods stated in subdivision one of this clause (D) as the disabilities bear to those produced by the injuries named therein, and payments shall be made for proportionate periods not in any case exceeding seventy-two months.

Temporary partial disability;

(E) Where temporary partial disability results from an injury, the employee, if he is unable to secure work at the same or better wages than he was receiving at the time of the injury, shall receive fifty per centum of his wages during the continuance of such disability; but such payment shall not extend beyond the period fixed for payment for permanent partial disabilities of the same character; and if the employee refuses to work after suitable work is furnished or secured for him by the employer, at the same or better wages than he was receiving at the time of the injury, he shall not be entitled to any compensation for such disability during the continuance of such refusal.

Death subsequent to injury;

Sec. 22. Should an employee who sustains an injury resulting in permanent total or permanent partial disability die from any cause at any time, or should an employee who sustains an injury resulting in temporary total or temporary partial disability die as a result of such injury after fourteen days of disability, the employer shall be liable for an amount to be ascertained as follows:

First. By computing the amount which would have been payable under clause (A) of section twenty-one, if death had immediately resulted from the accident.

Second. By deducting from such amount a sum equal to the payments for the period between the accident and the death, which, if the accident had immediately resulted in death, the employer, by reason of the happening of any of the contingencies mentioned in clause (A) of section twenty-one, would have been relieved from making.

Third. By deducting from the remainder so ascertained the amount of the compensation paid up to the time of death under clause (B), (C), (D), or (E) of section twenty-one.

The amount so ascertained shall be paid to the dependents, if any, of such employee, living at the time of his death, in the same amounts and subject to the same contingencies as if compensation had been payable to them under clause (A) of section twenty-one by reason of their having been dependent at the time of the accident: *Provided*, That should an employee who sustains an injury resulting in permanent partial disability die from cause other than the injury at any time, the liability of the employer shall not exceed the unpaid balance of the amount which, if the injured employee had lived, would have been paid under the terms of any agreement, award, findings, or judgment, or under clause (D), section twenty-one.

Additional injuries.

Sec. 23. If, in an accident, an employee receive an injury resulting in permanent partial disability and in the same accident receive additional injury, which, by itself, entitles him to compensation, or if he be injured in the service of the same employer while entitled to or receiving payments for a previous injury, the amount of the monthly payments to him for such combined injuries shall be computed as for a single injury as provided for and limited by section twenty hereof, but in such case the periods of time prescribed for such combined injuries, severally, shall be added together: *Provided*, That where any of such periods is less than three months, the same shall not be added, but shall be disregarded.

If an employee receive an injury, which, of itself, would only cause permanent partial disability, but which, combined with a previous injury, does in fact cause permanent total disability, the employer shall only be liable as for the permanent partial disability, so far as the subsequent injury is concerned.

Joint liabilities.

Sec. 24. In case any employee for whose injury or death compensation is payable under this act shall, at the time of the injury, be employed and paid jointly by two or more employers subject to this act, such employers shall be jointly and severally liable for the payment

of such compensation, but as between themselves such employers shall contribute the payment of such compensation in the proportion of their respective wage liability to such employee. If one or more but not all of such employers should be subject to this act, then the liability of such of them as are so subject shall be to pay that proportion of the entire compensation which their proportionate wage liability bears to the entire wages of the employee: *Provided, however*, That nothing in this section shall prevent any arrangement between such employers for a different distribution, as between themselves, of the ultimate burden of such compensation: *And provided further*, That proceedings for the purpose of obtaining an award and payments under an award shall not in any event be delayed because of liability to contribution as between employers.

SEC. 25. Where payment of compensation is made to the widow for the use of herself, or for the use of herself and child or children, her written receipt therefor shall acquit the employer. Where payment is made to any child eighteen years of age or over, the written receipt therefor of such child shall acquit the employer. Where payment is due to a child under the age of eighteen years, the same shall be made to a duly appointed and qualified guardian of such child under the laws of the State of such child's residence, and the written receipt therefor of such guardian shall acquit the employer.

Payments made, to whom.

SEC. 26. The term "dependent" shall include all persons who are entitled to compensation under the provisions of clause (A), section twenty-one, and of section twenty-two, and wherever the context requires it, shall be held to include the personal representatives of the deceased and guardians of infants or incompetent persons.

Definitions.

The term "injury" wherever the context requires it shall be held to include death resulting from injury.

The term "employee" includes an apprentice, but does not include an employee whose employment is purely casual, and not for the purposes of the employer's business. It shall include the singular and plural and both sexes. Any reference to an employee who has been injured shall, where the employee is dead, and the context requires it, include a reference to his dependents or personal representatives.

The term "physician or physicians" includes surgeon or surgeons.

The term "child or children" shall include posthumous children and all other children entitled by the law of the State where the accident happens to inherit as children of the deceased employee.

"Disability" under this act shall mean want of capacity or ability by reason of injury to make full wages and full time in the position where working at the time of receiving the injury.

The term "dependent child over the age of sixteen or twenty," wherever it occurs in this act, or any reference to such child, shall be construed to mean a dependent child over the age specified unable to earn a living by reason of mental or physical incapacity.

Whenever an employee of a common carrier engaged in interstate or foreign commerce by railroad shall sustain personal injury by accident arising out of and in the course of his employment resulting in his disability or death, it shall be presumed prima facie that such employee was at the time of the accident engaged in such commerce.

Presumption.

SEC. 27. Without otherwise affecting the meaning or interpretation thereof the phrase "personal injury by accident arising out of and in the course of his employment"—

Personal injury defined.

(a) Shall not cover an employee except while he is engaged in, on, or about the premises where his services are being performed, which are occupied by or under the control of the employer, or while he is engaged elsewhere in or about his employer's business where his service contracted for or reasonably volunteered or rendered for the protection of his employer's interests requires his presence as a part of such service at the time of the injury and subjects him to dangers incident to that employment.

(b) It shall not include an injury caused by the willful act of another directed against him for reasons personal to such employee and not against him as an employee or because of his employment.

(c) It shall not include a disease or infection except as it shall result from the injury.



- Lump sums.** SEC. 28. Where in any case payments have continued for not less than six months either party may, upon due notice to the other party, apply to the court having jurisdiction of the territory within which the accident occurred for an order commuting the future payments to a lump sum. The application shall be considered by the court sitting without a jury, and may be granted where it is shown to the satisfaction of the court that the payment of a lump sum in lieu of future monthly payments will be for the best interest of the person or persons receiving or dependent upon such compensation, or that the continuance of monthly payments will, as compared with lump-sum payments, entail undue expense or undue hardship upon the employer liable therefor, or that the person entitled to compensation has removed or is about to remove from the United States. Where the commutation is ordered the court shall fix the lump sum to be paid at an amount which will equal the total sum of the probable future payments, capitalized at their present value upon the basis of interest calculated at 4 per centum per annum with annual rests. Upon paying such amount the employer shall be discharged from all further liability on account of the injury or death, and be entitled to a duly executed release, upon filing which, or other due proof of payment, the liability of such employer under any agreement, award, findings, or judgment shall be discharged of record.
- Prior injuries.** SEC. 29. Nothing herein contained shall be construed as doing away with or affecting any common-law or statutory right of action or remedy for personal injury or death happening before this act shall take effect.
- Removal to courts.** SEC. 30. If either the employee or the employer shall file exceptions to the report of the adjuster, as provided in this act, he may on motion in writing have the cause removed from the district court of the United States to any State court of competent jurisdiction in the county where the cause of action arose or where the employee resides or is doing business at the time of such removal, by filing in such State court, within thirty days from the filing of said exceptions, a certified copy of the report of the adjuster and his exceptions thereto, and thereupon the case shall proceed and trial shall be had in said State court in the same manner as is provided in this act for trial in the district court of the United States: *Provided*, That if the employer removes said cause, such removal shall be to the county where the cause of action arose or where the employee resides. If both the employee and the employer shall file motions for removal as above provided, the motion first filed shall prevail. When a case is removed to a State court it shall not thereafter be removed to a court of the United States. Appeal from and writ of error to such State court shall lie as in other cases. The provisions of this section shall be applicable and become effective in any State whenever and only whenever that State by appropriate legislation shall authorize the proceedings and practice in the courts of that State provided in this act for the trial of such causes in the district court of the United States.
- No removal from State courts.**
- Appeals.**
- Accidents to be reported.** SEC. 31. It shall be the duty of every employer subject to this act to make reports of accidents, payments, and operations under this act to the Interstate Commerce Commission in such detail and at such times as the said commission may by general regulation require. Such reports shall be compiled and the general results thereof published as soon after they are received as practicable.
- Invalidity of act.** SEC. 32. No employee or dependent who shall have lost his right to compensation hereunder by reason of the invalidity of this act or any part of it, in case the act or any part of it shall be held to be invalid, shall be deprived of any right of action to which he would otherwise have been entitled if this act had not been passed, and such right in such event is hereby preserved and may be enforced within two years from and after the adjudication of such invalidity.
- Act in effect.** SEC. 33. This act shall take effect on the first day of January, nineteen hundred and fourteen, and may be cited as the Federal accident compensation act of nineteen hundred and fourteen.
- Citation.**

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