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INTRODUCTION.

This bulletin is in effect a supplement to Bulletin No. 126, Workmen's Compensation Laws of the United States and Foreign Countries, in so far as regards the legislation of this country. Besides the laws of the two years indicated, there are also included older laws of the Philippine Islands and of the United States, relating to certain classes of employees in public service, which, while not of the customary form of compensation laws, are such in effect as far as their operation extends, and are here reproduced so as to complete the compilation of laws of this class.

The Philippine statute applies to officers, employees, and laborers in the insular or provincial civil service or that of the municipal board of the city of Manila, and provides six months' pay for disabling injuries, and funeral expenses and three months' pay in case of death. Death benefits are payable only to a widow or dependent child or children, and the director of the bureau of labor, in his report for the year ending June 30, 1913, urged an amendment permitting payments to "close relatives" who may be dependent upon the deceased employee for support. Such action has not thus far been taken. The same official at the same time prepared a draft of a compensation law of general application and urged its enactment into law in lieu of the liability law in force in the islands, but without effect as yet.

The Federal compensation act, so called, appears with amendments at pages 441-444 of Bulletin No. 126. The acts here reproduced are certain provisions of law that authorize the continuation of pay or other benefits in case of the injury or death of employees in the Life-Saving Service and of railway mail and sea-post clerks, city and rural letter carriers, and certain other employees of the Post Office Department.
The act of 1911–12 (ch. 390), authorizing a compensation system for employees on the Canal Zone, repeals the compensation law of May 30, 1908, in so far as it related to such employees, as well as the supplemental acts of 1908–9 (ch. 179) and 1910–11 (ch. 285). The Executive order of March 20, 1914, herein reproduced, is the second issued under the provisions of this act, the operation of the first having been suspended for lack of available funds and then superseded by the present order.

NEW LEGISLATION.

New laws were enacted in 1914 in Kentucky, Louisiana, and Maryland, and the New York statute of 1913 was reenacted as a matter of precaution, the previous enactment having taken place after the adoption of the constitutional amendment authorizing such a law, but prior to its coming into effect. The Maryland law superseded one enacted in 1912, which was impractical and never really in effect.

The Kentucky statute (reproduced in Bul. No. 166, pp. 38–53) was declared unconstitutional by a divided court before it became operative. The opinion in the case appears in Bulletin No. 169, pages 197–203. The court held that though the act was elective in form the provisions as to passive or presumed election on the part of employees and the abrogation of the defenses of the employer who rejected the provisions of the act made it compulsory in effect, and as the act thus construed limited the amount recoverable for damages for personal injuries, which is forbidden by the constitution, it was unconstitutional in all its parts.

In 1915, laws were for the first time enacted in Alaska, Colorado, Hawaii, Indiana, Maine, Montana, Oklahoma, Pennsylvania, Vermont, and Wyoming, so that there are now 31 States having laws of this class, besides the Territories of Alaska and Hawaii, the Canal Zone, and the Philippine Islands; and the Federal laws. The Oklahoma Legislature also took steps to secure the submission to the people of an amendment to the constitution authorizing an elective or compulsory compensation law, covering death as well as disability. The Legislature of Utah provided for a commission on compensation to report to the next legislature with a draft of a bill. A bill passed both houses of the Idaho Legislature, but was vetoed by the governor. The Missouri commission of 1913 (see Bul. No. 126, pp. 17, 18) reported a carefully drawn bill, also one providing for an industrial commission to administer the compensation and other labor laws, but neither of these became law. Amendments in 1914 and 1915 made numerous changes in the existing compensation laws, being in some cases so ex-
tensive as to necessitate the reproduction of the act in full. In other instances only the new text is reproduced or an explanation given of the changes, so that by a reference to the original text in Bulletin No. 126 the provisions of the new legislation can more readily be discovered than would be possible from a simple reprinting of the law as amended.

**PRINCIPAL FEATURES OF THE LAWS.**

As in Bulletin No. 126, the principal features of the laws are presented in two forms, one a table showing certain facts for all the compensation laws of the United States and the other a series of analyses following a uniform outline showing the facts only for the new legislation since 1913. A fact that can hardly escape observation is the failure of effort thus far to secure uniformity in this class of legislation, and this is rendered the more noticeable because during this year two laws were passed that differ from any existing legislation in this country in important respects: The Oklahoma statute restricts its application to cases of nonfatal accidents, while in Wyoming all awards, both for death and for disability, are in the form of lump-sum payments arbitrarily fixed by the statute without regard to the earning capacity of the injured person. Practically all authorities elsewhere favor periodical payments graduated according to the wage loss, and this rule is very generally followed in legislation. The benefits payable under the Alaska statute are similar in form to those of Wyoming except for temporary disability, for which in Alaska payments based on a percentage of the wages are allowed. The Alaska statute is, moreover, much more liberal than that of Wyoming, the latter allowing a maximum of $2,050 for death and $3,000 for permanent total disability, while in Alaska the total in either case may amount to $6,000. The death benefit in the new statute of Colorado is next lowest to that of Wyoming, being limited to a maximum of $2,500. The Colorado law also prescribes a waiting time of three weeks before any benefits are payable, in both these respects diverging from the tendency generally observable to allow more adequate rates of benefits and to reduce the waiting time to less than two weeks rather than to go above this period. Disability benefits in Colorado continue until death if the disability is total and permanent.

The trend of opinion in favor of special boards or commissions for the administration appears to continue, the laws of Alaska and Wyoming being the only ones enacted in 1915 which do not have this provision. The Louisiana statute of 1914 is to be administered by the courts. The industrial accident commission of Maine is given no
other powers than those relating to the administration of the compensation act. The same is true of the body of the same name in Maryland, of the industrial commission of Oklahoma, and the industrial accident board of Vermont. In Hawaii, county boards of similar restricted functions are provided for. The Pennsylvania law contains a unique provision by which a bureau of workmen’s compensation is created in the department of labor and industry which furnishes the clerical force for the workmen’s compensation board, the latter being the administrative body proper for the hearing, investigation, and determination of claims under the act. The board has no other functions than those arising from the operations of the compensation act, though it has as an ex officio member the State commissioner of labor and industry, who, however, has no vote on orders, decisions, or awards.

On the other hand, the industrial commission of Colorado is charged not only with the administration of the compensation law, but also with the duty of factory and mine inspection, the enforcement of woman and child labor laws, and safety laws generally. Corresponding provisions are found in the law of Indiana and that of Montana. Earlier laws conferring the dual functions of administration and of inspection, regulation, and the like are those of California, Iowa, and Texas, while the acts of New York, Ohio, and Wisconsin are in the hands of industrial commissions of very broad powers in this field.

CLASSES OF LAWS.

The chart presented herewith groups the legislation under consideration as compensation laws and insurance laws, those of the class last named requiring of all employers accepting their provisions that an insurance of the prescribed compensation payments be arranged for. Each of these classes is again divided into subclasses, according as the laws are of voluntary acceptance by those whom they affect, or are compulsory. The following groups result:

Compensation, elective.

Alaska.  Minnesota.
Colorado.  Montana.
Connecticut.  Nebraska.
Indiana.  New Jersey.
Iowa.  Pennsylvania.
Kansas.  Rhode Island.
Louisiana.  Vermont.
Maine.  Wisconsin.
Michigan.
Compensation, compulsory.


Insurance, elective.


Texas.  West Virginia.

Insurance, compulsory.

Ohio.  Washington.

Wyoming.

This list does not include the laws of the Philippine Islands nor of the United States relating to the Life-Saving and Postal Services, these being so simple in form and narrow in scope as not to require analysis. A number of the laws that are elective as regards private employment are compulsory in their application to the State and its municipalities, while in several instances they do not affect public employment—a fact that is developed in the page analyses following the chart.

Of necessity, only general provisions are shown on the chart, qualifications and exceptions being shown somewhat in the page analyses, but only briefly even there, the purpose being to show in comparable form what the legislators have attempted to provide in its chief aspects, while for details recourse must be had to a study of the laws either directly or by the aid of the index.
PRINCIPAL FEATURES OF LAWS RELATING TO WORKMEN’S COMPENSATION AND INSURANCE.
How election is made.
Industries covered.

States, etc.

Pefenses abrogated if
employer docs not elect.

Suits for damages are—

Assumed risks, fellow
se rv ic e , contributory
negligence unless willful
or due to intoxication.

Durden of cost is
on—

Special contracts.

Bye

By employer.

Compensat ion, elective.
Employer..

Alaska. Ch. 71.
Approval
Apr. 29, 1013. In effect July
28,1015.

Minins operations (In­
cluding mills, ovens,
and reduction works)
in which 5 or moro
persons aro employed.

Frosumed In ab­
sence of written
notice filed with
U n i t e d States
commissioner.

Not permitted after elec­
tion under the act.

'Waivers are forbid­
den.

os to
Ch.
1915.

All except domestic and
farm labor in which 4
or more persons aro
employed (casual em­
ployees excepted).*

A c t is exeluslvo
where available.

...do ..

Connecticut.
Ch. 13S.
Ap­
proved May 29. 1913. In ef­
fect Jan. 1, 1914. Amended,
ch. 2SS, 1915.

All In which 5 or more
persons aro employed
(outworkers and cas­
ual employees ex­
cepted).1
All (casual employees
and those not exposed
to hazards of employ­
ments excepted).

Presumed In a b - Presumed In a b - Assumption of risks due .......do...............................
to employer’s negli­
sence of notico to
ser.ee of written
gence, fellow service,
employer in writ­
notice to commis­
and contributory negli­
ing.
sion; notice of ac­
gence unless willful.
ceptance or rejec­
tion to 1)0 posted.
Presumed m ab­ Presumed in ab­ Assumed risks, fellow Not permitted after elect­
service, and contribu­
ing compensation.
sence of written
sence of written
notico.
tory negligence.
notice.

Approved schemes
may be substitu­
ted.

. ...d o ..

In effect Aug. 1,1315,

Presumed as to
employers in des­
ignated extrahazardous employ­
ments In absence
of written notice;
other employers
file notice.
in abIn dian a (compulsory as to State All except domestic and Presumed
senco of written
farm labor (casual
anrl municipalities). Ch. 1<Vj.
notice,
posted
or
employees excepted).
Approved Mar. 8, 1915. In
served, and filed
effect Sept. 1,1915.
w i t li industrial
board.
Presumed in ab­
Io w a (compulsory os to State ___do...........
sence of noticc
and municipalities). Ch. 1-ff.
posted in estab­
Approved Apr. 18, 1913. In
lishment
and
elfect July I* 1914.
filed with indus­
trial c o m m i s ­
sioner.
Kansas.
Ch. 21S. Approved “ Especially dangerous” Presumed in ab­
sence of notice
(enumerated l i s t )
May 14,1911. In effect Jan. 1,
posted in estab­
where 5 o r m o r e
1912. Amended, ch. 216, 1913.
lishment
and
workmen a r o c m filed with secre­
ployed.1
tary of state.
Louisiana (compulsory as to “ Hazardous” (enumer­ Presumed in ab­
sence of written
ated list, or as agreed
State and municipalities). > o.
notice to em­
or dccided by court);
20. Approved June IS, 1914.
ployee.
others by voluntary
In effect Jan. 1,1915.
contract.
Illinois (commilsory as to State
Approved Juno 10, 1911. In
effect May 1, 1912. New act,
p. 335, 1913. Amended, Juno
2S, 1915.

Maine (compulsory as to State,
cities, and counties). Ch. 293.
Approved Apr. 1* 1915.
In
Michigan (compulsory as to
State and municipalities). No.
10. Approved Mar. 20,1912. In
cfleet t’opt. l. 1912. Amended
Nos. 50, 79, 1.W, 259,1913; 101,
153, 170,171, 1915.
Minnesota. Ch. 407. Approved
Apr. 21.1913. In effect Oct. 1,
1913. Amended, Chs. 193, 209,
1915.

Montana (compulsory as to pub­
lic corporations and contractors
therewith). C h.96. Approved
Mar. 8,1915. In cffcct July 1,
1915.
Nebraska. Ch. 193. Approved
Apr. 21,1913. In effect July 17,
1913.

New Hampshire. Ch. 163. Ap­
proved Apr. 15,1911. Ineffect
Jan. 1,1912.

All employing 5 or moro
workmen, except rail­
roads in interstate
commerco and domes­
tic and agricultural
labor (casual employ­
ees and outworkers
oxceptcd).
11Dangerous” (enumer­
ated list).

Pennsylvania (compulsory as to
State and municipalities), No.
33$. Approved June 2, 1915.
In effect Jan. 1,1910.

All except agricultural
and domestic labor
(casual employees ex­
cepted).

E h ode Island.
Ch. S31. Ap­
proved Apr. 29,1912. In effect
Oct. 1, 1912. Amended, ch.
937, 1913; 1208, 1015.

All employing more
than 5 workmen, ex­
cept in domestic serv­
ice and apiculture
(casual employees and
those earning over
Sl^SOO excepted).
All in which more than
10 persons aro em­
ployed (domestic and
casual employees and
those earning over
$1,500 annually ex­
cepted ).i
All (casual employees
excepted).

Wisconsin (compulsory as to the
State and municipalities). Ch.
50. Approved-May 3,1911. In
effect same date. Amended,
chs, 599, 707,1913; 121,241,310,
3G9, 378, 462, 1915.

Presumed In ab­
sence of written
notice, if employ­
er elects.

Assumed risks, fellow serv­
ice, and contributory
negliger.ee, as to em­
ployers in designated ex­
tra hazardous employ­
ments (all work on farms,
etc., excepted).

.do................................ Employer may in­
sure or maintain a
benefit fund, but
may not reduce
liability fixed by
law.

Presumed in ab­ Contributory negligence,
sence of written
fellow service, and as­
notico served on
sumed risks.
employer and filed
w i t h industrial
board.
Presumed In al> Assumed risks and fellow
service;
contributory
sence of written
negligence unless will­
notico t o e m plover and in­
ful.
dustrial commis­
sioner.
Presumed in ab­
sence of written
notico filed with
s e c r e t a r y of
state.

Assumed risks and fellow
service;
contributory
negligence to be meas­
ured.

Presumed in ab­
sence of written
notice
to em­
ployer.

Assumed risks, f e l l o w
service, and contribu­
tory negligcnco.

-do..

. .. . d o ....................

.do.

. . .. d o ...........

___ do.

Employer
must
give
proof of solvency or in ­
sure risks.

___do.......................

Approved schemes .......do.
may bo substi­
tuted.

Dond may be required to
secure
lump
sums
awarded by court. In ­
surers have rights and
duties of insured cmplovers.
Claims have same prefer­
ence as wage debts.

F

Presumed in ab­
sence of notice
posted in estab­
lishment and filed
with
insurance
commissioner.

Presumed in ab­ Assumed risks and fellow .......d o ................................
sence of notice to
servico;
contributory
employerand filed
negligence unless willful.
with * insurance
commissioner

By accepting com­ None (assumed risks, fel­
pensation or be­
low service, and contrib­
ginning proceed­
utory negligence re­
ings under the
stricted by liability pro­
act.
visions of statute).
Presumed In absence Presumed in absence Assumed risks and fellow
service;
contributory
of written notice
of written notice
to omployees.
to employer.
negligence unless will­
ful.3 ‘
Writing filed with
commissioner of
labor.

.-do.

.do.

Employer must insure or
give proof of solvency
and mnW*^Gpos!t or
give bond.
Kmploycr must give proof
of financial ability or
procure irtate, mutual,
or pri -ato insurance. If
insolvent, claims arc a
first lien.
If insu cd employer is in­
solvent, claimants have
lien on proceeds of
policy.

..do.

.do.

More than 2 weeks
(payment
from
uate of injury it
disability lasts 8
weeks or more).
More than 2 weeks..

Medical and surgical aid.

Partlil disability.

$100 funeral expenses; 50
per cent of wages for 300
weeks; $5 minimum, S12
maximum.

55 per cent of wages for
500 wee: s: $5.50 mini­
mum, £13.20 maximum;
total not over $5,000.

Funeral expenses not
over $100; 50 per cent of
wages for 300 weeks; $5
minimum, $10 maxi­
mum.

50 per cent of wago loss for During first 30 days.......... Notice In 30 days; claim Industrial
board;
not over 300 weeks; no
1 in 2 years.
limited appeal to
courts.
wages considered as
abovo $24 nor less than
$10; schedule for speci­
fied injuries.
50 per cent of wages for 400 Fixed rates for specified During first 2 weeks; not Notice in 15 days: If in 30 Industrial commis­
inj ur i es; proport ionat c
weeks; 55 minim um, S10
sioner and two
days, not barred cxcept
over $100, including burfor others; 55 minimum,
maximum.
ia lif injury was fatal.
as to extent employer
others as arbitra­
$10 maximum.
was prejudiced; bar ab­
tors; limited ap­
solute after 00 days.
peal to courts.

3 years' earnings; SI.200
mini mum, $3,GOO max­
imum; no dependents,
S100.

50 per cent of weekly
earnings; $6 minimum,
$15 maximum, for not
more than 8 years.

25 to 50 per cent of weekly
earnings: S3 minimum,
512 maximum, for not
moro than 8 years.

Only if employee dies Notico in 10 days; claim
leaving no dependents. | in G months.

$100 funeral and last sick­
ness; 25 to 50 per cent or
weekly wages until
death or remarriage of
spouso, or child reaches
a^c of IS.
50 per cent of wages for
3D9 weeks; £4 minimum,
$10 maximum; no de­
pendents, $J}Q.

50 per cent of weekly
wages; S3 m inim um, S10
maximum, for not over
400 weeks.

50 per cent of wage de­
crease; S10 maximum,
for not over 300 weeks:
fixed rates for specified
injuries.

During first 2 weeks; not I Notico of accident In 15 Courts; agreements
over 5100.
| day s, of death in 30 days;
between employ­
claim in 6 months.
er and employee
must he approved
by courts.

50 per cent- of wages for
3(j0 wee Us: SI minimum,
SiO maximum; no de­
pendents, $200.

50 per cent of wages for
not over 500 weeks; $4
m inim um , $10 maxi­
mum, total not to ex­
ceed $4,000.

50 per cent of wapc de­
crease, $10 maximum,
for not over 300 weeks;
fixed rates for specified
injuries.

During first 3 weeks..

S100 funeral expenses; 25
to 00 per c-cnt of wages
for 300weeks; SP.50mini­
mum , £11 maximum.

50 per cent of wages for 400
weeks; 20.50 m inim um,
$11 maximum; not over
£0.50 thereafter for 150
weeks; total not over
$5,000.

50 per cent of wapo de­
crease for 300 weeks;
$6.50 m inim um , $11
maximum; fixed rates
for specified injuries.

During first 00 days; not
over $100, or by order of
court, $200.

50 per cent o jw'ages for .......do...............................
500 wT
eeks; 54 minimum,
SlOmaxirnum; totalnot
over 53.000.

Local committees or
arbitrators; court
review allowed.

$750 maximum ex­
ccpt to residents
of Canada.

During first 2 weeks not | Notice in 30 days; claim in
over $30 unless ordered
1 year.
by commission.

Industrial accident
commission; I imlted
appeal to
courts.

H alf rates except as
to residents of Can­
ada.

| Notice in 3 months; claim
in G months.

Industrial accident
board; arbitration;
a p p e a l to su­
preme court.

Included.

Notice in 14 days; if in 30
days, not barfed except
as to extent employer
was prejudiced; bar ab­
solute after 00 days.

Courts......................

ncluded.

During first 2 weeks, not Notice In 60 days, claim In
over $50 unless thero is | 6 months,
hospital fund.

Industrial accident
board; appeal to
courts.

Waivers are forbid­
den; hospital fund
may bo m a i n ­
tained.

On employer, ex­
cept that hospital
fund may be Joint.

Employer must give proof
of solvency or insure in .......d o ...
company or with State

$75 funeral expenses: 30 to
50 per cent of wages for
400 weeks, $0 mmimum,
$10 maximum.

50 per cent of wages lor 400 50 per cent of wagc loss for
150 weeks; benefits and
weeks; $0m inim um, $10
wages to be not less than
maximum: $5 thereafter
$6; fixed rates for speci­
if permanent.
fied injuries.

Forbidden...............

Employer,

If insured employer is
insolvent, claims aro
enforceable d i r e c t l y
against the company.

Moro than 2 weeks
(payment
from
aato of injury if
disability lasts 8
weeks or longer).

S100 funeral expenses; 50
per cent of wages for 350
weeks; $5 minim um, $10
maximum.

50 per cent of wages for
300 weeks; S5 m inim um ,
510 maximum, then 40
>crcent of wages during
ife; 54 m inim um, SS
maximum.

50 per cent of wage de­
crease; $10 maximum,
for 300 weeks; fixed
rates for specified in­
juries.

During first 3 weeks; not
to exceed $200,

Notice as soon as prac­
ticable; c l a i m i n 6
months: petitions filed
in court in 1 year.

Arbitrators or dis­
trict
court
of
county.

Excluded, e x ccp t
half benefits to wife
or children under
16 years, unless
treaty
provides
otherwise.
Included (widows,
children, and par­
ents only).

150 times weekly earnings,
not more than $3,000; no
dependents, $100,

50 per cent of average
weekly earnings; maxi­
mum, 510 for not more
than 300 weeks.

50 per cent of wage loss; Only if employee dies
maximum, 510 per week,
leaving no dependents.
not more than 300 weeks.

Notice as soon as prac­
ticable and before leav­
ing service; claim in 6
months.

P r o e e e d i n g s in
equity.

Beneficiaries must be
residents of State.

5100 funeral oxpenses; 35
to 60 per cent of wages
for 300 weeks; $5 m in­
im um , $10 maximum.

50 per cent of wages for 400
weeks; 55 m inim um , $10
maximum.

Fixed scale for specified
injuries; others propor-

During first 2 weeks; not
over $50.

Permittod in lieu of com­
pensation.

................................. ■
....... do..

Employer must give proof
of financial ability or
give bond.

More than 2 weeks..

Not permittod after olectir.g compensation.

No substitute agree­
ments valid.

Compensation payments
are preferred claims on
assets of employer.

....d o .....................

Presumed in abscnco of notice
posted in estab­
lishment, given
employee, a n d
filed with com­
pensation bureau,
riling filed with
commissioner of
industrial statis­
tics.

Presumed In ab- Fellow servico, assump­
sence of written
tion of risk, contribu­
notice to employer
tory negligence unless
and filed with
due to intoxication or
compensation burecklessness.®

Forbidden.

Presumed in ab- Assumed risks, fellow
senco of written
service, and contribu­
notice, if em­
tory negligence.
ployer elects.

Approved schemes
may be substi­
tuted; no reduc­
tion of liability
allowed.

Presumed in ab­
sence of written
agreement or no*
tico to the con­
trary; municipal­
ities vote.

Presumed in ab- ...... do .....
senco of written
agreement or no­
tico.

No contract may
relieve of liability.

Presumed as to
employers of 4 or
more p e r s o n s
(exccpt farmers
and railroads) in
absence of notice
filed with indus­
trial commission;
other employers
ille notice.

Presumed in ab­ Assumed risks; also fellow ....... do...............................
servico and contributory
sence of written
notice to em­
negligence unless will­
ployer, if em­
ful, if 4 or more employ­
ployer elects, ex­
ees (does not apply to
cept on railroads,
farm labor).
where acceptance
must bo in writ­
ing.

___ do...............................

Total disability.

Death.

Nonresident a l i e n
beneficiaries of de­
ceased workmen.

Notice in 120 days; claim Com
More than 2 weeks, 53,000 to widow or minor $3,000, $1,200 additional if Fixed sums for specified
wife, and $000 for each
but if for 8 weeks
orphan; $(,00 to each
In 2 years.
injuries, varying with
or more, payments
child under 16. If un­
child under 10 and to de­
conjugal condition and
run from date of
married, fCOO for each
pendent parents, $6,000
number of children.
dependent parent. No
injury.
maximum. If single,
total to exceed $0,000.
$1,200 to each dependent
parent; no dependents,
not over $300 funeral
and other expenses.
F.mployer must insure in More than 3 weeks.. 50 per cent of weekly 50 per cent of weekly 50 per cent of wage loss; During first 30 days, not Notice in 30 days; claim In Industrial commis­ One-th ird benefits,
wages during term, 58
wages, $8 maximum, for
over $100 unless existing j 1 year,
$8 maximum; total not
sion; limited ap­
Slate fund or stock or
not over $1,000.
maximum, 55 mini­
G years, total not above
over 52 0S0; fixed scale
approved h o s p i t a l
peal to courts.
mutual company, or
mum; full wages if less
$2,500 nor less than
for specified injuries.
scheme Is continued.
give proof of solvency.
than $5.
$1,000; no dependents,
$ 100.
Employer
must
give Moro than 10 days... $100 funeral expenses; 50 50 per cent of earnings for 50 per cent of wago de­ Such as physician may Notico at once; claim in 1 Compensation com­ Half rates, except as
i-.ot over 520 weeks: $5
per cent of wages for 312
crease; 510 maximum,
deem reasonablo and | year,
missioners; appeal
proof of solvency or in­
to residents of Can­
minim um, $10 maxi­
weeks; $5 minimum, $10
for not over 312 weeks;
necessary.
to courts.
sure risks.
ada or dependen­
mum.
maximum.
fixed rates for specified
cies of the United
injuries.
States.
Moro
than
6
work­
50
per
cent
of
weel'ly
earn­
A years' earnings; $1,050
50 per cent of waso de­ During first 8 weeks, not Notice as soon as prac­ Arbitrators for each
Employer
must
give
ing days; then
ings for 8 years; £0 miriminim um, $.‘{,500 maxi­
crease; $12 maximum,
ticable, not later than 30
over $200; physician or
case, subject to re­
proofof financial ability,
c o m p c n s a tion
mum , 512 maximum,
mum; no dependents,
for not more than 8
days; claim in 0 months.
surgeon during disa­
view by industrial
furnish security, insure,
from eighth day;
up to $3,500.*
5150.
years: fixed rates for
board and appeal
bility unless employee
or make other provision,
from second day of
specified injuries.
to courts.
prefers his own.
disability if total
and permanent.

Approved schemes .......d o .. .
may be substitu­
ted, but no reduc­
tion of liability
allowed.

Employer may in­
sure or maintain a
benefit fund, but
may not reduce
liability fixed by
law.

Time for notice and claim. Disputes settled by—

Attachment may be had
pend ing result of action,
or employer may de­
posit cash or bond with
court.

More than 2 weeks.

. . d o . ..

Compensation for—

To be compensated
disability
must
continue—

Employer must Insure in
absence of proof of sol­
vency.

.......d o .. . .

No contract m a y
relievo from lia
bility.

Fresumed in ab­ Fresumed in ab­ Assumed risks and fellow' Not permitted after elect­
ing compensation.
servicc;
contributory
sence of notice
sence or notice
to employer and
negligencc unless w ill­
osted in establ­
filed with com­
ful.
i s h m e n t and
filed with com­ missioner of la­
bor.
missioner of la­
bor.
" Inherently hazardous” "Writing filed with Presumed in ab­ Contributory negligence, ....... do..................
sence of written
fellow service, and as­
accident
board
(extensive list); agri­
n o t i c e to em­
sumed risks.
and posted in
cultural,domestic,and
ployer and filed
placc of business.
casual employees exwith board.
ceptcd.

New Jersey (compulsory as to A ll (casual employees
excepted).
Stateandmunicipalities). Ch.
95. Approved Apr. 4,1911. In
effect July 4,1911. Amended,
ch. 174,1913; 211,191 i.

Vermont. Ch. 104. Approved
Apr. 1,1915. In effect July 1,
1915.

Presumed In abs"r.co of written
notice served on
employer a n d
filed with United
S t a t e s commis­
sioner.

A ll except domestic and Writing filed with Presumed i f e m ­ As above, exccpt for em­ ....... do................................. Existing approved .......do.
schemes may bo
ployer elects: in
ployers of not over 5 percommission and
agricultural l a b o r
continued:
n o
absencft ol written- ... ^LLg.,.and in logging op­
posted in. estab­
(casual employees ex­
waivers allowed.
erations
notice to cmploj’lishment.
cepted).
er filed with com­
mission.
All (casual employees Writing filed with Presumed In ab­ Assumed risks, fellow serv­ Not permitted after elect­ Forbidden.............. .......do....................
ing compensation, un­
sence of written
ice, and contributory
excepted).
'
accident board.
less cmplover is in de­
netMigcnce, except in
notice, if em­
fault on insurance pre­
suits by domestic and
ployer elects.
miums.
farm laborers.
All except steam rail­
roads and domestic
and agricultural labor
(casual employees ex­
cepted).

Security of payments.

....d o ..

1

Notice in 14 days; if in 30 Judges of court of
days not barred except
common p l e a s ;
as’ to extent employer
limited appeal to
supreme court.
was prejudiced, but ab­
solute after 90 days;
claim in 1 year.
com­
Notice in 14 days; claim in Workmen’s
pensation board
1 year.
and referees; ap­
peal to courts.

Employer niiijt Insure in
Staie fund, stock or
mutual company, or
give proof of financial
ability.

.do..

$100 funeral expenses; 15
to 00 percent of wages
for 300 weeks; basic
wages not less than $10
nor moro than S20 per
week.

50 per cent of wages for
500 weeks; $5minim um,
$10 maximum; total not
over $1,000.

50 per cent of wago loss;
510 maximum, for not
over 300 weeks; fixed
scalo for specified in­
juries.

During first 14 days, not
over $25, unless major
operation, then $75.

.do..

Payments aro a claim su­
perior to unsecured
debts.

.dD..

50 per cent of weekly
wages for 300 weeks; $4
minim um, 510 maxi­
mum ; no dependents,
$200.

50 per cent of earnings for
not over 500 weeks; $1
minim um, $10 maxi­
mum.

___ do..,

Reasonable services for
first 2 weeks; maximum
$200 in fatal cases with
no dependents, includ­
ing burial.

Notico In 30 days; claim
in 1 year.

Courts In summary
proceedings.

,.do..

Employer must insure, ....... do.,
givo security , or proof of
financial ability.

$75 funeral expenses; 15
to 45 per cent of wages
for 200 weeks, total not
over $3,500; basic wages
not less than $5 nor more
than 525.

50 per cent of wages for 200
weeks (board may add
52); S3 m inim um , $12.50
m axim um ; total not
over Si,000.

50 per cen t of wago loss; $10 During first 14 days, not
over 575.
maximum, for 5 years;
fixed scale for specified
injuries.

Notico as soon as practl*
cable; claim in 6 months.

Industrial accident
l>oard; appeal to
courts.

Employer must eive proof
of financial ability or in-

More than 1 week 4 years’ earnings, but
amount added to prior
(paj’incnt for first
disability p a y m e n t s
week if disability
may not exceed 0 years'
lasts more than 1
earnings; no depend­
weeks).
ents, SI00.

05 per cent of wages; if
nurse is required, 100
per cent after U0 da vs;
no total to exceed' 0
years’ earnings.

G5 per cent of wage de­
crease; no total to ex­
ceed 4 years’ earnings;
fixed rates for specified
injuries.

For not moro than 90 Notico in 30 days; claim h
days.
| 2 years.

Industrial commis­
sion; appeal to
courts.

Judgments awarding com ­
pensation nave same
preference as wage debts.

A t least 2 weeks;
then compensa­
tion from date of
accident.

Insurance or other ....... do.
schemes permit­
ted, but no reduc­
tion of liability al­
lowed.

Excluded.

Two-thirds benefits
to widows and
children; others ex­
cluded.

Included.

C o m p en sa tio n „ co m p u lsory.
Arizona. Ch. 11 (extra f u ­
sion). Approved June 8, 1912.
In ctf?et Sept. 1, 1912. New
act, ch. 7, 1913.

" Especially danze--(enumerated l i s t ) :
elective as to all
others.

Permitted in lieu of com­
pensation.

Permitted if com­
pensation is pro­
vided not less than
that of ilie act.

California. Ch. 399. Approve 1
Apr. 8 , 1011. In effect Sept. 1,
1911. New act, ch. 170, 1913.
Amended, chs. 511, 007, 602,
1915.

All cxcept domestic and
agricultural
labor
(casual employees ex­
cepted); elective as to
cxccpted classes.

Permitted in lieu of com­
pensation if employer
was personally grossly
negligent.

C anal Zone. Executive Order
Mar. £0,1914. In effect Apr. 1,
1914.

All employees on Pana­
ma (.anal or Itailroad.

Not permitted...................

Employer may in­
sure or maintain
a benefit fund, but
may not reduco
liability fixed by
law.

H aw aii. No. 221. Approved
Ar>r. ‘2S. l'.Ho. Iti pJT<Vl July 1.

A ll industrial employ­
ment (casual employ-

Forbidden.

. . .d o ..

___ do........

....... d o ...

No waiver allowed.

».do..

Payments have same pref­
erence as wage debts.

Government funds and
supervision.

Employer must Insure,
give guaranty, or proof

Burial or transportation
of body; 25 to 50 per cent
of earnings for 8 years,
total not over $5,000.

75 per cent of earnings for
3 months, then 50 per
cent for S years; schedulo
for fractures.

More than 14 days*. 5100 funeral expenses, 25
to 60 per cent of wages

COper cent of wages for 312
weeks; S3 m inim um . SIS

full consecutive
days, then pay
from filth day.

i.,:

Maryland. Ch. 800. Approved
Apr. 16, 1914. In elle'ct Nov.
1,1911.

J>ef\ 16,1013. In effect Julv l,
1914. Amended, chs. 41 , 310,
1914; 1G7, 168, 015,674, 1915.

Oklahoma. Ch. 246. Approved
1,1915.

U nited States. 35 Stat., 55G.
Approvod May 30, 190S. In
effect Aug. 1 ,1008. Amended,
chs. 57,255,390, 1011-12.

Extrahazardous (enu­
merated list); elective
as to other.;. Farm
and domestic labor,
country blacksmiths
etc.; casual employees
and those receiving
over $2,000 excluded.

Permitted in lieu of com­
pensation if accident
caused by deliberato in
tent of employer.

Hazardous cm p l oyments (extensive list);
domestic and agricul­
tural labor excluded.

Penn it ted if employer
fails to secure payment
of compensation; de­
fenses of fellow service,
assumed risks, and con­
tributory negligence ab­
rogated.

___ do.

___ do...............................

Waivers not al­ .......do.,
lowed; approvod
schcincspormitted.

Government can not bo
sued.

Waivers forbidden

“ Hazardous” (enume­
rated list and general
clause) in which more
than 2 persons are em­
ployed (nonfatal acci­
dents only).
Artisans and mechanics
in certain classesoremployments: all persons
in hazardous employ­
ment in cenain others.

Forbidden.,

.......do...........

.......do..

.do ..

Notice in 2 weeks; none Arbitration, refer­
ence to attorney
required in cast? of
death or incompetence.
general, or appeal
Action on claim within
to courts.
1 year.
Noticc in 30 days; claim Industrial accident
in 6 months for dis­
commission; lim ­
ability, 1 year for death.
ited appeal to
courts.

2,400 times one-half the 50 per cent of average 50 per cent of wage de­ Only if employee dies
leaving no dependents.
daily wages;SI.(XX)max­
semimonthly earnings,
crease until recovery,
imum ; no dependents,
during disability, not
not to exceed 34,000.
medical and burial ex­
to exceed 54.000. ‘
penses.
More than 2 wrecks.., 3 years' earnings; $1,000 Go per cent of wages for 210 05 per cent of wage de­ During first 90 days;
longer if commission
m inim um, $5,(X)0 max­
weeks, then 40 per cent
crease for fixed periods
imum; no dependents,
orders.
for life.
proportionate to disabil­
$ 100.
ity.

Employer must insure in
Si ate fund, insurance
company, or give proof
of financial ability.

More than 2 weeks;
1 weelc if disability
is permanent.

v . H o i

u w r

51">,000. llasic wages not
le-s than 55 nor moro
than 536.
575 funeral expenses un­
less no dependents and
Miilicicnt estato to dty
fray same; 50 per cent of
wa-jcs for 8 years; SI,000
minimum, $1,230 maxi­
mum.

over 55,000.
50 per cent of wages for S
year'; 55 minimum, $12
maximum; total hcl
over §5,000.

75 per ccnt of earnings for
3 months, then 50 per
cent for not more than
5 years; schedule for
mannings; if at work, 75
per cent of wage loss.
50 per cent of wage loss for
not over 312 weeks: 512

Reasonable services.

first 14 davs not
overfca

I

Noticc immediately; claim
for injury in 60 days, for
death in*1 year.

c; ovemor of Panama
Canal.

Notice as soon as practlc a b le ; claim in 3 months.

County industrial
accident boards:

Included.

Excluded.

“TTTTTTmTTTTTTr

overr So.tHX); fixed scalo
for speciiled injuries.
As required by commis­
sion, not over $150.

Notico of accident in 10
davs, of death in 30 days,
unless sufficient reason;
claim in 30 davs.

Industrial accident
commission
or
arbitrators u p pointed by it; ap­
peal to courts.

Not ice of injury in 10 days,
of death in 30 days, un­
less excused for’ cause;
claim in 1 year.

Industrwl commis­
sion; limited ap­
peal to courts.

Included.

Noiiio in 30 days, claim
in 1 year.

Industrial commis­
sion.

Fatal accidents not
covered.

Claim for disability in
reasonable time; death
in 00 days.

Secretary of Labor.

During fir^t 2 weeks........

Notice as soon as prac­
ticable; claim in 6
months.

Keasonablo services for
first 4 months.

Applications must be
made nnd claims en­
forced in 1 year.

Arbitrators for each
case; industrial ac­
cident board; ap­
peal to courts 011
points of law.
Industrial commis­
sion.

Proportionate benefits for
not over 2 years if tem­
porary; fixed rates for
specified injuries.

Not to exceed $250.

Claim in 1 ye

Industrial accident
commission; ap­
peals to courts.

60 per ccnt of wage de­
crease; $15 maximum,
for not over 300 weeks:
fixed rates for specified
injuries.

During first week..

Notice as soon as practi­
cable; claim in 6 months.

Industrial accident
board; appeals to
courts.

50 per cent of wages
until death; $4 mini­
mum , SS maximum.

50 per cent of wage de­
crease, $4 minimum,
fS maximum, for 30 to
210 weeks; 70 to 85 per
ccnt disability, 40 per
cent of wages for life.

Not to exceed $150; may
be 5300 in sjwcial cases.

Claim in f> months; proof
of dependency in 0
months.

Compensation com­
missioner; limited
appeal to courts.

S150 funeral expenses; 66$ 663 per ccnt of wages until
per cent of wages for G
dealh, if permanently
years; $1,500 minimum,
disabled; $5 minimum,
$3,750 maximum.
$12 maximum.

663 per ccnt of wagc de­
crease; $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 commis­
sion; limited ap­
peal to courts.

'Loss of earning S75 funeral
expenses; $20 per month if single,
power shall excecd
widow or invalid wid­
525 i married; for each
5 per cent.” *
ower receives $20 monthchild under 16 years, 55
ly until death or remar­
per month, not over $35
riage; cach child under
m nil. to be paid during
16, 55 per month; total
disability.
not to excecd $35.
-More than 10 days.., S50 funeral expenses; SI ,000 $1,000 if single SI,20-0 if
to widow or invalid wid­
wife or invalid husband;
ower, 560 per year for
560 i>er year for cach
each chila under 16,
child under 16; total not
total not over $2,000 for
over $3,000 for all.
all.
I

Proportionate; not over
51,500.

50 per ccnt of benefits
added for first 6 months
of total temporary disa­
bility; not more than 60
per cent of wages i n all.

Claim in 1 year..

Industrial
insur­
ance department;
arpcal to courts.

50 per ccnt of wage loss;
$12 per week maximum;
total not over M.ixh):

talurte.* r"

Em plover must give proof
of financial ability (de­
posit of securities may
be required) or procure
State, mutual, or pri­
vate insurance.

SI>0dlU'd

More than 2 woeks.. 5100 funeral expenses; C6J per cent during con­
widow or dependent
tinuance, S5 minimum,
widower, 30 per cent of
315 maximum.
wages until death or re­
marriage; 10 per cent
additional for each child
under IS years, total not
over 663 percent.
Employer must insure, .......do.,
Fa!al accidents not cov­ 50 per cent of wages for
maintain a p p r o v e d
ered.
500 weeks; Sti m inim um ,
scheme, or give proof of
S10 maximum: one-half
solvency.
of present worth to non­
resident aliens.

663 per cent of wace de­
crease, fixed scalo for
specified injuries 55
minimum, * 1,5 maxi­
mum; for ccnatn mann­
ings, 520 maximum.

lJuring first GO days.

50 per cent of waijo loss
for 300 weeks: fixed scalo
for specified injuries.

During first 15 days.

Payments aro mado 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 torosumo work.

Stato control of Employ­
ees' Insurance Associa­
tion,

More than 2 weeks .. 663 per cent of wages for
5On weeks, S4 minimum,
S10 maximum; no de­
pendents, S200.

Insurance is under State
control.

More than 1 week
(payment
from
date of injury if
disability lasts 3
weeks or more).

66= per cent of wages for
not over 500 weeks, SI
mmimum, $10 maxi­
mum, total not to ex­
ceed 51,000.
50 per cent of earnings for
100 months; $20 mini­
mum, SG0 maximum,
not to exceed $5,000.

COjj per cent of wage loss;
510 maximum, for not
more than 500 weeks;
fixed rates for specified
injuries.
50 per cent of wago de­
crease; SW maximum,
for not more than 60
months; fixed rates for
specified injuries.

Excluded.

i

In su ra n ce, elective.
Massachusetts. Ch. 751. Ap­
proved July 28,1911. In effect
July 1, 1012. Amended, chs.
571,1912;690,740,1913; 33S, 70S,
Kevada (compulsory as to State
and municipalities). Ch. 1S3.
Approved Star. 21, l'Jll. In
effect July I, 1911. New act,
ch. I l l , 1913. Amended, ch.
190,1915.
Oregon.
Ch. 112.
Approved
Feb. 25.1913. In effect Julv 1,
1913. Amended, ch. 271,1915,

Texas. Ch. 179. Approved Apr.
16,1013. In effect Sept. 1,1913.

West Virginia. Ch. 10. Ap­
proved freb. 22,1913. In effect
20, Mar. 13,1915.

All (employees not in
usual course of trade,
etc., exceptcd).
All excent domestic and
agricultural labor.

Hazardous (enumerated
lis:).i

Employers of more than
5 persons, except rail­
ways, cotron gins,
and domestic and
agricultural
labor
(casual employees ex­
cepted).
All except domestic and
agricultural labor (cas­
ual employees ex­
cepted).

Bv subscribing to Presumed in ab­ Assumed risks, fellow Not permitted after elec­ Employer must in­ .......do..
S t a t e associa­
sence of written
tion of insurance svssure in author­
service, and contribu­
tion or insuring
n o t i c o , if em­
ized company or
tory negligence, except
in other com­
ployer insures.
State association.
in ‘domestic and farm
pany.
labor.
Presumed, in ab- Presumed, in ab­ Assumed risks and fellow Not permitted after em­ Forbidden............... Employer, except
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Forbidden...............

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I

In su ra n ce, com p u lsory .
Ohio. P. 524. Approved June
15,1911. In effect Jan. 1.1012.
Amended, pp. 72,396,1913; 193,
1914.

All employing 5 or more
workmen; elective as
to others (casual em­
ployees excepted).

W ashington. Ch.74. Approved
Mar. 14,1911. In effect Oct. 1,
101 L Amended ch. 14S, 1013;
ch. 188,1015.

‘ Extr a hazardous”
(enumerated l i s t ) ;
elective as to all
others.

Wyoming. Ch. 121 . Approved
Feb. 27,1915. In effect Apr. 1,
1915.

' Extrahazardous”
(enumerated list) In
which 5 or more per­
sons are employed.

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Federal Reserve Bank of St. Louis

Not permitted...............

No reduction of lia­
bility allowed.

..d o ......................

1 Other employers may elect, but lose no defenses If they do not.
1 If complete disability still continues then a compensation during
durin life, equal annually to 8 per cent of the death benefit, not less than $10 per month.

...d o .....................

.do............................

More than 1 week..,

.do ............

60 per ccnt of wages for 60 per cent of wages for
360 weeks, So minimum,
not over 400 weeks; $5
515 maximum; no benefi­
m inim um , $15 maxi­
ciaries or creditors, $100.
mum.

$75 burial expenses; widow
or invalid widower, $20
monthly until death or
remarriage; 55 addi­
tional for each child
under 15, total not to
exceed $35.

Fixed lump sums for
specified injuries; others
in proportion.

8 Abrogation is absoluto and does not depend upon the rejection of the act.
* Construed by industrial insurance department to exclude cases in which less than 5 per ccnt of a working month was lost.

Indudod.

P a r e n t s , widow,
wi dower,
and
children
i ncluded.

Included

Only father and
mother i ncludod
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whero
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vided by treaty.


ANALYSIS OF THE PRINCIPAL FEATURES OF THE LAWS.

The following analyses are of the same form as those appearing at pages 49-74 of Bulletin No. 126. New acts as well as those so amended as to make changes of importance in the items considered are here shown.

ALASKA.

Date of enactment.—April 29, 1915; in effect July 28, 1915.

Injuries compensated.—Personal injury causing disability for more than 2 weeks, or death, arising out of and in course of employment, not due to the employee's willful intention to injure himself or another, or to his intoxication.

Industries covered.—Mining operations in which 5 or more persons are employed, unless election to the contrary is made (includes development and construction work, stamp and roller mills, reduction work and processes, coke ovens, etc.).

Persons compensated.—Private employment: All employees in industries covered, contractors and subcontractors excluded. Public employment not included.

Burden of payment.—All on employer.

Compensation for death:
(a) If married, $3,000 to widow, $800 additional to each child under 16 years of age, and to dependent parent or parents if any; if no widow, $3,000 to any minor orphans, and $800 additional to any under 16; no total to exceed $8,000.
(b) If unmarried, and dependent parent or parents, $1,200 to each.
(c) If no dependents, funeral expenses not to exceed $150, and other expenses, if any, to same amount.

Compensation for disability:
(a) Total permanent: $3,600 to workman alone; $1,200 additional if wife is living; $600 additional for each child under 16; total not to exceed $6,000. If no wife or children, $600 to each dependent parent.
(b) Total temporary disability: 50 per cent of weekly wages for not over 6 months.
(c) Partial permanent disability: Fixed sums for specified injuries, varying with conjugal condition and number of children.

Revision of benefits.—Readjustment must be made if within 2 years an injury develops or proves to be such as to warrant a different award from any previously made.

Insurance.—No provision.

Security of payments.—Attachment may be had pending result of action, or employer may deposit cash or bond with court. Payments are exempt from execution.

Settlement of disputes.—By courts, either with or without jury trial.
CANAL ZONE.

Date of enactment.—August 24, 1912. Executive order February 26, 1913; in effect March 1, 1913. [Suspended.] New order March 20, 1914; in effect April 1, 1914.

Injuries compensated.—Personal injuries causing disability of over 7 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 Co. 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 cost rests upon the employer.

Compensation for death:

(a) Burial or transportation of body of deceased.
(b) To widow alone, 25 per cent of the monthly wages of the deceased, with addition of 10 per cent for each child, the total not to exceed 35 per cent. unless there be children by a former marriage, when it may be 50 per cent, for 8 years.
(c) If no parent is left, to one child 25 per cent, and not more than 50 per cent of the wages for 2 or more.
(d) To parents, brothers, sisters, grandchildren, and grandparents, such sums as the governor may determine, the total not to exceed 50 per cent of the wages, awards to other beneficiaries being reduced if necessary.

Payments cease on the death or remarriage of a beneficiary, or on his ceasing to be dependent, and are then to be redistributed, but may in no case extend beyond 8 years.

Compensation for disability:

(a) Reasonable medical, surgical, and hospital services and supplies.
(b) For permanent total disability, a monthly payment beginning with the fifth day equal to 75 per cent of pay for 3 months, then 50 per cent until 8 years are completed.
(c) For temporary disability, 75 per cent of monthly pay for 3 months, then 50 per cent until the completion of special periods for designated injuries (fractures); proportionate awards for other injuries.
(d) For permanent partial disability, a monthly payment equal to 75 per cent of monthly wages for 3 months, then 50 per cent of wages until completion of fixed periods for specified injuries; others proportionate. If employee is able to work during such period, 75 per cent of wage loss.

Conversion to lump-sum payments is provided for.

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.
COLORADO.

Date of enactment.—April 10, 1915; in effect August 1, 1915.

Injuries compensated.—Injuries caused by accident arising out of and in course of employment, not intentionally self-inflicted or intentionally inflicted by another, and causing death within 2 years or disability for more than 3 weeks.

Industries covered.—All except interstate commerce and domestic and agricultural labor in which 4 or more persons are employed in which employers elect to come under the act; others may elect, but lose no defenses if they do not. Public service under State, municipalities, school or irrigation districts, etc.

Persons compensated.—Private employment: Every person in the service of another under any contract of hire, express or implied, casual employees excepted. Public employees: All under any appointment or contract of hire; elective officials excluded.

Burden of payment.—All on employer.

Compensation for death:
(a) To persons wholly dependent, 50 per cent of the weekly wages for 6 years, $8 maximum, total not to exceed $2,500 nor to be less than $1,000. If death occurs from any cause during receipt of disability benefits, any unaccrued and unpaid remainder goes to dependents.

(b) If only partial dependents survive, 50 per cent of the weekly wages, $8 maximum, for such part of 6 years as the commission may determine, total not to exceed $2,500. If death occurs from any cause during the receipt of disability benefits, partial dependents shall receive not more than four times the amount contributed by the deceased during his last year of employment, the aggregate of disability and death benefits not to exceed $2,500.

(c) If no dependents, $100 funeral expenses.

(d) Payments to widow or dependent widower cease on death or remarriage; to children, on reaching the age of 18, unless physically incapacitated from earning.

Compensation for disability:
(a) Medical and surgical assistance for first 30 days, not more than $100 in value.

(b) For total disability, 50 per cent of weekly wages during continuance, $5 minimum, $8 maximum; full wages if less than $5.

(c) For partial disability, 50 per cent of the weekly wage decrease, $8 maximum; total not to exceed $2,080.

(d) Special schedule for specified injuries, 50 per cent of weekly wages for periods ranging from 4 to 208 weeks.

Payments may be commuted to a lump sum after 6 months.

Revision of benefits.—Awards may be changed within 15 days after making, on discovery of mistake, and may be appealed from within 60 days.

Insurance.—Insurance in State fund, stock or mutual company, or proof of financial ability to make payments is required.

Security of payments.—Insurers are primarily liable to a workman or his beneficiaries entitled to benefits; notice to employer is notice to insurer; insolvency of employer does not release insurer. Claims are not assignable, and payments are exempt from attachment or execution.

Settlement of disputes.—Disputes are determined by the industrial commission, with limited appeal to courts.
CONNECTICUT.

Date of enactment.—May 29, 1913; in effect January 1, 1914; amended, chapter 288, Acts of 1915.

Injuries compensated.—All injuries arising out of and in the course of employment, disability of more than 10 days, 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 which 5 or more persons are employed, in absence of contrary election by employer.

Persons compensated.—Private employment: All employees of employers accepting the act, in absence of contrary election, outworkers and casual employees excepted. 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) 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.

If a widow or dependent widower remarries or dies during the term of benefit payments, subsequent payments go to other dependents, if any.

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.
HAWAII.

Date of enactment.—April 28, 1915; in effect July 1, 1915.

Injuries compensated.—Personal injury by accident arising out of and in course of employment, causing disability for more than 14 days or death within two years, and not due to the employee's intention to injure himself or another or to his intoxication.

Industries covered.—All public and all industrial employment.

Persons compensated.—Private employment: All persons under contract of employment or apprenticeship, other than casual employees, whose pay does not exceed $36 per week. Public employment: All except elective officials and employees who receive salaries in excess of $1,800 per year.

Burden of payment.—All on employer.

Compensation for death:
(a) $100 funeral expenses if death occurs within 6 months after the injury.
(b) 40 per cent of average weekly wages to widow or dependent widower alone, 50 per cent if 1 or 2 dependent children, 60 per cent if 3 or more; 30 per cent to 1 or 2 orphans, 10 per cent additional for each child in excess of 2, total not to exceed 50 per cent. If no consort or child, but other dependents, 25 to 40 per cent.
(c) Payments to widow cease on death or remarriage, and to widower on termination of disability or remarriage; to child on reaching age of 16, unless incapable of self-support, when they may continue to 18; to other beneficiaries, on termination of disability; no payments except to children to continue longer than 312 weeks. Basic wages not less than $5 nor more than $36 weekly.

Compensation for disability:
(a) Reasonable surgical, medical, and hospital services for first 14 days, not exceeding $50 in amount.
(b) For total disability, 60 per cent of weekly wages, $3 minimum, $18 maximum, for not longer than 312 weeks; total not to exceed $5,000. If wages are less than $5, full wages will be paid unless disability is permanent, when $3 will be paid.
(c) For partial disability, 50 per cent of wage decrease, $12 maximum, not over 312 weeks, total not to exceed $5,000; fixed awards for specified injuries.

Payments may be commuted to one or more lump sums in any case.

Revision of benefits.—Agreements and awards may be reviewed at any time, not oftener than once in 6 months.

Insurance.—Private employers must carry insurance, secure guaranty insurance, deposit security, or furnish proof of financial ability to make payments.

Security of payments.—Payments are preferred claims, the same as wage debts. Employees have direct recourse to insuring company; insolvency of employer does not release insurer.

Settlement of disputes.—Industrial accident boards for each county; appeals to courts.
ILLINOIS.

Date of enactment.—June 10, 1911; in effect May 1, 1912. New act, June 28, 1913; in effect July 1, 1913; amended June 28, 1915.

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 $1,650 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 last 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 (second day of permanent), a weekly sum equal to one-half the employee's earnings, $6 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 more than $12 per week.

(d) For certain specific injuries (mutilations, etc.), a 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 by the industrial board for periodic payments.

Revision of benefits.—Medical examination may be had not oftener than every 4 weeks. The industrial board may, on request, review installment payments within 18 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 arbitrator or arbitration committee, subject to review by the board. Questions of law may be reviewed by the courts.
INDIANA.

Date of enactment.—March 8, 1915; in effect September 1, 1915.

Injuries compensated.—Personal injury causing disability for more than 2 weeks, or death by accident arising out of and in course of employment, not due to willful misconduct, intention to injure self, intoxication, or willful failure or refusal to use safety appliance or perform duty required by statute.

Industries covered.—All except interstate and foreign commerce, for which Federal laws make provision, and domestic and agricultural labor, unless employer make contrary election; compulsory as to State and its municipalities.

Persons compensated.—Private employment: All employees and contractors' employees engaged upon the subject matter of the contract; casual employees are excepted. Public employment: All employees.

Burden of payment.—All on employer.

Compensation for death:
(a) $100 for funeral expenses, if death from the injury occurs within 300 weeks.

(b) 50 per cent of weekly wages to persons wholly dependent; to those partially dependent, amounts proportionate to decedent's contributions to their support. The term of payment is limited to 300 weeks from the receipt of the injury.

(c) Payments cease on remarriage of widow or dependent widower, or on children attaining the age of 18 years, unless mentally or physically disabled for earning. Wages are to be considered as not above $24 nor less than $10 weekly, no total to exceed $5,000.

Compensation for disability:
(a) Medical and hospital services for first 30 days, and longer at option of employer; employee must accept unless otherwise ordered by industrial board.

(b) For total disability, 55 per cent of wages for not more than 500 weeks.

(c) For partial disability, 50 per cent of wage loss for not more than 300 weeks.

(d) For certain specified injuries, 55 per cent of wages for designated periods ranging from 15 to 200 weeks.

Wage basis and total amounts are limited as for death benefits. Any payments may be commuted to a lump sum after 26 weeks.

Revision of benefits.—Awards may be reviewed at any time by industrial board on its own motion or the request of either party, but without retroactive effect.

Insurance.—Required unless satisfactory proof of financial ability to meet payments.

Security of payments.—Contracts of insurance must inure directly to the benefit of the person entitled to payments under an award. Payments have same preference and priority as unpaid wages, and are exempt from claims of creditors.

Settlement of disputes.—Disputes are determined by the industrial board, with appeal to courts on questions of law.
LOUISIANA.

Date of enactment.—June 18, 1914; in effect January 1, 1915.

Injuries compensated.—Personal injury by accident arising out of and in course of employment causing disability for more than 2 weeks, or death within 1 year, and not due to willful intention to injure, to intoxication, to deliberate failure to use safeguards, or to deliberate breach of safety laws.

Industries covered.—Hazardous trades, businesses, or occupations in absence of contrary election; extensive list, and others may be so adjudged or brought within the act by voluntary agreement. Compulsory as to employees of the State and its municipalities and public boards.

Persons compensated.—Private employment: Every person performing services arising out of and incidental to his employer's trade, business, or occupation, if the same is within the act. Public employment: Every person in the service of the State, etc., except officials.

Burden of payment.—All on employer.

Compensation for death:

(a) $100 expenses of last sickness and burial.
(b) To widow or dependent widower alone, 25 per cent of weekly wages, 40 per cent if 1 child, and 50 per cent if 2 or more. If 1 child alone, 25 per cent, 40 per cent for 2, and 50 per cent for 3 or more. For 1 dependent parent, 25 per cent; for 2, 50 per cent; if 1 brother or sister, 25 per cent and 10 per cent additional for each other. The total in no case may exceed 50 per cent of the weekly wages, $3 minimum payment, $10 maximum, for not over 300 weeks. Payment to any beneficiary ceases on death or marriage, to children on reaching the age of 18, unless mentally or physically incapacitated.

Compensation for disability:

(a) Reasonable medical, surgical, and hospital service, not to exceed $100 in value.
(b) For total disability, 50 per cent of the weekly wages, $3 minimum, $10 maximum, for not more than 400 weeks.
(c) For partial disability, 50 per cent of the wage loss, not over $10, for not more than 400 weeks.
(d) Fixed schedule for specified injuries, for periods from 10 to 150 weeks. Payments in any case may be commuted to a lump sum on agreement of the parties and approval by the courts.

Revision of benefits.—Judgments may be modified at any time by agreement of the parties and approval by the courts; or after 1 year, they may be reviewed by the court on application of either party.

Insurance.—Not required.

Security of payments.—Policy of insurance must give claimants right to direct payment regardless of the default or bankruptcy of the employer. Compensation payments have the same preference as wage debts.

Settlement of disputes.—Disputes are settled by judges of the courts in simple, summary procedure.
MAINE.

Date of enactment.—April 1, 1915; in effect January 1, 1916.

Injuries compensated.—Injury sustained in course of employment, causing disability for more than 2 weeks, or death, not due to willful intention to injure himself or another, and not due to intoxication unless fact or habit of intoxication was known or cognizable to employer.

Industries covered.—All except agricultural and domestic labor, and seamen in interstate or foreign commerce, in which more than 5 persons are employed, if employer elects. Abrogation of defenses does not affect cutting, hauling, driving, or rafting of logs.

Persons compensated.—Private employment: All persons in industries covered, casual employees excepted. Public employment: Employees of State, cities, and counties, and of towns accepting the provisions of the act, other than officials.

Burden of payment.—All on employer. If employees contribute to substitute scheme, additional proportionate benefits must be paid.

Compensation for death:

(a) To persons wholly dependent, 50 per cent of weekly wages for 300 weeks, $4 minimum, $10 maximum.

(b) If only partial dependents survive, amounts proportionate to their degree of dependency, for 300 weeks.

(c) If only 1 wholly dependent and more than 1 partly dependent person survives, payments are to be divided according to the relative extent of dependency.

(d) If no dependents, not above $200 expenses of last sickness and burial. Payments to children cease at age of 18 unless mentally or physically incapacitated for earning a living.

Compensation for disability:

(a) Reasonable medical and hospital services during first 2 weeks, not over $30 in value, unless by agreement or order of commission a larger amount is provided for.

(b) For total disability, 50 per cent of the wages for not more than 500 weeks, $4 minimum, $10 maximum, total not to exceed $3,000.

(c) For partial disability, 50 per cent of the weekly wage loss, not over $10, for not more than 300 weeks. For specified injuries causing permanent partial disability, 50 per cent of the wages for various fixed periods, then compensation on basis of wage loss, if any, for not more than 300 weeks in all.

Lump-sum payments may be approved by the commission after weekly payments for not less than 6 months.

Revision of benefits.—Agreements or awards may be reviewed at the instance of either party at any time within 2 years.

Insurance.—Insurance in approved companies is required unless the employer gives satisfactory proof of solvency and makes deposit or bond to secure payments.

Security of payments.—Insurance as above. Claims have same preference over unsecured debts as do wages for labor.

Settlement of disputes.—Disputes are to be settled by the industrial accident commission, with appeals to courts on questions of law.
MARYLAND.

Date of enactment.—April 16, 1914; in effect November 1, 1914.
Injuries compensated.—Accidental personal injury arising out of and in course of employment, not due to willful intention or intoxication, and causing disability for more than 2 weeks or death within 2 years.
Industries covered.—Extra-hazardous (enumerated list); others by joint election of employers and employees. Farm and domestic labor, country blacksmiths and wheelwrights are excluded.
Persons compensated.—Private employment: All in industries covered, except casual employees and those receiving more than $2,000 annually. Public employment: Workmen employed for wages in extra-hazardous work, unless the municipality makes other equal or better provision.
Burden of payment.—All on employer.
Compensation for death:
(a) Funeral expenses, not over $75.
(b) To persons wholly dependent, 50 per cent of the weekly wages for 8 years; not more than $4,250 nor less than $1,000.
(c) To persons partly dependent, 50 per cent of the weekly wages for such portion of 8 years as the commission may fix, the amount not to exceed $3,000.
(d) If no dependents, funeral expenses only.
(e) Payments to widow close on remarriage, and to children on reaching the age of 16 years, unless mentally or physically incapacitated.
Compensation for disability:
(a) Medical, surgical, etc., expenses, not above $150 in value.
(b) For total disability, 50 per cent of weekly wages, $5 minimum, $12 maximum, for not over 8 years, total not to exceed $5,000. If wages are less than $5, full wages will be paid.
(c) For partial disability, 50 per cent of weekly wage loss, $12 maximum, total not over $3,000; specific periods for specified maimings.
Where the injured employee is a learner, with prospect of increase of wages, this fact may be considered in fixing awards.
Payments may, in the discretion of the commission, be made in part or in whole in lump sums.
Revision of benefits.—The commission may modify its findings and orders at any time for justifiable cause.
Insurance.—Insurance in State fund, stock or mutual company, or proof of financial ability, is required.
Security of payments.—Policies must permit action by commission to secure payments to any person entitled. Payments may not be assigned, nor are they subject to execution or attachment.
Settlement of disputes.—Disputes are to be settled by the industrial accident commission, with appeal to courts.
Date of enactment.—July 28, 1911; in effect July 1, 1912; amended, chapters 571, 1912; 48, 448, 568, 696, 746, 1913; 338, 708, 1914; 123, 275, 314, 1915.

Injuries compensated.—Injuries arising out of and in the course of employment causing incapacity for 2 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 and accepting the act may, compensate its laborers, workmen, and mechanics.

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

Compensation for death:
(a) To persons wholly dependent, a weekly payment equal to two-thirds the average weekly wages of the deceased employee, but not less than $4 nor more than $10, for a period of 500 weeks, the total not to exceed $4,000.
(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.

Children cease to be dependents at 18, unless mentally or physically incapacitated from earning a living.

Compensation for disability:
(a) Reasonable medical and hospital services, and medicines as needed, for the first 2 weeks after injury.
(b) For total disability, a sum equal to two-thirds the average weekly wages, but not less than $4 or more than $10 per week, not exceeding 500 weeks, nor $4,000 in amount.
(c) For partial disability, two-thirds the wage loss, but not to exceed $10 per week, and for not longer than 500 weeks.
(d) In specified injuries (mutilations, etc.) two-thirds the weekly wages, not exceeding $10 nor less than $4 per week, for fixed periods, in addition to other compensation.

Lump-sum payments may be substituted in whole or part, 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 disputes.—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.
Date of enactment.—April 24, 1913; in effect October 1, 1913; amended, chapters 193, 209, 1915.

Injuries compensated.—Injury by accident arising out of and in the course of employment causing disability for more than 2 weeks, or death, unless intentionally caused, or due to the intoxication of the injured person.

Industries covered.—All excepting common carriers by steam railroad 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) $100 funeral expenses.
(b) To a widow alone, 35 per cent of monthly wages of deceased, increasing to 60 per cent if 4 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 additional orphan, with a maximum of 60 per cent; to the dependent parent or parents, if no dependent widow, widower, or children, 30 per cent if 1 parent and 40 per cent if both survive; if none of the foregoing, but a brother, sister, grandparent, mother-in-law, or father-in-law is wholly dependent if but 1 such relative, 25 per cent, or if more than 1, 50 per cent, divided equally.
(c) If only partial dependents survive, that proportion of benefits provided for actual dependents which contributions bore to wages earned.
(d) 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 continue for not more than 300 weeks, and cease when a minor child reaches the age of 18, unless physically or mentally incapacitated from 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 $100 in value, unless ordered in exceptional cases, when $200 is the limit.
(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 $6.50 nor more than $6.50 per week, unless the wages were less than $6.50, 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, with payments of not more than $6.50 per week thereafter for 150 weeks, the total not to exceed $5,000.

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.
MONTANA.

Date of enactment.—March 8, 1915; in effect July 1, 1915.
Injuries compensated.—Injuries arising out of and in course of employment, resulting from some fortuitous event, causing death or disability of more than 2 weeks' duration.
Industries covered.—“All inherently hazardous works and occupations,” including manufactures, construction work, transportation, and repair of the means thereof, and any hazardous occupation or work not enumerated, in which employers elect, but not including agricultural, domestic, or casual labor.
Persons compensated—Private employment: All persons other than independent contractors, employed in the industries covered, whether as manual laborers or otherwise, except casual employees. Public employment: All employees in the industries covered.
Burden of payment.—All on employer except that contributions may be arranged for hospital fund.
Compensation for death:
(a) $75 for funeral expenses, if death occurs within 6 months of injury.
(b) To beneficiaries (widow, widower, child or children under 16, or invalid child above 16) 50 per cent of wages of the deceased if residents of the United States; if not, 25 per cent, unless otherwise required by treaty. To major dependents (father or mother) in case there are no beneficiaries, 40 per cent. To minor dependents (brothers or sisters actually dependent), if no beneficiaries or major dependent, 30 per cent. Nonresident alien dependents receive nothing unless required by treaty, nor do beneficiaries if citizens of a Government excluding citizens of the United States from equal benefits under compensation laws. Term of payments may not exceed 400 weeks, $10 maximum, $6 minimum; if wages less than $6, then full wages. Payments cease on remarriage of widow or widower, or minor child, brother, or sister reaches the age of 16, unless an invalid.

Compensation for disability:
(a) Medical and hospital services during first 2 weeks after happening of injury, not over $50 in value, unless there is a hospital contract.
(b) For total temporary disability, 50 per cent of wages during disability, $10 maximum, $6 minimum, unless wages are less than $6, when full wages will be paid, for not more than 300 weeks.
(c) For total permanent disability, same scale as above for 400 weeks, then $5 per week while disability continues.
(d) For partial disability, 50 per cent of the wage loss, wages and benefits not to exceed $10 nor fall below $6 in amount, unless wages at time of injury were less than $6; payments to continue not more than 150 weeks for permanent cases, and 50 weeks where disability is temporary.
(e) For maimings, compensation of same scale and limits as in (b) for terms ranging from 3 to 200 weeks.
Periodical payments may in any case be converted in whole or part to lump sums.
Revision of benefits.—Decisions and awards may be rescinded or amended at any time by the industrial accident board, for good cause.
Insurance.—The employer may carry his own risk on a showing of financial ability; security may be required for probable liabilities and must be given when a continuing payment is ascertained. Insurance may be carried in any company authorized to do business in the State, or the employer may contribute to a State fund.
Security of payments.—In case of bankruptcy, etc., liabilities under this act are a first lien upon any deposit made by an employer, and if this is not sufficient, then on any property of the employer or insurer within the State, and shall be prorated with other lienable claims.
Settlement of disputes.—Proceedings to determine disputes under the act must be instituted before the board and not elsewhere; limited appeal to courts.
NEVADA.

Date of enactment.—March 15, 1913; in effect July 1, 1913; amended, chapter 190, 1915.

Injuries compensated.—Injuries arising out of and in course of employment, causing incapacity to earn full wages for more than 7 days or death, except when caused by the employee's willful intention to injure himself or another or the injury is sustained while intoxicated.

Industries covered.—All except domestic and farm labor in the absence of contrary election, compulsory as to the State and its municipalities.

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

Burden of payment.—The entire cost rests on the employer, except that he may deduct $1 per month from each employee's wages for medical, etc., expenses.

Compensation for death:
(a) Burial expenses not to exceed $125.
(b) To dependent widow or widower alone, 40 per cent of the average monthly wages, total not to exceed $4,000; if 1 or 2 children, 50 per cent, $5,000 maximum; if 3 or more children, 60 per cent, $6,000 maximum. Payments may not be less than $20 nor more than $60 monthly nor continue more than 100 months. Orphans under 16 receive sums fixed by the commission, $10 minimum, $35 maximum, for periods also fixed by the commission. Partial dependents receive in proportion to the contributions of the deceased to their support at the time of his death for periods not exceeding 100 months.

Compensation for disability:
(a) Reasonable medical, surgical, and hospital aid for not more than four months.
(b) For total disability, an amount equal to one-half the average monthly wages, but not less than $20 nor more than $60 for 100 months, the total not to exceed $5,000.
(c) For partial disability, one-half the loss of earning capacity, but not more than $40 per month for not more than 60 months.
(d) For certain specific injuries (mutilations, etc.), a monthly payment equal to one-half the monthly wages for fixed periods. No compensation is payable for the first week of disability, but if it continues 3 weeks or longer compensation is paid from the date of the injury.

The industrial commission may permit the substitution of lump sums for monthly payments in an amount not exceeding $5,000.

Revision of benefits.—Readjustment of compensation may be made by the commission on application 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. Payments are not assignable and are exempt from attachment, etc.

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

Date of enactment.—March 22, 1915; in effect September 1, 1915.

Injuries compensated.—Personal injuries causing disability for more than 2 weeks arising out of and in course of employment not due to the willful intention of the injured employee to injure himself or another, intoxication, or willful failure to use statutory safeguard. Fatal injuries not covered.

Industries covered.—"Hazardous" (enumerated list and general clause), in which more than 2 persons are employed, including work by State or municipalities; agriculture, stock raising, retail stores, and interstate railways not included.

Persons compensated.—Private employment: Persons engaged in manual or mechanical work or labor in industries covered. Public employment: Workmen employed for wages in any hazardous work within meaning of this act.

Burden of payment.—All on employer.

Compensation for death.—Fatal injuries not covered.

Compensation for disability:

(a) Necessary medical, surgical, or other treatment for first 15 days.
(b) For temporary total disability, 50 per cent of average weekly wages for not more than 300 weeks.
(c) For permanent total disability, 50 per cent of average weekly wages for not more than 500 weeks.
(d) For permanent partial disability, 50 per cent of wage loss for not more than 300 weeks; for specified injuries, 50 per cent of weekly wages for fixed periods in lieu of other compensation.

Payments may not exceed $10 per week nor be less than $6 unless wages were less than $6, when full wages will be paid. Periodical payments may be commuted to lump sums, and aliens who are non-residents may have payments commuted to lump sums equal to one-half of the value of the present worth.

Revision of benefits.—Awards may be reviewed at any time on application of any party in interest.

Insurance.—Insurance, the maintenance of a benefit fund, or proof of ability to make compensation payments is required.

Security of payments.—Insurance companies or fund systems must be approved by the commission. Claims can not be assigned, and payments are exempt from levy, execution, etc. Deposits with the commission to secure payments may be required of employers or insurers.

Settlement of disputes.—Disputes may be settled by the industrial commission, subject to appeals to the supreme court.
Date of enactment.—June 2, 1915; in effect January 1, 1916.

Injuries compensated.—Personal injury by accident in the course of employment, causing disability for more than 14 days or death in 300 weeks, not intentionally self-inflicted or due to the intentional act of a third person for reasons not connected with the employment.

Industries covered.—All, unless employer makes election to the contrary. (Agricultural and domestic employees are excluded by a separate act.)

Persons compensated.—Private employment: All persons rendering service to another for a valuable consideration, casual employees and those working on material given out to be made up, repaired, etc., on premises not under the control of the employer excepted. Public employment: All employees.

Burden of payment.—All on employer.

Compensation for death:
(a) $100 funeral expenses.
(b) 40 per cent of weekly wages to widow or dependent widower, 5 per cent additional for each child, total not to exceed 60 per cent; if no parent, 25 per cent if 1 or 2 children, 10 per cent additional for each child in excess of 2, total not to exceed 60 per cent; if no consort or child under 16, but dependent parent, brothers, or sisters, 15 to 25 per cent of wages.
(c) Payments cease on death, remarriage of widow or widower, cessation of dependence of widower, or child, brother, or sister attaining the age of 16, not to continue beyond 300 weeks, unless for children under 16, when 15 per cent will be paid for 1 and 10 per cent additional for each additional child, total not to exceed 50 per cent. Basic wages are not less than $10 nor more than $20 weekly.

Compensation for disability:
(a) Reasonable medical, surgical, and hospital expenses for first 14 days after disability begins, cost not to exceed $25, unless major surgical operation is necessary, when $75 is the maximum.
(b) For total disability, 50 per cent of weekly wages for 500 weeks, $5 minimum, $10 maximum, total not to exceed $4,000; if wages less than $5, full wages will be paid.
(c) For partial disability, 50 per cent of weekly wage loss, $10 maximum, for not over 300 weeks; fixed periods for specified injuries, $5 minimum, $10 maximum, full wages if less than $5.

Payments may be commuted to a lump sum.

Revision of benefits.—Agreements and awards may be reviewed by the board at any time for proper cause.

Insurance.—Employers must insure in the State fund, a stock or mutual company, or give proof of financial ability.

Security of payments.—Agreements or claims may be filed with a prothonotary, who enters them as a judgment, and if approved by the board they become a lien on the property of the employer. A separate act provides for direct payments from insurance companies to the beneficiaries, in case of the employer's failure to make payment of benefits.

Settlement of disputes.—Disputes are settled by a workmen's compensation board, with appeal to courts.
VERMONT.

Date of enactment.—April 1, 1915; in effect July 1, 1915.

Injuries compensated.—Personal injury causing disability for more than 14 days or death within 2 years, arising out of and in course of employment, not due to the employee's willful intention to injure himself or another, his intoxication, or failure to use a safety appliance.

Industries covered.—All industrial establishments in which more than 10 persons are employed, and commerce as far as permissible under Federal laws, domestic and casual labor excepted, unless election to the contrary is made. Public service under municipalities which elect compensation system.

Persons compensated.—Private employment: All under contract with or in service of an employer, domestic and casual employees and those receiving more than $1,500 excepted. Public employees: All except those elected by popular vote or receiving in excess of $1,500 annually.

Burden of payment.—All on employer.

Compensation for death:

(a) $75 for funeral expenses if death occurs within 2 years.

(b) 33 1/3 per cent of weekly wages to dependent widow or widower, 40 per cent if there be 1 or 2 children, and 45 per cent if more than 2; if no parent, 25 per cent to 1 or 2 children, 10 per cent additional for each child in excess of 2, total not to exceed 40 per cent; if no consort or child under 18, and dependent parent, grandparent, or grandchild, 15 to 25 per cent of wages.

(c) Payments to widow cease on death or remarriage; to widower on remarriage or cessation of dependency; to children on reaching age of 18 unless incapable of self-support, in no case to exceed 260 weeks or $3,500 in amount; payments to other classes of beneficiaries end in 208 weeks at most. Basic wages are not less than $5 nor more than $25 weekly.

Compensation for disability:

(a) Medical and hospital services for first 14 days, not to exceed $75.

(b) For total disability 50 per cent of weekly wages for 26 weeks if temporary, 260 if permanent, subject to extension for 52 weeks, $3 minimum, $12.50 maximum, total not to exceed $4,000. If wages are less than $3, full wages will be paid unless disability is permanent, when $3 will be paid.

(c) For partial disability, 50 per cent of wage decrease, maximum $10, for not more than 5 years.

(d) For certain specified injuries, 50 per cent of weekly wages, but not more than $10, for designated periods ranging from 8 to 170 weeks.

Payments may be commuted to one or more lump sums in any case.

Revision of benefits.—Awards may be reviewed on application at any time, but not oftener than once in 6 months.

Insurance.—Required unless deposit of security is made, or satisfactory proof of financial responsibility.

Security of payments.—Employees may have direct recourse to insuring company; insolvency of employer does not release insurer; compensation rights are preferred claims.

Settlement of disputes.—Disputes are determined by an industrial accident board, with appeal to courts.
Date of enactment.—February 22, 1913; in effect October 1, 1913; amended February 20 and May 21, 1915.

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 1 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 orphan child or children, $10 each per month until the age of 15, total not to exceed $30 per month.
(d) 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.
(e) 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 when he would have become 21.
(f) If only partial dependents survive, a compensation computed as in (d), with the same maximum.

Payments to a widow or widower cease on remarriage, and to children on reaching the age of 15 years. If widow or invalid widower remarry within 2 years of death of employee, to be paid 20 per cent of balance of 10 years' benefits.

Compensation for disability:
(a) Medical, nurse, and hospital services, not exceeding $150 ($300 in special cases).
(b) For temporary partial disability, during such disability, 50 per cent of loss of his earning capacity, not more than $10 per week nor exceeding 26 weeks, except that for certain ununited fractures, etc., the period may be 52 weeks.
(c) For permanent partial disability, 50 per cent of wages for periods varying with degree of disability (from 10 to 70 per cent), periods ranging from 30 to 210 weeks; from 70 to 85 per cent disability, 40 per cent of wages for life.
(d) For permanent total disability (85 per cent or above), 50 per cent of the average weekly wages, during life.

Lump-sum payments may be substituted for periodic payments in case of either injury or death. Payments under (c) and (d), $4 minimum, $8 maximum.

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

Insurance.—Insurance is effected through a State fund under the control of the compensation commissioner, or employers of approved ability may carry own risks, giving bond for performance of requirements not less than those of the law, without contributions from their employees.

Security of payments.—Payments may be made only to beneficiaries, and are exempt from claims of creditors or attachment or execution.

Settlement of disputes.—Disputes are settled by the commissioner; limited appeal to the supreme court.
Wyoming.

Date of enactment.—February 27, 1915; in effect April 1, 1915.

Injuries compensated.—Personal injury causing disability for more than 10 days or death, as a result of employment and not due to the culpable negligence of the injured employee or to the willful act of a third person due to reasons personal to such employee or because of his employment.

Industries covered.—Extra-hazardous (enumerated list), in which 5 or more workmen are employed, interstate railroads excepted; public employments and use of explosives and work 10 or more feet above ground included, without reference to number of employees.

Persons compensated.—Private employment: All employees in industries covered. Public employment: All employees in classes of employments designated.

Burden of payment.—All on employer.

Compensation for death:

(a) $50 for funeral expenses, unless other arrangements exist under agreement.

(b) Lump-sum payments of $1,000 to widow or invalid widower, and additional sum, equal to $60 per year, until the age of 16 is reached for each child under the age of 16, the total for children not to exceed $1,000. If there are dependent parents and no spouse or child under 18, a sum equal to 50 per cent of 1 year's contribution, not exceeding $500.

Compensation for disability:

(a) For total permanent disability, lump sum of $1,000 if single, $1,200 if wife or invalid husband, and a sum equal to $60 per year for each child under 16 until age of 16 is reached, the total for children not to exceed $1,800. If disability is temporary, $15 per month if single, $20 if married, and $5 monthly for each child under 16, the total monthly payment not to exceed $35 and the aggregate not to exceed the amount payable if the disability were permanent.

(b) For permanent partial disability, fixed lump sums for specified injuries, others in proportion.

No provision is made for medical or surgical aid; all payments are lump sums, except for total temporary disability.

Revision of benefits.—No provision.

Insurance.—Insurance in State fund required.

Security of payments.—Insurance under State control; payments not assignable or subject to execution, attachment, etc.

Settlement of disputes.—Disputes are settled by the district courts of the counties, with appeal to the supreme court of the State.
AMENDING LEGISLATION.

Of the amendments it may be said in general that they relate to matters of administration or tend toward an extension of the scope of the acts amended. Exceptions are the exclusion of railroads from the scope of the law in Minnesota, and of domestic and agricultural labor in Nevada. In Illinois an amendment permits the use of the common-law defenses in suits against farmers and stock raisers. An important change in the law of California consists of the substitution of the word "injury" for the word "accident" throughout, the evident intent being to permit the inclusion of disabilities not resulting from single acts of violence, as in cases of industrial disease. An act of the California Legislature of 1915 that may be mentioned in this connection is one that provides that officers and members of the National Guard killed or injured while in the service of the State shall be within the provisions of the compensation act.

The Connecticut statute provides for its presumptive acceptance only in cases where there are 5 or more employees, instead of in all cases as formerly. Casual employees and outworkers are excluded from the benefits of the act. Waiting time is reduced from 2 weeks to 10 days, and the levy of the sum of $750 for the expenses of the State compensation commissioners where there are no dependents of a deceased workman is discontinued. Other amendments relate to the liability of third persons to whose negligence injury is due, to the giving of notice of accidents immediately instead of within 30 days, to the readjustment of benefit payments among other beneficiaries in case of the death or remarriage of one of several beneficiaries, giving power to a commissioner to review an award on his own initiative as well as at the instance of the parties, etc.

In Illinois the minimum death benefit was increased from $1,500 to $1,650, and the minimum weekly disability payment from $5 to $6. A number of changes relate to details of administration. The law now provides for a review of decisions of the board by the circuit courts instead of by the supreme court only, this restriction having been held unconstitutional.

The Massachusetts statute was amended in 1914 and 1915, the most important changes being the increase of benefits, the basis being raised from one-half to two-thirds of the wages, the maximum amount for total disability increased from $3,000 to $4,000, and the limit of term of payments for partial disability extended from 300 weeks to 500 weeks. Other changes relate to questions of dependents, the discretionary payment of partial lump-sum awards to permanently disabled minors, the securing of evidence from absentees by the use of depositions or letters rogatory, arbitration of dis-
putes, the review of awards, the organization of the State employees' insurance association, etc. The directors of the insurance association are to be elected by ballot of the members instead of being appointed by the governor, as originally provided. Branch offices of the industrial accident board in not more than four cities of the State may be established, and the appointment of a medical adviser is authorized. A number of separate acts were also passed relating to the law in various ways, and these are reproduced in subsequent pages.

Amendments to the Michigan law authorize the appointment of two deputy commissioners to assist in the administration of the act, and give the State commissioner of insurance power to administer medical and hospital benefits through the State accident fund, the same as other benefits. Part V of the act, relating to the administration of the State fund by the commissioner of insurance, was amended in several respects, one change authorizing the levying of sufficient premiums or assessments on the employers insured to meet the expenses of the administration of the fund. The standing appropriation for the expenses of the industrial accident board is increased from $40,000 to $45,000. Other laws relating to adjusters of claims for compensation and to the classification of risks by insurance companies were also enacted, and are reproduced in their proper place.

In Minnesota all common carriers by steam railroad are exempted from the operations of the act, instead of only when engaged in interstate commerce. A special liability law was enacted for railroads. Provision was made for the payment of funeral expenses by the employer in cases of fatal accidents, the amount not to exceed $100. The weekly benefits payable were changed from $6 minimum and $10 maximum to $6.50 minimum and $11 maximum. In cases of permanent total disability not more than $6.50 per week is to be paid for 150 weeks after the expiration of the 400 weeks of full benefits originally provided for, the total not to exceed $5,000. The schedule of partial disabilities was amended, adding loss of hearing and a number of combined injuries thereto. Other amendments relate to dependents, the distribution of death benefits, charges for medical, etc., aid, the limitations of actions, the duty of physicians to testify, payments to nonresident alien beneficiaries, the insurance of risks, etc.

Very considerable changes were made in the statute of Nevada, the scope of the law being extended by disregarding the number of employees. The waiting time is reduced from 2 weeks to 1 week, and if disability continues for 3 weeks or longer, payments date from the time of the injury. Reasonable medical and surgical aid is to be furnished by the employer for a period of not more than 4 months; employees may be called upon to contribute $1 per month for this purpose. The schedule of payments to dependents was revised, and
the maximum amount payable was advanced from $5,000 to $6,000. Payments to nonresident alien beneficiaries are specially provided for. Election to accept the act is presumed in the absence of notice of rejection, but the rejection was valid for but 1 year unless renewed, as the act originally provided; by amendment, rejections once made continue in force until waiver thereof, which action may be taken at any time. The industrial commission, instead of consisting of 5 members, three of whom are so ex officio, is to consist of 3 members, appointed by a board made up of the governor, the attorney general, and the inspector of mines. Provision is made for the reduction or suspension of benefit payments to injured persons who refuse reasonably essential medical or surgical treatment, or persist in insanitary or injurious practices which tend to imperil or retard recovery. Forfeiture of compensation is to follow conviction of fraud or misrepresentation. Other amendments relate to the maintenance, investment, etc., of the State insurance fund, injuries outside the State, etc.

The New Jersey statute was amended in 1914 by requiring burial expenses to be paid in all cases, instead of only in cases where no other death benefits were payable. Supplementary laws were enacted in 1915, which appear on a subsequent page.

The law of New York was amended in 1914 so as to include employees on public works, instead of excluding them. Other amendments relate to pleadings in suits where the employer has failed to guarantee payments under the act, to penalties for failure to provide such guaranty, to the increase of a child’s share in case of the death of a surviving parent during the compensation term, and to the consideration of public pension systems in determining benefits payable. The legislature of 1915 made several amendments, principal among them being the permission of direct agreements between the employer and employee, subject, however, to the approval of the industrial commission; a provision for advances by the employer prior to any final agreement, and one for penalties in case of negligent or intentional default in compensation payments. The administration of the act now devolves upon the industrial commission of the State, the workmen’s compensation commission having been abolished and its functions conferred upon the new commission.

The Ohio statute was amended at the first extra session of 1914 by defining the term “willful act” as used in the law to mean one done knowingly and purposely with the direct object of injuring another—a restricted definition that was rejected by a Federal court in a case decided prior to the enactment of this amendment. (See Bul. No. 169, p. 232.) At the second special session it was provided that counties might omit an annual tax accounting in any year following a report by the industrial commission that sufficient funds are
in hand. Amendments in 1915 relate to the making of the annual reports by the commission.

The amendments of the law of Oregon consist of changes in the section classifying industries and establishing premium rates, among other things fixing the employees' contributions at 1 cent for each day or part of day worked, instead of a percentage of the earnings and at least 25 cents per month; provisions for adjusting premium rates on a basis of experience and for determining rates for employers not enumerated in the act but desiring to come within its provisions. Instead of permitting suits for damages against employers failing to comply with safety laws, the offending employers are to be prosecuted by the industrial accident commission of the State.

Besides enacting a compensation law and related acts, the Legislature of Pennsylvania effected the second adoption of a resolution for an amendment to the State constitution, which, if adopted, will permit the enactment of a compulsory compensation law. This will be voted upon at the regular election in November of this year.

The Rhode Island statute is amended so as to require the employer to insure, to give proof of financial ability to make payments directly, or to give satisfactory security or bond to protect payments that may fall due. Insurance policies must inure to the direct benefit of claimants, and beneficiaries have a first lien on any sums due employers from the insuring company. Other amendments provide for the reporting of accidents and fix the method of ascertaining average weekly wages, etc.

The amendments to the Washington statute were not so extensive as in some States, the premium rate for iron and steel construction work being changed from 8 to 61/2 per cent, the provision as to initial or preliminary payments modified, also those relating to readjustment of classes and funds and to defaulting employers. Physicians who have examined or treated claimants are required to testify as to such examination or treatment in proceedings relating to claims, and persistence by claimants in insanitary and injurious practices or refusing reasonably essential medical or surgical treatment may reduce or suspend compensation payments.

Changes in the statute of West Virginia provide for a compensation commissioner to administer the act in lieu of administration by the public service commission of the State as originally arranged for. The costs of administering the fund, including salaries, fees for official bonds, etc., are to be paid out of the fund itself, instead of being met by the State as formerly. Numerous changes in detail were made, and the minimum and maximum limits of weekly benefits were raised from $3 to $4 and $6 to $8, respectively. Payments for dis-
ability are one-half the wages for various periods according to degree of disability, a disability of 85 per cent or above calling for payments for life. Death benefits are specific weekly or monthly sums for the different classes of dependents, payments to children ceasing when they attain the age of 15 years. Medical and surgical costs may in special cases be increased to $300. The establishment of a surplus fund on a specified basis and an annual readjustment of premium rates (which are fixed by the commissioner) are provided for. Employers may act as self-insurers, but must do so in accordance with rules prescribed by the compensation commissioner and must give bond for the payment of benefits that may fall due. Special provision is made for the proof of claims in cases of hernia.

The Wisconsin statute was amended so as to provide for dependent children in case of divorce of the parents, also for a divorced spouse who has not remarried.

The Federal Congress extended the benefits provided by earlier laws for railway mail and sea-post clerks, so as to include city and rural letter carriers and special-delivery messengers; while in Executive order extended the application of the act of May 30, 1908, to work on or in connection with the Federal railway construction in Alaska.

CONSTITUTIONALITY AND CONSTRUCTION OF STATUTES.

Of the construction and application of the laws by the courts but little need be said here in view of the recent appearance of an extensive list of opinions in the bureau's bulletin devoted to decisions of courts affecting labor (Bul. No. 169 [1914], pp. 197–269). (See also Bul. No. 152 [1913], pp. 177–217.) Bulletin No. 126 (pp. 75–110) also discusses these questions in the light of material available at the date of its publication. As already stated, the Kentucky statute was by a divided court declared unconstitutional. The question of the constitutionality of the compulsory insurance statute of Washington is before the Supreme Court of the United States. The only compensation case on which it has rendered an opinion thus far is one involving certain features of the Ohio statute, also providing compulsory insurance, the law being sustained in so far as it was before the court. (Jeffrey Mfg. Co. v. Blagg, Bul. No. 169, p. 203.)

Since the publication of Bulletin No. 169, an important decision in a case of first impression under the present statute has been rendered by the Supreme Court of California, sustaining the constitutionality of the compulsory law of 1913, the earlier act having been elective. The New York statute of 1913, likewise compulsory, has also been before the court of that State recently on questions of constitutionality, the decision upholding the law generally and apply-
ing it to a case in which the injured workman was employed in unloading a vessel which was engaged in interstate commerce. It was held that until Congress acts in behalf of such workmen, recovery is determined by the State laws of the jurisdiction within which the injury was received. (Jensen v. Southern Pacific Co., decided by the New York Court of Appeals, July 13, 1915, 109 N. E., 600.)

Another interesting decision in the same field was handed down by the Supreme Court of New York (appellate division) in the case Winfield v. New York Central, etc., R. Co. (153 N. Y. Supp., 499). The injured man was concededly engaged in interstate commerce, so that if the injury had been due to the employer's negligence he would of necessity have had recourse to the Federal liability statute. However, as there was no negligence, the injury being due to pure accident, it was not within the Federal law, and the court held that it was a case in which Congress had not yet acted, so that the State law would control, and affirmed an award made in the claimant's favor by the compensation commission.

Another statute that received consideration at the hands of the courts this year was that of Texas, the court of civil appeals having held certain provisions of the act unconstitutional (Middleton v. Texas Power & Light Co., 178 S. W. Rep., 956). The act authorizes the employer to choose whether or not he will accept the provisions of the act, but having done so his employees are deprived of any right of action against him for damages for personal injuries, and are restricted to such relief as the statute in question provides. The court held that this provision was void as in violation of the clauses of the Federal and State constitutions which guarantee due process of law, and also of those clauses which forbid depriving any person of the equal protection of the laws. It was further held that giving the employer his choice as to the nature of the remedy which he would permit his employees was in substance a delegation of legislative functions, and void as an attempt to confer upon him powers belonging exclusively to the legislature. The jurisdiction of this court is not final, and the case has been taken to the supreme court of the State.

Questions of experience under the act and of administration in general are reserved for consideration in a later bulletin, for which material is being obtained by field investigations and otherwise.
The insurance of the employers' risk under the compensation laws is the subject of various forms of treatment, as appears from the fact that some of the laws are in themselves insurance laws, others require some form of insurance without specifying its type, while still others leave the matter entirely to the initiative and choice of the persons interested. Stock companies writing employers' liability insurance under the old laws naturally extend their activities to cover the obligations imposed by the new legislation; and both by provision of law and by a natural growth to meet new conditions, the question of the formation of mutual companies came into increased prominence. In some States the compensation acts themselves contain provisions covering this subject, while special acts regulating the formation of such companies have been passed in several others, and while they are not strictly parts of the compensation laws, they are so closely related to their operations that they should be considered in this connection. Their similarity of form and purpose makes it unnecessary, however, to reproduce each of them at length, and that of New York is here given as representative of this class of laws. The act is in the form of an article of the law of the State relating to insurance corporations, and is as follows:

NEW YORK.

CONSOLIDATED LAWS.


(Added by chapter 832, Acts of 1913, extra session.)

SECTION 185. Thirteen or more persons may become a corporation for the purpose of insuring on the mutual plan against loss or damage resulting from accident to or injury suffered by an employee or other person and for which the person insured is liable, or the liability of the employer to pay compensation to his employees, or the compensation of employees under any workmen's compensation law * * * by making and filing in the office of the superintendent of insurance a certificate to be signed by each of them, stating their intention to form a corporation for the purpose named, and setting forth a copy of the charter which they propose to adopt, which shall state the name of the proposed corporation, the place where it is to be located, the mode and manner in which its corporate powers are to be exercised, the number of directors, the manner of electing its directors and officers, the time of such elections, the manner of filling vacancies, the names and post-office addresses of the directors who will serve until the first annual meeting of such corporation, and such further particulars as may be necessary to explain and make manifest the objects and purposes of the corporation. Such certificate shall be approved or acknowledged and recorded in a book kept for that purpose by the superintendent of insurance and a certified copy thereof shall be delivered to the persons executing the same.
Sec. 186 (as amended by chapter 506, Acts of 1915). Upon receipt of a certified copy of the certificate of incorporation from the superintendent of insurance, the persons signing such certificate may open books to receive applications for membership therein. No such corporation shall transact any business of insurance unless the annual premium cost on the insurance applied for shall be not less than twenty-five thousand dollars at the minimum annual rates approved by the superintendent of insurance and until at least forty employers employing not less than twenty-five hundred employees; or thirty employers employing not less than five thousand employees; or twenty employers employing not less than seven thousand five hundred employees; or ten employers employing not less than ten thousand employees have become members of such corporation and applied for and agreed to take insurance therein, covering the liability of such employers to their employees for accidents to or injuries suffered by such employee nor until the facts specified in this section have been certified under oath by at least three of the persons signing the original certificate to the superintendent of insurance and the superintendent of insurance has issued a license to such corporation authorizing such corporation to begin writing the insurance specified in this article. The superintendent of insurance must be satisfied that the membership list of the corporation is genuine and that every member thereof will take the policies as agreed by them within thirty days of the granting of the license to the corporation by the superintendent of insurance to issue policies. If at any time the number of members or the number of employees who are employed by the members of the corporation falls below the number required by this section, no further policies shall be issued by the corporation until other employers have made bona fide applications for insurance therein, who, together with the existing members, amount to not less than forty employers who employ not less than twenty-five hundred employees, or thirty employers who employ not less than five thousand employees, or twenty employers who employ not less than seven thousand five hundred employees, or ten employers who employ not less than ten thousand employees, and in the event that such applications for insurance shall not be obtained within a reasonable time, to be fixed by the superintendent of insurance, such superintendent may take the proceedings against such corporation under section sixty-three of this chapter to the same effect as if clause h of subdivision one of such section was specifically applicable to corporations organized under this article.

The members of the corporation shall be policyholders therein, and when any member ceases to be a policyholder he shall cease, at the same time, to be a member of the corporation. A corporation, partnership, association, or joint-stock company may become a member of such insurance corporation and may authorize another person to represent it in such insurance corporation, and such representative shall have all the rights of any individual member. Any person acting as employer in the capacity of a trustee may insure in such corporation and as such trustee may assume the liabilities and be entitled to the rights of a member, but shall not be personally liable upon such contract of insurance.

Such corporation may borrow money or assume liability in a sum sufficient to defray the reasonable expenses of its organization.

Sec. 187. Any such corporation shall have not less than thirteen directors, and such officers as shall be provided in the certificate of incorporation or by the by-laws made by the members. The directors shall be elected annually by the votes of the members. All except two of the directors of the corporation elected after the organization of the corporation is completed and it is authorized to begin to issue insurance policies shall be members of the corporation. All the officers except the secretary, assistant secretary and the actuary must be members of the board of directors.
Voting power. Sec. 188 (as amended by chapter 506, Acts of 1915). At all meetings of the members of the corporation each member shall have one vote and one additional vote for every five hundred employees or major fraction thereof, covered by the policy held by such member in the corporation: Provided, That no member shall have more than twenty votes. The number of votes of a member shall be determined by the average number of employees at work and covered by said member’s policy in the corporation during the last six months from a date not more than ten days immediately prior to the date of any such meeting. Before any member shall be permitted to cast more than one vote at any meeting of members he shall file with the secretary an affidavit showing the average number of employees at work during the preceding six months covered by the employer’s policy of insurance.

Assessments. Sec. 189. The corporation may in its by-laws and policies fix the contingent mutual liability of the members for the payment of losses and expenses not provided for by its cash funds; but such contingent liability of a member shall not be less than an amount equal to and in addition to the cash premium written in the policy. If the corporation is not possessed of cash funds above its unearned premium 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 liability. Every member shall be liable to pay and shall pay his proportionate part of any assessment which may be laid by the corporation in accordance with law and his contract, on account of losses and expenses incurred while he was a member, if he is notified of such assessment within one year after the expiration of his policy. All assessments shall be based upon present values of all future payments, and all proposed premium assessments shall be filed in the insurance department and shall not take effect until approved by the superintendent of insurance, after such investigation as he may deem necessary. All funds of the corporation and the contingent liability of the members thereof shall be available for the payment of any claim against the corporation.

Dividends. Sec. 190. The board of directors may, from time to time, 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 and other policy obligations which may be payable on account of the injuries sustained and expenses incurred. Any such corporation may hold cash assets in excess of its liabilities, but such excess shall be limited to one hundred per centum of its reserves for losses and expenses incurred, and may be used from time to time in payment of losses, dividends, and expenses.

Reserves. Sec. 191 (as amended by chapter 506, Acts of 1915). Such corporation shall be required to maintain the same reserves for the protection of policyholders and employees who may have a right of action directly against such corporation as are required to be maintained by stock insurance corporations in relation to the same class of insurance, except that reserves for liability for insurance of compensation under the workmen’s compensation law shall be prescribed by the superintendent of insurance, and the superintendent of insurance may suspend or cancel the certificate issued by him authorizing said corporation to transact such insurance business at any time when in the judgment of the superintendent of insurance the reserves of said corporation are insufficient to insure and secure the payment of its policy obligations, and the superintendent of insurance may reinstate or renew said certificate whenever by assessment or otherwise said reserves have been increased to a sum sufficient in the judgment of the superintendent of insurance to insure and secure the payment of the policy obligations of such corporation.

Reports and examinations. Sec. 192. Every such corporation shall make reports to the superintendent of insurance at the same times and in the same
manner as are required from stock insurance companies transacting
the same kind of business, and the superintendent of insurance
may examine into the affairs of such corporation at any time,
either personally or by any duly authorized examiner appointed by
him, and the superintendent of insurance must make such an
examination into the affairs of said corporation at least once in
every two years.

Sec. 193. The board of directors shall make and enforce rea-
sonable rules and regulations not in conflict with the laws of
the State for the prevention of accidents to the employees on the
premises of members, and for this purpose the inspectors of the
corporation shall have free access to all such premises during
regular working hours. The policy of any member neglecting to
provide suitable safety appliances as provided by law or as re-
cquired by the board of directors may be canceled and terminated
by the board of directors after giving to such member notice of
cancellation ten days prior to its becoming effective.

Sec. 194. After January first, nineteen hundred and seventeen,
the superintendent of insurance may, in his discretion, issue a
certificate of authority to a mutual corporation organized under
the laws of another State to do such insurance in this State; Pro-
vided, That, in no event, shall authority be given to any such
mutual corporation to do other kinds of business than those speci-
fied in this article. Such corporation shall be required to main-
tain the same reserves for the protection of members and em-
ployees as are required for domestic corporations authorized to
transact the same kind of insurance.

Other States having laws on this subject are California (ch. 177,
Illinois (p. 485, Acts of 1915), Indiana (ch. 140, Acts of 1915), Mary-
land (ch. 459, Acts of 1914), Massachusetts (ch. 251, Acts of 1911;
ch. 181, Acts of 1915), Michigan (act No. 12, Acts of 1912, extra ses-
sion; act No. 177, Acts of 1915), Minnesota (ch. 122, Acts of 1913),
Nebraska (secs. 3322-3345, Rev. Stat., 1913), New Hampshire (ch.

The law of California requires 5 incorporators and not less than 5
nor more than 11 directors. Business may be begun with 100 sub-
scribers having not less than 1,000 employees in the aggregate. The
State insurance commissioner may limit the membership of any com-
pany to persons engaged in the same general character of industry or
residing within a limited part of the State. The term of the corpora-
tion may not exceed 50 years. Premium rates may not be less than
those fixed by the State workmen's compensation rating bureau.

Under the Colorado statute 15 or more employers, individual or
corporate, may associate to write mutual insurance. Business may
not be begun until at least 20 employers with not less than 2,500
employees apply for and agree in writing to take insurance and until
such applications and agreements are properly authenticated to the
commissioner of insurance. In special cases, where the hazard is
comparatively slight, the number of employees may be reduced but
must be above 1,000. Members have one vote for each 500 employees
or major fraction thereof, but no member may have more than 20 votes. Directors make classifications and fix premium rates and may allow for merit rating; they may also maintain separate funds and rates for different employments.

In Illinois not less than 20 persons may form mutual associations and may begin business with the simultaneous issue of at least 20 policies to 20 members covering the same kind of insurance upon not less than 200 separate risks. No maximum single risk may exceed 20 per cent of its admitted assets, or three times the average policy, or 1 per cent of the insurance in force, whichever is the greater. Not more than $25,000 admitted assets is required, and at least 1,500 employees must be covered, each employee being considered a separate risk. Policyholders must be members of the corporation and are entitled to votes in accordance with the insurance in force, the number of policies held, or the amount of premium paid, as may be provided by the by-laws.

The Indiana statute requires at least 20 incorporators and contains similar provisions as to initial issue of policies, maximum single risks, and the amount of admitted assets and number of employees as appear in the Illinois statute; provisions as to voting are also similar.

The Maryland statute calls for at least 9 directors and 20 subscribers, with 2,000 employees as a minimum for the commencement of business. Members have 1 vote for each 500 employees or major fraction thereof but not more than 10 votes in all. If employees contribute to the insurance fund, they are to have an equal voting power with the employers.

In Massachusetts 10 or more persons may form a mutual company, but no policy may be issued until applications for insurance in an amount not less than $50,000 have been received, or applications by not less than 100 employers with not less than 10,000 employees, or applications by not less than 50 employers having not less than 5,000 employees, each employer obligating himself in an amount not less than five times his cash premium, which may be called upon in emergency, or they may give bond in an amount of $100,000 to meet such emergencies; a fund of $50,000 in cash deposited with a trustee may be substituted for the bond. In any case provision must be made for extraordinary losses caused by disasters. In general, corporations of this class are subject to the provisions of the corporation laws of the State.

The law of Michigan requires 5 incorporators and provides for a discretionary restriction to groups of employers engaged in operations of the same general character. At least 5,000 employees must be represented. The term of the corporation may not exceed 30 years. In fixing premium rates the board of directors may take into account
the safety conditions of the plants of the respective subscribers. The law of 1915 authorizes any mutual company, organized in the State or elsewhere, to write liability insurance if possessed of net cash assets in an amount of $500,000.

In Minnesota 20 incorporators are required, and business may be begun only when there are at least 5,000 employees covered. A proviso as to companies insuring creameries and cheese factories only allows them to operate if there are 300 employees covered, the number of subscribers being not less than 200. This act requires a statement in each policy of the maximum contingent liability of the holder. The life of the corporation is limited to 30 years.

Twenty employers with 5,000 employees may incorporate in Nebraska, and the charter may be perpetual. Subscribers may cast 1 vote for each $100 premium or fraction thereof paid during the preceding calendar year.

The New Hampshire law authorizes the incorporation of 20 or more employers with not less than 5,000 employees. The general corporation law applies where not inconsistent with the present act. One vote is allowed for each $100 or fraction thereof paid in premiums, no person to be allowed more than 20 votes. Directors may inspect plants, prescribe safety rules and regulations, and examine books and pay rolls. Merit rating is permissible, and a reserve as required by the insurance commissioner of the State must be provided. Groups of industries and separate funds may be maintained, but all funds are ultimately available to meet losses when necessary.

The Oklahoma statute is identical with that of Illinois in the points noted. The premium rates to be charged by mutual companies, as by "every insurance company granting insurance against liability of employers," are subject to revision by the State insurance board if found unreasonably high or inadequate. (Ch. 174, Acts of 1915.)

The Pennsylvania law requires 20 or more employers with not less than 5,000 employees who have accepted the elective compensation system of the State, though in case of agricultural employments not less than 200 employers and 500 employees are required. The same provision as to voting, inspection, premiums, groups, funds, and ultimate collective liability as appears in the New Hampshire law is in force in this State. A surplus may be established to cover catastrophe hazards.

The Texas statute differs considerably from the other laws of this class and authorizes subscribers "to exchange reciprocal or inter-insurance contracts with each other" at an office designated in the application for such authority. Not less than 75 employers with 2,000 employees must apply and must place in deposit at least $10,000
for the payment of losses, and the reserve fund must be retained at this amount as a minimum. The insurance contracts must amount to not less than $500,000, and no employer may assume a risk in excess of 10 per cent of his net worth as shown by a reputable commercial rating agency.

Applicable to the above forms of insurance companies, and to all others operating in the field, including the State fund, are the provisions of a statute of California (ch. 642, Acts of 1915, adding sec. 602b to the Political Code of the State) which requires every such company to file with the State insurance commissioner its classification of risks and premium rates, together with its list of schedule or merit rating. After hearings the commissioner is to fix a uniform classification of risks and premium rates, and may also establish a uniform system of merit rating; no insurance may be carried at less than the established rates. The statistical and actuarial data compiled by the State's industrial accident commission and compensation insurance fund are to be at the disposal of the insurance commissioner for the purposes above set forth.
TEXT AND AMENDMENTS OF WORKMEN'S COMPENSATION LAWS.

ALASKA.

ACTS OF 1915.

CHAPTER 71.—Compensation of workmen for injuries.

SECTION 1. Any person or persons, partnership, joint-stock company, association, or corporation employing five or more employees in connection with mining operations carried on in this Territory, who shall not have given notice of his, her, their, or its election to reject the provisions of this act in the manner hereinafter provided, or who having given such notice shall, prior to the time that an employee is injured, as hereinafter referred to, have waived the same in the manner hereinafter provided, shall be liable to pay compensation, in accordance with the schedule herein adopted, to each of his, her, their, or its employees who receives a personal injury by accident arising out of and in the course of his or her employment, or to the beneficiaries named herein, as the same are hereinafter designated and defined, in all cases where the employee shall be so injured and such injuries shall result in his or her death: Provided, The employee so injured had not, prior to the time of being so injured, given notice of his or her election to reject the provisions of this act in the manner hereinafter provided, or having given such notice had prior to such time waived the same in the manner hereinafter provided.

The compensation to which such employee so injured, or in case of his or her death, if death results from such injury, such beneficiaries, shall be entitled, and for which such employer shall be legally liable, shall be as follows:

(A) In the event of the death of any such employee resulting from such injury, where such employee at the time of his death was married, his widow shall be entitled to receive in addition to the sum above specified, the sum of six hundred ($600) dollars for each child under the age of sixteen (16) years which such employee left at the time of his decease, but not to exceed in all the sum of six thousand ($6,000) dollars.

(B) Where such deceased employee was unmar­ried at the time of his or her death survived by either his or her father or mother, who was at the time of his or her death dependent upon him or her for support, such father or mother shall be paid the sum of one thousand two hundred ($1,200) dollars each.
(F) In those cases where such deceased employee was a widower at the time of his death, but left one or more minor orphan children, there shall be paid the sum of three thousand ($3,000) dollars, and the further sum of six hundred ($600) dollars for each orphan child under the age of sixteen (16) years: Provided, The total amount paid shall not exceed six thousand ($6,000) dollars; and the judge of the probate court of the precinct wherein such accident or injury occurred shall appoint a guardian for all of said children, who shall be entitled to and who shall be paid the amount specified in this paragraph for the benefit of said orphan children, and shall divide three thousand ($3,000) dollars thereof equally among such children and divide the surplus, if any, among the children under sixteen (16) years of age.

(G) In those cases where such deceased employee is at the time of his or her death unmarried, and leaves no children nor father nor mother dependent upon him or her as above specified, the employer shall be required to pay the funeral expenses of the deceased, not to exceed the sum of one hundred fifty ($150) dollars, and such other expenses, if any, arising after the injury and before the death, not to exceed the further sum of one hundred fifty ($150) dollars.

Permanent total disability:

Where any such employee receiving an injury arising out of and in the course of his or her employment as the result of which he shall be totally and permanently disabled, he or she shall be entitled to receive compensation as follows:

(a) If such employee was at the time of his injury married, he shall be entitled to receive four thousand eight hundred ($4,800) dollars, with six hundred ($600) dollars additional for each child below the age of sixteen (16) years, but the total to be paid shall not exceed six thousand ($6,000) dollars.

(b) If such employee at the time of his injury had no wife or children, but had a mother or father dependent upon him, four thousand two hundred ($4,200) dollars.

(c) In case where such employee who at the time of his injury had both father and mother dependent upon him, four thousand eight hundred ($4,800) dollars.

(d) In those cases where such employee was at the time of his injury a widower or was divorced, but had minor children, he shall receive the sum of three thousand six hundred ($3,600) dollars, with an additional sum of six hundred ($600) dollars for each child below the age of sixteen (16) years: Provided, That the total sum to be paid such employee shall not in any case exceed the sum of six thousand ($6,000) dollars.

(e) In those cases where such employee so injured at the time of his injury was unmarried and had no children nor father nor mother dependent upon him, he shall receive the sum of three thousand six hundred ($3,600) dollars.

Permanent partial disability:

Where any such employee receives an injury arising out of or in the course of his or her employment, resulting in his or her partial disability, he or she shall be paid in accordance with the following schedule:

For the loss of a thumb:

(a) In case the employee was at the time of the injury unmarried, $480.

(b) In case the employee was married but had no children, $600.

(c) In case the employee was either married or a widower, but had one or more children, $720.

For the loss of an index finger:

(a) In case the employee was at the time of the injury unmarried, $300.

(b) In case that the employee was married but had no children, $390.

(c) In case the employee was either married or a widower, but had one or more children, $480.
For the loss of any other finger than the index finger and thumb, $180.
For the loss of a great toe, $300.
For the loss of any other toe than the great toe, $120.
For the loss of a hand:
(a) In case the employee was at the time of the injury unmarried, $1,440.
(b) In case the employee was married but had no children, $1,920.
(c) In case the employee was either married or a widower and had one child, $1,920 and $240 additional for each of said children, not to exceed, however, the total sum of $2,400.
For the loss of an arm:
(a) In case that the employee was at the time of the injury unmarried, $1,800.
(b) In case the employee was married but had no children, $2,400.
(c) In case the employee was either married or a widower and had one child, $2,400 and $500 additional for each additional child, the total amount not to exceed, however, $3,000.
For the loss of a foot:
(a) In case that the employee was at the time of the injury unmarried, $1,440.
(b) In case the employee was married but had no children, $1,800.
(c) In case the employee was either married or a widower and had one child, $1,920 and $240 additional for each additional child, but not to exceed the total sum of $2,400.
For the loss of a leg:
(a) In case the employee was at the time of the injury unmarried, $1,800.
(b) In case the employee was married but had no children, $2,400.
(c) In case the employee was either married or a widower and had but one child, $2,400, with $300 for each additional child, not to exceed the total sum of $3,000.
For the loss of an eye:
(a) In case the employee was at the time of the injury unmarried, $1,440.
(b) In case the employee was married but had no children, $1,920.
(c) In case the employee was either married or a widower and had one child, $1,920, plus $240 for each additional child, not to exceed, however, the total sum of $2,400.
For the loss of an ear, $240.
For the loss of the nose, $480.

For all other injuries causing temporary disability the employer shall pay to the employee during the period of such disability fifty per cent (50%) of his daily average wages: Provided, however, That the period for the payment for temporary disability shall not exceed six (6) months. And in all cases where the injury develops or proves to be such as to entitle the employee to compensation under some provision in this schedule, relating to cases other than temporary disability, and the employee has been paid compensation for temporary disability, the amount so paid him shall be deducted from the amount to which he shall be entitled under such provision in this schedule.

The loss of both hands, or both arms, or both feet, or both legs, or both eyes, or any two thereof, shall constitute total and permanent disability and be compensated according to the provisions of this act with reference to total and permanent disability.

Amputation between the elbow and the wrist shall be considered equivalent to the loss of a hand, and amputation between the knee and the ankle shall be considered equivalent to the loss of a foot.
Whenever such employee receives an injury, arising out of and in the course of employment, as a result of which he or she is temporarily disabled,
partially disabled, and the disability so received is such as to be permanent in character and such as to come wholly within any of the specific cases for which provision is herein made, such employee shall be entitled to receive as compensation a sum which bears the same relation to the amount he or she would be entitled to receive hereunder if he or she were totally and permanently disabled that the loss of earning capacity of such employee, by reason of the accident, bears to the earning capacity such employee would have had had he or she not been injured, the amount to be paid in no case to exceed four thousand eight hundred ($4,800) dollars.

To illustrate: If said employee were of a class that would entitle him or her to four thousand eight hundred ($4,800) dollars under this schedule, if he or she were totally and permanently disabled and his or her injury would be such as to reduce his or her earning capacity twenty-five (25%) per cent, he or she would be entitled to receive one thousand two hundred ($1,200) dollars, it being the amount that bears the same relation to four thousand eight hundred ($4,800) dollars that twenty-five (25%) per cent does to one hundred (100%) per cent. Should such employee receive an injury that would impair his or her earning capacity seventy-five (75%) per cent, he or she would be entitled to receive three thousand six hundred ($3,600) dollars, it being the amount that bears the same relation to four thousand eight hundred ($4,800) dollars that seventy-five (75%) per cent does to one hundred (100%) per cent.

Right to higher awards.

Sec. 2. If an injured employee entitled to compensation hereunder shall be paid compensation under any subdivision or part of this schedule, and it shall afterwards develop that he or she is or was entitled to a higher rate of compensation under some other part or subdivision of this schedule, then and in that event he or she shall receive such higher rate, after first deducting the amount that has already been paid him or her: Provided, however, That no compensation under such increased rate shall be paid unless the disability entitling the employee thereto shall develop within two (2) years after the injury.

Settlement by agreement.

Sec. 3. At any time subsequent to the injury the employer and the employee shall have the right to compromise and settle any claim for injury hereunder in accordance with schedule herein, and the employee shall have the right to give full satisfaction and acquittance therefor and thereby discharge the employer from further liability, and such satisfaction and acquittance shall be binding upon the said employer, employee beneficiaries under this act, and all other persons whatsoever.

Willful intention.

Sec. 4. No compensation shall be allowed or paid for the injury or death of an employee in any case where such injury or death was occasioned by his or her willful intention to bring about the injury or death of himself or herself or of another, or where the employee's intoxication was the proximate cause of the injury.

Waiting time.

Sec. 5. 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.

Proviso.

Sec. 6. No contractor or subcontractor shall be entitled to receive compensation under this act, but shall be deemed to be an employer.

Contractors.

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 no rights or remedies, except those provided for by this act, shall accrue to employees entitled to compensation under this act while it is in effect, nor shall any right or remedy, except those provided for by this act, accrue to the personal or legal representatives, dependents, beneficiaries under this act, or next of kin of such employees.

Remedy exclusive.
Sec. 8. Step-parents shall be regarded in this act as parents; and
an adopted child, or adopted children, or a stepchild, or children,
shall be regarded in this act as issue of the body.

Sec. 9. Every employee coming within the provisions of this act
shall, either at the time he or she is employed or thereafter,
 furnish his or her employer with a written statement showing the
name or names of each and all persons that would be entitled to
benefits under the provisions of this act in case such employee
should become deceased as a result of an injury received by him or
her arising out of and in the course of his or her employment;
such written statement shall bear the date upon which the same
shall be furnished to the employer and shall be signed by the
employee: Provided, That in cases where such employee is unable
to write his or her name, his or her name may be affixed to such
statement by another, and such employee shall make his or her
mark in the manner customary in such cases, and such mark shall
be made in the presence of at least one witness, who shall sub­
scribe such statement as a witness.

In all cases where there shall be a change of beneficiaries, or a
change in the address of any beneficiary, the employee may fur­
nish the employer with a new statement showing such change;
such new statement to be so furnished shall in all respects con­
form and comply with the provisions hereof with reference to the
original statement to be furnished.

In all cases where such statement or statements is or are fur­
nished the employer by the employee, the employer shall, if such
employee became deceased as a result of an injury received in the
course of his or her employment, notify each beneficiary named
in the last statement of that fact; such notice shall be given by
sending each beneficiary at the address given in the last state­
m furnished a copy of such notice by registered mail, and an
envelope containing such notice addressed to each beneficiary at
the address given in said last statement furnished shall be de­
posited in the post office and registered within ten days after such
employee shall have become deceased.

The notice to be so given shall be substantially in the following
form:
To _______ (giving the name of the beneficiary):

This is to advise you that _______ (giving the name of
the deceased person) became deceased on the ______ day of ______,
as a result of an injury received while in the employ of
_______ You will take notice that all persons entitled to benefits
because of the fact that the above-named employee was injured
and as a result thereof became deceased, under the laws of
Alaska, are required to serve notice upon the employer within
one hundred and twenty (120) days after the date on which such
employee became deceased, in accordance with the provisions of
the laws of Alaska upon that subject, and that a failure to serve
such notice within the time specified and in the manner specified
will result in depriving the beneficiary failing to give such notice
within such time and in such manner of his or her rights to com­
pensation under the laws of Alaska.

Any failure on the part of the employee to supply the employer
with a statement as hereinabove provided shall not work a for­
feiture of the right of his or her beneficiaries to benefits here­
der, but it shall relieve the employer of all obligation to give to
any of the beneficiaries of such deceased employee notice of the
fact that such deceased employee became deceased.

In cases where the employer shall have been furnished with such
statement or statements and shall fail to notify the beneficiaries
therein named as shown by the last statement furnished, within
the time and in the manner herein provided, such beneficiaries
who have not been so notified shall have the right to notify the
employer of their claim to benefits and file claims and prosecute
actions or other proceedings for the recovery thereof, notwith-
standing the fact that such notice was not served, as hereinafter provided, within the period of one hundred and twenty (120) days from and after the time that the employee became deceased.

Upon the trial of any issue relating to a beneficiary's right to compensation under this act, any statement furnished an employer, as hereinafore provided, may be offered in evidence by such employer, and when so offered shall be received in evidence and shall be held to establish the fact that the persons named in the statement bore to the deceased the relation shown by such statement at the date thereof.

In all cases where any person claims to be a beneficiary under this act entitled to compensation because of an injury to an employee coming within its provisions, which resulted in his or her death, such beneficiary, or some one in his or her behalf, shall within one hundred and twenty (120) days from and after the death of such employee serve a written notice upon the employer, which notice shall contain the name and address of the person claiming to be such beneficiary, the relationship existing between such beneficiary and the deceased; and if such beneficiary shall be either the father or mother of the deceased, such notice shall also contain a statement showing that such person was dependent upon the earnings of the deceased. Such notice shall be liberally construed, and no claim for compensation shall be denied because of any defect in the notice: Provided, It appears that a notice was served with a bona fide intention to comply with the provisions of this act. Such notice may be served by any person of legal age by delivering a copy thereof to the employer or the employer's agent in person or by leaving a copy thereof at the employer's principal place of business within the Territory of Alaska with some person over the age of eighteen (18) years in the employ of such employer. If the employer can not be found within the Territory and has no known agent or place of business therein, such beneficiary may serve such notice by publishing the same in one issue of any newspaper of general circulation published in the judicial division where the injury, out of which the right to compensation arose, occurred. Except in the cases in this section otherwise expressly provided, no action or other proceedings to recover such compensation shall be brought or maintained, nor shall any claim for such compensation be filed or allowed, as hereinafter provided, unless such notice shall have been served in the manner and within the time herein provided.

**Sec. 10.** In case one or more beneficiaries serve notice upon an employer, as above provided, of his, her, or their claim to compensation under this act, such employer may at any time during the ten days next following the period of one hundred and twenty (120) days during which such notices could be served, deposit six thousand ($6,000) dollars with the clerk of the district court for the division within which such employee was injured, or such employer may deposit with such clerk of the court a bond in the sum of six thousand ($6,000) dollars, signed by such employer as principal and two or more good and sufficient sureties, to be approved by the judge of the court, conditioned that such employer will pay the sum or sums that may be finally awarded as compensation under this act under the judgment of the court to the person or persons entitled thereto according to said judgment, and conditioned further that judgment may be entered on said bond, not only against the principal, but against the sureties, and each of them, jointly and severally, as well as by the court in said proceeding and without bringing a separate action on said bond. No action brought to recover such compensation shall be tried until after the expiration of said period of one hundred and twenty (120) days and said period of ten days.

**Sec. 11.** Upon depositing such sum or such bond, as above provided, the employer shall notify in writing any and all persons who shall have served notice upon such employer as herein provided, claiming to be beneficiaries under this act, of the fact that such sum or bond has been so deposited. Such notice may be served by delivering a copy thereof to the person to be served in
person or by sending a copy thereof by registered mail to the
address given in the notice served upon the employer by the ben-

Sec. 12. If prior to the time that such sum or such bond is
so deposited an action or actions have been commenced against
such employer to recover compensation on account of the death
of such employee by a person or persons claiming to be a ben-
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Sec. 13. The employer by whom such sum or such bond shall
have been deposited shall, upon such deposit having been made,
give at least sixty (60) days' notice of the fact that such sum or
such bond has been so deposited with the clerk of the district
court, which notice shall be published in a newspaper published
within the commissioner's precinct within which such employee
was injured, or, if no newspaper be published in such precinct,
then in a newspaper published nearest the place where such em-
ployee was injured. The notice shall be published once a week
for four (4) consecutive weeks, and the sixty (60) days' period
shall commence to run from the date of the first publication. Such
notice shall be substantially in the following form:

Notice to beneficiaries by -------------------, employer, has de-
posited with the clerk of the district court for the Territory of
Alaska, division number ——, the sum of six thousand ($6,000)
dollars (or a good and sufficient bond in the sum of six thousand
($6,000) dollars, as the case may be) in accordance with the pro-
visions of the law relating to employees' compensation, for award
and distribution among the beneficiaries thereto entitled because
of the death of ------------------, an employee of said
------------------, employer; and all persons are notified, cited, and warned to ap-
pear before the district court for the Territory of Alaska, division
number ——, on or before the — day of --------- and make and
file their claims, if any, to compensation.

Sec. 14. All beneficiaries shall, within the time fixed by said
notice, file his or her or their claim in writing with such district

Sec. 15. The court shall upon the application of the employer
or any claimant fix a date for a hearing upon the claim or claims

Hearings.
so filed, which date shall be not less than thirty (30) days later than the date fixed in the published notice for the filing of such claims. The hearing may be continued at any time by the court for good cause shown as in other cases. Upon the date set for hearing, or at any time prior thereto, the employer or any claimant, who shall have filed his claim, as herein provided, may ask for a jury to try and determine any issue or issues of fact arising upon any of the claims and answers so filed. If no jury is demanded, as above provided, a jury shall be deemed to have been waived, and the trial of all the issues raised shall proceed before the judge of the court as in other cases. Upon a trial, whether before the court or jury, proofs shall be offered by the claimant or claimants in support of his, her, or their claims to compensation under this act in the same manner that proof is heard and received upon the trial of other civil cases. The court shall also hear and receive such proof as may be offered by the employer touching the right of any or all of the claimants to compensation under this act, and the fact that such employer has deposited the sum aforesaid, or the bond as herein provided for, shall not be construed as an admission against such employer.

Upon such trial evidence shall be received in accordance with the rules of evidence touching any issue of fact raised as hereinbefore provided. The order of proof shall rest in the discretion of the court, but such discretion shall be so exercised as to give all parties a full, fair, and complete hearing. Upon the conclusion of such trial the court shall, in all cases tried before the court without a jury, make written findings of fact based upon the evidence before him. And in all cases tried before a jury, the jury shall determine any and all issues of fact under instruction from the court as in other cases. Upon the filing of such findings of fact made by the court, or such verdict rendered by the jury, the court shall, unless a new trial is granted, enter a judgment in accordance therewith.

Return of deposits.

Sec. 16. If no claim on the part of any dependent be filed with the district court within the time specified by the notice above referred to, or if such claim or claims be filed and it appear from the findings of the court or the verdict of the jury that none of the claimants is entitled to compensation under this act, then the sum deposited by the employer, less the cost of publishing the notice above provided for and the filing, trial, and other fees of court in connection with such proceeding, shall be returned to the employer in cases where such sum was deposited as above provided, and the bond shall be declared void and the sureties thereon exonerated in those cases where a bond was deposited, upon the payment by the employer of the filing, trial, and other fees of court for the cost of publishing the notice as herein provided.

Payments out of deposits.

Sec. 17. In all cases where a judgment is entered against the employer and in favor of one or more claimants, and where the sum of six thousand ($6,000) dollars was deposited as aforesaid by the employer, the amount to which each, any, and all claimants shall be so adjudged to be entitled shall be paid to such claimant or claimants out of the sum so deposited without costs and without the allowance of interest thereon. And if any part of said six thousand ($6,000) dollars so deposited shall remain after such payments have been made to the claimant or claimants entitled thereto, under the judgment of the court, such amount shall be returned to the employer, less the court costs of any claimant or claimants, in any action or actions which have been dismissed because of the deposit by the employer of such six thousand ($6,000) dollars, as herein previously provided for. Such court costs in such cases so previously dismissed shall be allowed and paid to the claimant or claimants by which the same was or were brought, in addition to the compensation to which such claimant or claimants shall be found entitled, and shall be deducted from the amount deposited in cases where the total amount of the claims allowed plus such court costs does not exceed six thousand
($6,000) dollars. In other cases such claimant or claimants shall have judgment against such employer for the court costs that shall have accrued in such action or actions so dismissed.

Sec. 18. In cases where the employer has deposited a bond as herein provided and judgment is entered in favor of one or more claimants as herein provided, such judgment shall be entered in favor of the claimant or claimants found entitled thereto, and shall specify the amount to which each of such claimants, if more than one, is entitled, and shall be against the employer and each of the sureties on the bond so deposited in such a manner that each and all shall be jointly and severally liable under said judgment. In those cases where any one or more claimants had filed actions which were dismissed because of the deposit of a bond as herein provided and such claimant or claimants shall be adjudged entitled to compensation so as to entitle him, her or them to costs in connection with such action under the provisions hereof, and the total amount of claims allowed plus such costs shall be less than six thousand ($6,000) dollars, the amount to which any claimant may be entitled to as such costs shall be added to the amount to which such claimant is entitled as compensation, and included within said judgment in his favor and against the employer and the sureties as above provided. In all other cases separate judgments shall be entered against the employer only for the amount of such costs in favor of the claimant or claimants entitled thereto because of the dismissal of an action previously brought by such claimant or claimants.

Sec. 19. One or more claimants may take an appeal from any judgment rendered under this act as to such claimant or claimants, and any employer may take an appeal from any such judgment, either in whole or in part, that is to say, as to any one or more of the claimants. Such appeal shall be to the United States Circuit Court of Appeals for the Ninth Circuit, and shall be taken up on writ of error, sued out and prosecuted as in other cases. When, however, an employer takes an appeal from such judgment or any part thereof against the allowance in favor of any one or more claimants, and the judgment shall be affirmed as to any such claimant, the claimant in whose favor the judgment has been so affirmed shall be entitled to interest at the rate of eight (8%) per cent on the amount of his claim calculated from the date of the judgment and shall also be entitled to costs on appeal.

Sec. 20. Whenever two or more persons claiming to be beneficiaries of any deceased employee, whose beneficiaries are entitled to compensation under the provisions of this act, bring separate actions to recover such compensation, such actions shall be consolidated and tried as one action upon the application of any party to either or any of such actions.

Sec. 21. Actions for the recovery of compensation due under this act, may be brought, maintained and determined in and by the courts of this Territory, and when so brought shall be governed by the law of procedure applicable to other actions for the recovery of money except as herein otherwise expressly provided.

Sec. 22. No action for the recovery of compensation hereunder shall be brought in any court holden outside of the judicial division in which the injury occurred, out of which the right to compensation arises except in cases where service can not be had on the employer in the judicial division where the injury occurred. Any attempt to bring such action in any court outside of the Territory of Alaska shall work a forfeiture of the right of the plaintiff in such action to compensation under this act.

Sec. 23. (a) A writ of attachment shall be issued by the clerk of the court in which such action for the recovery of compensation under this act is pending or by the United States commissioner in actions pending in the court of such commissioner. Whenever the plaintiff or his or her attorney in fact makes and files an affidavit showing that he or she is entitled to recover compensation from the defendant, under the provisions of this act, such affidavit must show all the facts necessary to bring the plaintiff within
the provisions of this act, and must further set up all the facts necessary to show that a cause of action exists in favor of the plaintiff and against the defendant for the amount sued for and for which the attachment is sought under the provisions of this act.

(b) Upon filing such affidavit in actions pending as aforesaid with the clerk of the court, or the commissioner in actions pending in the court of such commissioner, the plaintiff shall be entitled to have a writ of attachment issued without filing any bond or other security; such writ shall be directed to the marshal, and shall in all respects conform to writs of attachment in other cases and shall be issued, served, executed, and returned in the same manner that writs of attachment in other cases are now issued, served, executed, and returned.

(c) The defendant may, however, file a written undertaking in any pending cause for the benefit of the plaintiff in an amount equal to double the amount sued for, executed by two or more sufficient sureties, to be approved by the judge or commissioner in whose court the action is pending, and conditioned that the defendant will pay any judgment that may be awarded against such defendant in the action. No writ of attachment shall issue after such undertaking has been filed by the defendant, and if such undertaking shall be filed after the writ has been issued such writ shall be quashed, and if property has been attached under such writ at the time of the filing of such undertaking such attachment shall be dissolved and set aside and the property attached returned to the defendant.

Medical examinations.

Sec. 24. The employee shall, after an injury, at reasonable times during the continuance of his or her disability, if so requested by his or her employer, submit himself or herself to an examination by a physician or surgeon authorized to practice medicine under the laws of the Territory of Alaska, furnished and paid for by the employer. The employee shall have the right to have a physician, provided and paid for by himself or herself, present at such examination or examinations. If any employee refuses to submit himself or herself to any such examination or examinations provided for in this act, or in any way obstructs any such examination or examinations, his or her rights to compensation shall be suspended, and his or her compensation during such period of suspension may, in the discretion of the jury or court determining an action brought for the recovery of compensation under this act, be forfeited.

Waivers.

Sec. 25. No agreement by an employee to waive his or her rights to compensation under this act shall be valid, except as herein elsewhere provided, and no employer or employee shall exempt himself, herself, or itself, except in the manner herein elsewhere provided, 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.

Limitation.

Sec. 26. Any and all claims for compensation under this act shall be barred unless an action for the recovery of the same shall be commenced within two years after the cause of action shall have accrued, or in the event of mental incapacity within two years after the removal of such mental incapacity.

Liability of third parties.

Sec. 27. Where the injury for which compensation is payable under this act was caused under circumstances creating a legal liability in some one other than the employer to pay damages in respect thereof, the employee may take proceedings both against the one so liable to recover damages and against anyone liable to pay compensation under this act, but shall not be entitled to receive both damages and compensation. And if the employee has been paid compensation under this act, the employer by whom the compensation was paid shall be entitled to indemnity from the person, firm, or corporation 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.
Sec. 28. When five or more employees, as defined by this act, are employed in the same general employment in connection with mining operations carried on in this Territory, and in the usual and ordinary conduct of such operations, it shall be presumed that the employer, as defined by this act, has elected to pay compensation according to the terms, conditions, and provisions of this act to such employees as may 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 a recovery of damages or other compensation for such personal injuries unless by the terms of this act otherwise provided.

Sec. 29. If such employer exercise the right to reject the terms, conditions, and provisions of this act, 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:

(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 co-employee;

(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;

(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.

Sec. 30. Every such employer shall be conclusively presumed to have elected to 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 recording said notice with the United States commissioner in whose precinct the employer's operations are carried on; and if such operations are carried on in more than one precinct, then such notice shall be recorded in the office of the commissioner for each precinct in which the same are being conducted, and the notice to reject shall be recorded by the commissioner, who shall be paid a fee of one and one-half dollars therefor, and such notice when so recorded shall be and become a public record. Such recorded notice shall be substantially in the following form, and the signature shall be witnessed by two witnesses:

**EMPLOYER’S NOTICE TO REJECT.**

To the employees of the undersigned:

You and each of you are hereby notified that the undersigned rejects the terms, conditions, and provisions to pay compensation to employees of the undersigned for injuries sustained as provided in the act of the Legislature of the Territory of Alaska, known as "An act relating to the measure and recovery of compensation of injured employees in the mining industry of this Territory, and the compensation to designated beneficiaries where such injuries result in death, defining and regulating the liability of employers to their employees in connection with such industry, and repealing all acts and parts of acts in conflict with this act."
and that the undersigned employer elects to pay damages for personal injuries of such employees under the common law and statutes of this Territory, modified by the provisions of the act above referred to and the other laws of the Territory of Alaska.

(Signed) __________

Witnesses:

__________

Sec. 31. The notice so recorded shall apply to the employees subsequently employed by the employer with the same fullness and effect and to the same extent and in like manner as employees in the employ at the time the notice was recorded, except as herein provided.

Sec. 32. Where the employer and employee have not given notice of an election to reject the terms of this act, this act shall constitute a part of every contract of hire, express or implied, and the same shall be construed as an agreement on the part of the employer to 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.

Sec. 33. 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 the employer or his agent in person, and shall also have been recorded in the office of the commissioner for the precinct in which the mining operations of the employer, in connection with which the employee is employed, are conducted; and if such operations are carried on in more than one precinct, then the same shall be recorded in the precinct wherein the employer's principal place of business in the Territory is situate, and the commissioner shall record the same, and shall receive a fee of one dollar and fifty cents therefor, and the same shall be and become a public record. Such notice shall be accompanied with an affidavit thereon showing the date upon which the same was served upon the employer.

(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 or her 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 violates 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 __________ (giving the name of the employer):

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 an act of the Territorial Legislature of the Territory of Alaska, entitled "An act relating to the meas-
ure and recovery of compensation of injured employees in the mining industry of this Territory and the compensation to designated beneficiaries where such injuries result in death, defining and regulating the liability of employers to their employees in connection with such industry, and repealing all acts and parts of acts in conflict with this act," and acts amendatory thereto, and elects to rely upon the common law, as modified by the provisions of the act last above referred to, 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 -------, ------- (Signed) ________ ________.

United States of America,
Territory of Alaska, ss:
The undersigned being first duly sworn deposes and [says]:
That the above and foregoing written notice was on the ----- day of _____________________________ served on the within-named employer of the undersigned by delivering to _____________________________ (here give the name of the employer or his agent) a true, correct, and verbatim copy thereof.
(Signed) ____________ ________ ________.

Subscribed and sworn to before me this ---- day of ________.

My commission expires ____________ ________.

Sec. 34. 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 the date of becoming effective, and unless renewed with thirty days before the expiration 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 provisions of this act to pay or accept, as the case may be, the compensation here provided until the contrary is shown by the service of notice anew, electing to reject the provisions of this act as herein provided.

Sec. 35. Where 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 this act, and which shall become effective and be recorded with the commissioner or commissioners in like manner that said notice to reject is required to be recorded.

Sec. 36. Where the employer and employee elect to reject the terms, conditions, and provisions of this act the liability of both Parties, employer shall be the same as though the employee had not rejected the terms and conditions thereof and the employer had rejected the same.

Sec. 37. No claim for compensation due under this act shall be assignable, and all compensation due hereunder shall be exempt from execution.

Sec. 38. Whenever the term "employer" is used in this act reference is had to any person or persons, partnership, joint-stock company, association, or corporation employing five or more employees in connection with mining operations carried on in this Territory. And whenever the term "employee" is used in this act reference is had to an employee employed by an employer as above defined.

Sec. 39. The phrase "mining operations," whenever used in this act, shall be held to include all work in connection with underground workings, underground mines, open-cut working, surface working, stamp mills, roller mills, chlorination processes, cyanide processes, coke ovens, all reduction work of any kind or character, and all work performed on or for the benefit of any mine, mining claim, or claims, whether quartz or placer, and the phrase shall be held to include development and construction work as well as work carried on in connection with actual mining or milling.
Sec. 40. The term "beneficiary," as used in this act, refers to any person entitled to compensation under the provisions hereof.

Sec. 41. The masculine gender whenever used herein shall be held to include the feminine and neuter.

Sec. 42. If the court before whom any proceedings are brought under this act determines that such proceedings have been brought, prosecuted, or defended without reasonable ground, it may assess the whole cost of the proceedings upon the party who has so brought, prosecuted, or defended them.

Approved April 20, 1915.
CALIFORNIA.

ACTS OF 1913.

CHAPTER 176.—Compensation of workmen for injuries—State insurance fund.

[Several sections of this act were amended by chapters 541, 607, and 662 of the legislature of 1915, many of the amendments being of minor importance, however.

Section 2 was amended by chapters 607 and 662, one change being merely the change of thirty-six to thirty-five in subdivision (3), to accord with the facts as to section numbers.

In subdivision (6) the definition of the term “insurance carrier” is broadened to include reciprocal or interinsurance exchanges.

Section 12 is amended (chapter 607) by substituting the word “injury” for the word “accident,” where the latter occurs, and so generally throughout the act (“happening of an accident” now reads “suffering of an injury”); also by adding a new paragraph to subsection (b). The section now reads as follows:

Sec. 12 (as amended by chapter 607, Acts of 1915). (a) Liability for the compensation provided by this act, in lieu of any other liability whatsoever to any person, shall, without regard to negligence, exist against an employer for any personal injury sustained by his employees 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 injury, both the employer and employee are subject to the compensation provisions of this act.

(2) Where, at the time of the injury, 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 the employment, 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.

If such action is commenced and at any time before judgment is withdrawn or dismissed and the injured employee or his dependents apply for compensation under this act, the commission shall allow the employer or insurance carrier, as a counterclaim or set-off against any indemnity or death benefit awarded, the reasonable expense incurred in preparing for or making a defense against such suit for damages.

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(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.

[Section 13 is amended (chapter 607) by adding after the words “public corporations,” the words “and quasi-public corporations” to the list of employers to whom the law applies.

Section 14 is amended (chapter 541) by adding at the end the words, “and also excluding any person holding an appointment as deputy clerk, deputy sheriff or deputy constable appointed for the convenience of such appointee and who receives no compensation from the county or municipal corporation or from the citizens thereof for services as such deputy.”

Section 15 is amended (chapter 607) by adding in subsection (a) artificial members to the list of objects to be supplied by the employer, and by authorizing the industrial accident commission to extend beyond 90 days the term during which medical, etc., aid is to be rendered. A rating is added to the schedule of permanent disability benefits, providing for a payment of 65 per cent of the average wages for a term of 4 weeks in case of a 1 per cent disability. Subdivision (8) of part 2, subsection (b) of this section is amended so as to read as follows:

“(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 resulting from that injury.”

A new subdivision numbered (10) is also added to this part, as follows:

(10) The percentage of permanent disability caused by any injury shall be so computed as to cover the permanent disability caused by that particular injury without reference to any injury previously suffered or any permanent disability caused thereby.

[Subsection (c) of section 15 is amended by adding a provision for the payment of the expense of burial by the employer in an amount not to exceed $100, which sum, however, is to be computed as part of the total of the benefits payable.

Section 16 is amended (chapter 607) by adding to subsection (c) the following proviso: “Provided, however, That nothing contained in this section shall be construed to bar the right of any injured employee to institute proceedings for the collection of compensation within two hundred forty-five weeks after the date of the injury, upon the grounds that the original injury has caused further disability; and the jurisdiction of the commission in such cases shall be a continuing jurisdiction at all times within such period.”

In subsection (d) the words “a minor” in the second line are superseded by the words “under twenty-one years of age”; a similar change is made in the last clause of this subsection, and in section 17, subsection (c), but not in other places where it occurs. In subsection (e) the opinion of the commission as to the risk of an operation must be “based upon expert medical or surgical advice.”

Section 17 is amended (chapter 607) in subsection (a), subdivision (3), so that said subdivision now reads as follows:

(3) In every case where for any reason the foregoing methods of arriving at the average annual earnings of the injured em-
ployee can not reasonably and fairly be applied, such annual earnings shall be taken at such sum as 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 comparable therewith, but not of a higher class.

[Subsection (c) is amended so as to read as follows:]

(c) If the injured employee is under twenty-one years of age, 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 attaining the age of twenty-one years in the occupation in which he was employed at the time of the injury, or the occupation to which he would reasonably have been promoted if he had not been injured.

[Section 19, subsection (a), subdivision (1) (amended by chapter 607), now reads as follows:]

(1) A wife upon a husband with whom she was living at the time of his death or for whose support such husband was legally liable at the time of his death.

[The words “uncle or aunt, brother-in-law or sister-in-law,” are inserted in subsection (c) before the closing words “nephew or niece.”

To subsection (e) the following is added:]

In the event of the death of any dependent beneficiary of any deceased employee, the unpaid death benefit shall be apportioned to the surviving dependents of such deceased employee, if any, as the commission may direct, but if there be no surviving dependent of such deceased employee, the death of such dependent shall terminate the death benefit, which shall not survive to the estate of such deceased dependent, unless otherwise provided by law.

[Section 20 is amended (chapter 607) by substituting the word “disability” for “injury” in the phrase “injury or death,” in the first clause; also by striking out the words “accident and” in the first proviso.

Section 22 is amended (chapter 607) so as to give specific jurisdiction to the commission over any controversies relating to questions of medical, surgical, etc., benefits.

Section 24 is amended (chapter 607) so as to allow adjournment from time to time and place to place in the discretion not only of the commission, but also of the commissioner or referee holding any hearing.

Section 25 is amended (chapter 607) only by substituting the term “injury” for “accident.”

Section 26 is amended (chapter 607) in subsection (d) by striking out the first sentence thereof.

Section 29, subsection (b), subdivision (2) (amended by chapter 607), now reads as follows:]

(2) The reasonable expense incurred by or on behalf of the injured employee, as defined in subsection (a) of section fifteen hereof.

[The present subdivision (3) is renumbered (4) and a new subdivision (3) inserted, as follows:]

(3) The reasonable value of the living expenses of an injured employee, not exceeding sixty-five per cent of his weekly wages
between the date of his injury and the payment of the disability indemnity or death benefit awarded: Provided, That no such allowance shall be made while an injured employee is confined to a hospital for treatment as a part of such treatment.

[Subdivision (c) is amended so as to read as follows:]

(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.

[Section 30 is amended (chapter 607) in subsection (d), subdivision (1), by inserting the words “or to have executed” after the words “to execute.”

Section 32 is amended (chapter 607) by striking out the words “until and” near the end of subsection (b).

The amendments of section 33 are the same as for section 25.

Section 34, subsection (a), is amended (chapter 607) by adding thereto the following:]

Provided, however, That it shall be unlawful for any employer to exact or receive from any employee any contribution, or make or take any deduction from the earnings of any employee, either directly or indirectly, to cover the whole or any part of the cost of compensation under this act, and it shall be a misdemeanor so to do.

[Section 36 is amended (chapter 607) by inserting after the words “liability for compensation under this act” the words “and against the expense of defending any suit for damages under the optional provisions of section twelve hereof (subdivision (b)).”]

Section 37 is amended (chapter 607) by adding at the end of said section the following:]

In order that the State compensation insurance fund shall ultimately become neither more nor less than self-supporting, the actual loss experience and expense of the fund shall be ascertained on or about the first of January in each year for the year preceding, and should it then be shown that there exists an excess of assets over liabilities, such liabilities to include the necessary reserves and a reasonable surplus for the catastrophe hazard, then, in the discretion of the commission, a cash dividend shall be declared to, or a credit allowed on, the renewal premium of each employer who has been insured with the fund, such cash dividend or credit to be such an amount to which, as in the discretion of the commission, such employer may be entitled as the employer’s proportion of divisible surplus.

[Section 46 is amended so as to read as follows:]

Sec. 46 (as amended by chapter 607, Acts of 1915). Each county, city and county, city, school district, or other public corporation or quasi-public corporation within the State, not including, however, any public utility corporation, 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.
[Section 47 is amended (chapter 607) by adding thereto "and for this service such officials may be allowed such commission or other compensation as the commission may from time to time direct."

Section 71, subsection (a) is amended so as to read as follows:

Sec. 71 (as amended by chapter 607, Acts of 1915). (a) Every employer of labor without any exceptions, and every insurance carrier, and every physician or surgeon who attends any injured employee, 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 injury 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. It shall be unlawful for any person, firm, corporation, agent, or officer of a firm or corporation to fail or refuse to comply with any of the provisions of this section, and any such person, firm, corporation, agent, or officer of a firm or corporation who fails or refuses to comply with the provisions of this section shall be guilty of a misdemeanor for each and every offense, and upon conviction thereof shall be punishable by a fine of not less than ten dollars nor more than one hundred dollars. 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.

[Section 72, besides the amendments (chapter 607) substituting the word "injury" or "injuries" for "accident" or "accidents," as already indicated, substitutes the word "disability" for the words "personal injury" in the phrase "resulting in personal injury or death."

Section 75 is amended (chapter 607) by inserting the words "if required by the commission or a commissioner" in subdivision (3) where the matter of bonds of guardians or trustees is mentioned.

A new section is here added, as follows:

Sec. 75a (added by chapter 607, Acts of 1915). The commission shall have jurisdiction over all controversies arising out of injuries suffered without the territorial limits of this State in those cases where the injured employee is a resident of this State at the time of the injury and the contract of hire was made in this State and any such employee or his dependents shall be entitled to the compensation or death benefits provided by this act.

[Section 76 is amended (chapter 607) in subsection (b) by striking out after the words "general referees" the words "who are residents of the county or city and county for which they are appointed and."

Section 77 is amended (chapter 607) by adding at the end of subsection (a) the following:

Nor shall any order, award, rule, or regulation be invalidated because of the admission into the record and use as proof of any fact in dispute, in the discretion of the commission, of any hearsay or testimony not competent to be admitted in a trial in court: Provided, That such hearsay or testimony be or refer to the statements, written or oral, of a person who is dead or who can not after diligent search be found, and relate directly to the injury in question.

[Section 81, subsection (e) is amended (chapter 607) by inserting after the words "the issues raised" the words "or any one or more of such issues."]
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.

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.

In accordance with the above an order was issued February 26, 1913. The operation of this order was suspended by order of March 24, 1913, and a new order was issued March 20, 1914, which follows:

EXECUTIVE ORDER.

Compensation of workmen for injuries.

By virtue of the authority vested in me by section 5 of the Basis of Panama Canal Act, approved August 24, 1912, I hereby establish the following order:

SECTION 1. The United States or the Panama Railroad Company shall pay compensation as hereinafter specified for personal injuries to their respective employees occurring on and after April 1, 1914, while such employees are directly engaged in actual work in connection with the construction, maintenance, operation or sanitation of the Panama 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 Panama Canal, whether such injuries result in death or not: Provided, however, That no compensation shall be paid to any employee for any injury occurring to himself, nor shall any compensation be paid to his legal representatives or other person in the event of his death, if such injury or death occurred to him as the result of an intention upon his part to cause such injury to himself or to cause his own death; and no compensation shall be paid to any employee who is injured as the result of an intention upon his part to cause injury or death to another person, nor shall any
compensation be paid to his legal representatives or to any other person in the event of his death, as the result of an intention upon his part to cause injury or death to another person: And provided further, That no compensation shall be paid to any employee for any injury to himself which was brought about by reason of his own intoxication; and similarly, no compensation shall be paid to the legal representatives or to any other person for or on account of the death of any employee when such death was brought about by reason of the intoxication of such employee.

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.

Sec. 3. No compensation shall be paid for a period of disability unless such period shall cover seven full consecutive days following the day of the inception of such disability. For any part of the day on which disability on account of injury begins and for the first four days of disability following, no compensation shall be paid at any time except as provided in sections 9 and 10.

Sec. 4. If the injury results in permanent total disability, compensation shall be paid to the employee, except as provided in section 16, for a period of eight years. For the first three months of such period, following the fourth entire day of disability, the monthly compensation shall equal 75 per cent of his monthly pay, and for the remainder of the period 50 per cent of his monthly pay.

The following cases shall be included among those held to result in permanent total disability, to wit:

- The total and irrecoverable loss of sight in both eyes;
- The loss of both feet at or above the ankle;
- The loss of one hand and one foot;
- The loss of both hands at or above the wrist;
- Paralysis of the legs, arms, feet or hands, or an arm and a leg; Injurious resulting in incurable imbecility or insanity.

Sec. 5. If the injury results in temporary disability, compensation shall be paid to the employee, except as provided in section 16, until the end of the period for which compensation is payable as fixed below, unless such employee in the opinion of the governor of the Panama Canal is sooner able to resume work. For the first three months of such period, following the fourth entire day of disability, the monthly compensation shall equal 75 per cent of his monthly pay, and for the remainder of such period, 50 per cent of his monthly pay.

For the fracture of the skull, both tables, thirteen months;
For the fracture of the thigh, twelve months;
For the fracture of the arm between the elbow and shoulder, twelve months;
For the fracture of the pelvis, ten months;
For the fracture of the leg, eight months;
For the fracture of the patella, eight months;
For the fracture of the forearm between the wrist and elbow, six months;
For the fracture of two or more ribs, four months;
For the fracture of the foot, five months;
For the fracture of the clavicle, three months;
For the fracture of the lower jaw, three months;
For the fracture of two or more toes, two months;
For the fracture of two or more fingers, two months.

In all other cases of injury resulting in temporary disability, or in the event of two or more injuries listed above, the governor shall fix the period for which compensation shall be paid, basing his decision on the relation that the injury or injuries received bears to those given above.

If before the expiration of the period for which compensation is payable, the governor of the Panama Canal determines that the employee is capable of performing any class of work, and it is desired to continue such employee in the service, there shall be paid to the employee until the end of the period, or during such
temporary partial disability, a monthly compensation equal to seventy-five per cent of the difference between the monthly rate of compensation received by him at time of injury and the wages per month of the particular class of work which the governor determines the employee capable of performing.

Sec. 6. If the injury results in permanent partial disability, compensation shall be paid to the employee, except as provided in section 10, until the end of the period for which compensation is payable, as fixed below. For the first three months of such period, following the fourth entire day of disability, the monthly compensation shall equal 75 per cent of his monthly pay, and for the remainder of the period, 50 per cent of his monthly pay.

(A) If the injury is included in the following list the period for which the compensation is payable as stated for such injuries may be increased by the governor of the Panama Canal at his discretion by not to exceed fifty per cent of the period specified, having regard to the nature of the employee's trade or qualifications for work:

For the loss by separation of one arm, at or above the elbow joint or permanent or complete loss of the use of one arm, forty months;

For 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, thirty-two months;

For the loss by separation of one leg at or above the knee joint, or the permanent or complete loss of the use of one leg, thirty-six months;

For 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, twenty-four months;

For the permanent and complete loss of hearing in both ears, forty months;

For the permanent and complete loss of hearing in one ear, eighteen months;

For the permanent and complete loss of the sight of one eye, sixteen months.

(B) If the injury is included in the following list, the period shall be that stated for such injury:

For the loss by separation of a thumb, ten months;

For the loss by separation of a first finger, seven months; a second finger, five months; a third finger, four months; a fourth finger, three 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 a thumb or finger, and compensation for one-half of the above period 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;

For the loss by separation of a great toe, compensation for eight months, and any other toe, compensation for three months will be paid.

In all other cases of injury resulting in permanent partial disability, or in the event of two or more injuries listed in clauses "A" and "B," the governor shall fix the period for which compensation shall be paid, basing his decision on the relation that the injury or injuries bears to those given in clauses "A" and "B": Provided, however, That in no case shall payment be made for a period greater than sixty months.

If before the expiration of the period for which compensation is payable the governor of the Panama Canal determines that the employee is capable of performing any class of work, and it is desired to continue such employee in the service, there shall be paid to the employee until the end of the period a monthly compensation equal to seventy-five per cent of the difference between the monthly rate of pay received by him at the time of injury and his wage-earning capacity per month.
Wages of beneficiaries partially disabled.

Sec. 7. 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: Provided, however, That if the said employee, in any such affidavit furnished, shall swear falsely with respect to any material fact within his knowledge, the compensation otherwise payable to him shall, from the time of the filing of such affidavit or the ascertainment of the falsity thereof, cease and determine.

Refusal to work.

Sec. 8. If an employee, determined to be capable for such work, refuses to work after suitable work is furnished to or secured for him by the United States or by 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.

Sick leave.

Sec. 9. 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 it is exhausted. During such time no compensation under this order shall accrue, and any period of sick leave so used after the first four days of disability following the day of injury shall be deducted from the period for which compensation under this order is payable to the employee.

Medical, etc., aid.

Sec. 10. There shall be furnished to the injured employee such medical, surgical, and hospital service and supplies as may in the opinion of the governor of the Panama Canal be deemed just and reasonable, except that when an injured employee not on the Isthmus of Panama elects to furnish his own physician, or to care for himself, the expense thereof is to be borne by the employee and no allowance therefor will be made under this order. If any such injured employee shall refuse to submit to the medical or surgical treatment prescribed for him and determined by the governor of the Panama Canal to be reasonable and proper, the governor may in his discretion either reduce the amount of compensation to which said employee might otherwise be entitled or consider such refusal on the part of the employee to be a waiver by him of any right to compensation under this order.

Transportation of injured employees.

Sec. 11. 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, so soon as he is able to travel, may be furnished, in the discretion of the governor of the Panama Canal, transportation to his home port, or to any other port requiring no greater expenditure. If an injured employee who is a citizen of the United States desired to go to a port in the United States the cost of transportation to which is greater than the cost to his home port, an amount may be paid toward the cost of such transportation, not in excess of the cost of transportation to his home port. In addition, an injured employee may be furnished railway transportation to or towards his home in the United States costing not in excess of $30.00. 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, as herein provided, the compensation payable to such employee.

Compensation for death.

Sec. 12. If the injured employee shall die within one year from the date of and as the result of injuries received while directly engaged in actual work, the persons mentioned in this section, except as provided in section 16, shall be entitled to receive compensation as set forth in the following schedule after deducting from the periods mentioned therein any period for which payment has been made to the deceased employee: Provided, however, That
the total amount of compensation paid to employee and beneficiaries shall not exceed the sum of $5,000.

(A) If the deceased employee leaves a widow to whom he was married at the time of the injury, she shall be paid monthly for eight years, unless she sooner marries or dies, a sum equal to twenty-five per cent of the monthly pay of the employee.

(B) If the deceased employee leaves a widow to whom he was married at the time of the injury with one or two children incapable of self-support and dependent on her for support, there shall be paid her monthly for each such child an additional allowance of ten per cent of the monthly pay of the employee, such additional allowance to continue until the child dies, marries, or, in the opinion of the governor of the Panama Canal, becomes capable of self-support. If there shall be more than two children dependent on her for support the additional monthly allowance for all children shall be twenty-five per cent of the monthly pay of the employee. In no case, however, shall the additional monthly allowances continue beyond a period of eight years.

(C) If the deceased employee leaves a widow, or a widow and children, entitled to compensation under paragraphs (A) or (B) of this section, and also leaves another child or children incapable of self-support not supported by the widow, there shall be paid monthly for the benefit of such child or children an additional allowance to such person as may be designated under the provisions of section 16, such proportions as the governor of the Panama Canal may decide, of the deceased employee's monthly pay, not exceeding ten per cent for each such child: Provided, That the total proportion of monthly pay of deceased employee to widow and all children under this paragraph and paragraphs (A) and (B) of this section, shall not exceed thirty-five per cent for widow and one child, forty-five per cent for widow and two children, and fifty per cent for widow and three or more children: And provided, That in order to make payment to the children under this section the governor may, if necessary, reduce the proportion payable to widow or children under paragraphs (A) and (B) of this section: and provided further, That payment for the benefit of a child or children not supported by the widow shall continue until the child dies, marries, or, in the opinion of the governor, becomes capable of self-support, but in no case shall such payments continue more than eight years.

(D) If the deceased employee has left no widow entitled to compensation under this order, but has left a child or children incapable of self-support, there shall be paid monthly for the benefit of such child or children to the person designated under the provisions of section 16, not more than twenty-five per cent of the monthly pay of the deceased employee for one child and not more than fifty per cent of the monthly pay for two or more children: Provided, That payments shall continue until the child dies, marries, or, in the opinion of the governor, becomes capable of self-support, but in no case shall such payments continue more than eight years.

(E) (As amended by Executive order of September 19, 1914.) If the deceased employee leaves a parent either partially or wholly dependent on him for support, or a brother, sister, grandparent, or grandchild wholly dependent on him for support, there may be paid to such relation monthly such portion or portions of the monthly pay of the employee as may be determined by the governor of the Panama Canal: Provided, That the total compensation to all beneficiaries under this and paragraphs (A), (B), (C), and (D) of this section shall not exceed fifty per cent of the monthly pay of the deceased employee: And provided, That in order to make payment to the relatives under this paragraph the governor of the Panama Canal may, if necessary, reduce the proportion payable to widow or children under paragraphs (A), (B), (C), and (D) of this section: And provided further, That payment for the benefit of a relative under this paragraph shall cease if he dies, marries, or, in the opinion of the governor, becomes

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capable of self-support, but in no case shall payment continue more than eight years.

Definitions.

(F) As used in this section, the terms "child" and "children" include stepchildren, adopted children, posthumous children, and illegitimate 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. The terms "grandchild" and "grandchildren" include children of adopted children and children of stepchildren, but do not include stepchildren of children, stepchildren of stepchildren, or stepchildren of adopted children. The terms "parent" and "parents" include step-parents 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 step-parents, step-parents of parents, or step-parents of step-parents.

Readjustments.

(G) If a beneficiary should die or for any other reason cease to be entitled to compensation under this order, the amounts payable to the remaining beneficiaries shall be recast; the amount payable to each for the remainder of the period during which he is entitled to compensation being determined in accordance with the provisions of the preceding paragraphs of this section.

Burial expenses.

Sec. 13. If, as the result of the injury, an employee whose home is in the United States dies while on the Isthmus of Panama or while away from his home or his office, such absence being under instructions from the Panama Canal authorities, and the right to compensation has not ceased, his body, if practicable and if desired by his relatives, and if transportation has not been furnished the employee under section 11 before his death, shall be embalmed and transported in a hermetically sealed casket to his home. If death occurs on the Isthmus and the body is not transported from the Isthmus, the body shall be interred or cremated on the Isthmus at the expense of the United States or of the Panama Railroad Company.

Computation of pay.

Sec. 14. For the purpose of calculating compensation under this order, the monthly pay of the employee shall be taken as the basis, to be computed as provided hereunder, except that where such monthly pay so computed amounts to $200 or over, $200 shall be taken as the basis for computing compensation. Subject to the maximum herein fixed, monthly pay shall be computed as follows:

(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 52 and divide the result by 12;

(D) If the employee is paid by the day divide his daily pay at the time of the injury by the number of hours worked per day, and multiply the result by 8. When his daily rate of pay on the basis of eight hours per day has been ascertained, multiply the result by 26.

(E) If the employee is paid by the hour multiply his hourly pay at the time of the injury by eight. When his daily rate of pay on the basis of eight hours per day has been ascertained, multiply the result by 26.

(F) If the employee is paid by his output, find his daily 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 by the number of days he was so employed during the thirty days immediately preceding the injury, then multiply the result by 26, except as provided in paragraph (G). In all cases under this paragraph (F) in which the employee works more than eight hours per day and in such other cases as the governor of the Panama Canal may deem proper he may fix the compensation that shall be paid in case of injury.
based upon an average wage of employees working eight hours per day in the same occupation as that of the injured employee.

(G) Payments for a fractional part of a month to or on account of employees who were on a per diem, hourly, or piecework basis, shall be made for regular working days only, except that employees who were at time disability was incurred entitled to pay for holidays will receive pay therefor.

(H) Subsistence shall be included as a part of the pay and commutation therefor at a rate fixed by the governor of the Panama Canal shall be paid during any period subsistence is not actually furnished to an employee entitled to subsistence.

Sec. 15. Unless it shall appear to the governor of the Panama Canal to be for the best interest of the United States or of the Panama Railroad Company or for the best interest of the injured employee or the beneficiary, the liability of the United States or the Panama Railway Company for compensation to such injured employee or beneficiary shall be discharged by the payment of a lump sum which will equal the total sum of the probable future payments, capitalized at their present value calculated at four per cent per annum with annual rests. The probability of the death of the injured employee or the beneficiary before the expiration of the period for which compensation is payable 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. Upon paying such amount all further liability on the part of the United States or Panama Railroad Company on account of such injury or death shall cease.

Sec. 16. The true intent and meaning of this order is to provide for the benefits herein provided for, and to that end payment shall be made directly to the employee as herein provided for, or to the beneficiary as herein provided for, excepting in those cases where such employee or such beneficiary is by reason of lunacy, infancy, or other legal disability not in a position to receive and give legal acquittance for such payment. In all cases of that character where the employee or beneficiary named herein is under any legal disability whatever, so that his receipt and release would not be an acquittance, the governor of the Panama Canal shall pay the sum which would otherwise go directly to such employee or beneficiary to whomsoever has been qualified by legal proceedings to receive the same for or on account of such employee or beneficiary, if any such there be who has made application therefor to the governor; and in the event that no such application is made to the governor, then the governor may appoint some one to receive the money for and on account of such employee or beneficiary so under disability, and may require such person to make such formal application with respect thereto and to furnish such bonds for the security of the money and the performance of his duties as to the governor may seem proper.

Sec. 17. Immediately after the injury, the injured employee or some one on his behalf shall give to the immediate superior of such employee notice, written if practicable, 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 shall at once give either 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 for the injury or death, the nature of the injury, and the address of the employee and of the person giving the notice. The notice may be given personally or sent by mail.

Failure to promptly give the notice herein specified may, in the discretion of the governor of the Panama Canal, be decided by
him to be a waiver by the employee or his beneficiary of any claim to compensation under this order.

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.

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 either to the governor of the Panama Canal or to such person as he may, by regulation, require.

Sec. 20. The claim shall be signed by or on behalf of the person making the claim and shall state the name of the employee, the age, sex, nationality, and class of service of such employee, 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 to the employee of the person claiming to be entitled to compensation, the names and addresses of all persons entitled to compensation or death, 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 beginning of disability resulting from an 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.

No claim for compensation shall be allowed where the disability commences more than six months after the occurrence of the alleged injury, nor where the disability begins after the separation of the employee from the service.

Sec. 22. 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 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. If an examination of an employee is ordered while he is away from the Isthmus of Panama, and such order requires him to travel from the place wherein he dwells, then he shall 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 the compensation would otherwise be payable.
Sec. 23. 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. 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. 24. If an injury or death for which compensation is payable under this order is caused under circumstances creating a legal liability upon 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 realizes upon such right shall after deducting the amount of any compensation already paid to the beneficiary and the expenses of such realization or collection, 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 governor of the Panama Canal may waive the requirement of such assignment or may waive it for such period as he may deem proper.

Sec. 25. If an injury or death for which compensation is payable under this order is caused under circumstances creating a legal liability upon the Panama Railroad Company to pay damages therefor under the laws of the United States or 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 assigns to the Panama Railroad Company, any right of action which he may have to enforce such liability of 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.

Sec. 26. No claims for compensation under this order shall be assigned, and all compensation and claims therefor shall be exempt from all claims of creditors.

Sec. 27. 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.

Sec. 28. The governor of the Panama Canal may at any time review, and, in accordance with his determination thereon, end, award, diminish, or increase any compensation previously fixed or determined.

Sec. 29. If any compensation is paid under mistake of law or of fact, the governor of the Panama Canal shall have power to cancel any order under which such compensation has been paid, and shall be entitled to recover whatever has been so paid.

Sec. 30. 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.

Sec. 31. Wherever used in this order the singular includes the plural and vice versa, and the masculine gender includes the feminine and neuter, and the word "person" includes any firm, association, or corporation.
**Payments on release.**

Sec. 32. If the payment of compensation under this order on account of an injury or death is 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 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.

**Repeal.**

Sec. 33. All laws of the Canal Zone inconsistent with any of the provisions of this order are hereby repealed.

**Order in effect.**

Sec. 34. This order shall take effect on April 1, 1914.

Issued March 20, 1914.
COLORADO.

ACTS OF 1915.

CHAPTER 179.—Compensation of workmen for injuries.

SECTION 1. The Industrial Commission of Colorado created by the act of the General Assembly of Colorado,1 which commission for the purposes of this act shall be a body politic and corporate under the name prescribed by said act, shall enforce and administer the provisions of this act, and wherever the word commission is used in this act it shall be construed to mean the Industrial Commission of Colorado. The said commission, in the administration of this act, shall be governed by its provisions if there be conflict between the same and the provisions of the act creating said commission.

Sec. 2. The term "commission" when used in this act shall mean the Industrial Commission of Colorado.

Sec. 3. Unless the context otherwise requires, a word used in this act in the singular number shall also include the plural.

Sec. 4. The following terms as used in this act shall be construed and have the following meaning, unless otherwise specifically defined in the context:

(a) The term "order" shall mean and include any decision, classification, rate, rule, regulation, direction, requirement, or standard of the commission, or any other determination arrived at or decision made by such commission.

(b) The term "place of employment" shall mean and include every place, whether indoors or out or underground, and the premises appurtenant thereto, where either temporarily or permanently any industry, trade, or business is carried on or where any process or operation, directly or indirectly relating to any industry, trade, or business, is carried on and where any person is directly or indirectly employed by another for direct or indirect gain or profit, except as otherwise expressly provided in this act.

(c) The term "employment" shall mean and include any trade, occupation, or process of manufacture, or any method of carrying on such trade, occupation, or process of manufacture in which any person may be engaged, except as otherwise expressly provided in this act.

(d) The term "employer" shall mean and include:

I. The State, and each county, city, town, irrigation and school district therein, and all public institutions and administrative boards thereof.

II. Every person, association of persons, firm and private corporation (including any public-service corporation), personal representatives, assignee, trustee, and receiver, who has four (4) or more persons regularly engaged in the same business or employment (except as otherwise expressly provided in this act), in service under any contract of hire, express or implied, 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 complies with the provisions hereof respecting insurance, and who shall not, prior to such accident, have effected a withdrawal of such election in the manner provided in this act.

1 See p. 97.
Exemptions. III. This act is not intended to apply to employers of private domestic servants or farm and ranch labor, nor to employers who employ less than four employees regularly in the same business or in or about the same place of employment: Provided, That any such employer may elect to accept the provisions of this act in the manner provided herein, in which event he and his employees shall be subject to and entitled to all the provisions of this act.

Provided, That any such employer may elect to accept the provisions of this act in the manner provided herein, in which event he and his employees shall be subject to and entitled to all the provisions of this act.

Interstate commerce. IV. The provisions of this act shall not apply to common carriers engaged in interstate commerce, nor to their employees.

Employee. (e) The term "employee" shall mean and include:

I. Every person in the service of the State, or of the county, city, town, irrigation, or school district therein, or of any public institution or administrative board thereof, under any appointment or contract of hire, express or implied, except an elective official of the State, or of any county, city, town, irrigation or school district therein, or of any public institution or administrative board thereof. Policemen and firemen shall be deemed employees, within the meaning of this paragraph: Provided, That any policeman or fireman claiming compensation under this act shall have deducted from such compensation any sum which such policeman or fireman may receive from any pension or any benefit fund to which the municipality may contribute.

II. Every person in the service of any other person, association of persons, firm, private corporation, including any public-service corporation, personal representative, assignee, trustee, or receiver under any contract of hire, express or implied, including aliens, and also including minors who are legally permitted to work under the laws of this State (who, for the purposes of this act, shall be considered the same, and shall have the same power of contracting with respect to their employment, as adult employees), but not including any person whose employment is but casual, or who is expressly excluded from this act, or whose employment is not in the usual course of trade, business, profession, or occupation of his employer.

Dependents. (f) The following shall be conclusively presumed to be solely and wholly dependent for support upon a deceased employee:

I. The widow only if living with the deceased or actually dependent, wholly or partially, upon him at the time of his accident.

II. The widower only if incapable of self-support and actually dependent, wholly or partially, upon deceased at the time of her accident.

III. A child or children under the age of eighteen years (or over said age if physically or mentally incapacitated from earning) actually dependent upon the parent with whom he is, or they are, living at the time of the death of such parent, there being no surviving and 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 upon such dependency.

IV. In all other cases, questions of entire or partial dependency shall be determined in accordance with the facts, as the same 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; but if there is one wholly dependent, and there is more than one person partially dependent, the death benefit shall be divided among them according to the relative extent of their dependency.

V. 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 surviving spouse, or lineal descendant, or ancestor, or brother or sister. A child within the meaning of this act shall include a posthumous child and a child legally adopted prior to the injury.
VI. Questions as to who constitute dependents and the extent of their dependency shall be determined as of the dates as herein provided, 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 payable to the dependent or dependents entitled thereto, or their legal representatives:

Provided, notwithstanding, That when a right to a death benefit shall have become fixed, it shall cease upon the happening of any one of the following contingencies:

1. Upon the marriage of the widow or widower.
2. When a child reaches the age of eighteen years, unless said child at such time is physically or mentally incapacitated from earning.
3. Upon the death of any dependent.

VII. Death benefits under this act to dependents who are nonresidents of the United States shall be one-third of the amount which a dependent who is a resident of the United States might receive: Provided, That in no event shall death benefits to dependents who are nonresidents of the United States exceed the aggregate sum of one thousand dollars.

VIII. 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.

(g) 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; such average weekly earnings shall be one fifty-second (1/52) of the average annual earnings of the employee.

I. The average weekly earnings for all employees shall be taken at not less than the minimum nor more than the maximum provided in this act. Between said limits, said average annual earnings shall be determined as follows:

II. 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.

III. If the injured employee shall not have worked in such employment during substantially the whole of such immediately preceding year, his average annual earnings shall consist of the average daily wage or salary which such employee shall have earned in such employment during days when so employed, multiplied by the number of days that he shall have worked in all employments during said year.

(h) 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.

I. 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, would probably earn. 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 be increased, the fact may be considered in arriving at his average weekly wage.

II. The fact that an employee has suffered a previous disability, prior injuries, or received compensation therefor, shall not preclude compensation for a later injury, or for death; but in determining compensa-
tion 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 provisions of this section.

**Wage loss.**

1. 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 act, 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.

**“Safety.”**

2. The term “safe” or “safety” as applied to an employment or place of employment, shall mean such freedom from danger to the life, health and safety of employees, and such reasonable means of notification, egress and escape in case of fire, as the nature of the employment will reasonably permit.

**Defenses abrogated.**

3. In an action to recover damages for a personal injury sustained within this State by an employee on and after the 1st day of August, 1915, while engaged in the line of his duty as such, or for death resulting from personal injuries so sustained, in which recovery is sought upon the ground of want of ordinary care of the employer, or of the officer, agent, or servant of the employer, it shall not be a defense:

a. That the employee, either expressly or impliedly, assumed the risk of the hazard complained of as due to the employer's negligence;

b. That the injury or death was caused, in whole or in part, by the want of ordinary care of a fellow servant.

c. 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 care was not willful.

**Remedy, exclusive.**

4. Any employer who has elected to and has complied with the provisions of this act, including the provisions relating to insurance, shall not be subject to the provisions of section 5 of this act; nor shall such employer be subject to any other liability whatsoever for the death of or personal injury to any employee, except as in this act provided; and all causes of action, actions at law, suits in equity and proceedings whatever, and all statutory and common-law rights and remedies for and on account of such death or of personal injury to any such employee are hereby abolished except as in this act provided.

**Defenses available when.**

5. If an employer has elected to and has complied with the provisions of this act, and an action is brought against such employer to recover damages for personal injuries or death sustained by an employee who has elected not to come under this act, then such employer shall have all the defenses to such an action which he would have had if this act and that certain other act entitled “An act concerning assumption of risk,” being chapter 43, upon page 115 of the session laws of 1913, had not been enacted.

**Right to compensation accrues, when.**

6. The right to the compensation provided for in this act, in lieu of any other liability whatsoever, to any and all persons whomsoever, for any personal injury or death accidentally sustained on and after August 1st, 1915, shall obtain in all cases where the following conditions concur:

I. Where, at the time of the accident, both employer and employee are subject to the provisions of this act.

II. Where, at the time of the accident, the employee is performing service arising out of and in the course of his employment.

III. Where the injury is proximately caused by accident arising out of and in the course of his employment, and is not intentionally self-inflicted or intentionally inflicted by another.

**How election made.**

7. Such election on the part of any employer including the employer of private domestic servants, farm and ranch laborers or of three or less employees may be made by filing with the com-
mission a written statement to the effect that he accepts the provisions of this act, the filing of which statement shall operate to subject such employer to the provisions of this act for the term of one (1) 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 this act.

II. On and after August 1, 1915, every employer of four or more employees, not including private domestic servants and farm and ranch laborers, engaged in a common employment, shall be conclusively presumed to have accepted the provisions of this act, unless prior to that date such employer shall have filed with the commission a notice in writing to the effect that he elects not to accept the provisions of this act; and the employer shall have the right to withdraw his election at the time and in the manner above specified: Provided, That any employer commencing business subsequent to August 1st, 1915, may make his election not to become subject to the provisions of this act at any time prior to becoming an employer of four or more employees, in a common employment, exclusive of private domestic servants and farm and ranch laborers, by giving written notice as above provided. Such employer may withdraw from the provisions of said sections of this act at the expiration of one year, or at the expiration of any succeeding year, in the manner provided in this act.

III. Every employer, whether electing to accept or reject the provisions of this act, shall cause printed notice thereof to be posted in and about his place of employment in a conspicuous manner and in sufficient places frequented by his employees, as to reasonably notify such employees that he is or is not, as the case may be, subject to the provisions of this act, and shall likewise cause similar notice to be given of the filing of any change of such election on his part.

Sec. 10. Any employer electing to become subject to the provisions of this act shall secure compensation to his employees in one of the following ways:

1. By insuring and keeping insured the payment of such compensation in the State compensation insurance fund; or,

2. By insuring and keeping insured the payment of such compensation with any stock or mutual corporation authorized to transact the business of workmen’s compensation insurance in this State. If insurance be so effected in such a corporation or mutual corporation the employer shall forthwith file with the commission, in form prescribed by it, a notice specifying the name of such insurance corporation or mutual corporation 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 direct to his employees as hereinbefore provided.

Sec. 11. Every insurance corporation or mutual corporation, except the State compensation insurance fund as administered by the Industrial Commission of Colorado, authorized to transact business in this State, which insures employers against liability for compensation under the provisions of this act, shall file with the commission its classification of risks and premiums relating thereto, and any subsequent proposed classification of risks and premiums, together with basic rates and schedules, if a system of schedule rating be in use, none of which shall take effect until the commission shall have approved the same as adequate for the risks to which they respectively apply. The commission may withdraw its approval of any premium rate or schedule made by any insurance corporation or mutual corporation if, in its judgment, such premium rate or schedule is inadequate to provide the necessary reserves.
Every contract for the insurance of compensation herein provided for, or against liability therefor, shall be deemed to be made subject to the provisions of this act, and all provisions thereof in such insurance policy inconsistent with the provisions of this act shall be void.

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.

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 obligations 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.

Sec. 12. Any employee may become subject to the provisions of this act, and shall be deemed to have accepted and shall be subject to the provisions thereof if at the time of the accident upon which liability is claimed:

(a) His employer is subject to the provisions of this act when the employee has actual notice thereof; and if,

(b) Such employee shall not, at the time of entering into his contract of hire, expressed 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,

(c) Without giving such notice, shall have remained in the service of such employer for seven days after such employer has filed with the commission his election as in this act provided and has become subject hereto; Provided, The notices required by this act shall have been posted in and about the place of employment of such employer as required by law, in which event said employee shall be conclusively presumed to have actual notice thereof.

Sec. 13. Such election and compliance with the provisions of this act, including the provisions for insurance, shall be and be construed to be a surrender by the employer and employee of their rights to any other method, form, or amount of compensation or determination thereof, or to any cause of action, action at law, suit in equity or statutory or common-law right or remedy or proceeding whatever for or on account of personal injuries or death of such employee than as provided in this act, and shall be an acceptance of all the provisions of this act, and shall bind the employee himself and, for compensation for his death, shall bind his personal representatives, his widow and next kin, as well as the employer and those conducting his business during bankruptcy or insolvency.

Sec. 14. 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 to the commission upon blanks to be procured
from the commission 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 information as may be required by the commission. 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 for each such offense.

Sec. 15. The commission, or its agents, may enter any place of employment for the purpose of collecting facts and statistics, examining the provisions made for the health, protection, and safety of the employees, and bringing to the attention of every employer any law or any rule, order, or requirement of the commission, and any failure on the part of any employer to comply therewith.

Sec. 16. All books, records, and pay rolls of employers showing or reflecting in any way upon the amount of wage expenditure of such employers, and other data, facts, and statistics appertaining to the purposes of this act shall always be open for inspection by the commission or any of its agents for the purpose of ascertaining the correctness of the reported wage expenditure, the number of men employed, and such other information as may be necessary for the uses and purposes of the commission in its administration of this act.

Any employer who shall refuse to admit the commission or its duly authorized agents to such place of employment for such purposes shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars.

Sec. 17. Every employer shall furnish the commission upon request all information required by it to accomplish the purposes of this act. In the month of January and July of each year every employer shall prepare and mail to the commission, at its main office in the city of Denver, Colorado, a statement containing the following information, viz: The number of employees employed during the preceding six months period; the number of such employees employed at each kind of employment; and the aggregate amount of wages paid to such employees, which information shall be furnished on a blank or blanks to be prepared by the commission; and it shall be the duty of the commission to furnish such blanks to such employers, free of charge, upon request therefor. Every employer 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 all questions therein propounded, and to give all the information therein sought, or, if unable to do so, he shall give in writing good and sufficient reason for such failure. The commission may require that the information herein required to be furnished shall be verified under oath and shall be returned to the commission within the period fixed by it or by law. The commission, or any person employed by it for that purpose, shall have the right to examine under oath any employee or employer, or the officer, agent, or employee thereof, for the purpose of ascertaining any information which such employer or employee is required by this act to furnish to the commission. Any person who shall fail or refuse to furnish to the commission the semi-annual statement herein required, or shall fail or refuse to furnish such other information as may be required by the commission under authority of this act, shall, if an employer, be punished by a fine of two hundred dollars, and if an employee, be punished by a fine of twenty-five dollars.

Sec. 18. The information contained in the semiannual report provided for in the preceding section, and such other information as may be furnished to the commission by employers in pursuance of the provisions of this act, shall be for the exclusive
use and information of said commission 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 commission is a party to such action or proceeding; but the
information contained on said report may be tabulated and pub­
lished by the department in statistical form for the use and in­
formation of other State departments and the public. Any person
in the employ of the commission who shall divulge any informa­
tion secured by him in respect to the transactions, property, or
business of any employer to any person other than the commis­
sion shall be punished by a fine of not less than one hundred dol­
sars nor more than five hundred dollars and shall thereafter be
disqualified from holding any appointment or employment with
the commission.

Sec. 10. In case of failure or refusal of any person to comply
with the order of the commission or subpoena issued by it or its
agents, or to furnish the statistics, data, and information required
to be furnished to the commission by the provisions of this act,
or refuse to permit an inspection as provided in this act, the dis­
trict judge of the county in which the person resides, on applica­
tion of the commission or any agent appointed by it, shall compel
obedience by attachment proceedings or for contempt, as in the
case of disobedience of the requirements of subpoena issued from
such court on a refusal to testify thereon.

Sec. 20. There is hereby established a fund to be known as the
State compensation insurance fund for the benefit of injured and
the dependents of killed and injured employees, which shall be
administered in accordance with the following provisions, with­
out liability on the part of the State beyond the amount of said
fund, collected as provided in this act.

Sec. 21. If any employer shall be in arrears for more than five
days in any payment required to be made by him to the State
compensation insurance fund, as provided in this act, he shall by
virtue of such arrearage be in default of such payment, and the
amounts due from him shall be collected by civil action against
him in the name of the commission as plaintiff; and it shall be
the duty of the commission to certify to the attorney general of
the State the names and residences of all employers known to the
commission 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
compensation insurance fund. While such default continues such
employer shall not be entitled to the benefits of this act. Such
employer's compliance with the provisions of this act requiring
payments to be made to the State compensation insurance fund
shall date from the time of the payment of said money to the State
compensation insurance fund, and his right to the benefits of the
provisions of this act shall be determined accordingly.

Sec. 22. The State compensation insurance fund shall be a con­
tinuing fund and shall consist of all premiums received and paid
into the said fund for compensation insurance, 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. Said
fund shall be applicable to the payment of losses sustained on
account of compensation and benefit insurance in accordance with
the provisions of this act.

Sec. 23. The commission is hereby vested with full power, au­
thority, 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 neces­
sary or convenient in the exercise of any power, authority, or juris­
diction over said fund in the administration thereof under the
provisions of this act, as fully and completely as the governing
body of a private insurance company might or could do, subject, however, to all the provisions of this act.

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 conduct all business and affairs in relation thereto, all of which business and affairs shall be conducted in the name of the commission, and in that name, without any other name or title, the commission may:

I. 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.

II. Make and enter into contracts of insurance with employers 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, but the commission shall not, nor shall any officer or employee thereof, be personally liable in its 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.

III. 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.

IV. The commission may employ and maintain in the department a compensation actuary, who shall be experienced and skilled and fully competent to perform the duties of the position, and who shall assist in or take charge of the practical operation of the State compensation insurance fund under the general direction of the commission. The actuary shall receive such salary as may be agreed upon by the commission.

V. The commission shall have power, with the approval of the State auditing board, to employ during their pleasure such deputies, statisticians, accountants, actuaries, inspectors, clerks and other employees as they 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. Such deputies, statisticians, accountants, inspectors, clerks, and all other employees, except experts and actuaries in the employ of the commission, shall have been for four years prior to such employment or appointment, bona fide residents of the State of Colorado, and each and all of them, except only the experts, shall, while in the employ of the commission, devote their entire time to the service of the commission.

VI. All deputies, statisticians, accountants, actuaries, clerks, experts, and all other employees of the commission shall receive such compensation as may be fixed by law or by the commission in conjunction with the State auditing board, and their salaries so fixed, as aforesaid, shall be paid monthly from the funds appropriated for the use of the commission, after being approved by the commission and the State auditing board.

All expenses incurred by the commission pursuant to the provisions of this act, including the actual and necessary traveling expenses and other expenses and disbursements of the commission, its officers and employees, incurred while on business of the commission, shall be paid from funds appropriate for the use of the commission upon claims therefor, itemized and sworn to, made by the person who incurred the same, which shall be allowed by the commission, subject to the approval of the State auditing board, and is authorized to procure such additional furniture and supplies as may be necessary for such purposes, to be paid for in the same manner as other expenses authorized by this act.
Sec. 24. All orders of the commission shall be valid and in force, and prima facie reasonable and lawful until they are found otherwise in an action brought for that purpose, pursuant to the provisions of this act, or until altered or revoked by the commission.

Sec. 25. A substantial compliance with the requirements of this act shall be sufficient to give effect to the orders or awards of the commission and they shall not be declared inoperative, illegal, or void for any omission of a technical nature in respect thereto.

Sec. 26. The commission shall classify the places of employment of employers insured in the State compensation insurance fund into classes in accordance with the nature of the business in which they are engaged and the probable hazard or risk of injury to their employees under existing conditions. It shall determine the amount of the premiums or assessments which such employers shall pay to said State compensation insurance 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.

Sec. 27. It shall also be its duty to divide each of such classes under said classification into as many subclasses as may be necessary, upon such terms and conditions as will enable it to determine the risks and fix the rates of premium of the different employers in the same class of employment, with respect to the conditions of said places of employment as regards the several requirements upon which the rates of premium of risks are based and determined, as provided in this act.

Sec. 28. It shall be the duty of the commission, in the exercise of the powers and discretion conferred upon it by this act, ultimately to fix and maintain, for each class and subclass of occupation, the lowest possible rates of premium consistent with the maintenance of a solvent State compensation insurance fund, and the creation and maintenance of a reasonable surplus, after the payment of legitimate claims for injury and death, that may be authorized to be paid from the State compensation insurance fund for the benefit of injured and dependents of killed employees; and in order that said objects may be accomplished the commission shall observe the following requirements in classifying occupations and fixing the rates of premium for the risks of the same:

It shall determine and base all rates of premium for said classes and subclasses and all revisions thereof upon the following conditions and considerations:

(a) The condition of the place of employment as regards health, safety, and protection against accident, and the means and methods of caring for injured persons;
(b) Total payroll and number of employees in each of said classes and subclasses;
(c) The loss ratio developed by the subclass and by the class as a whole;
(d) The earned premium exposure of the subclass and of the class as a whole;
(e) The character of hazard of the subclass and of the class as a whole;
(f) The number and nature of accidents experienced by the subclass and the class as a whole;
(g) The number and nature of accidents experienced by the individual employers;
(h) A reasonable regard for the accident experience of each such employer and his employees.

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, nor of whether such
employees have dependents who are nonresidents of the United States, nor of whether such employees are married or single, nor the age of any such employees. The rates so made shall be that percentage of the pay roll of any employer which on the average shall produce a sufficient sum:

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 produce a reasonable surplus as provided in this act to cover the catastrophe hazard and insure the payment to employees and their dependents of the compensation herein provided.

Sec. 29. The commission shall keep an accurate account of the money paid in premiums by each of the several classes and subclasses of occupations or industries, and the disbursements on account of injuries and death of employees thereof, and it shall also keep an account of the money received from each individual employer and the amount disbursed from the State compensation insurance fund on account of injuries and death of the employees of such employer.

Ten per cent of all the money paid into the State compensation insurance fund shall be set aside for the creation of a surplus fund until such surplus fund shall amount to the sum of five hundred thousand dollars, after which time the sum of five per cent of all money paid into the State compensation insurance fund shall be credited to such surplus fund, until such time as, in the judgment of the commission, such surplus shall be sufficiently large to guarantee a State compensation insurance fund from year to year.

It is the intention that the amounts raised for such State compensation insurance fund shall ultimately become neither more nor less than to make said fund self-supporting, and the premiums or assessments levied for such purpose shall be subject to readjustment from time to time by the commission as may become necessary.

Sec. 30. The commission shall adopt rules and regulations with respect to the collection, maintenance, and disbursement of the State compensation insurance fund; one of which rules shall provide that in the event the amount of premium collected from any employer at the beginning of any period of six months, as ascertained and calculated by using the estimated expenditure of wages for the period of time covered by such premium payments as a basis, shall differ from the actual wage expenditure for such six months' period, 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 actual wage expenditure for said period is less than the amount on which such estimated premium was collected, then such employer shall be entitled to have the amount of such difference credited on succeeding premium payments, 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 upon being advised of the true amount of such premium due, forthwith pay to the State treasurer 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.

Sec. 31. The commission shall on or before August 1st, 1915, issue in proper form for distribution a schedule of rates of premiums to be paid to the State compensation insurance fund by the employers of the several classes and subclasses, based and determined as in this act provided, which rates shall control and govern for the period ending December 31st, 1915.

On the first day of January, 1916, and semannually thereafter, a readjustment of the rates shall be made for each of the several classes and subclasses of occupation or industry which, in the judgment of the commission, 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.

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 or subclass shall be reduced, and each individual member of such class or subclass who has been a subscriber to the State compensation 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 State compensation insurance fund and to the surplus fund thereof exceeds the amount of the disbursements from the State compensation insurance 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 or subclass to which he belongs since the last readjustment of rates, based and determined as provided in this act.

Sec. 32. Any employer who intentionally misrepresents to the commission the amount of pay roll upon which the premium under this act is based shall pay into the State compensation insurance fund the sum of ten times the amount of the difference in premium paid and the amount such employer should have paid, and shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars.

Sec. 33. The commission shall prepare and furnish at the expense of the State, blank forms of application for benefits or compensation from the State compensation insurance fund, notices to employers, proofs of injury or death, or medical attendance, or 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, that the same may be readily available.

Sec. 34. The commission shall cause to be printed in proper form for distribution to the public proper schedules showing its classification, rates, regulations, and rules of procedure, which shall be ready for distribution and at least thirty days prior to the date the same are due by law to go into effect, and shall furnish the same to any person upon application therefor, and the fact that such classification, rates, regulations, and rules of procedure are printed and ready for distribution to all who apply for the same shall be a sufficient publication of the same as required by this act.

Sec. 35. All general orders shall take effect upon their publication in the semianual manual or schedule of rates, rules, and regulations issued by the commissioner.

Sec. 36. It shall be the duty of all officers and employees of the State, the counties, and municipalities, upon request of the commission, to enforce in their respective departments all lawful orders of the commission in so far as the same may be applicable and consistent with the general duties of such officers and employees, and it shall also be their duty to make to such commission such reports as it may require concerning matters within their knowledge appertaining to the purposes of this act and to furnish to it such facts, data, statistics, and information as may from time to time come to them appertaining to the purposes of this act and the duties of such commission thereunder, and particularly such information coming to their knowledge respecting the condition of all places of employment subject to the provisions of this act as regards the health, protection, and safety of employees and the hazard of risk of such places of employment.
Sec. 37. Whenever the commission shall learn, or upon petition by any person be informed, that any employment or place of employment is not safe, it shall proceed summarily, with or without notice, to make such investigation as may be necessary to determine the matter complained of, as the same may affect the hazard or risk of insurance.

Sec. 38. For the purpose of making any investigation with regard to any employment or place of employment the commission shall have power to appoint, by an order in writing, any deputy or any other competent person as an agent whose duties shall be prescribed in such order.

In the discharge of his duties such agent shall have every power whatsoever for obtaining information granted in this act to the commission and all powers granted by law to officers authorized to take depositions are hereby granted to such agent.

The commission may conduct any number of such investigations contemporaneously through different agents, and may delegate to such agents the taking of all testimony bearing upon any investigation or hearing. The decision of the commission shall be based upon his examination of all testimony and records. The recommendations made by such agents shall be advisory only and shall not preclude any further investigation or the taking of further testimony if the commission so order.

Sec. 39. Annually on or before the 15th day of December, the commission 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 State compensation insurance fund, the amount credited to the reserve fund, and the condition of the respective funds, together with any other matters which the commission 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 commission from time to time to publish and distribute among employers and employees such general information as to the business transacted by the State compensation insurance fund as in its judgment may be useful.

Sec. 40. Every employer insured in the State compensation insurance fund shall contribute to it in proportion to the annual expenditure of money by said employer for the service of persons engaged in such employment, and the hazard of risk of his employment and place of employment, the amount of such payments and the method of making the same to be determined as in this act provided.

Sec. 41. Except as hereinafter provided, every employer insured in the State compensation insurance fund shall, in the month of September, 1915, and semiannually thereafter during January and July of each year, pay into the State compensation insurance fund in advance the amount of premium determined and fixed by the commission for the employment or occupation of such employer for the ensuing period, the amount of such payment to be determined by the classifications, rules, and rates made and published by the commission, and such employer shall semiannually thereafter pay the sum of money into the State compensation insurance fund as may be ascertained to be due from him by applying the provisions of this act and rules and rates of the commission. Such payment shall be made within the time fixed by the commission and a receipt or certificate certifying that such payment has been made shall immediately be mailed to such employer by the commission, which receipt or certificate shall be prima facie evidence of the payment of such premium. Notwithstanding anything in this act, any employer accepting the provisions thereof who shall file with the commission a statement showing his intentions to pay the compensation and benefits herein provided
and furnishing satisfactory proof to the commission of his solvency and financial ability to pay the same and furnish security, if the commission, in its discretion, deems such security necessary, may on permission granted by the commission be permitted to make such payments direct to his employees and their dependents as they may be entitled to receive the same under the provisions of this act.

Any employer so receiving such permission or who shall insure with any stock or mutual corporation as provided in this act, shall, during his prompt compliance with the provisions of this act, and the payment by him of the compensation and benefits therein provided, be relieved from making the payments herein required to be made to the State compensation insurance fund, and shall have the benefits of all the provisions of this act, as though said employer paid premiums into the State compensation insurance fund as provided by this act. Such employer shall cause notice of such fact to be given his employees in the manner provided for notice by employers accepting or rejecting the provisions of this act.

Sec. 42. An employer, liable under the provisions of this act, to pay compensation shall insure payment of such compensation in any company authorized to insure such liability in this State or in the State compensation insurance fund, unless such employer shall prove to the satisfaction of the commission, that, from time to time, he can maintain the financial ability of such employer to pay compensation, and may, upon ten (10) days' notice in writing, revoke its order granting such exemption, in which case such employer shall immediately insure his liability.

Sec. 43. The amount of money to be contributed by the State, itself, and by each county, city, town, irrigation or school district, or other taxing district of the State, shall be, unless otherwise provided by law, a sum equal to one per centum of the amount of money expended by the State, and by each county, city, town, irrigation or school district, or other taxing district respectively, during the last preceding fiscal year for the service of all persons in their employ who are subject to the provisions of this act.

Sec. 44. In the month of September, 1915, the auditor of State shall draw his warrant on the State treasurer in favor of said treasurer or custodian of the State compensation insurance fund, and for deposit to the credit of said fund, for a sum equal to one per centum of the amount of money expended by the State, during the last preceding six months, for the service of persons in its employ, who are subject to the provisions of this act, which said sums are hereby appropriated and made available for such payments; and thereafter in the months of January and July of each year, such sums of money shall in like manner be paid into the State compensation insurance fund; and it shall be the duty of the commission 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 proportion of the State compensation insurance fund.

Sec. 45. By the 15th day of July, 1915, and in the month of December of each year the State auditor shall prepare a list for each county of the State showing the amount of money expended by each township, city, town, village, irrigation or school district, or other taxing district therein for the service of persons in their employ during the fiscal year last preceding the time of preparing such lists; and file a copy of such list with the clerk and recorder of the county for which such list is made, and copies of all such lists with the State treasurer. Such lists shall also show the amount of money due from the county itself and from each city, town, irrigation or school district and other taxing districts thereof, as its power [proper (?)] contribution to the State compensation insurance fund and the aggregate sum due from the county and such taxing districts located therein: Provided, however, That should the com-
mission on or before the first day of December in any year certify to the State auditor that sufficient money is in the State compensation insurance fund to the credit of any county or counties to provide for the payment of compensation to the injured and to the dependents of killed employees of such county or counties, and the several taxing districts therein for the ensuing year, the State auditor shall not prepare and file with the county clerks and the State treasurer said list or lists for such county or counties specified in such certificate; and it shall be the duty of the commission to make and file such certificate with the State auditor whenever it is shown there is sufficient money in the State compensation insurance fund to the credit of any county or counties to provide for the probable disbursement required to be made to the injured and to the dependents of killed employees of such county or counties and the several taxing districts therein for the ensuing year.

Sect. 46. During the month of September, 1915, and in January and July of each year following the filing with him of the lists mentioned in the last preceding section hereof, the clerk and recorder of each county shall issue his warrant in favor of the State treasurer on the county treasurer of his county for the aggregate amount due from such county and from the taxing districts therein, to the State compensation insurance fund, and the county treasurer shall pay the amount called for by such warrant from the county treasury, and the county clerk and recorder shall charge the amount so paid to the county itself and the several taxing districts therein as shown by such lists; and the State treasurer shall immediately on receiving such money convert the same into the State compensation insurance fund.

Sect. 47. In October, 1915, and in February of each year thereafter the State treasurer shall certify to the commission the amount of money that has been paid to him for credit to the State compensation insurance fund as provided in this act, and the amount paid by the State itself, and by each county, city, town, irrigation or school district therein, and at the same time shall certify to the commission the name of such as may have made default in the payments theretofore 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 compensation insurance fund, or when any official fails, neglects, or refuses to perform any act or acts required by him with reference to the making of such payments, it shall be the duty of the commission forthwith to institute the proper proceedings in court to compel such payment or payments to be made. The commission shall keep a separate account of the money paid into the State compensation insurance fund by the State and by its political subdivisions as hereinbefore provided, and the disbursements made therefrom on account of the injuries to and death of public employees, subject to the provisions of this act.

Sect. 48. Provided, Any county, city, town, village, irrigation district, school district, or other taxing district therein desiring to be exempted from insuring its liability for compensation shall make application to the commission showing its solvency and 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 thirty days' notice in writing, revoke its order granting such exemption, in which case such employer shall immediately insure its liability.

Sect. 49. The commission shall disburse the State compensation insurance fund to such employees of such employers as have paid into said fund the premiums applicable to the classes to which they belong who met with accidents arising out of and in the course of their employment, wheresoever such injuries have occurred, or to their dependents in case death has ensued, and shall furnish such medical, surgical, nurse, and hospital care and atten-
tion or funeral expenses as are provided by this act. The com-
mmission shall have full power to adopt rules and regulations with-
the respect to furnishing such medical and hospital service and
medicine as provided for in section 50 to injured employees enti-
fiting thereto out of the State compensation fund, and the same
shall be paid for as in this act provided for compensation and
benefits.

Medical, surgical, etc., aid.

Sec. 50. Every employer, regardless of his method of insurance,
shall furnish such medical, surgical, and hospital treatment, medi-
cines, medical and surgical supplies, crutches, and apparatus as
may be reasonably needed at the time of the injury and thereafter
during the disability, but not exceeding thirty days and one hun-
dred dollars in value, to cure and relieve from the effects of the
injury: Provided, That medical, surgical, and hospital treatment,
payment for which is provided for in any plan in force between
an employer and his employees at the time of the enactment of
this act or which is thereafter agreed to by employer and em-
ployee, shall be deemed a full compliance with the requiremen-
t of this section and shall be received by the employee in full accord
and satisfaction thereof.

Burial expenses.

Sec. 51. 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 expenses of his
burial, not exceeding one hundred dollars ($100).

Payment of death benefits.

Sec. 52. If the accident causes disability, a disability indemnity
shall be payable as wages upon the twenty-ninth day after the
injured employee leaves work as the result of the injury, and
thereafter regularly, but not less frequently than once in each cal-
endar month, unless otherwise ordered by the commission, sub-
ject, however, to the following limitations:

(a) If the period of disability does not last longer than three
weeks from the day the employee leaves work as the result of the
injury, no disability indemnity whatever shall be recoverable ex-
cept the disbursement in this act provided for medical, nurse, and
hospital services and medicines; nor in any case unless the com-
mmission has actual knowledge of the injury or is notified thereof
within the period specified in this act.

(b) If the period of disability lasts longer than three weeks
from the day the employee leaves work as the result of injury, no
disability indemnity shall be recoverable for the first three weeks
do disability.

Hernia.

A workman in order to be entitled to compensation for hernia
must clearly prove: (1) That the hernia is of recent origin, (2)
that its appearance was accompanied by pain, (3) that it was
immediately preceded by some accidental strain suffered in the
course of the employment, and (4) that it did not exist prior to
the date of the alleged injury. If a workman, after establishing
his right to compensation for hernia as above provided, elects to
be operated upon, a special operating fee of not to exceed fifty
dollars shall be paid by the employer, the insurer, or the commis-
sion, as the case may be. In case such workman elects not to be
operated upon and the hernia becomes strangulated in the future,
the results from such strangulation will not be compensated.

Temporary disability.

Sec. 53. In case of temporary disability of more than three
weeks' duration, the employee shall receive fifty per cent of his
average weekly wages so long as such disability is total, not to
exceed a maximum of eight 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 average weekly wages.

Partial disability.

Sec. 54. In case of injury resulting in partial disability, the
employee shall receive fifty per cent of the impairment of his
earning capacity during the continuance thereof, not to exceed a
maximum of eight dollars per week, or a greater sum in the ag-
aggregate than two thousand and eighty dollars. In cases included
in the following schedule the disability in each case shall be
deemed to continue for the period specified and the compensa-
tion so paid for such injury shall be as specified herein, to wit:
The loss of one arm between the elbow and shoulder, 208
weeks;
The loss of a forearm at the lower half thereof, 104 weeks;
The loss of a hand, 104 weeks;
The loss of a palm where thumb remains, 70 weeks;
The loss of a thumb and the metacarpal bone thereof, 50
weeks;
The loss of a thumb at the proximal joint, 35 weeks;
The loss of a thumb at the second or distal joint, 18 weeks;
The loss of an index finger and the metacarpal bone thereof, 26
weeks;
The loss of an index finger at the proximal joint, 18 weeks;
The loss of an index finger at the second joint, 13 weeks;
The loss of an index finger at the distal joint, 9 weeks;
The loss of a second finger and the metacarpal bone thereof, 18
weeks;
The loss of a middle finger at the proximal joint, 13 weeks;
The loss of a middle finger at the second joint, 9 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, 11 weeks;
The loss of a ring finger at the proximal joint, 7 weeks;
The loss of a ring finger at the second joint, 7 weeks;
The loss of a ring finger at the distal joint, 4 weeks;
The loss of a little finger and the metacarpal bone thereof, 13
weeks;
The loss of a little finger at the proximal joint, 9 weeks;
The loss of a little finger at the second joint, 9 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, 52 weeks;
The loss of a leg at the hip joint, or so near thereto as to pre-
cede the use of an artificial limb, 208 weeks;
The loss of a leg at or above the knee, where stump remains
sufficient to permit the use of an artificial limb, 139 weeks;
The loss of a foot at the ankle, 104 weeks;
The loss of a great toe with the metatarsal bone thereof, 26
weeks;
The loss of a great toe at the proximal joint, 18 weeks;
The loss of a great toe at the second joint, 9 weeks;
The loss of any other toe with the metatarsal bone thereof, 11
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, 35 weeks;
The loss of an eye by enucleation, 189 weeks;
Total blindness of one eye, 104 weeks;
Total deafness of both ears, 139 weeks;
Total deafness of one ear, 35 weeks;
Total deafness of the second ear, 104 weeks.
Other relative injuries: In all other cases, not otherwise speci-
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tion shall be paid such employee for such loss of wages within the limits otherwise provided.

(c) Paralysis: For the purpose of this schedule, permanent and complete paralysis of any member as the proximate result of an accidental injury shall be deemed equivalent to the loss thereof.

(d) Amputation: Whenever an amputation is made between any two joints mentioned in this schedule (except amputations between the knee and hip joint) the resulting loss shall be estimated as if the amputation had been made at the joint nearest thereto.

(e) The amounts specified in this section are all subject to the limitation as to the maximum weekly amount payable as hereinbefore specified in this act.

Sec. 55. In cases of permanent total disability, the award shall be fifty 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 eight 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.

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: Provided, That, where the disability comes under this section, and where the employer or the commission obtains other suitable employment for such disabled person which he can perform and which in all cases shall be subject to the approval of the commission, the disabilities set out in this paragraph shall not constitute permanent total disability, but such partial disability as may be determined by the commission after a finding of the facts.

Sec. 56. Whenever, in case of injury, the right to compensation under this act would exist in favor of an employee, he shall, upon the written request of his employer, or the insurer carrying such risk, submit himself from time to time to examination by a physician or surgeon duly authorized to practice medicine under the laws of this State, who shall be provided and paid for by the employer or insurer, and shall likewise submit to examination from time to time by any regular physician selected and paid for by said 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 or insurer shall refuse to submit himself to such examination, or shall in any way obstruct the same, his right to collect or to begin or to 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 weekly indemnity which shall accrue and become payable during the period of such refusal or obstruction shall be barred. If any employee shall persist in unsanitary or injurious practice which tends to 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 commission may, in its discretion, reduce or suspend the compensation of any such injured employee. 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. Physicians will not be required, however, to disclose confidential communications communicated to them for the purpose of treatment and which are unnecessary to a proper understanding of the case.

Sec. 57. Any time after six months has elapsed from the date of the injury, the commission may order payment in gross or in
such manner as it may determine to be for the best interest of the parties concerned. 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 four per cent per annum.

In case death proximately results from the injury within a period of two years, the benefits shall be in the amounts and to the persons following:

1) If there be no dependents, the compensation shall be limited to the expenses provided for medical, hospital, and funeral of deceased, together with such sums as deceased may have been paid for disability.

2) If there are wholly dependent persons at the time of the death, the payment shall be 50 per cent of the average weekly wages, subject to the limitations of this act as to maximum weekly amount, and to continue for the remainder of the period from the date of the death and not to exceed six years after the date of the injury and not to amount to more than a maximum of two thousand five hundred dollars, nor less than a minimum of one thousand dollars.

3) If there are partly dependent persons at the time of the death, the payment shall be fifty per cent of the average weekly wages, subject to the limitations of this act as to maximum amount, and to continue for all or such portion of the period of six years after the date of the injury as the commission in each case may determine and not to amount to more than a maximum of two thousand five hundred dollars.

If death occurs to an injured employee other than as a proximate result of the accident before disability indemnity ceases, and the deceased leaves a person or persons wholly dependent upon him for support, death benefit shall be as follows:

(a) Where the accident proximately caused permanent total disability, the death benefit shall consist of the unpaid and unaccrued portion of the permanent total disability benefit which the employee would have received had he lived until he had received the sum of twenty-five hundred dollars.

(b) Where the accident proximately caused permanent partial disability, the death benefit shall consist of the unpaid and unaccrued portion of the permanent partial disability benefit which the employee would have received if he had lived.

Sec. 58. If death occurs to an injured employee, either as a proximate result of the accident or otherwise, before disability indemnity ceases, and 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: Provided, That such death benefits shall not exceed in the aggregate the difference between the amount of liability benefits received by deceased in his lifetime and the sum of twenty-five hundred dollars.

Sec. 59. The benefits in case of death shall be paid to such one or more of the dependents of the decedent for the benefit of the all the dependents entitled to such compensation as may be determined by the commission, who may apportion the benefits among such dependents in such manner as it may seem just and equitable. Payment to a dependent subsequent in right may be made, if the commission deems it proper, which payment shall operate to discharge all other claims therefor. The dependents or persons 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.
In all cases of death where the dependents are a widow and one or more minor children, it shall be sufficient for the widow to make application to the commission on behalf of herself and minor children; and in cases where all of the dependents are minors, the application shall be made by the guardian or next friend of such minor dependents.

Sec. 60. Payment of death benefits to one or more dependents shall protect and discharge to that extent all compensation under this act, unless and until any other person claiming to be a dependent shall have given the commission notice of his claim. In such case the commission shall determine the respective rights of said rival claimants, and thereafter such death benefits shall be paid to such dependents as it shall so find entitled under the provisions of this act.

Sec. 61. The compensation provided herein shall be reduced fifty per cent:

(a) Where injury is caused by the willful failure of the employee to use safety devices provided by the employer;
(b) Where injury results from the employee's willful failure to obey any reasonable rule adopted by the employer for the safety of the employee;
(c) Where injury results from the intoxication of the employee.

Sec. 62. 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 address of the person injured, the time and place where the accident occurred, the nature and cause of the injury, and making a claim for compensation with respect to injury and signed by the person injured, or by some one in his behalf, or, in case of death, by a dependent, or some one on his behalf, stating also the names and addresses of each dependent, shall be served upon the commission, either by delivering to and leaving with it a copy of such notice or by mailing to it by registered mail a copy thereof, in a sealed and postpaid envelope, addressed to him at its office in Denver, Colorado. Such mailing shall constitute completed service: Provided, however, That the failure to give any such notice or any defect or inaccuracy therein shall not be a bar to a 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 the commission, and that it was not in fact misled thereby, or that said claimants were nonresidents: And provided further, That if no such notice is given and no payment of compensation has been made within one year from the date of the accident, the right to compensation therefor shall be wholly barred.

Sec. 63. Compensation before payment shall be exempt from all claims of creditors and from any attachment or execution, and shall be paid only to such employees or their dependents.

Sec. 64. No claim for compensation under this act shall be assignable, but this provision shall not affect the survival thereof.

Sec. 65. The making of a claim for compensation under this act for the injury of or death shall operate as an assignment of any cause of action in court which the employee or his legal representative or others may have against any other party for such injury or death.

Sec. 66. The State treasurer shall be the custodian of the State compensation insurance fund, and all disbursements therefrom shall be paid by him upon warrants of the State auditor upon vouchers authorized by the commission for benefits legally due to the person or persons designated in such vouchers, and the State auditor is hereby authorized and directed to draw warrants upon the State compensation insurance fund for payment thereof.

Sec. 67. The State treasurer is hereby authorized to deposit any portion of the State compensation insurance fund not needed for immediate use, in the same manner and subject to all provisions of law with respect to the deposit of State funds by such treasurer; and all interest earned by such portion of the State
compensation 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: Provided, however, That none of the funds belonging to the State compensation insurance fund shall be used for any other purpose whatsoever.

Sec. 68. The State treasurer 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 compensation insurance fund, subject to all provisions of law governing bonds of State treasurer.

Sec. 69. The commission shall have full power and authority to hear and determine all questions within its jurisdiction, and its finding award and order issued thereon shall be final, except as in this act provided.

Any person affected by any finding, order, or award of the commission may petition for a hearing on the reasonableness of any such finding, order, or award.

Such petition shall be verified, and shall specify the finding, order, or award upon which a hearing is desired and every reason why such finding or order or award is considered unreasonable. The petitioner shall be deemed to have finally waived all objections to any irregularities and illegalities in the finding, order, or award upon which a hearing is sought other than those set forth in the petition. All hearings of the commission shall be open to the public.

Sec. 70. Any dispute or controversy concerning compensation under this act, 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 herein. If the injured employee or his dependents and the employer or his insurer reach an agreement in regard to compensation under this act a memorandum of the agreement shall be filed with the commission, and if approved by it thereupon the memorandum for all purposes shall be enforceable as are all the awards of the commission. All such agreements shall be approved by the commission. Such approval shall be given by the commission only when the terms thereof conform to the provisions of this act.

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, the commission 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 reasonable 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 commission, and hearings shall be held at such places as the commission may designate. 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 may be pertinent to the controversy before the commission, and shall have the right of cross-examination; Provided, That 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; the testimony so taken and the results of any such inspection or examination shall 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 examine and rebut the same on final hearing. The commission or any agent designated by him 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.
**Fees of officers.**

SEC. 71. Each officer who serves such subpoena shall receive the same fee as a sheriff, and each witness who appears in obedience to a subpoena before the commission or its agents shall receive for his attendance the fees and mileage provided for witnesses in civil cases in the district 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 the commission. No witness subpoenaed at the instance of a party other than the commission or its agent shall be entitled to compensation from the State treasury unless the commission shall certify that his testimony was material to the matter investigated.

**Failure to appear.**

SEC. 72. 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.

The district court of the county wherein such person resides, or district court of the city and county of Denver, upon application of the commission or its agent, may issue an order compelling the attendance and testimony of witnesses and the production of books, papers, and records before such commission or any such agent.

Upon such hearing, if it shall be found that the finding, order, or award complained of is unreasonable, the commission shall substitute therefor such other finding, order, or award as shall be just and reasonable, or may rescind such finding, order, or award.

**Depositions.**

SEC. 73. The commission or any party may, in any investigation, cause the 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 district courts. All such depositions shall be taken upon commission issued by the commission, and shall be taken in accordance with the laws and rules of court covering depositions in civil cases in the district courts of this State.

**Records.**

SEC. 74. A full and complete record shall be kept of all proceedings had before the commission on any investigation, and all testimony shall be taken down by a stenographer appointed by the commission.

**Transcripts as evidence.**

SEC. 75. A transcribed copy of the evidence and proceedings, or any 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 of the testimony on the investigation 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 as 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 fees therefor as prescribed for transcripts in district courts.

**Findings and awards.**

SEC. 76. After final hearings by said commission it shall 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 claimant. Pending the hearing and determination of any controversy before it, the commission shall have power to order the payment of such part of the compensation which the commission concudes is or may fall due, as to which the claimant is entitled, and upon the final determination of the commission as to the rights of the claimant, such payments so made shall be specified in and constitute a part of his finding and award.

The commission on its own motion, on three days' notice to the parties interested, by mail or served personally, may modify...
or change his order, finding, or award at any time within fifteen days from the date thereof, if he shall discover any mistake therein.

Sec. 77. No action, proceeding, or suit to set aside, vacate, or amend any finding, order, or award of the commission, or to enjoin the enforcement thereof, shall be brought unless the plaintiff shall have first applied to the commission for a hearing thereon as provided in this act, and unless such action, proceeding, or suit shall have been commenced within sixty days after final decision by the commission.

Sec. 78. Any person in interest being dissatisfied with any such finding, order, or award of the commission issued or promulgated by virtue of the authority conferred in this act may commence an action in the district court in and for the county wherein the injury was sustained or in the district court in and for the city and county of Denver against the commission is defendant to modify or vacate the same on the ground that the same is unlawful or unreasonable, in which action the adverse party shall also be made a defendant.

All such actions shall have precedence over any civil cause of a different nature pending in such court, and the district court shall always be deemed open for the trial thereof, and the same shall be tried and determined by the district court in manner as provided for other civil actions.

Sec. 79. In such action a copy of the complaint, which shall state the grounds upon which a review is sought, shall be served with the summons. The commission shall file its answer within twenty days after the service of the 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, finding, and award. Such return of the commissioner when filed in the office of the clerk of the district court shall 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.

Sec. 80. If upon trial of such action it shall appear that all issues arising in such action have not theretofore been presented to the commission in the petition filed as provided in this act, or the commission has not theretofore had an ample opportunity to hear and determine any of the issues raised in such action, or has for any reason not in fact heard and determined the issues raised, the court shall, before proceeding to render judgment, unless the parties to such action stipulate to the contrary, transmit to the commission a full statement of such issue or issues not adequately considered, and shall stay further proceedings in such action for fifteen days from the date of such transmission, and may thereafter grant such further stays as may be necessary.

Upon receipt of such statement the commission shall hear and consider the issues not theretofore heard and considered, and may alter, modify, amend, or rescind its finding, order, or award complained of in said action, and it shall report its action thereon to said court within ten days from the receipt of the statement from the court for further hearing and consideration.

The court shall thereupon order such amendment or other proceeding as may be necessary to raise the issues as presented by such modification of the finding, order, or award as may have been made by the commission upon the hearing, if any such modification has in fact been made, and shall proceed with the trial of such action.

Sec. 81. Upon such hearing the court may confirm or set aside such order, but only upon the following grounds:

(1) That the commission acted without or in excess of its powers.
that the findings of fact by the commission do not support
the order or award.

Any action commenced in court under this section to set aside
or modify any finding, order, or award of the commission shall
be brought to trial thirty days after the 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.

Upon the trial of any such action the court shall disregard
any irregularity or error of the commission unless it be made
affirmatively to appear that the claimant was damaged thereby.

The record in any case shall be transmitted to the commis-
sion within twenty days after the order or judgment of the court,
unless in the meantime a writ of error addressed to the district
shall be obtained from the supreme court for the review
of such order or judgment.

Sec. 82. Upon setting aside of any finding, 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: Provided, however, That in no
event shall such judgment be for a greater amount of compensa-
tion than allowed by this act or in any manner conflict with the
provisions thereof. 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 of said court, and a tran-
script of such abstract may be obtained as of any entry upon such
docket.

Sec. 83. The commission or any party who may consider him-
self aggrieved by a judgment entered upon the review of any
such finding, order, or award may have questions of law only
reviewed summarily by the supreme court by writ of error, as
provided by law, and said cause shall be advanced upon the cal-
edar of the supreme court, and a final decision rendered within
sixty days from date of issuance of the writ. It shall not be nec-
essary for said commission or any party aggrieved by said action
to execute, serve, or file any undertaking in order to obtain such
writ of error.

Sec. 84. No fees shall be charged by the clerk of any court
for the performance of any official service required by this act, ex-
cept for the docketing of judgments and for certified copies of
transcripts thereof. On proceedings to review any finding, 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 any finding,
order, or award, and upon any review thereof by the supreme
court it shall be the duty of the district attorney of the county
wherein said action is pending, or of the attorney general, if re-
quested by the commission, to appear on behalf of the commission,
whether any other party defendant should 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 attorneys' fees for the enforce-
ment or collection of any claim for compensation, where such con-
tingent fee, inclusive of all attorneys' fees paid, or agreed to be
paid, for the enforcement or collection of such claim, exceed fif-
ten per cent of the amount at which claim shall be compromised
or of the amount awarded, adjudged, or collected.

Sec. 85. If any employer or employee, as defined in this act,
or any other person shall violate any provisions of this act, or
shall do any act prohibited thereby, or shall fail or refuse to per-
form any duty lawfully enjoined, within the time prescribed by
the commission, for which no penalty has been specifically pro-
voked, or shall fail, neglect, or refuse to obey any lawful order
made by the commission, or any judgment or decree made by any
court as provided by this act, for each such violation, failure, or
refusal such employer, employee, or other person shall be punished
by a fine of not more than one hundred dollars for each such offense.

Sec. 86. Every day during which any employer or officer or agent thereof or any employee shall fail to comply with any lawful order of the commission or shall fail to perform any duty imposed by this act shall constitute a separate and distinct violation thereof: Provided, however, That in any action which may be brought to enforce the same, or to enforce any penalty provided for in this act, such violations shall be considered cumulative and may be joined in such action.

Sec. 87. All penalties provided for in this act shall be collected by a civil action brought against the employer or employee, as the case may be, in the name of the commission, and all such penalties when collected shall be applicable to the expense of the commission.

Sec. 88. Upon the request of the commission, the attorney general, or, under his direction, the district attorney of any district or 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 compensation insurance fund, or any penalty herein provided for, arising within the district or county in which he was elected, and shall defend in like manner all suits, actions, or proceedings brought against the commission in his official capacity.

Sec. 89. If for the purpose of obtaining any order, benefit, award, or compensation or payment under the provisions of this act, either for himself or for any other person, anyone willfully makes a false statement or representation, he shall be guilty of perjury and punished accordingly, and he shall forfeit all right to compensation under this act upon conviction of such offense.

Sec. 90. For the purpose of carrying out the provisions of this act there is hereby appropriated, out of any money in the State treasury not otherwise appropriated for the ordinary expenses of the departments of the State, the sum of twenty thousand dollars ($20,000), or so much thereof as may be necessary for the payment of any premiums that may become due the State compensation insurance fund in compliance with section forty-four of this act; and the State auditor is hereby authorized and directed to draw his warrants on said fund upon certified vouchers of the commission approved by the governor.

Sec. 91. All acts or parts of acts in conflict with the provisions of this act are hereby repealed: Provided, That no right action now existing shall be affected by such repeal, and nothing contained in this act shall be construed to affect the authority of the State Board of Health relative to the public health.

Sec. 92. If any part, section, subsection, 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 general assembly hereby declares that it would have passed this act and each part, section, subsection, sentence, clause, or phrase irrespective of the fact that any one or more other parts, section, subsection, sentences, clauses, or phrases be declared unconstitutional.

Sec. 93. It is hereby declared that this act is necessary for the immediate preservation of the public peace, health, and safety.

Sec. 94. In the opinion of the general assembly an emergency exists; therefore this act shall take effect and be in force immediately after its passage.

Approved April 10, 1915.

CHAPTER 180.—Industrial commission.

SECTION 5. There is hereby created a board which shall be known as the "Industrial Commission of Colorado." Within thirty days after the passage of this act the governor, by and
with the consent of the senate, shall appoint one member whose term of office shall expire March 1, 1917; a second member whose term of office shall expire March 1, 1919; and a third member whose term of office shall expire March 1, 1921. Upon the expiration of each appointment the governor shall appoint members of the commission, by and with the advice and consent of the senate, for terms of six years each. Vacancies shall be filled in the same manner for unexpired terms. Not more than two of the commissioners shall be members of the same political party. 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.

Each member of the commission, before entering upon the duties of his office, shall take the oath prescribed by the constitution, and shall give good and sufficient bond running to the people of the State of Colorado, in the penal sum of ten thousand dollars, conditioned that he shall faithfully discharge the duties of his office and shall account for and pay over to the person entitled thereto such moneys as shall come into his possession; said bond shall be signed by a surety company duly authorized to do business in this State or by two or more individuals as surety or sureties and shall be subject to approval by the governor and shall then be filed with the secretary of state. If surety company bonds shall be furnished, the premium therefor shall be paid by the State as other expenses of the commission are paid. 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. Each member of the commission shall receive an annual salary of not to exceed four thousand dollars and actual expenses necessarily incurred in the performance of his duties, which shall be in full for all services performed. The commissioners shall devote their entire time to the duties of their office.

A majority of said commissioners shall constitute a quorum to transact business and for the exercise of any of the powers or authority conferred by this act.

Approved April 12, 1915.
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 injury.

SECTION 2. The provisions of section one 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.

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 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.

SECTION 2 (as amended by chapter 288, Acts of 1915). All contracts of employment between an employer and an employee, as such terms are defined in section forty-three of part B, except those made between an employer having regularly less than five employees and any such employee, whether made before this act goes into effect and continued in force after such time or made thereafter, shall be conclusively presumed to include a mutual agreement between employer and employee to accept part B of
said act and become bound thereby, unless either employer or employee shall, by written stipulation in the contract, or by such notice as is prescribed in section three of said part B, indicate his refusal to accept the provisions of said part B. No provision of said part B shall apply to any employer having regularly less than five employees unless such employer shall, in the manner hereinafter provided, accept the provisions of part B and become bound thereby. All contracts of employment between an employer having regularly less than five employees and any such employee, whether made before this act goes into effect and continued in force after such time or made thereafter, shall be conclusively presumed to include the following mutual agreements between employer and employee: (1) That the employee may accept the provisions of part B and become bound thereby by giving written or printed notice of his acceptance to the employee and to the compensation commissioner of the district in which the employee is employed; Provided, Such acceptance shall not be effective unless it is accompanied by a certificate of a stock or mutual insurance company or association authorized to take such risks in this State, that the employer has insured his full liability under part B, and that the policy of insurance is in accordance with the requirements of part B; (2) that if the employer accepts the provisions of part B the employee shall thereupon be deemed to accept such provisions and shall become bound thereby; (3) that the employee may at any time withdraw his acceptance of such provisions and become released therefrom by giving written or printed notice of such withdrawal to the commissioner having jurisdiction, and also to the employer, and such withdrawal shall take effect forthwith from the time of its service on the commissioner and the employer; and (4) that the employer may withdraw his acceptance and the acceptance of the employee by filing a written or printed notice of his withdrawal with such commissioner and with such employee, which withdrawal shall become effective forthwith from the time of its service on the commissioner and the employee. The notices of acceptance and withdrawal to be given by an employer having regularly less than five employees and the notice of withdrawal to be given by the employee, as herein provided, shall be served upon such commissioner, employer, or employee either by personal presentation or by registered mail; and notices in behalf of a minor shall be given by his parent or guardian, or if there be no parent or guardian by such minor. The manner of acceptance of or withdrawal from the provisions of part B shall not apply to employers having regularly less than five employees or to such employees.

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.

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.

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 of process in the trade or business of such principal employer, and is performed in, on, or about premises under his con-
tiol, 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.

Sec. 6 (as amended by chapter 288, Acts of 1915). When any injury for which compensation is payable under the provisions of 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 claim compensation under the provisions of this act, but the payment or award of compensation shall not affect the claim or right of action of such injured employee against such other person, whether injured prior or subsequent to the time this act goes into effect, but such injured employee may proceed at law against such person to recover damages for such injury; and any employer having paid, or by award having become obligated to pay, compensation under the provisions of this act may bring an action against such other person to recover any amount that he has paid or by award has become obligated to pay as compensation to such injured employee: Provided, If either such employee or such employer shall bring such action against such third person he shall forthwith notify the other, in writing, by personal presentation or by registered mail, of such fact and of the name of the court to which the writ is returnable, and such other may join as a party plaintiff in such action within thirty days after such notification, and if such other fails to join as a party plaintiff, his right of action against such third person shall abate. In the event that such employer and employee shall join as parties plaintiff in such action and any damages are recovered, such damages shall be so apportioned that the claim of the employer shall take precedence over that of the injured employee, and if the damages shall not be sufficient, or shall be only sufficient to reimburse him for the compensation which he has paid, or by award has become obligated to pay, with a reasonable allowance for an attorney's fee, to be fixed by the court, and his costs, such damages shall be assessed in his favor; but if the damages shall be more than sufficient to reimburse him, damages shall be assessed in his favor sufficient to reimburse him for the money he has paid, with a reasonable allowance for an attorney's fee, to be fixed by the court, and his costs, and the excess shall be assessed in favor of the injured employee. The provisions of this section shall apply to any action brought by such injured employee or employer to recover damages against such third person which may be pending at the time of the passage of this act.

Sec. 7 (as amended by chapter 288, Acts of 1915). Any employee who has sustained an injury in the course of his employment shall forthwith notify his employer, or some person representing him, of such injury; and on his failure to give such notice the commissioner may reduce the award of compensation proportionately to any prejudice which he shall find the employer has sustained by reason of such failure; but the burden of proof with respect to such prejudice shall rest upon the employer. The employer, as soon as he has knowledge of any such injury, shall provide a competent physician or surgeon to attend the injured employee, and in addition shall furnish such medical and surgical aid or hospital service 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 medical, surgical, or hospital service, the injured employee may provide such physician or surgeon or medical, 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 or failed to provide such reasonable medical, surgical, or hospital service, all rights of compensation under the provisions of this act shall be suspended during such refusal or failure. The pecuniary liability of the employer for the medical,
surgical, or 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. In the case of a seaman employed upon any enrolled vessel of the United States and entitled by the provisions of any law of the United States to medical or surgical aid or hospital service without charge, such medical or surgical aid or hospital service may be substituted for that provided for in this section so far as it may answer the requirements of the provisions of this section, but nothing herein shall excuse the employer in such cases from giving emergency treatment when required; and any employer desiring to take advantage of this provision shall ascertain that such services as are provided for by the laws of the United States are rendered.

Sec. 8 (as amended by chapter 288, Acts of 1915). No compensation shall be payable under the provisions of this act on account of any injury which does not incapacitate the injured employee for a period of more than ten days from earning full wages at his regular employment; but if incapacity extends beyond a period of ten days compensation shall begin on the eleventh day of such incapacity.

Sec. 9 (as amended by chapter 288, Acts of 1915). 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 wholly 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 wholly dependent upon the deceased employee, to those partially dependent upon the deceased employee at the time of his injury a weekly compensation not exceeding that payable to those wholly dependent and in such proportionate sum as may be determined according to the measure of dependence; 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 the provisions of 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.

Sec. 10 (as amended by chapter 288, Acts of 1915). 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 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) any child under the age of eighteen years, or over said age but physically or mentally incapacitated from earning, upon the parent with whom he is living or from whom he is 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 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 wholly dependent, the compensation in case of death shall be divided equally among them, and persons partially dependent, if any, shall receive no part thereof. If there is no person wholly dependent and more than one person partially dependent, the compensation in case of death shall be divided among them according to the relative degree 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, but upon remarriage within the period during which
such compensation is payable it shall continue to be paid for the remainder of such period to other dependents of the deceased employee, as defined in section forty-three of part B, provided there are any such dependents. The presumptive dependence of a child as hereinafter defined, except a child physically or mentally incapacitated from earning, shall be construed to terminate at the age of eighteen years. Compensation under the provisions of this act shall be paid to alien dependents in half the amounts indicated in this act, unless such alien dependents are residents of the United States or its dependencies or Canada, such alienage to be determined as of the date of the injury.

Sect. 11 (as amended by chapter 288, Acts of 1915). In case the injury results in total incapacity to work, 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, or the reduction to one-tenth or less of normal vision with glasses; (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.

Sect. 12 (as amended by chapter 288, Acts of 1915). 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 the amount he is able to earn thereafter. Such 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 average weekly earnings of the injured employee prior to such injury for the terms respectively indicated, but in no case more than ten dollars weekly: (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 eighty 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-two 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 in one eye, or the reduction in one eye to one-tenth or less of normal vision with glasses, one hundred and four weeks; (h) for the loss of or the complete and permanent loss of the use of a thumb, thirty-eight weeks; (i) for the loss of or the complete and permanent loss of the use of a first finger or a great toe, thirty-eight weeks; (j) for the loss of or the complete and permanent loss of the use of a second finger, thirty weeks; a third finger, twenty-five weeks; a fourth finger, twenty weeks; (k) for the loss of or the loss of the use of any toe except the great toe, thirteen weeks; the loss of or the loss of the use of one phalanx of a thumb shall be construed as half of the loss of the thumb; the loss of or the loss of the use of one phalanx of a finger shall
be construed as one-third of the loss of the finger; for the loss of or the loss of the use of two phalanges of a finger shall be construed as two-thirds of the loss of the finger; and the loss of the greater part of a phalanx shall be construed as the loss of the phalanx, and shall be compensated accordingly.

Sect. 13. For the purposes 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.

Sect. 14. In fixing the amount of 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.

Sect. 15 (as amended by chapter 288, Acts of 1915). Any award of or voluntary agreement concerning 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 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, or that changed conditions of fact have arisen which necessitate a change of such agreement or award in order to properly carry out the spirit of this act. The commissioner shall also have the same power to open and modify an award as any court of the State has to open and modify a judgment of such court.

Sect. 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.

Sect. 17 (as amended by chapter 288, Acts of 1915). Each commissioner shall, for the purposes 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 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 the provisions of 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 Norwich; 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 may 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 such matter and such other commissioner shall possess the same jurisdiction and power, for the purpose 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.

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.

Sec. 19 (as amended by chapter 288, Acts of 1915). Each of the commissioners shall receive a salary of four thousand dollars per annum, payable in equal monthly installments, and, in addition, such allowance, not exceeding three thousand dollars per annum, as may be approved by the comptroller for expenses incurred in the discharge of his duties, and said provision for expenses of commissioners shall also apply to expenses heretofore incurred by said commissioners as to the amount thereof incurred in any year.

Sec. 20 (as amended by chapter 288, Acts of 1915). Every employer who has accepted part B of this act shall keep a record of such injuries sustained by his employees in the course 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 such injuries, in duplicate, as the commissioner 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. Within one week after the termination of disability or death of any injured person to whom compensation has been paid under the provisions of this act, the employer shall make a supplementary report, in duplicate, to the commissioner in regard to the length of disability, the amount of compensation paid, and such other facts relative to the same as may be required by the compensation commissioners to make a complete report upon the operations and economic effects of this act. The duplicates of such reports shall be transmitted by the commissioner to the factory inspector. All forms for reports required under the provisions of this section shall be furnished to employers by the commissioner without charge. No other reports of injuries or compensation shall be required by any department or office of the State from such employers as have accepted part B of this act. No proceedings for compensation under the provisions of this act shall be maintained unless a written notice of claim for compensation is made within one year from the date of the injury. Such notice shall state in simple language the date, place, and nature of the

Claims.
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 the provisions of this act, as provided in section three thereof, or by the legal representative of the deceased employee; but where there has been a hearing or a written request for a hearing or an assignment for hearing within one year from the date of the injury, or where a voluntary agreement has been submitted within said period of one year, no want of such notice of claim shall be a bar to the maintenance of proceedings, and in no case shall any defect or inaccuracy of such notice of claim be a bar to the maintenance of proceedings unless the employer shall show that he was ignorant of the injury and was prejudiced thereby. 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 claim for compensation he shall report the substantial facts of such notice to the commissioner.

Sec. 22 (as amended by chapter 288, Acts of 1915). 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 such 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 if such injury occurred within this State; otherwise in the office of the clerk of the superior court for the county in which the office of the commissioner making the award is located. A copy of such agreement shall be retained by the commissioner, and a like copy delivered to each of the parties, and thereafter it shall be as binding upon both parties as an award by the commissioner.

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.

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 (as amended by chapter 288, Acts of 1915). 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 commissioner shall
approve. In all cases and hearings under the provisions of 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 shall furnish at 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 expenses and traveling expenses as are allowed in civil actions, to be paid by the party in whose interest such witnesses are subpoenaed.

Sec. 26 (as amended by chapter 288, Acts of 1915). 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 such injury occurred within this State. If such injury occurred outside of the State and under such circumstances as to authorize an award under the provisions hereof, the original award may be filed in the office of the clerk of the superior court in the county in which the office of the commissioner making the award is located. If no appeal from his decision is taken by either party within ten days thereafter, such 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.

Sec. 27 (as amended by chapter 288, Acts of 1915). 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 award was filed. 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 information on the relation of private individuals. No costs shall be taxed in favor of either party on any such appeal, either in the superior court or in the supreme court of errors, nor shall either party be liable to pay any fees or costs of any kind whatsoever except the record fee on appeal to the supreme court of errors.

Sec. 28 (as amended by chapter 288, Acts of 1915). When he finds it just or necessary, the commissioner may approve or direct the commutation, in whole or in part, of weekly compensations under the provisions of this act into monthly or quarterly payments or into a single lump sum, which may be paid to the one then entitled to the compensation, and such commutation shall be binding upon all persons who may be entitled to compensation for the injury in question. 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 the provisions of this act, and paid in conformity with the provisions of this act.

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 com-
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 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.

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.

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.

Sec. 32 (as amended by chapter 288, Acts of 1915). 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 the provisions of 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. Nothing herein contained shall prevent the issuance of an insurance policy insuring any employer having ordinarily and regularly less than five employees against such liability under part B of this act as he may incur by reason of employing five or more employees at irregular intervals or from time to time.

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.

Sec. 34 (as amended by chapter 288, Acts of 1915). 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 the provisions of this act with the same effect as if
such person were legally capable to act in his own behalf and had so acted. The commissioner may, for just cause shown, authorize or direct the payment of compensation directly to a minor or to some person nominated by the minor and approved by the commissioner, which person shall act in behalf of such minor.

Sec. 35. All fees of attorneys, physicians, or other persons for service under this act shall be subject to the approval of the commissioner.

Sec. 36. All sums due for compensation under this act shall be exempt from levy, attachment, and execution, and shall be non-assignable 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.

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 reasons, shall order payment to those entitled to act for such persons.

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.

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.

Sec. 40. This act shall not affect the liability of employers to interstate 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.

Sec. 41. The provisions of this act shall not apply to injuries or actions brought on account of injuries sustained before January 1, 1914.

Sec. 42 (as amended by chapter 288, Acts of 1915). If an employer has accepted part B of this act and thereafter fails to conform to any provision of section thirty of part B, an employee shall have the option to elect, either to claim his right to compensation under the terms of this act, or to bring an action to recover damages under the terms of part A. If the injury sustained results in death, the option to elect shall be exercised by those persons entitled to compensation under the terms of section nine of part B. In the event of a failure by such persons to agree upon the election, the commissioner shall decide and his decision shall be final. The option to elect to bring an action to recover damages under the terms of part A shall be exercised by notifying the employer within thirty days after receiving the injury upon which such claim is based, and such action shall be brought within one year from the date of such injury. If the employer is not so notified, there shall remain only the right to compensation under the terms of this act. If an employer has accepted part B of this act and thereafter fails to conform to any provision of part B, he shall be fined not more than one hundred dollars for each such failure.

Sec. 43 (as amended by chapter 288, Acts of 1915). "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. "Dependants" 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 of service or apprenticeship with an employer, whether such contract contemplated the performance of duties within or without the State. It shall not be construed to include either (a) an out-
worker, or (b) one whose employment is of a casual nature, and who is employed otherwise than for the purposes of the employer's trade or business, or (c) a member of the employer's family dwelling in his house. "Employer" shall mean any 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 shall include 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.

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.

General Provisions.

Volume of decisions. SECTION 15 (added by chapter 288, Acts of 1915). The comptroller is authorized and directed to cause a digest of the decisions of the compensation commissioners to be compiled, and to have published twenty-five hundred copies thereof for distribution by him as follows: To the commissioners, seven hundred copies; to the State librarian, three hundred copies; and to the secretary of the State for sale by him at cost, fifteen hundred copies.

Appropriation. Sec. 16 (added by chapter 288, Acts of 1915). The sum of two thousand dollars, or so much thereof as may be necessary, is hereby appropriated for the purpose of defraying the expenses incurred in carrying out the provisions of [the preceding section].


Chapter 287.—Workmen’s compensation insurance.

Effect of insurance contract. SECTION 1. Whenever any employer of labor, as defined in chapter 138 of the public acts of 1913 and amendments thereto, shall insure his liability under said act as amended, with any company authorized to transact a compensation insurance business in this State, the contract of insurance between such employer of labor and such insurer shall be a contract for the benefit of any employee who shall sustain an injury arising out of and in the course of his employment by such insured by reason of the business operations described in the policy while conducted at any working place therein described or elsewhere in connection therewith, or, in the event of such injury resulting in death, for the benefit of the dependents of such employee. Every such policy shall contain an agreement by the insurer to the effect that the insurer shall be directly and primarily liable to the employee and, in the event of his death, to his dependents, to pay to him or to them the compensation, if any, for which the employer is liable: Provided, Payment, in whole or in part, of such compensation, by either the employer or the insurer, shall to the extent thereof be a bar to the recovery against the other of the amount so paid.

Contents of policy.

Notice of hearings. Sec. 2. When a claim for compensation by any such injured employee or the dependent of an injured employee of an employer who has insured his liability as aforesaid shall not result in a voluntary agreement, and a hearing before a compensation commissioner shall be necessary to determine such claim, the insurer shall receive the same notice of such hearing as is by law required to be given to the employer, and shall thereupon be a party to the proceeding.

Awards. Sec. 3. In any such hearing the commissioner having jurisdiction may make his award directly against such employer, insurer,
or both, and such award shall be enforceable in all respects as provided by law for enforcing awards against an employer, and the proceedings on hearing, finding, award, appeal, and execution shall be in all respects similar to that provided by law as between employer and employee.

Sec. 4. As between any such injured employee or his dependent and the insurer, every such contract of insurance shall be conclusively presumed to cover the entire liability of the insured, and no question as to breach of warranty, coverage, or misrepresentation by the insured shall be raised by the insurer in any proceeding before the compensation commissioner or on appeal therefrom.

Sec. 5. No statement in an application for a policy of compensation insurance shall vitiate such policy as between the insurer and the insured, unless such statement shall be false and shall materially affect either the acceptance of the risk or the hazard assumed by the insurer.

Sec. 6. No insurer shall issue any policy of insurance purporting to cover the liability of an employer under the provisions of chapter 133 of the Public Acts of 1913 and amendments thereto, until a copy of the form of such policy shall have been filed with and approved by the insurance commissioner.

Sec. 7. When any insured shall knowingly make a material misstatement to any insurer to the damage of such insurer, such insurer may recover just damages resulting from such misstatement.

Sec. 8. The terms “employer,” “employee,” “dependent,” and “commissioner” as used herein shall be construed as defined in chapter 138 of the Public Acts of 1913 as amended.

Approved May 20, 1915.
HAWAII.

ACTS OF 1915.

Act No. 221.--Compensation of workmen for injuries.

Section 1. This act shall apply to all public and all industrial employment as hereinafter defined. If a workman receives personal injury by accident arising out of and in the course of such employment, his employer or the insurance carrier shall pay compensation in the amounts and to the person or persons hereinafter specified.

Sec. 2. This act shall apply to employees (other than officials as hereinafter defined) of the Territory and all counties and all other political subdivisions within the Territory now existing or which may hereafter be created.

Sec. 3. No compensation shall be allowed for an injury caused (1) by the employee's willful intention to injure himself or to injure another, or (2) by his intoxication. If the employer claims an exemption or forfeiture under this section the burden of proof shall be upon him.

Sec. 4. The rights and remedies herein granted to an employee on account of a personal injury for which he is entitled to compensation under this act shall exclude all other rights and remedies of such employee, his personal representatives, dependents, or next of kin, at common law or otherwise, on account of such injury.

Employers who hire workmen within this Territory to work outside of the Territory may agree with such workmen that the remedies under this act shall be exclusive as regards injuries received outside this Territory by accident arising out of and in the course of such employment, and all contracts of hiring in this Territory shall be presumed to include such an agreement.

Sec. 5. 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 obtain damages from or proceed at law against such other person to recover damages; and if compensation is claimed and awarded under this act, any employer having paid the compensation or having become liable therefor 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.

Sec. 6. 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.

Sec. 7. If death results from the injury within six months, the employer or the insurance carrier shall pay to the persons entitled to compensation, or if there be none, then to the personal representative of the deceased employee, burial expenses not to exceed one hundred dollars ($100), and shall also pay to or for the following persons for the following periods a weekly compensation equal to the following percentages of the deceased employee's average weekly wages, as defined in section 15:

(a) To the dependent widow or widower, if there be no dependent children, 40 per cent.

(b) To the dependent widow or widower, if there be one or two dependent children, 50 per cent, or if there be three or more dependent children, 60 per cent. Such compensation to the widow

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or widower shall be for the use and benefit of such widow or widower and of the dependent children, and the industrial accident board may from time to time apportion such compensation between them in such way as it deems best.

(c) If there be no dependent widow or widower, but a dependent child or children, then to such child or children 30 per cent, with 10 per cent additional for each child in excess of two, with a maximum of 50 per cent, to be divided equally among such children, if more than one.

(d) If there be neither dependent widow, widower, nor child, but there be a dependent father or mother, then to such parent, if wholly dependent, 40 per cent, or if partially dependent, 25 per cent; or if both parents be dependent, then one-half of the foregoing compensation to each of them; or if there be no such parents, but a dependent grandparent, then to every such grandparent the same compensation as to a parent.

(e) If there be neither dependent widow, widower, child, parent, or grandparent, but there be a dependent grandchild, brother, or sister, or two or more of them, then to such dependents 25 per cent for one such dependent and 5 per cent additional for each additional such dependent, with a maximum of 40 per cent, to be divided equally among such dependents, if more than one.

See. 8. The following persons, and they only, shall be deemed dependents and entitled to compensation under the provisions of this act:

A child if under 16 years of age or incapable of self-support and unmarried, whether ever actually dependent upon the deceased or not;

The widow only if living with the deceased or actually dependent, wholly or partially, upon him;

The widower only if incapable of self-support and actually dependent, wholly or partially, upon the deceased at the time of her injury;

A parent or grandparent only if actually dependent, wholly or partially, upon the deceased;

A grandchild, brother, or sister only if under 16 years of age or incapable of self-support and wholly dependent upon the deceased.

The relation of dependency must exist at the time of the injury.

An alien shall not be considered a dependent within the meaning of this act unless actually residing within the United States, and any alien dependent leaving the United States shall thereupon lose all right to any benefit under this act.

See. 9. The compensation herein provided for shall be payable during the following periods:

To a widow, until death or remarriage, but in no case to exceed three hundred and twelve weeks;

To a widower, during disability or until remarriage, but in no case to exceed three hundred and twelve weeks;

To or for a child, until 16 years of age, but in the case of a child incapable of self-support and unmarried as long as so incapable, but in no case to exceed one hundred and four weeks beyond said age of 16 years;

To a parent or grandparent, during the continuation of a condition of actual dependency, but in no case to exceed three hundred and twelve weeks;

To or for a grandchild, brother, or sister, during dependency as hereinbefore defined, but in no case to exceed three hundred and twelve weeks.

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.

See. 10. As used in this section the term "child" includes stepchildren, adopted children, posthumous children, and illegitimate
children, acknowledged previous to the injury, but does not include married children unless dependent. The terms "brother" and "sister" include stepbrothers and stepsisters, half brothers and half sisters and brothers and sisters by adoption, but do not include married brothers nor married sisters unless dependent. The term "grandchild" includes children of adopted children and children of stepparents, stepchildren of adopted children, nor married grandchildren unless dependent. The term "parent" includes step-parents and parents by adoption. The term "grandparent" includes parents of parents by adoption, but does not include parents of step-parents, step-parents of parents, nor step-parents of step-parents.

Sec. 11. In computing death benefits the average weekly wages of the deceased employee shall be considered not to be more than thirty-six dollars ($36) nor less than five dollars ($5); but the total weekly compensation shall not exceed in any case the average weekly wages computed as provided in section 15, nor shall the amount of compensation paid in any case exceed in the aggregate the sum of five thousand dollars ($5,000).

Payment of death benefits by an employer in good faith to a dependent subsequent in right to another or other dependents shall protect and discharge the employer unless and until such dependent or dependents prior in right shall have given him notice of his or their claim. In case the employer is in doubt as to the respective rights of rival claimants he may apply to the industrial accident board to decide between them.

In case death occurs after a period of disability, either total or partial, the period of disability shall be deducted from the total periods of compensation respectively stated in section 9.

The compensation of a person who is insane shall be paid to his or her guardian.

Sec. 12. During the first fourteen days of disability the employer shall furnish reasonable surgical, medical, and hospital services and supplies not exceeding the amount of fifty dollars ($50). 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 person.

Sec. 13. Where the injury causes total disability for work, the employer during such disability, but not including the first fourteen days thereof, shall pay the injured employee a weekly compensation equal to sixty per cent of his average weekly wages, but not more than eighteen dollars ($18) nor less than three ($3) dollars a week. In no case shall the weekly payments continue after the disability ends, nor longer than three hundred and twelve weeks, nor shall the amount of compensation paid in any case exceed in the aggregate the sum of five thousand dollars ($5,000).

In case of an employee whose average weekly wages are less than three dollars ($3) a week, the weekly compensation shall be the full amount of such average weekly wages, but where the disability begins after a period of partial disability, the period of partial disability shall be deducted from such total period of three hundred and twelve weeks.

In the case of the following injuries the disability caused thereby shall be deemed total and permanent, to wit:

(1) The total and permanent loss of sight in both eyes;
(2) The loss of both feet at or above the ankle;
(3) The loss of both hands at or above the wrist;
(4) The loss of one hand and one foot;
(5) An injury to the spine resulting in permanent and complete paralysis of both legs or both arms or of one leg of one arm;
(6) An injury to the skull resulting in incurable imbecility or insanity.

The above enumeration is not to be taken as exclusive.
Partial disability.

Sec. 14. Where the injury causes partial disability for work, the employer, during such disability and for a period of three hundred and twelve weeks beginning on the fifteenth day of disability, shall pay the injured workman a weekly compensation equal to fifty per cent of the difference between his average weekly wages before the accident and the weekly wages he is most probably able to earn thereafter, but not more than twelve dollars ($12) a week. In no case shall the weekly payments continue after the disability ends, and in case the partial disability begins after a period of total disability, the period of total disability shall be deducted from such total period of three hundred and twelve weeks, nor shall the amount of compensation paid in any case exceed in the aggregate, the sum of five thousand dollars ($5,000).

In case of the following injuries the compensation shall be fifty per cent of the average weekly wages, but not more than twelve dollars ($12) to be paid weekly for the periods stated against such injuries, respectively, to wit:

1. 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, three hundred and twelve weeks;

2. The permanent and complete loss of hearing in both ears, three hundred and twelve weeks;

3. 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, two hundred and eighty-six weeks;

4. 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, two hundred and forty-eight weeks;

5. 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, two hundred and eight weeks.

Computation of wages.

Sec. 15. Average weekly wages shall be computed in such a manner as is best calculated to give the average weekly earnings of the workman during the twelve months preceding his injury: Provided, That where, by reason of the shortness of the time during which the workman has been in the employment, or the casual nature of the employment, or the terms of the employment, it is impracticable to compute the rate of remuneration, regard may be had to the average weekly earnings which, during the twelve months previous to the injury, were being earned by a person in the same grade employed at the same work by the employer of the injured workman, or if there is no person so employed, by a person in the same grade employed in the same class of employment and in the same district.

If a workman at the time of the injury is regularly employed in a higher grade of work than formerly during the year and with larger regular wages, only such larger wages shall be taken into consideration in computing his average weekly wages.

Advances.

Sec. 16. Any payments made by the employer or his insurer to the injured workman during the period of his disability, or to his dependents, which by the terms of this act were not due and payable when made, may, subject to the approval of the board, be deducted from the amount to be paid as compensation: Provided, That in case of disability such deduction shall be made by shortening the period during which compensation must be paid and not by reducing the amount of the weekly payments under sections 13 and 14.

Time of payments.

Sec. 17. The board, upon the application of either party, may, in its discretion, having regard to the welfare of the employee and the convenience of the employer, authorize compensation to be paid monthly or quarterly instead of weekly.

Commutation of payments.

Sec. 18. Whenever the board determines that it is for the best interest of all parties, the liability of the employer for compensation may, on application to the board by any party interested, be discharged in whole or in part by the payment of one or more lump sums to be fixed by the board.
Sec. 19. Whenever for any reason the board deems it expedient, any lump sum which is to be paid as provided in section 18 shall be paid by the employer to some suitable person or corporation appointed by the circuit court in the jurisdiction of which the injury occurred as trustee to administer or apply the same for the benefit of the person or persons entitled thereto in the manner provided by the board. The receipt of such trustee for the amount so paid shall discharge the employer or any one else who is liable therefor.

Sec. 20. After an injury and during the period of disability, the workman, whenever ordered by the board, shall submit himself to examination, at reasonable times and places, to a duly qualified physician or surgeon designated and paid by the employer. The workman shall have the right to have a physician or surgeon designated and paid by himself present at such examination, which right, however, shall not be construed to deny to the employer's physician the right to visit the injured workman at all reasonable times and under all reasonable conditions during total disability. If a workman refuses to submit himself to or in any way obstructs such examination, his right to take or prosecute any proceeding under this act shall be suspended until such refusal or obstruction ceases, and no compensation shall be payable for the period during which such refusal or obstruction continues.

Sec. 21. No proceedings under this act for compensation for an injury 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 a claim for compensation with respect to such injury shall have been made within three months after the date of the injury; or in case of death then within three months after such death whether or not a claim had been made by the employee himself for compensation. Such notice and such claim may be given or made by any person claiming to be entitled to compensation or by some one on his behalf. If payments of compensation have been made voluntarily, the making of a claim within said period shall not be required.

Sec. 22. Such notice and such claim shall be in writing, and such notice shall contain the name and address of the employee and shall state in ordinary language the time, place, nature, and cause of the injury, and shall be signed by him or by a person on his behalf, or, in the event of his death, by any one or more of his dependents or by a person on their behalf. The notice may include the claim.

Sec. 23. Any notice under this act shall be given to the employer, or if the employer be a partnership, then to any one of the partners. If the employer be a corporation, then the notice may be given to any agent of the corporation upon whom process may be served, or to any officer of the corporation, or any agent in charge of the business at the place where the injury occurred. Such notice shall be given by delivering it or by sending it by mail by registered letter addressed to the employer at his or its last known residence or place of business. The foregoing provisions shall apply to the making of a claim.

Sec. 24. A notice given under the provisions of section 21 of this act shall not be held invalid or insufficient by reason of any inaccuracy in stating the time, place, nature, or cause of the injury, or otherwise, unless it is shown that the employer was in fact misled to his injury thereby. Want of notice or delay in giving notice shall not be a bar to proceedings under this act if it be shown that the employer, his agent or representative, had knowledge of the accident, or that the employer has not been prejudiced by such delay or want of notice.

Sec. 25. No limitation of time provided in this act shall run against any person who is mentally incompetent or a minor dependent, so long as he has no guardian or next friend.

Sec. 26. There shall be a board created, to be known as the Industrial accident board, in each county, consisting of five members to be appointed by the governor, as provided by section 80 of...
the organic act. Each board shall elect its own chairman. Members of the boards shall hold office for five years, except that when the boards are first constituted one member for each board 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 to each board every year for the full term of five years. Outgoing members shall be eligible for reappointment. It shall be the duty of the county or city and county attorney, as the case may be, to act as attorney for the board in all matters coming before the board whenever requested to so act.

Sec. 27. Each board shall have jurisdiction over the injuries occurring within the county for which it is appointed, or occurring to employees of residents of the county while such employees are without the Territory, or on vessels operated by residents of such county: Provided, That if the principal business or occupation of the employer concerned or of the owner of the vessel is carried on in another county, the board of such other county shall have such jurisdiction.

Sec. 28. The members of such boards shall serve without remuneration, except that they may be allowed their reasonable traveling and other expenses while proceeding to, attending, and returning from attendance of meetings of the board, or reasonably incurred in the discharge of their duties, which board may employ such assistance and clerical help as it may deem necessary, and fix the compensation of all persons so employed. All such salaries and expenses shall be paid out of such funds as shall be appropriated by the legislature for the use of such boards.

Sec. 29. Each board may make rules not inconsistent with this act for carrying out the provisions of this act. Process and procedure under this act shall be as summary and simple as reasonably may be. The board, or any member thereof, shall have the power to subpoena witnesses, administer oaths, and to examine such of the books and records of the parties to a proceeding as relate to the questions in dispute. The circuit court shall have power to enforce by proper proceedings the attendance and testimony of witnesses and the production and examination of books, papers, and records. The board 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 this act. Such blanks shall also be furnished by the board to the clerk of the circuit court, who shall furnish the same to any employer or employee free of charge, but subject, however, to any rules and regulations the board shall make relating thereto.

Sec. 30. If the employer and the injured employee reach an agreement in regard to compensation under this act, a memorandum of the agreement shall be filed with the board, and, if approved by it, thereupon the memorandum shall for all purposes be enforceable under the provisions of section 39, unless modified as provided in section 37.

Such agreements shall be approved by the board only when the terms conform to the provisions of this act.

Sec. 31. If the compensation is not settled by agreement, either party may make an application to the board for the formation of a committee of arbitration. Such committee shall consist of three members, one of whom shall be a member of the industrial accident board, or appointed by it, who shall act as chairman. The other two members shall be named, respectively, by the parties. If a vacancy occurs, it shall be filled in the same way as the original appointment.

Sec. 32. Immediately after such application the board shall designate one of its members, or a substitute, to act as chairman of the committee of arbitration, and shall request the parties to appoint their respective representatives. If within seven days after such request, or after a vacancy has occurred, either party does not appoint his representative, the board shall fill the vacancy and notify the parties to that effect.
Sec. 33. The committee on arbitration shall make such inquiries and investigations as it shall deem necessary. The hearings of the committee, unless otherwise agreed, shall be held in the city or town where the injury occurred if within this Territory, and the award of the committee, together with a statement of its findings of fact, rulings of law, and any other matters pertinent to the questions arising before it, shall be filed with the industrial accident board of the respective county. A copy of the award shall be immediately sent to the parties. Unless a claim for a review is filed by either party within ten days after the sending of the award, it shall be enforceable under the provisions of section 39.

Sec. 34. Each 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 three dollars ($3) and traveling expenses, but the board may allow additional reasonable amounts in extraordinary cases.

Sec. 35. The fees and expenses of arbitrators under section 33 and of physicians under section 34 shall be paid from the funds appropriated by the legislature for the use of the respective boards.

Sec. 36. If an application for review is made to any board, or if the committee fails to make an award within thirty days after its formation, the board shall allow a full trial and shall make an award, which shall be filed with the record of proceedings, and shall state its conclusions of fact and rulings of law, and shall immediately send to the parties a copy of the award.

Sec. 37. On the application of any party on the ground of a change in conditions, the board may at any time, but not oftener than once in six months, review any agreement or award, and on such review may make an award ending, diminishing, or increasing the compensation previously agreed upon or awarded, subject to the maximum and minimum provided in this act, and shall state its conclusions of fact and rulings of law, and immediately send to the parties a copy of the award, but this section shall not apply to a commutation of payments under section 18.

Sec. 38. An award of the board, in the absence of fraud, shall be final and conclusive between the parties, except as provided in section 37, unless within ten days after a copy has been sent to the parties either party appeals to the circuit court of the circuit in which said board is located. In the county of Hawaii the circuit court shall be that of the fourth circuit. In case of every such appeal the right of a trial by jury shall be deemed to be waived unless claimed within ten days from the date such appeal is entered. Said court may by proper rules prescribe the procedure to be followed in the case of such appeals.

The board may certify questions of law to the supreme court of the Territory for its determination.

Sec. 39. Any party in interest may file in the circuit court in the jurisdiction of which the injury occurred a certified copy of a decision of the board awarding compensation, from which no appeal has been taken within the time allowed therefor, or a certified copy of a decision of an arbitration committee awarding compensation from which no claim for review has been filed within the time allowed therefor, or a certified copy of a memorandum of agreement approved by the board, whereupon said court shall render a decree or judgment in accordance therewith and notify the parties thereof. Such decree or judgment shall have the same effect, and all proceedings in relation thereto shall thereafter be the same, as though said decree or judgment had been rendered in a suit duly heard and determined by said court, except that there shall be no appeal therefrom.

Sec. 40. 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 may assess the whole cost of the proceedings upon the party who has so brought, prosecuted, or defended them.
Powers of board.

Sec. 41. All questions arising under this act, if not settled by agreement of the parties interested therein with the approval of the board shall, except as otherwise herein provided, be determined by the board. The decisions of the board shall be enforceable by the circuit court under the provisions of section 39. There shall be a right of appeal from decisions of the board to the circuit court as provided in section 38, but in no case shall such an appeal, either under this section or under section 38, operate as a supersedeas or stay unless the board or the circuit court shall so order.

Revision of decrees.

Sec. 42. The circuit court, upon the filing with it of a certified copy of a decision of the industrial accident board ending, diminishing, or increasing compensation previously awarded, shall revoke or modify its prior decree or judgment so that it will conform to said decision.

Injuries outside the territory.

Sec. 43. If a workman who has been hired in this Territory receives personal injury by accident arising out of and in the course of such employment, he shall be entitled to compensation according to the law of this Territory even though such injury was received outside this Territory.

If a workman who has been hired outside of this Territory is injured while engaged in his employer's business and is entitled to compensation for such injury under the law of the State or Territory where he was hired, he shall be entitled to enforce against his employer his rights in this Territory if his rights are such that they can reasonably be determined and dealt with by the board and the court in this Territory.

Sec. 44. All rights of compensation granted by this act shall have the same preference or priority for the whole thereof against the assets of the employer as is allowed by law for any unpaid wages for labor.

Preferences.

Assignments.

Attorneys' fees.

Sec. 45. No claims for compensation under this act shall be assignable, and all compensation and claims therefore shall be exempt from all claims of creditors. Claims of attorneys and of physicians for services under this act shall be subject to the approval of the board.

Sec. 46. Employers, but not including the Territorial or the municipal bodies mentioned in section 2, shall secure compensation to their employees in one of the following ways:

1. 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 Territory, or

2. By obtaining and keeping in force guaranty insurance with any company authorized to do such guaranty business within the territory;

3. By depositing and maintaining with the Territorial treasurer security satisfactory to the board securing the payment by said employer of compensation according to the terms of this act.

4. Upon furnishing satisfactory proof to the board of his solvency and financial ability to pay the compensation and benefits herein provided, no insurance or security shall be required, and the employer shall make such payments directly to his employees as they may become entitled to receive the same under the terms and conditions of this act.

Any person who willfully misrepresents any fact in order to obtain the benefits of this section shall be guilty of a misdemeanor.

Any decision of the board rendered under the provisions of subdivisions 3 and 4 of this section with respect to the amount of security required or refusing to permit no security to be given shall be subject to reviews on appeal by the circuit court in like manner as appeals are permitted under section 38 of this act.

Sec. 47. If the insurance so affected is not under subdivisions 3 or 4 of section 46 the employer shall forthwith file with the Territorial treasurer and with the board in form prescribed by

Notice of insurance.
the board a notice of his insurance, together with a copy of the contract or policy of insurance.

Sec. 48. If an employer fails to comply with the provisions of section 46 he shall be liable to a penalty for every day during which such failure continues, of one dollar ($1) for every employee, to be recovered in an action brought by the chairman of the board in the name of the Territory, and the amounts so collected shall be paid into the Territorial treasury and be a special fund for the use of the board. It shall be the duty of the county attorney of each county to prosecute such suits, if so requested by the board.

The board may, however, in its discretion, for good cause shown, remit any such penalty in whole or in part, provided the employer in default forthwith secures compensation as provided in section 46.

Furthermore, if any employer shall be in default under section 46, for a period of thirty days, he may be enjoined by the circuit court from carrying on his business while such default continues.

Sec. 49. Every policy of insurance and every guaranty contract covering the liability of the employer for compensation, whether issued by a stock company or by a mutual association authorized to transact workmen's compensation or guaranty insurance in this Territory, shall cover the entire liability of the employer to his employees covered by the policy or contract, and also shall contain a provision setting forth the right of the employees to enforce in their own names either by at any time filing a separate claim or by at any time making the insurance carrier a party to the original claim, the liability of the insurance carrier in whole or in part for the payment 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.

Sec. 50. Every such policy and contract 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 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 for the payment of compensation under the provisions of this act.

Sec. 51. Every such policy and contract shall contain a provision to the effect that the insolvency or bankruptcy of the employer and his discharge therein 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 or contract.

Sec. 52. No policy or contract of insurance or guaranty issued by a stock company or mutual association against liability arising under this act shall be canceled 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 have been filed in the office of the Territorial treasurer and also served on the board and the employer.

Sec. 53. The Territory and each county and any other political subdivision of the Territory which is liable to its employees for compensation may insure with any authorized insurance carrier.

Sec. 54. No agreement by an employee to pay any portion of the premiums paid by his employer to contribute to a benefit fund or department maintained by such employer, or to the cost of mutual or other insurance maintained for or carried for the purpose of securing 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 act shall be guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not to exceed two hundred and fifty dollars ($250).
Sec. 55. The board shall have the right to inspect the plants and establishments of all employers in the Territory, and the inspectors designated by the board shall have free access to such premises during regular working hours and at other reasonable times.

Sec. 56. Every employer shall hereafter keep a record of all injuries, fatal or otherwise, received by his employees in the course of their employment, when known to him or brought to his attention. As soon as practicable after the occurrence of an injury causing absence from work for one day or more, a report thereof shall be made in writing by the employer to the board on blanks to be procured from the board for the purpose.

Upon the termination of the disability of the injured employee the employer shall make a supplemental report upon blanks to be procured from the board for that purpose. If the disability extends beyond a period of sixty days, the employer shall report to the board at the end of such period that the injured employee is still disabled, and upon the termination of the disability shall file a final supplemental report, as provided above.

The said reports shall contain the name and nature of the business of the employer, the situation of the establishment, the name, age, sex, wages, and occupation of the injured employee, and shall state the date and hour of the accident causing the injury, 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 twenty-five dollars ($25) for each offense.

Within sixty days after the termination of the disability of the injured employee, the employer or other party liable to pay the compensation provided for by this act shall file with the board a statement showing the total payments made or to be made for compensation and for medical services for such injured employee.

Sec. 57. This act shall affect the liability of employers to employees engaged in interstate or foreign commerce or otherwise only so far as the same is permissible under the laws of the United States.

Sec. 58. Annually on or before the first day of February the board of each county shall make a report to the governor, which shall be transmitted to the legislature and which shall include a properly classified statement of the expenses of the board, together with any other matters which the board deems proper to report, including any recommendations it may desire to make.

Sec. 59. Whenever under this act any award, order, rule, regulation, or decision is required or authorized to be made by the board or by a committee of arbitration the action of a majority of the members of such board or committee shall be considered as the action of such board or committee, respectively, as the case may be.

Sec. 60. In this act unless the context otherwise requires:

(a) “Employer,” unless otherwise stated, includes any body of persons, corporate or unincorporated, public or private, and the legal representative of a deceased employer. It includes the owner or lessee of premises, or other person who is virtually the proprietor or operator of the business there carried on, but who, by reason of there being an independent contractor, or for any other reason, is not the direct employer of the workmen there employed. If the employer is insured, it includes his insurer so far as applicable.

(b) “Workman” is used as synonymous with “employee,” and means any person who has entered into the employment of or works under contract of service or apprenticeship with an employer. It does not include a person whose employment is purely casual or not for the purpose of the employer’s trade or business, or whose remuneration from any one employer, excluding pay for overtime, exceeds thirty-six dollars ($36) a week. Any reference to a workman who has been injured shall, where the workman is
dead, include a reference to his dependents as herein defined, if the context so requires, or where the employee is a minor or incompetent to his guardian or next friend.

(c) "Injury" or "personal injury" includes death resulting from injury within two years.

(d) The words "personal injury by accident arising out of and in the course of such employment" shall include an injury caused by the willful act of a third person directed against an employee because of his employment. They shall not include a disease except as it shall result from injury.

(e) "Employment" in the case of private employers includes employment only in a trade or occupation which is carried on by the employer for the sake of pecuniary gain.

Public employment means employment by the Territory or by a county or by any political subdivision of the Territory now existing or which may hereafter be created.

It does not include the employment of public officials who are elected by popular vote or who receive salaries exceeding eighteen hundred dollars ($1,800) a year.

(f) The word "board" or words "industrial accident board," whenever used in this act, unless the context shows otherwise, shall be taken to mean the industrial accident board of the respective county.

(g) "Partial disability." Diminished ability to obtain employment owing to disfigurement resulting from an injury may be held to constitute partial disability.

(h) "Wages" shall include the market value of board, lodging, fuel, and other advantages which can be determined in money which the employee receives from the employer as a part of his remuneration.

"Wages" shall not include any sums which the employer has paid to the employee to cover any special expenses entailed on him by the nature of his employment.

(i) "Insurance carrier" shall include stock corporations or mutual associations from any of which employers have obtained workmen's compensation insurance or guaranty insurance in accordance with the provisions of this act.

(j) The word "county" includes the city and county of Honolulu.

(k) Any term shall include the singular and plural and both sexes where the context so requires.

Sec. 61. If any part or section 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 which can be given effect without the part so decided to be unconstitutional or invalid.

Sec. 62. If for the purpose of obtaining any benefit or payment under the provisions of this act, either for himself or for any other person, anyone willfully makes a false statement or representation, he shall be guilty of a misdemeanor and liable to a fine of not exceeding two hundred and fifty dollars.

Sec. 63. The provisions of this act shall not apply to injuries sustained or accidents which occur prior to the taking effect hereof.

Sec. 64. (a) The rule that statutes in derogation of the common law are to be strictly construed shall have no application to this act.

(b) This act shall be so interpreted and construed as to effect its general purpose to make uniform the law of those States which enact it.

Sec. 66. This act may be cited as the workmen’s compensation act.

Sec. 67. This act shall take effect on the first day of July, 1915.

Approved April 28, 1915.
ILLINOIS.

ACTS OF 1913.

Compensation of workmen for injuries.

(Pages 335.)

[Several sections of this act were amended, and a new section added, by an act approved June 28, 1915. The new and amended portions of the act follow:]

Section 3 (as amended by act, p. 400, Acts of 1915). (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.

(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, removing, repairing, or demolishing of any structure, except as provided in subsection 8 of this section;
2. Construction, excavating, or electrical work, except as provided in subsection 8 of this section;
3. Carriage by land or water and loading or unloading in connection therewith;
4. The operation of any warehouse or general or terminal storehouses;
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 extra hazardous: Provided, Nothing contained herein shall be construed to apply to any work, employment, or operations done, had, or conducted by farmers and others engaged in farming, tillage of the soil, or stock raising, or to those who rent, demise, or lease land for any of such purposes, or to anyone in their employ or to any work done on a farm or country place, no matter what kind of work or service is being done or rendered.

Sec. 7. (as amended by act, p. 400, Acts of 1915). The amount of compensation which shall be paid for an injury to the employee resulting in death shall be:

(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 six hundred fifty dollars and not more in any event than three thousand five hundred dollars. Any compensation payments other than neces-
sary medical, surgical, or hospital fees or services shall be de-
ducted in ascertaining the amount payable on death.

(b) If no amount is payable under paragraph (a) of this sec-
tion and the employee leaves any widow, child, parent, grand-
parent, 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 six hundred fifty dollars
and not more in any event than three thousand five hundred dol-
ars. Any compensation payments other than necessary medical,
surgical, or hospital fees or services shall be deducted in ascer-
taining 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 average annual 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 his beneficiaries, and shall be distributed to the
heirs who formed the basis for determining the amount of com-
pensation to be paid by the employer, the distributees' share 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 sup-
port of the child. The payment of compensation by the employer
to the personal representative of the deceased employee shall
relieve him of all obligations as to the distribution of such com-
pensation so paid. The distribution by the personal representa-
tive of the compensation paid to him by the employer shall
be made pursuant to the order of the court appointing him.

Compensation for Injuries.

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. The employee may elect to secure
his own physician, surgeon, or hospital services at his own ex-

(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 $6 nor more than $12 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 para-
graph (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 hand,
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: And provided further, That when the disfigurement is to the hand, head, or face as a result of an injury, for which injury compensation is not payable under paragraphs (d), (e), or (f) of this section, compensation for such disfigurement may be had under this paragraph.

(d) If after the injury has been sustained the employee as a result thereof becomes partially 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.

(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 wage 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 toe other than the great toe, fifty per centum of the average weekly wage during ten weeks, and for the addi-
tional loss of one or more toes other than the great toe, fifty per centum of the average weekly wage during an additional 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 two 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 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 $6 nor more than $12 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 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 of the payments made to the employee shall be paid, at the option of the employer, either to the personal representative or to 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.

(h) In no event shall the compensation to be paid exceed fifty per centum of the average weekly wage or exceed $12 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.
(1) All compensations 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.

Sec. 9 (as amended by act, p. 400, Acts of 1915). 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 interest of the parties that such compensation be so paid, the board may 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 rests: 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. Either party may reject an award of a lump-sum payment of compensation, except an award for compensation under section 7 or paragraph (e) of section 8 of the injuries defined in the last paragraph of paragraph (e) of section 8 as constituting total and permanent disability, by filing his written rejection thereof with the said board within ten days after notice to him of the award, in which event compensation shall be payable in installments as herein provided.

Sec. 12 (as amended by act, p. 400, Acts of 1915). 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. In all cases where the examination is made by a surgeon engaged by the employer and the injured employee has no surgeon present at such examination, it shall be the duty of the surgeon making the examination at the instance of the employer to deliver to the injured employee, upon his request or that of his representative, a statement in writing of the condition and extent of the injury to the same extent that said surgeon reports to the employer. 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. It shall be the duty of surgeons treating an
injured employee who is likely to die, and treating him at the instance of the employer, to have called in another surgeon, to be designated and paid for by either the injured employee or by the person or persons who would become his beneficiary or beneficiaries, to make an examination before the death of such injured employee.

Sec. 13 (as amended by act, p. 400, Acts of 1915). 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, expiring on January 31 of the odd 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. Not more than two members of the board shall belong to the same political party.

Sec. 14 (as amended by act, p. 400, Acts of 1915). The salary of each of the members of the board so appointed by the governor shall be five thousand dollars ($5,000) per year. The board shall appoint a secretary and shall employ such assistants and clerical help as may be necessary. The salary of the arbitrators designated by the board shall be at the rate of eighteen hundred dollars ($1,800) per year. The members of the board and the arbitrators shall have reimbursed to them their actual traveling expenses and disbursements made or incurred by them in the discharge of their official duties while away from their places of residence in the performance of their duties. 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."

Sec. 16 (as amended by act, p. 400, Acts of 1915). 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, or any arbitrator designated by said board, shall have the power to administer oaths, subpoena and examine witnesses, to issue subpoenas to those requiring the production of any books, papers, records, and documents as may be evidence of any matter under inquiry, and to examine and inspect the same and such places or premises as may relate to the question in dispute. Said board, or any member thereof, or any arbitrator designated by said board, shall, on written request of either party to the dispute, issue subpoenas for the attendance of such witnesses and production of such books, papers, records, and documents as shall be designated in said applications: Providing, however, That the parties applying for such subpoena shall advance the officer and witness fees provided for in suits pending in the circuit court. Service of such subpoenas shall be made by any sheriff or constable or other person. In case any person refuses to comply with an order of the board or subpoena issued by it or any member thereof, or any arbitrator designated by said board, or to permit an inspection of places or premises, or to produce any books, papers, records, or documents, or any witness refuses to testify to any matter regarding which he may be lawfully interrogated, the county court of the county in which said hearing or matter is pending, on application of any member of the board or any arbitrator designated by the board, shall compel obedience.
by attachment proceedings, as for contempt, as in a case of dis­obedience of the requirements of a subpoena from such court on a refusal to testify therein.

The board at its expense shall provide a stenographer to take the testimony and record of proceedings at the hearings before an arbitrator, committee of arbitration, or the board, and said stenographer shall furnish a transcript of such testimony or proceedings to any person requesting it upon payment to him therefor of five cents per one hundred words for the original and three cents per one hundred words for each copy of such transcript.

The board shall have the power to determine the reasonableness and fix the amount of any fee or compensation charged by any person for any service performed in connection with this act or for which payment is to be made under this act or rendered in securing any right under this act.

Sec. 19 (as amended by act, p. 400, Acts of 1915). 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 designate an arbitrator: Provided, That if the compensation claimed is for a partial permanent or total permanent incapacity or for death, then the dispute may, at the election of either party, be determined by a committee of arbitration, which election for a determination by a committee shall be made by petitioner filing with the board his election in writing with his petition, or by the other party filing with the board his election in writing within five days of notice to him of the filing of the petition, and thereupon it shall be the duty of the industrial board, upon either of the parties having filed their election for a committee of arbitration as above provided, to notify both parties to appoint their respective representatives on the committee of arbitration. The board shall designate 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. The party filing his election for a committee of arbitration shall with his election deposit with the board the sum of twenty dollars, to be paid by the board to the arbitrators selected by the parties as compensation for their services as arbitrators, and upon a failure to deposit as aforesaid, the election shall be void and the determination shall be by an arbitrator designated by the board. The members of the committee of arbitration appointed by either of the parties or one appointed by the board to fill a vacancy by reason of the failure of one of the parties to appoint, shall not be a member of the board or an employee thereof.

(b) The arbitrator or committee of arbitration shall make such inquiries and investigations as he or they shall deem necessary, and may examine and inspect all books, papers, records, places, or premises relating to the questions in dispute, and hear such proper evidence as the parties may submit. The hearings before the arbitrator or committee of arbitration 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 or their attorneys of record. The decision of the arbitrator or committee of arbitration shall be filed with the industrial board, which board shall immediately send to each party or his attorney 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 by either party within fifteen days after the receipt by said party of the copy of said decision and notification of time when filed, and unless such party petitioning for a review shall within twenty days after the receipt by him of the copy of said decision, file with the board either an agreed statement of the facts appearing upon the hearing before the arbitrator or committee of arbitration, or if such party shall so elect, a correct stenographic
report of the proceedings at such hearings, then the decision shall become the decision of the industrial board: Provided, That such industrial board may for sufficient cause shown grant further time, not exceeding thirty days, in which to petition for such review or to file such agreed statement or stenographic report. Such 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 arbitrator designated by the board.

(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.

(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.

(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 arbitrator or committee of arbitration and all questions of law or fact which appear from the said statement of facts or stenographic report and such additional evidence as the parties may submit. After such hearing upon review, the board shall file in its office its decision thereon, and shall immediately send to each party or his attorney a copy of such decision and a notification of the time when it was filed. Such review and hearing may be held in its office, or elsewhere, as the board may deem advisable: Provided, The board shall give ten days' notice of the time and place thereof to the parties or their attorneys. In any case, the board in its decision may, in its discretion, find specially upon any question or questions of law or fact, which shall be submitted in writing by either party, whether ultimate or otherwise. Any party may, within twenty days after the receipt of notice of the board's decision, or within such further time, not exceeding thirty days, 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 additional proceedings presented before the board, in which report the party may embody a correct statement of such other proceedings in the case as such party may desire to have reviewed, such statement of facts or stenographic report to be authenticated by the signatures of the parties or their attorneys; and in the event that they do not agree, then the authentication of such stenographic report shall be by the signature of the chairman of the board. The applications for adjustment of claim and other documents in the nature of pleadings filed by either party, together with the decisions of the arbitrator and of the industrial board, and the statement of facts or stenographic reports hereinbefore provided for in paragraphs (b) and (c), shall be the record of the proceedings of said board and shall be subject to review as hereinafter provided.

(f) The decision of the industrial board, acting within its powers, according to the provisions of paragraph (e) of this section, and of the arbitrator or committee of arbitration, where no review is had and his or their decision becomes the decision of the industrial board in accordance with the provisions of this section, shall, in the absence of fraud, be conclusive unless reviewed as in this paragraph hereinafter provided.
such record. Such writ shall be issued by the clerk of such court on praecipe. Service upon any member of the industrial board or the secretary thereof shall be service on the board, and service upon other parties in interest shall be by scire facias, or service may be made upon said board and other parties in interest by mailing notice of the commencement of the proceedings and the return day of the writ to the office of said board and the last known place of residence of the other parties in interest at least ten days before the return day of said writ; or (2) any party in interest may commence a suit in chancery in the circuit court of the county where any of the parties defendant may be found to review the decision of the board only for errors of law appearing on the said record of the said board. Such suit by writ of certiorari or in chancery shall be commenced within twenty days of the receipt of notice of the decision of the board.

The court may confirm or set aside the decision of the arbitrator or committee of arbitration or industrial board. If the decision is set aside and the facts found in the proceedings before the board are sufficient, the court may enter such decision as is justified by law, or may remand the cause to the industrial board for further proceedings, and may state the questions requiring further hearing, and give such other instructions as may be proper.

Judgments, orders, and decrees of the circuit court under this act shall be reviewed only by the supreme court upon writ of error. Upon motion, the trial court shall enter of record a certificate that the cause is or is not, in his opinion, one proper to be reviewed by the supreme court. Upon filing with the clerk of the supreme court a certified copy of such a certificate that the cause is one proper to be reviewed, writ of error shall issue. If the trial court certifies that the cause is not one proper to be reviewed, the supreme court, in its discretion, may, nevertheless, order that a writ of error issue. A writ of error when issued shall operate as a supersedeas.

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 arbitrator or 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 according to this act, to the circuit court of the county in which such accident occurred or either of the parties are residents, 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
to the said employer shall fail to prosecute with effect proceedings for
the said decision, upon review, shall be affirmed.

Review of

awards.

(h) An agreement or award under this act, providing for com-
pensation 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
that the disability of the employee has subsequently re-
curred, increased, diminished, or ended; and on such review, com-
pensation 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 hun-
dred miles necessary to be traveled by him in attending the hear-
ings of the board upon said petition and three days in addition
thereo, 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.

Furnishing

address.

(i) Each party upon taking any proceedings or steps whate-
ever before any arbitrator, 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 regis-
tered 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.

Exemption,

etc., of pay-
ments.

Sec. 21 (as amended by act, p. 400, Acts of 1915). No payment,
claim, award, or decision under this act shall be assignable or sub-
ject to any lien, attachment, or garnishment, or be held liable in
any way for any lien, debt, penalty, or damages. In case of in-
solvency 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 the 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 compensa-
tion 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 em-
ployment: Provided, That upon the death of a beneficiary who
is receiving compensation provided for in section 7, leaving sur-
viving a parent, sister, or brother of the deceased employee, at a
time of his death dependent upon him for support, who were re-
cieving from such beneficiary a contribution to support, then that
proportion of the compensation of the beneficiary which would
have been paid but for the death of the beneficiary, but in no
event exceeding said unpaid compensation, which the contribu-
tion of the beneficiary to the dependent's support within one year
prior to the death of the beneficiary bears to the compensation of
the beneficiary within that year shall be continued for the bene-
tfits of such dependents notwithstanding the death of the beneficiary.

Guaranty

of

payments.

Sec. 20 (as amended by act, p. 400, Acts of 1915). (a) An em-
ployer who elects to provide and pay the compensation provided
for in this act shall, within ten (10) days of receipt by the em-
ployer 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 reason-
able amount his normal ability 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 provisions for the securing of the payment of compen-
sation provided for in this act, normally required to be paid, and
shall within twenty (20) days of the receipt of such written de-
mand, 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 in-
surance 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.

(b) If no sworn statement or no security, indemnity or bond,
or no insurance is filed, furnished, or carried, or other provisions
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 insur-
ance 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 nonapproval 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, accord-
ing 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 em-
ployer within thirty (30) days after the accident to such em-
ployee; otherwise the employer shall be liable only for the com-
pensation 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 em-
ployer shall only be liable for compensation according to the terms
of this act: And provided further, That upon the failure of any
employer to comply with the provisions of this section, the indus-
trial board may, for the purpose of furnishing notice to the em-
ployees of such employer, publish the fact of such failure by such
employer in any newspaper having a general circulation in the
county where such employer does business.

Sec. 32 1/2 (added by act, p. 400, Acts of 1915). This act may be
cited as the workmen's compensation act.
CHAPTER 106.—Compensation of workmen for injuries.

PART I.

SECTION 1. This act shall be known as "The Indiana workmen's compensation act."

Sec. 2. From and after the taking effect of this act every employer and every employee, except as herein stated, shall be presumed to have accepted the provisions of this act respectively to pay and accept compensation for personal injury or death by accident arising out of and in the course of the employment and shall be bound thereby, unless he shall have given prior to any accident resulting in injury or death, notice to the contrary in the manner herein provided.

Sec. 3. Either an employer or an employee who has excepted himself by proper notice from the operation of this act may at any time waive such exemption and thereby accept the provisions of this act by giving notice as herein provided.

The notice of exemption and the notice of acceptance referred to shall be given thirty days prior to any accident resulting in injury or death: Provided, That if any such injury occurred less than thirty days after the date of employment, notice of such exemption or acceptance given at the time of employment shall be sufficient notice thereof. The notice shall be in writing or print in a substantial form prescribed by the industrial board, and shall be given by the employer by posting the same in a conspicuous place in the plant, shop, office, room, or place where the employee is employed, or by serving it personally upon him; and shall be given by the employee by sending the same in registered letter addressed to the employer at his last known residence or place of business, or by giving it personally to the employer or any of his agents upon whom a summons in civil action may be served under the laws of the State.

A copy of the notice in prescribed form shall also be filed with the industrial board.

Sec. 4. Every contract of service between any employer and employee covered by this act, written or implied, now in operation as to contracts, or made or implied prior to the taking effect of this act shall, after the act has taken effect, be presumed to continue; and every such contract made subsequent to the taking effect of this act shall be presumed to have been made subject to the provisions of this act, unless either party shall give notice, as provided in section 3, to the other party to such contract that the provisions of this act other than sections 10, 11, and 67 are not intended to apply.

A like presumption shall exist equally in the case of all minors unless notice of the same character be given by or to the parent or guardian of the minor.

Sec. 5. Every employer who accepts the compensation provisions of this act shall insure the payment of compensation to his employees in the manner hereinafter provided, and while such insurance remains in force he or those conducting his business shall only be liable to any employee for personal injury or death by accident to the extent and in the manner herein specified.

Sec. 6. The rights and remedies herein granted to an employee subject to this act on account of personal injury or death by accident shall exclude all other rights and remedies of such employee, his personal representatives, dependents or next of kin, at common law or otherwise on account of such injury or death.
Sec. 7. Nothing in this act shall be construed to relieve any employer or employee from penalty for failure or neglect to perform any statutory duty.

Sec. 8. No compensation shall be allowed for an injury or death due to the employee's willful misconduct, including intentional self-inflicted injury, intoxication, and willful failure or refusal to use a safety appliance or perform a duty required by statute. The burden of proof shall be on the defendant employer.

Sec. 9. This act, except section 47, shall not apply to casual laborers, to farm or agricultural laborers and to domestic servants, nor to employers of such persons, unless such employees and their employers voluntarily elect in the manner hereinafter specified to be bound by this act.

Sec. 10. Every employer who elects not to operate under this act shall not in any suit at law by an employee to recover damages for personal injury or death by accident be permitted to defend any such suit at law upon any one or all of the following grounds:
(a) That the employee was negligent;
(b) That the injury was caused by the negligence of a fellow employee;
(c) That the employee had assumed the risk of the injury.

Sec. 11. Every employee who elects not to operate under this act shall, in any action to recover damages for personal injury or death brought against an employer accepting the compensation provisions of this act, proceed at common law, and the employer may avail himself of the defenses of contributory negligence, negligence of a fellow servant, and assumption of risk, as such defenses exist at common law.

Sec. 12. When both the employer and employee elect not to operate under this act, the liability of the employer shall be the same as though he alone had rejected the terms of this act, and in any suit brought against him the employer shall not be permitted to avail himself of any of the common-law defenses cited in section 11.

Sec. 13. Whenever an 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 or proceed at law against such other person to recover damages or proceed against both the employer and such other person, but he shall not collect from both; and if compensation is awarded under this act the employer having paid the compensation or having become liable therefor, may collect in his own name or that of the injured employee from the other person in whom legal liability for damages exists, the indemnity paid or payable to the injured employee.

Sec. 14. A principal, intermediate, or subcontractor shall be liable for compensation to any employee injured while in the employ of any one of his subcontractors and engaged upon the subject matter of the contract to the same extent as the immediate employer.

Employees of subcontractors. Any principal, intermediate, or subcontractor who shall pay compensation under the foregoing provision may recover the amount paid from any person who, independently of this section, would have been liable to pay compensation to the injured employee.

Every claim for compensation under this section shall in the first instance be presented to and instituted against the employer, but such proceeding shall not constitute a waiver of the employee's rights to recover compensation under this act from the principal or intermediate contractor: Provided, That the collection of full compensation from one employer shall bar recovery by the employee against any others, nor shall he collect from all a total compensation in excess of the amount for which any of the said contractors is liable.
This section shall apply only in cases where the injury occurred on, in, or about the premises on which the principal contractor has undertaken to execute work or which are otherwise under his control or management.

Sec. 15. No contract or agreement, written or implied, no rule, regulation, or other device shall in any manner operate to relieve any employer, in whole or in part, of any obligation created by this act except as herein provided.

Sec. 16. All rights of compensation granted by this act shall have the same preference or priority for the whole thereof against the assets of the employer as is allowed by law for any unpaid wages for labor.

Sec. 17. No claim for compensation under this act shall be assignable, and all compensation and claims therefor shall be exempt from all claims of creditors.

Sec. 18. The provisions of this act, except sections 3, 4, 10, 11, and 12, shall apply to the State and any municipal corporation within the State, or any political division thereof, and to the employees thereof.

Sec. 19. This act, except section 67, shall not apply to employees engaged in interstate or foreign commerce, nor to their employers, in case the laws of the United States provide for compensation or for liability for injury or death by accident of such employees.

Sec. 20. Every employer and employee under this act, except as provided in section 19, shall be bound by the provisions of the act whether injury by accident or death resulting from such injury occurs within the State or in some other State or in a foreign country.

Sec. 21. The provisions of this act shall not apply to injuries or death nor to accidents which occurred prior to the taking effect of this act.

PART II.

Section 22. Every injured employee or his representative shall immediately upon the occurrence of an injury, or as soon thereafter as practicable, give or cause to be given to the employer written notice of the injury, and the employee shall not be entitled to physician's fees nor to any compensation which may have accrued, under the terms of this act, prior to the giving of such notice, unless it can be shown that the employer, his agent, or representative had knowledge of the injury or death, or that the party required to give such notice had been prevented from doing so by reason of physical or mental incapacity or the fraud or deceit of some third person, or for equally good reason; but no compensation shall be payable unless such written notice is given within thirty days after the occurrence of the injury or death, unless reasonable excuse is made to the satisfaction of the industrial board for not giving such notice.

Sec. 23. The notice provided in the foregoing section shall state in ordinary language the name and address of the employee, the time, place, nature, and cause of the injury or death, and shall be signed by the employee or by a person on his behalf, or, in the event of his death, by any one or more of his dependents or by a person in their behalf.

No defect or inaccuracy in the notice shall be a bar to compensation unless the employer shall prove that his interest was prejudiced thereby, and then only to the extent of such prejudice.

Said notice shall be given personally to the employer or any of his agents upon whom a summons in civil action may be served under the laws of the State, or may be sent by registered letter addressed to the employer at his last known residence or place of business.

Sec. 24. The right to compensation under this act shall be forever barred unless within two years after the injury, or, if death results therefrom, within two years after such death, a claim for compensation thereunder shall be filed with the industrial board.
Medical, etc. services.

Sec. 25. During the thirty days after an injury the employer shall furnish or cause to be furnished free of charge to the injured employee, and the employee shall accept, and during the whole or any part of the remainder of his disability resulting from the injury the employer may, at his own option, continue to furnish or cause to be furnished, free of charge to the employee, and the employee shall accept, an attending physician: Provided, however, Unless otherwise ordered by the industrial board, and, in addition, such surgical and hospital service and supplies as may be deemed necessary by said attending physician or the industrial board.

Refusing aid.

The refusal of the employee to accept such service when provided by the employer shall bar said employee from further compensation until such refusal ceases, and no compensation shall at any time be payable for the period of suspension unless in the opinion of the industrial board the circumstances justify the refusal, in which case the board may order a change in the medical or hospital service.

If in an emergency or on account of the employer's failure to provide the medical care for the first thirty days, as herein specified, or for other good reason, a physician other than that provided by the employer is called to treat the injured employee during the first thirty days, the reasonable cost of such service shall be paid by the employer, subject to the approval of the industrial board.

Charges.

Sec. 26. The pecuniary liability of the employer for 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 person.

Medical examinations.

Sec. 27. After an injury and during the period of resulting disability, the employee, if so requested by his employer or ordered by the industrial board, shall submit himself to examination, at reasonable times and places, by a duly qualified physician or surgeon designated and paid by the employer or the industrial board. The employee shall have the right to have present at any such examination any duly qualified physician or surgeon provided and paid by him. No fact communicated to, or otherwise learned by any physician or surgeon who may have attended or examined the employee, or who may have been present at any examination, shall be privileged, either in the hearings provided for in this act, or any action at law brought to recover damages against any employer who may have accepted the compensation provisions of this act. If the employee refuses to submit himself to or in any way obstructs such examination, his right to compensation and his right to take or prosecute any proceeding under this act shall be suspended until such refusal or obstruction ceases, and no compensation shall at any time be payable for the period of suspension unless in the opinion of the industrial board the circumstances justify the refusal or obstruction.

The employer or the industrial board shall have the right in any case of death to require an autopsy at the expense of the party requiring the same.

Waiting time.

Sec. 28. No compensation shall be allowed for the first fourteen calendar days of disability resulting from an injury, except the benefits provided for in section 25; but if disability extends beyond that period compensation shall commence with the fifteenth day after the injury.

Total disability.

Sec. 29. Where the injury causes total disability for work, there shall be paid to the injured employee during such total disability, but not including the first two weeks thereof, a weekly compensation equal to fifty-five per cent of his average weekly wages for a period not to exceed five hundred weeks.

Partial disability.

Sec. 30. Where the injury causes partial disability for work there shall be paid to the injured employee during such disability, but not including the first two weeks thereof, a weekly compensation equal to one-half of the difference between his “average weekly wages” and the weekly wages at which he is actually
employed after the injury for a period not to exceed three hundred weeks.

In case the partial disability begins after a period of total disability, the latter period shall be deducted from the maximum period allowed for partial disability.

Sec. 31. For injuries in the following schedule the employee shall receive in lieu of all other compensation a weekly compensation equal to fifty-five per cent of his average weekly wages for the periods stated against such injuries, respectively, to wit:

(a) For the loss by separation of not more than one phalange of a thumb or not more than two phalanges of a finger, 15 weeks;
(b) For the loss by separation of more than two phalanges of a finger or of a whole finger or a toe, 30 weeks;
(c) For the loss by separation of more than one phalange of a thumb or of a whole thumb, 60 weeks;
(d) For the permanent and irrecoverable loss of the sight of one eye or its reduction to one-tenth of normal vision with glasses, 100 weeks;
(e) For the loss by separation of one foot at or above the ankle joint, 125 weeks;
(f) For the loss by separation of one hand at or above the wrist joint, 150 weeks;
(g) For the loss by separation of one leg at or above the knee joint, 175 weeks;
(h) For the loss by separation of one arm at or above the elbow joint, 200 weeks;

(1) For the permanent and complete loss of hearing, 75 weeks.

In all other cases of permanent partial disability, including any disfigurement which may impair the future usefulness or opportunities of the injured employee, compensation in lieu of all other compensation shall be paid when and in the amount determined by the industrial board, not to exceed fifty-five per cent of average weekly wages per week for a period of two hundred weeks.

Sec. 32. If an injured employee refuses employment suitable to his capacity procured for him, he shall not be entitled to any compensation at any time during the continuance of such refusal, unless in the opinion of the industrial board such refusal was justifiable.

Sec. 33. If an employee has sustained a permanent injury in another employment than that in which he received a subsequent permanent injury by accident, such as specified in section 31, he shall be entitled to compensation for the subsequent injury in the same amount as if the previous injury had not occurred.

Sec. 34. If an employee receive an injury for which compensation is payable while he is still receiving or entitled to compensation for a previous injury in the same employment, he shall not at the same time be entitled to compensation for both injuries unless it be for a permanent injury, such as specified in section 31; but he shall be entitled to compensation for that injury and from the time of that injury which will cover the longest period and the largest amount payable under this act.

Sec. 35. If an employee receives a permanent injury, such as specified in section 31, after having sustained another permanent injury in the same employment, he shall be entitled to compensation for both injuries, but the total compensation shall be paid by extending the period and not by increasing the amount of weekly compensation.

When the previous and subsequent permanent injuries result in total permanent disability, compensation shall be payable for permanent total disability, but payments made for the previous injury shall be deducted from the total payment of compensation due.

Sec. 36. When an employee receives or is entitled to compensation under this act for an injury and dies from any other cause than the injury for which he was entitled to compensation, payment of the unpaid balance of compensation shall be made to his next of kin dependent upon him for support.
Sec. 37. Where death results from the injury within three hundred weeks, there shall be paid in addition to burial expenses not to exceed one hundred dollars, a weekly compensation equal to one-half of the deceased's average weekly wages during such remaining part of three hundred weeks as compensation shall not have been paid to the deceased for total or partial disability, to all dependents of the employee wholly dependent upon his earnings for support at the time of the injury. If the employee leaves dependents only partially dependent upon his earnings for support at the time of the injury, the weekly compensation to those dependents shall, in addition to burial expenses, not to exceed one hundred dollars, be in the same proportion to the weekly compensation for persons wholly dependent as the amount contributed by the deceased employee to such partial dependent bears to his annual earnings at the time of the injury.

Sec. 38. 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 at the time of his death.

(b) A husband upon a wife with whom he lives at the time of her death if he is then incapable of self-support and actually dependent upon her.

(c) A boy under the age of 18, or a girl under the age of 18, upon the parent with whom he or she is living at the time of the death of such parent, there being no surviving dependent parent. If a child is over the ages specified above, but physically or mentally incapacitated from earning, he or she shall be presumed to be totally dependent if there is no surviving dependent parent.

As used in this section the term "boy," "girl," or "child" shall include stepchildren, legally adopted children, posthumous children, acknowledged illegitimate children, but shall not include married children; the term "parent" shall include step-parents and parents by adoption.

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 among them; and persons partly dependent, if any, shall receive no part hereof; 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.

For the purposes of this act the dependence of a widow or widower of a deceased employee and dependent children living with said widow or widower shall terminate with remarriage; and the amount received by her shall be divided among other dependents in the proportion in which they are receiving compensation, and in the event of the separation of the wife from her second or subsequent husband and her obtaining a divorce upon her own application, then she shall receive the same compensation for which she would have been entitled had she not remarried, but the time from the date of the remarriage to the date of the divorce shall be deducted from the time compensation runs; and the dependence of a child, except a child physically or mentally incapacitated from earning, shall terminate with the attainment of 18 years of age.

Sec. 39. If the deceased employee leaves no dependents the employer shall pay the burial expense of the deceased, not to exceed one hundred dollars.

Sec. 40. In computing compensation under the foregoing sections the average weekly wages of an employee shall be considered not to be more than twenty-four dollars nor less than ten dollars: And provided further, That the total compensation payable under this act shall in no case exceed five thousand dollars ($5,000).

Sec. 41. Any payments made by the employer to the injured employee during the period of his disability, or to his dependents,
which by the terms of this act were not due and payable when
made, may, subject to the approval of the industrial board, be
deducted from the amount to be paid as compensation: Provided,
That in case of disability such deduction shall be made by shorten­
ing the period during which compensation must be paid and not
by reducing the amount of the weekly payments, unless otherwise
hereinafter specified.

Sec. 42. The industrial board upon the application of either
party, may, in its discretion, having regard to the welfare of the
employee and the convenience of the employer, authorize compen­
sation to be paid monthly or quarterly instead of weekly.

Sec. 43. Whenever any weekly payment has been continued for
not less than 26 weeks, the liability therefor may, in unusual cases,
where the parties agree and the industrial board deems it to be for
the best interests of the employee or his dependents, be redeem­
med by the payment, in whole or in part, by the employer, of a
lump sum which shall be fixed by the board, but in no case to
exceed the commutable value of the future installments which
may be due under this act. The board may, however, in its dis­
cretion at any time in the case of a minor who has received per­
manently disabling injuries, either partial or total, provide that
he be compensated in whole or in part by the payment of a lump
sum, the amount of which shall be fixed by the board, but in no
case to exceed the commutable value of the future installments
which may be due under this act.

Sec. 44. Whenever the industrial board deems it expedient, any
lump sum under the foregoing section shall be paid by the em­
ployer to some suitable person or corporation appointed by the
circuit or superior court, as trustee, to administer the same for
the benefit of the person entitled thereto, in the manner provided
by the board. The receipt of such trustee for the amount as
paid shall discharge the employer or anyone else who is liable
therefor.

Sec. 45. Upon its own motion or upon the application of any party
in interest on the ground of a change in condition, the industrial
board may at any time review any award and on such review
may make an award ending, diminishing, or increasing the com­
pensation previously awarded, subject to the maximum or mini­
mum provided in this act, and shall immediately send to the
parties a copy of the award. No such review shall affect such
award as regards any moneys paid.

Sec. 46. Whenever payment of compensation is made to a widow
or widower for her or his use, or for her or his use and the use
of a child or children, the written receipt thereof by such widow
or widower shall acquit the employer.

Whenever payment is made to any person eighteen years of age
or over, the written receipt of such person shall acquit the em­
ployer.

Whenever payment is made to a minor under the age of eighteen
years, or to a dependent child over the age of eighteen, the same
shall be made to some suitable person or corporation appointed
by the circuit or superior court as trustee, and the receipt of
such trustee shall acquit the employer: Provided, however, That
the industrial board may review the facts and circumstances
surrounding the payment of any money and the taking of any
receipt, as provided in this section, and may set the same aside
either for fraud or undue influence.

Sec. 47. If an injured employee is mentally incompetent or is In­
competent under eighteen years of age at the time when any right or pri­
lege accrues to him under this act, his guardian or trustee may in
his behalf claim and exercise such right or privilege.

Sec. 48. No limitation of time provided in this act shall run as Limitation
against any person who is mentally incompetent or a minor de­
pendent, so long as he has no guardian or trustee.

Sec. 49. Whenever any employee for whose injury or death com­
pensation is payable under this act shall at the time of the injury
players.
be in the joint service of two or more employers subject to this act, such employers shall contribute to the payment of such compensation in proportion to their wage liability to such employees: Provided, however, That nothing in this section shall prevent any reasonable arrangement between such employers for a different distribution as between themselves of the ultimate burden of compensation.

**PART III.**

**Industrial board.**

Section 50. There is hereby created a board which shall be known as the Industrial Board of Indiana, which shall consist of three members, not more than two of whom shall belong to the same political party, appointed by the governor, one of whom he shall designate as chairman. Each member of the board shall hold office for four years, and until his successor is appointed and qualified, except that when the board is first constituted, one member shall be appointed for three years, one for four years, and the third shall be the present chief of the State bureau of inspection, who shall serve for one year as hereinafter provided. Thereafter, upon the expiration of the term of any member, the governor shall appoint his successor for the full term of four years.

Each member of the board 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 member.

Sec. 51. The salary of each member of the board shall be four thousand dollars per year each.

The board may appoint a secretary at a salary of not more than twenty-five hundred dollars a year and may remove him. The board may also, subject to the approval of the governor, employ such clerical and other assistants as it may deem necessary and fix the compensation of all persons so employed.

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 shall be approved by the chairman of the board before payment is made.

All salaries and expenses of the board shall be audited and paid out of the State treasury in the manner prescribed for similar expenses in other departments or branches of the State service.

Sec. 52. The rights, powers, and duties conferred by law upon the State bureau of inspection of the State of Indiana are hereby continued in full force and are hereby transferred to the industrial board hereby created and shall be held and exercised by them under the laws heretofore in force and the said State bureau of inspection is hereby abolished. The present chief inspector of said State bureau of inspection is hereby made a member of said industrial board until the expiration of one year from the date of the taking effect of this act and until his successor is appointed and qualified. The deputy inspectors heretofore appointed by the governor as deputy inspectors in said State bureau of inspection, to wit: Inspector of buildings, factories, and workshops, inspector of boilers, and inspector of mines and mining, together with their assistant inspectors, are hereby continued in their respective offices, at their present salaries, until the expiration of the terms for which they were respectively appointed and until their successors are appointed and qualified, and each of them respectively shall have and perform all the rights, powers, and duties now held and performed by each of them, respectively, together with such other rights, powers, and duties as may be prescribed by said industrial board. Upon the termination of the said terms of office for which said deputy inspectors have been appointed, said industrial board, with the concurrence of the governor, shall appoint their successors to serve during the pleasure of said industrial board.
Sec. 53. All the rights, powers, and duties of the labor commission of the State of Indiana, hereetofore created and subsequently transferred to and vested in the State bureau of inspection, are hereby abolished.

Sec. 54. The board shall be provided with adequate offices in the capitol or some other suitable building in the city of Indianapolis, in which the records shall be kept and its official business be transacted during regular business hours; it shall also be provided with necessary office furniture, stationery, and other supplies.

The board or any member thereof may hold sessions at any place within the State as may be deemed necessary.

Sec. 55. The board may make rules not inconsistent with this act for carrying out the provisions of this act. Processes and procedure under this act shall be as summary and simple as reasonably may be. The board or any member thereof shall have the power for the purpose of this act to subpoena witnesses, administer or cause to have administered oaths, and to examine or cause to have examined such parts of the books and records of the parties to a proceeding as relate to questions in dispute.

The county sheriff shall serve all subpoenas of the board and shall receive the same fees as now provided by law for like service in civil actions; each witness who appears in obedience to such subpoena of the board shall receive for attendance the fees and mileage for witnesses in civil cases in the courts.

The circuit or superior court shall, on application of the board or any member thereof, enforce by proper proceedings the attendance and testimony of witnesses and the production and examination of books, papers, and records.

Sec. 56. The board shall prepare and cause to be printed, and shall upon request furnish free of charge to any employer or employee, such blank forms and literature as it shall deem requisite to facilitate or promote the efficient administration of this act. The accident reports received from the industrial employers in accordance with section 67, and shall publish the same in the annual report of the board and as often as it may deem advisable, in such detailed or aggregate form as it may deem best.

The name of the employer or employee shall not appear in such publications and the employers' reports themselves shall be private records of the board and shall not be open for public inspection except for the inspection of the parties directly involved, unless in the opinion of the board the public interest shall require otherwise. These reports shall not be used as evidence against any employer in any suit at law brought by any employee for the recovery of damages.

Sec. 57. If after fourteen days from the date of the injury or at any time in case of death the employer and the injured employee or his dependents reach an agreement in regard to compensation under this act, a memorandum of the agreement in the form prescribed by the industrial board shall be filed with the board; otherwise such agreement shall be voidable by the employee or his dependents.

If approved by the board, thereupon the memorandum shall for all purposes be enforceable by the court decree as hereinafter specified. Such agreement shall be approved by said board only when the terms conform to the provisions of this act.

Sec. 58. If the employer and the injured employee or his dependents fail to reach an agreement in regard to compensation under this act, or if they have reached such an agreement which has been signed and filed with the board and compensation has been paid or is due in accordance therewith, and the parties thereto then disagree as to the continuance of any weekly payment under such agreement, either party may make an application to the industrial board for a hearing in regard to the matters at issue and for a ruling thereon.

Immediately after such application has been received the board shall set the date for a hearing, which shall be held as soon as
practicable, and shall notify the parties at issue of the time and place of such hearing. The hearing shall be held in the county where the injury occurred.

**Award.**

Sec. 59. The board or any of its members shall hear the parties at issue and their representatives and witnesses and shall determine the dispute in a summary manner. The award, together with a statement of the findings of fact, rulings of law, and any other matters pertinent to the question at issue shall be filed with the record of proceedings, and a copy of the award shall immediately be sent to the parties in dispute.

Sec. 60. If an application for review is made to the board within seven days from the date of the award, the full board, if the first hearing was not held before the full board, shall review the evidence, or if deemed advisable as soon as practicable hear the parties at issue, their representatives and witnesses, and shall make an award and file same in like manner as specified in the foregoing section.

**Appeals.**

Sec. 61. An award of the board, as provided in section 59, if not reviewed in due time, or an award of the board upon such review as provided in section 60, shall be conclusive and binding as to all questions of fact, but either party to the dispute may within thirty days from the date of the award appeal to the appellate court for errors of law under the same terms and conditions as govern appeals in ordinary civil actions. The board, of its own motion, may certify questions of law to said appellate court for its decision and determination.

Sec. 62. Any party in interest may file in the circuit or superior court of the county in which the injury occurred a certified copy of a memorandum of agreement approved by the board or of an order or decision of the board, or of an award of the board unappealed from, or of an award of the board rendered upon an appeal, whereupon said court shall render judgment in accordance therewith and notify the parties. Such judgment shall have the same effect and all proceedings in relation thereto shall thereafter be the same as though said judgment had been rendered in a suit duly heard and determined by said court.

Any such judgment of said circuit or superior court unappealed from or affirmed on appeal or modified in obedience to the mandate of the appellate court shall be modified to conform to any decision of the industrial board, ending, diminishing, or increasing any weekly payment under the provisions of section 46 of this act, upon the presentation to it of a certified copy of such decision.

Sec. 63. If the industrial board or any court before whom any proceedings are brought under this act shall determine that such proceedings have been brought, prosecuted, or defended without reasonable ground, it may assess the whole cost of the proceedings upon the party who has so brought, prosecuted, or defended them.

Sec. 64. The board or any member thereof may, upon the application of either party or upon its own motion, appoint a disinterested and duly qualified physician or surgeon to make any necessary medical examination of the employee and to testify in respect thereto. Said physician or surgeon shall be allowed traveling expenses and a reasonable fee to be fixed by the board, not exceeding ten dollars for each examination and report, but the board may allow additional reasonable amounts in extraordinary cases.

The fees and expenses of such physician or surgeon shall be paid by the State.

Sec. 65. Fees of attorneys and physicians and charges of hospitals for services under this act shall be subject to the approval of the board.

Sec. 66. All questions arising under this act, if not settled by agreement of the parties interested therein with the approval of the board, shall be determined by the board except as otherwise herein provided for.

Sec. 67. Every employer shall hereafter keep a record of all injuries, fatal or otherwise, received by his employees in the...
course of their employment. Within one week after the occurrence and knowledge thereof, as provided in section 2, of an injury to an employee causing his absence from work for more than one day, a report thereof shall be made in writing and mailed to the industrial board on blanks to be procured from the board for the purpose.

Upon the termination of the disability of the injured employee, or if the disability extends beyond a period of 60 days, then also at the expiration of such period the employer shall make a supplementary report to the board on blanks to be procured from the board for the purpose.

The said reports shall contain the name, nature, and location of the business of the employer, and name, age, sex, wages, and occupation of the injured employee, and shall state the date and hour of the accident causing the injury, 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 liable for a penalty of not more than twenty-five dollars for each refusal or neglect, to be recoverable in any court of competent jurisdiction in a suit by the board.

PART IV.

Section 68. Every employer under this act shall either insure and keep insured his liability hereunder in some corporation, association, or organization authorized to transact the business of workmen's compensation insurance in this State, or shall furnish to the industrial board satisfactory proof of his financial ability to pay direct the compensation in the amount and manner and when due as provided for in this act. In the latter case the board may, in its discretion, require the deposit of an acceptable security, indemnity, or bond to secure the payment of compensation liabilities as they are incurred.

Sec. 69. Every employer accepting the compensation provisions of this act shall within thirty days after this act takes effect file with the board in form prescribed by it, and thereafter annually or as often as may be necessary, evidence of his compliance with the provisions of section 68 and all others relating thereto.

If such employer refuses or neglects to comply with these provisions he shall be punished by a fine of ten cents for each employee at the time of the insurance becoming due, but not less than one dollar nor more than fifty dollars for each day of such refusal or neglect and until the same ceases, and he shall be liable during continuance of such refusal or neglect to an employee either for compensation under this act or at law in the same manner as provided for in section 10.

Sec. 70. Whenever an employer has complied with the provisions of section 68, relating to self-insurance, the industrial board shall issue to such employer a certificate which shall remain in force for a period fixed by the board, but the board may upon at least sixty days' notice and a hearing to the employer revoke the certificate upon satisfactory evidence for such revocation having been presented. After the expiration of one year from such revocation the board may grant a new certificate to the employer upon his petition.

Sec. 71. For the purpose of complying with the provisions of section 68, groups of employers, to form mutual insurance associations or reciprocal insurance associations subject to such reasonable conditions and restrictions as may be fixed by the industrial board, are hereby authorized. Membership in such mutual insurance associations or reciprocal insurance associations so approved, together with evidence of the payment of premiums due, shall be evidence of compliance with section 68.

Sec. 72. Subject to the approval of the industrial board any substitute employer may enter into or continue any agreement with his employees to provide a system of compensation, benefit, or ins-
surance 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 if it requires contributions from the employees unless it confers benefits in addition to those provided under this act at least commensurate with such contributions.

Such substitute system may be terminated by the industrial board on reasonable notice and hearing 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 purposes of this act; and in this case the board shall determine upon the proper distribution of all remaining assets, if any, subject to the right of any party in interest to take an appeal to the appellate court.

Provisions of policies.

Sec. 73. All policies insuring the payment of compensation under this act must contain a clause to the effect that as between the employer and the insurer the notice to or knowledge of the occurrence of the injury on the part of the insured shall be deemed notice or knowledge, as the case may be, on the part of 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 awards, judgments, or decrees rendered against such insured.

Same subject.

Sec. 74. No policy of insurance against liability arising under this act shall be issued unless it contains the agreement of the insurer that it will promptly pay to the person entitled to same all benefits conferred by this act and all installments of the compensation that may be awarded or agreed upon, and that the obligation shall not be affected by any default of the insured after the injury, or by any default in the giving of any notice required by such policy, or otherwise. Such agreement shall be construed to be a direct promise by the insurer to the person entitled to compensation enforceable in his name.

Presumptions.

Sec. 75. Every policy for the insurance of the compensation herein provided, or against liability thereof, shall be deemed to be made subject to the provisions of this act. No corporation, association, or organization shall enter into any such policy of insurance unless its form shall have been approved by the industrial board.

Definitions. Section 76. In this act unless the context otherwise requires:

(a) "Employer" shall include the State and any municipal corporation within the State or any political division thereof, and any individual, firm, association, or corporation or the receiver or trustee of the same or the legal representatives of a deceased employer, using the services of another for pay. If the employer is insured it shall include his insurer so far as applicable.

(b) "Employee" shall include every person, including a minor, in the service of another under any contract of hire or apprenticeship, written or implied, except one whose employment is both casual and not in the usual course of the trade, business, occupation, or profession of the employer. Any reference to an employee who has been injured shall, when the employee is dead, also include his legal representatives, dependents, and other persons to whom compensation may be payable.

(c) "Average weekly wages" shall mean the earnings of the injured employee in the employment in which he was working at the time of the injury during the period of fifty-two weeks immediately preceding the date of injury, divided by fifty-two; but if the injured employee lost more than seven consecutive calendar days during such period, although not in the same week, then the earnings for the remainder of such fifty-two weeks shall be divided by the number of weeks remaining after the time so lost has been
deducted. Where the employment prior to the injury extended over a period of less than fifty-two weeks, the method of dividing the earnings during that period by the number of weeks and parts thereof during which the employee earned wages shall be followed provided results just and fair to both parties will thereby be obtained. Where by reason of the shortness of the time during which the employee has been in the employment of his employer or the casual nature or terms of the employment, it is impracticable to compute the average weekly wages as above defined, regard shall be had to the average weekly amount which during the fifty-two weeks previous to the injury 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 so employed, by a person in the same grade employed in the same class of employment in the same district.

Wherever allowances of any character made to an employee in lieu of wages are specified part of the wage contract, they shall be deemed a part of his earnings.

(d) “Injury” and “personal injury” shall mean only injury by accident arising out of and in the course of the employment and shall not include a disease in any form except as it shall result from the injury.

Sec. 77. If 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 this act as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

Sec. 78. All acts and parts of acts inconsistent with any provisions of this act are hereby repealed to the extent of such inconsistency.

Sec. 79. This act shall take effect on the first day of September, 1915, except that Part III with the exception of section 67, shall take effect upon the passage of this act.

Sec. 80. For the purpose of paying the salaries and expenses of the members of the industrial board and its employees, the sum of $70,000 per year or so much thereof as may be necessary is hereby appropriated.

Sec. 81. The provisions of this act shall not affect pending litigation.

Sec. 82. Whereas an emergency exists for the immediate taking effect of Part III of this act with the exception of section 67, said Part III with said exception shall be in full force from and after the passage of this act.
SECTION 1. This act shall apply only to the following:

1. Every person in the service of the State, or of any parish, township, incorporated village or city, or other political subdivision, or incorporated public board or commission in this State authorized by law to hold property and to sue and be sued, under any appointment or contract of hire, express or implied, oral or written, except an official of the State, or of any parish, township, incorporated village or city, or other political subdivision, or incorporated public board or commission in this State authorized by law to hold property and to sue and be sued; and for such employee and employer the payment of compensation, according to and under the terms, conditions, and provisions hereinafter set out in this act, shall be exclusive, compulsory, and obligatory:

Provided, That one employed by a contractor who has contracted with the State, parish, township, incorporated village or city, or other political subdivision, or incorporated public board or commission in the State, through its proper representative, shall not be considered an employee of the State, parish, township, incorporated village or city, or other political subdivision, or incorporated public board or commission.

2. Every person performing services arising out of and incidental to his employment in the course of his employer's trade, business, or occupation in the following hazardous trades, businesses, and occupations:

(a) The operation, construction, repair, removal, maintenance, and demolition of railways and railroads, vessels, boats, and other water crafts, terminal docks, street railways, factorieis, mills, including rice mills, cotton-oil mills, sawmills, shingle mills, planing mills and syrup mills, power laundries, power bakeries, foundries, forges, smelters, blast furnaces, machine shops, coke-burning plants, lime-burning plants, bleaching works, dyeing works, potteries, phosphate and sulphur works, rendering works, slaughterhouses, meat-packing plants, ice plants, warehouses, marble or stone cutting or polishing plants, shipbuilding and ship-repairing plants and yards, mines, mining plants, quarries, oil, gas, sulphur, salt or other wells, heating plants, lighting plants, power plants, waterworks, pumping works, coal yards, lumberyards, building-material yards, derricks, bridges, junk yards, malt houses, breweries, freight or passenger elevators, stockyards, harvesting machinery, thrashing machine, cotton gins, cotton compresses, sugar-houses, sugar and other refineries, sash and door factories, woodworking establishments, printing and photo-engraving establishments, bookbinding and general presswork, skidders, engineering works. Rigging or coaling of vessels, or loading or unloading the cargoes of vessels, logging and lumbering, storing ice, paving with asphalt or other molten material, excavating or grading with power machinery or with the use of an explosive, working in compressed air, dredging, pile driving, boring, moving safes, chimney sweeping. The construction, installation, operation, alteration, removal, or repair of wires, cables, switchboards or apparatus charged with electrical current. Work in any of the building or metal trades in the erection, construction, extension, decoration, alteration, repair, or demolition of any building or structural appurtenances. Any occupation entailing the manufac-
ture, transportation, care of, use of, or regular proximity to dangerous quantities of gunpowder, dynamite, nitroglycerine, and other like dangerous explosives. The installation, repair, erection, removal, or operation of boilers, furnaces, engines, and other forms of machinery.

Definitions.

"Factory" means any premises wherein mechanical 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.

"Mine" means any opening into and beneath the surface of the earth for the purpose of extracting any mineral or 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 also the appurtenant structures at or about the openings of a mine and any adjoining work place where the material from a mine is stored or prepared for use or shipment.

"Quarry" means any place, not a mine, including a bank or pit, where shell, stone, slate, clay, sand, gravel, or other material is dug or otherwise extracted from the earth or ground for the purpose of trade or barter or of the employer’s trade or business; and includes also the appurtenant structures at or about the openings of a quarry and any adjoining work place where the material from a quarry is stored or prepared for use or shipment.

"Railways" and "railroads" also includes work in or about depots, powerhouses, roundhouses, cars, locomotives, and all other appurtenances, and in private yards, terminals, switches, etc., and work on railroads for express companies.

3. If there be or arise any hazardous trade, business or occupation or work other than those hereinabove enumerated, it shall come under the provisions of this act. The question of whether or not a trade, business or occupation not named herein is hazardous may be determined by agreement between the employer and employee or by submission at the instance of either employer or employee to the judge of the court which shall have jurisdiction over the employer in a civil case. The decision of the court shall not be retroactive in its effect.

4. An employer and any employee in a trade, business or occupation not specified in paragraph 2 of this section and any one engaged in a trade, business or occupation that may not be determined to be hazardous under the operation of paragraph 3 of this section, may, prior to the accident, voluntarily contract in writing to come under the benefit and protection of the provisions of this act with the same force and effect as though they had been specifically included instead of omitted.

Sec. 2. 1. If a workman employed as hereinabove set forth in paragraph 1 of section 1 (except a workman who shall be eliminated from the benefit of this act for the causes and reasons set forth in section 28 of this act) receives personal injury by accident arising out of and in the course of such employment, his employer shall pay compensation in the amounts and to the persons hereinafter specified.

Sec. 3. 1. This act, except sections 4 and 5, relating to defenses, shall not apply to any employer or employee engaged in the trades, businesses and occupations specified in paragraph 2 of section 1, nor to those that may be determined to be hazardous under the operation of paragraph 3 of section 1, unless prior to the injury they shall have so elected by agreement, either express or implied, as hereinafter provided. Such an 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 this act, and shall bind the employee himself, his widow and relations and dependents as hereinafter defined, as well as the employer and those conducting his business during bankruptcy and insolvency.
2. Every contract of hiring, verbal, written or implied between an employer and any employee engaged in the trades, business, or occupations specified in paragraph 2 of section 1, or engaged in the trades, businesses or occupations that may be determined to be hazardous under the operation of paragraph 3 of section 1, now in operation or made or implied prior to the time fixed for this act to take effect shall after this act takes effect be presumed to continue subject to the provisions of this act unless either party shall at any time not less than thirty days prior to the accident, in writing, notify the other party to such contract that the provisions of this act other than sections 4 and 5 are not intended to apply.

3. Every contract of hiring, verbal, written or implied, between any employer or employee engaged in the trades, businesses, or occupations specified in paragraph 2 of section 1, or engaged in the trades, businesses or occupations that may be determined to be hazardous under the operation of paragraph 3 of section 1, made subsequent to the time provided for this act to take effect, shall be presumed to have been made subject to the provisions of this act, unless there be as a part of said contract an express statement in writing not less than thirty days prior to the accident, either in the contract itself or by written notice by either party to the other, that the provisions of this act other than sections 4 and 5 are not intended to apply, and it shall be presumed that the parties have elected to be subject to the provisions of this act and to be bound thereby.

4. Any workman of the age of eighteen and upwards engaged in the trades, businesses or occupations specified in paragraph 2 of section 1, or engaged in the trades, businesses or occupations that may be determined to be hazardous under the operation of paragraph 3 of section 1, 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 eighteen by his parent or guardian: Provided, That this act shall not apply to workmen of less than the minimum age prescribed by law for the employment of minors in the trades, businesses or occupations specified in paragraph 2 of section 1, or engaged in the trades, businesses or occupations that may be determined to be hazardous under the operation of paragraph 3 of section 1.

5. The agreement between any employer or employee engaged in the trades, businesses or occupations specified in paragraph 2 of section 1, or engaged in the trades, businesses or occupations that may be determined to be hazardous under the operation of paragraph 3 of section 1, for the operation of the provisions of this act other than sections 4 and 5 may be terminated by either party upon thirty days' written notice prior to the accident.

6. Where the notice is to be served upon one who is under the age of eighteen years, said notice must be served upon the parent, tutor or guardian of said individual under the age of eighteen years.

Sec. 4. 1. If an employee has elected as aforesaid to come under this act and his employer has elected as aforesaid not to come under this act, then if an action is brought by the employee or relation or personal representative to recover for personal injuries sustained after such election by the employer arising out of and in the course of his employment, it shall not be a defense, (a) That the employee assumed the risks inherent in or incidental to or arising out of his employment, or the risks arising from the failure of the employer to provide and maintain a reasonably safe place to work or arising from the failure of the employer to furnish reasonably safe tools and appliances, or that the employer exercised reasonable care in selecting reasonably competent employees in the trade, business, or occupation. (b) That the injury was caused by the negligence of a fellow employee. (c) That the employee was negligent.
2. In an action 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 arose 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.

Defenses available, when.

2. 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 election by a notice in writing which shall take effect immediately.

Waiver of rejection.

Sec. 6. 1. Where any person (in this section referred to as principal) undertakes to execute any work, which is a part of his trade, business, or occupation, or which he has contracted to perform, and contracts with any other person (in this section referred to as 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, reference to the principal shall be substituted for reference 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.

2. 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.

3. Nothing in this section shall be construed as preventing a workman from recovering compensation under this act from the contractor instead of from the principal.

Sec. 7. 1. When an 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 obtain damages from or proceed at law against such other person to recover damages; and if compensation is claimed and awarded under this act any employer having paid the compensation or having become liable therefor shall be subrogated to the rights of the injured employee to recover against that person, and may compromise the claim therefor in his discretion: 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 legitimate and reasonable expenses and costs of the action, which payment shall be credited upon the balance of compensation, if any, that may become due thereafter.

Compensation for:

Sec. 8. 1. Compensation shall be paid under this act in accordance with the following schedule of payments:

Liability of third persons.
(a) For injury producing temporary total disability to do work of any reasonable character, fifty per centum of the average weekly wages, subject to a maximum compensation of ten dollars per week and a minimum compensation of three dollars per week: Provided, That, if at the time of the injury the employee was receiving wages of three dollars or less per week, then the compensation shall be full wages per week. This compensation shall be paid during the period of disability not, however, beyond three hundred weeks.

(b) For injury producing temporary partial disability, the compensation shall be fifty per centum of the difference between the average weekly wages of the employee before the injury and the average weekly wages which he is able to earn thereafter, but not more than ten dollars a week for a period not exceeding three hundred weeks. Compensation to cease whenever employee is able to earn as much as he did before the accident.

(c) For injury producing permanent partial disability, the compensation shall be one-half of the difference between the average weekly wages of the injured employee before the injury and the average weekly wages which he is able to earn thereafter, subject to a maximum of ten dollars per week, to be paid for a period not exceeding three hundred weeks. In cases included by the following schedule, compensation for such injury shall be paid as long as employee is unable to earn as much as he did before accident, subject to the following maximum schedules:

For the loss of a thumb, fifty per centum of the average weekly wages during not more than fifty weeks.
For the loss of a first finger, commonly called the index finger, fifty per centum of the average weekly wages during not more than thirty weeks.
For the loss of any other finger, or a great toe, fifty per centum of the average weekly wages during not more than twenty weeks.
For the loss, by separation, of any toe other than the great toe, fifty per centum of the average weekly wages during not more than ten weeks.
The loss of the first phalanx of the thumb, or of two phalanges of any finger or toe, shall be considered to be equal to the loss of one-half of such member, and compensation shall be one-half of the amount above specified.
The loss of more than one phalanx of the thumb or more than two phalanges of any finger or toe shall be considered as the loss of the entire member: 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 hand, fifty per centum of the average weekly wages during not more than one hundred and fifty weeks.
For the loss of an arm, fifty per centum of the average weekly wages during not more than two hundred weeks.
For the loss of a foot, fifty per centum of the average weekly wages during not more than one hundred and twenty-five weeks.
For the loss of a leg, fifty per centum of the average weekly wages during not more than one hundred and seventy-five weeks.
For the loss of an eye, fifty per centum of the average weekly wages during not more than one hundred weeks.
For the loss, by separation, of any toe other than the great toe, fifty per centum of the average weekly wages during not more than ten weeks.

Amputation between the elbow and wrist shall be considered as the equivalent of the loss of a hand, and amputation between the knee and the ankle shall be equivalent to the loss of a foot.

In no case shall payments be made under more than one clause of this subsection, nor in any case after the employee is able to earn as much as he did before the accident.

The amounts specified in this subsection are all subject to the same limitations as to the maximum and minimum as are stated in clause "a" of this section.
Compensation for permanent total disability.

(d) For injury producing permanent total disability to work of any character, fifty per centum of the average weekly wages, but not more than ten dollars nor less than three dollars per week for a period not exceeding four hundred weeks.

(e) For injury causing death within one year after the accident, there shall be paid to the legal dependents of the employee wholly dependent upon his earnings for support at the time of the injury, a weekly sum as hereinafter provided not to exceed one-half of the average weekly wages of the employee as herein defined, but not more than ten dollars nor less than three dollars a week, for a period of three hundred weeks. If the employee leaves legal dependents only partly 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 in the year prior to his death, bears to the annual earnings of the deceased at the time of his injury. When weekly payments have been paid to an employee before his death, the compensation to dependents shall begin on the date of the last of such payments, but shall not continue for more than three hundred weeks from the date of the injury.

Dependents. 2. 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 was living at the time of the injury and whom she has not abandoned for cause at the time of his death.

(b) A husband mentally or physically incapacitated from wage earning upon a wife with whom he was living at the time of her injury.

(c) A child or children under the age of eighteen 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 injury of such parent. In case there is more than one child, thus dependent, the death benefit shall be divided equally among them. In case there are both surviving wife and children or surviving husband and children entitled to compensation, the compensation shall be paid entirely to the surviving husband or the surviving wife, for the common benefit of such wife or husband and the children. In all other cases, question of legal dependency, in whole or in part, shall be determined in accordance with the facts as they 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; if there is one person 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. No person shall be considered a dependent unless a member of the family of the deceased employee, or bearing to him the relation of husband or widow, or lineal descendant or ascendant, or brother or sister, or legally adopted child.

Payments to dependents.

(d) Payments to such dependents shall be computed and divided among them on the following basis:

If widow alone, 25 per cent of the average weekly wages of deceased.
If widow and one child, 40 per cent of the average weekly wages.
If widow and two or more children, 50 per cent of the average weekly wages.
If one child alone, 25 per cent of the average weekly wages of deceased.
If two children, 40 per cent of the average weekly wages.
If three or more children, 50 per cent of the average weekly wages.
If father or mother, 25 per cent of the average weekly wages of deceased. If both, 50 per cent of the average weekly wages.
If one brother or sister, 25 per cent of the average weekly wages of deceased, with 10 per cent additional for each brother or sister in excess of one.

If other dependents than those above enumerated, 20 per cent of the average weekly wages for one and 10 per cent additional for each such dependent in excess of one.

If the total benefits according to this clause exceed 50 per cent, they shall be abated proportionally.

(e) The marriage or death of any dependent shall terminate all payments as to such dependent, but shall not affect payments allowed other dependents. When any minor dependent not physically or mentally incapable of wage earning, shall become eighteen years of age, payment of the portion of compensation theretofore due such minor shall cease.

(f) In case of death, the employer shall pay, or cause to be paid, the reasonable expenses of his last sickness and burial, not exceeding one hundred dollars.

3. The term “average weekly wages” as used in this act shall mean the annual earnings of the injured employee divided by fifty-two. 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 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 so employed, by a person in the same grade, employed in the same class of employment and in the same district.

4. No compensation shall be paid for the first two weeks after injury is received, nor in any case, unless the employer is notified thereof within the period specified in section 11.

5. During the first two weeks after the injury, the employer shall furnish reasonable medical, surgical and hospital service aid and medicine as not to exceed one hundred dollars unless the employee refuses to allow them to be furnished by the employer.

6. Any voluntary payments made by the employer or his insurer to the injured workman, during the period of his disability, or to his dependents, which, by the terms of this act, were not due and payable when paid, may, subject to the approval of the court, be deducted from the amount to be paid as compensation: Provided, That in case of disability, such deduction shall be made by shortening the period during which compensation shall be paid, and not by reducing the amount of the weekly payments.

7. Payments of compensation due under this act, shall be paid as near as may be, at the same times and places as wages were payable to the injured employee before the accident; but a longer interval may be substituted by agreement, with the approval of the court.

8. The amounts payable periodically as compensation may be commuted to a lump-sum payment at any time by agreement of the parties; subject to the approval of the court and upon the payment of such lump sum the liability of the employer making such payment under this act, shall be fully satisfied.

Sec. 9. 1. An injured workman shall submit himself to examination by a duly qualified medical practitioner provided and paid for by the employer, and from time to time thereafter, as often as may be reasonably necessary and at reasonable hours and places, during the pendency of his claim for compensation or during the receipt by him of payments under this act.

2. It shall be the duty of the employer to cause such examination, provided for in paragraph 1 of this section to be made of the injured workman, immediately after knowledge or notice of the accident and to serve a copy of the report by his medical practitioner of such examination upon the workmen within six days.
Disputes.

Suspension of rights.

Notice and claim.

Statement to be posted.

Form of notice.

To whom given.

after such examination. If no such examination be made and re- port furnished by the employer within that time, the workman shall furnish a report of an examination made by his medical practitioner to the employer, for which the employee shall be entitled to receive from the employer the sum of one dollar. Upon the receipt by either party of such a report from the other party, the party receiving it, if he disputes such report or any statement therein, shall notify the other party of that fact within six days, otherwise such report shall be prima facie evidence of the facts therein stated in subsequent proceedings under this act.

3. If there be any dispute thereafter as to the condition of the workman, the judge of the court which would have jurisdiction in a civil case, or, where there is more than one judge of said court, then either or any of said judges of said court, upon application of either party, shall order an examination of the workman to be made by a medical practitioner appointed by the court. The fees of such examiner shall be fixed by the court at not to exceed ten dollars, and shall be paid in advance by the applicant. Such medical examiner shall report his conclusions from such examination to the court, and such report shall be prima facie evidence of the facts therein stated in any subsequent proceedings under this act.

Sec. 10. 1. If the workman refuses to submit himself to a medical examination as provided in section 9, or in any wise obstructs the same, his right to compensation and to take or prosecute any further proceedings under this act shall be suspended until such examinations take place. And, when a right to compensation is suspended no compensation shall be payable in respect of the period of suspension.

Sec. 11. 1. No proceedings under this act for compensation shall be maintained unless a notice of the injury shall have been given to the employer within fifteen days after the accident, or in case of death within thirty days and unless either a claim for compensation with respect to such injury or any payment under section 8 of this act shall have been made within six months after the date of the injury or death. Such notice may be given or made by any person claiming to be entitled to compensation or by some one in his behalf.

Sec. 12. 1. It shall be the duty of the employer to cause to have printed and to keep posted at some convenient and conspicuous point about the place of business a notice reading substantially as follows: "In case of accidental injury or death the injured employee or some one acting in his behalf, must give notice to (here shall follow the name and address of the party) within fifteen days, and unless notice be given to above party within fifteen days, no payments will be made under the law for such injury or death." In the event of the failure of the employer to keep posted said notice, the time in which notice of the injury shall be given as provided in section 11 shall be extended to six months from the date of injury.

Sec. 13. 1. The notice and claim provided for in section 11 shall be made in writing and such notice shall contain the name and address of the employee, and shall state in ordinary language the time, place, nature and cause of the injury, and shall be signed by him or by a person on his behalf, or, in the event of death, by any one or more of his dependents or by a person on their behalf. The notice may include the claim.

Sec. 14. 1. Any notice or claim under this act shall be given to the employer, or, if the employer be a partnership, then to any one of the partners. If the employer be a corporation, then the notice may be given to any agent of the corporation upon whom process may be served, or to any officer of the corporation, or any agent in charge of the business at the place where the injury occurred. If the employer be a body politic then the notice may be given to the individual connected with said body politic upon whom process may be served: Provided, however, That in any case notice of accident may be given to the person designated in the notice posted in accordance with section 12. Such notice
shall be given by delivering it or sending it by mail by registered letter addressed to the employer or his or its hereinabove designated officer or agent at his or its last known residence or place of business.

SEC. 15. 1. A notice given under the provisions of section 11 of this act shall not be held invalid or insufficient by reason of any inaccuracy in stating the time, place, nature, or cause of the injury, or otherwise, unless it is shown that the employer was in fact misled to his injury thereby. Want of notice or delay in giving notice shall not be a bar to proceedings under this act if it be shown that the employer or his agent or representative, had knowledge of the accident, or that the employer has not been prejudiced by such delay or want of notice.

SEC. 16. 1. 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 duly qualified curator or tutor, as the case may be, 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 curator or tutor as the case may be.

2. Payment of compensation under this section by an employer to a dependent subsequent in right to another or other dependents shall protect and discharge the employer unless and until such dependent or dependents prior in right shall have given the employer notice of his or their claim. In case the employer is in doubt as to the respective rights of rival claimants the employer may apply to the court to decide between them.

SEC. 17. 1. The interested parties shall have the right to settle all matters of compensation between themselves. But all agreements of settlement shall be reduced to writing and shall be substantially in accord with the various provisions of this act, and shall be approved by the court which would have jurisdiction in a civil case, or, where there is more than one judge of said court, then by either or any of said judges of said court. The agreement between employer and employee shall be presented to the court upon joint petition of employer and employee, which petition must be verified by both parties. The settlement so approved shall be immediately entered as the judgment of the court, and such judgment shall have the same force and effect and may be satisfied as other judgments of the same court.

SEC. 18. 1. 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 present a verified complaint to the judge of the court 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 said court. The complaint between employer and employee shall be presented to the court upon joint petition of employer and employee, which petition must be verified by both parties. The settlement so approved shall be immediately entered as the judgment of the court, and such judgment shall have the same force and effect and may be satisfied as other judgments of the same court.

2. Upon the presentation of such complaint, it shall be filed with the clerk of the court 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 or petition the adverse party shall file an answer to said petition, which shall admit or deny the substantial averments of the petition, and shall state the matter or matters in dispute and the contention of the petitioner with reference thereto.

2. Upon the presentation of such complaint, it shall be filed with the clerk of the court 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 or petition the adverse party shall file an answer to said petition, which shall admit or deny the substantial averments of the petition, and shall state the matter or matters in dispute and the contention of the petitioner with reference thereto.
Judgment on petition.

3. If the time fixed for filing answer or delay, granted for filing answer by the respondent has elapsed without an answer having been filed, then upon simple request of petitioner the judge of the court, with whom the complaint or petition has been filed shall immediately enter a judgment in favor of petitioner in accord with the facts set forth in the verified petition filed by petitioner and the provisions of this act.

Procedure.

4. If an answer has been filed by the respondent within the delays allowed by law or granted by the court, or if no judgment has been entered as provided in the paragraph immediately above at the time fixed for hearing, or any adjournment thereof, the said judge shall hear such witnesses as may be presented by each party. Either party shall have the right to be present at any hearing or to appear through an attorney or any other agent. The judge 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. The judge shall decide the merits of the controversy as equitably, summarily, and simply as may be. 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. The judgment rendered by the court shall have the same force and effect and may be satisfied as other judgments of the same court.

Appeals.

SEC. 19. 1. Either the employer or employee shall have the right to appeal to the proper appellate court from the judgment rendered as provided in paragraph 3 of section 1, and in section 18. To such an appeal preference in hearing shall be given by the appellate court such as is given in causes in which the State is an interested party. Such appeal may be prosecuted by either employer or employee without the necessity of furnishing an appeal bond and shall suspend the operation of the judgment appealed from.

Modifications of awards.

SEC. 20. 1. A judgment of compensation may be modified at any time by subsequent agreement between employer and employee, with the approval of the judge of the court that rendered the judgment sought to be modified, or any time after one year when said judgment of compensation shall have become operative, it may be reviewed by the judge of the court that rendered the judgment sought to be modified upon the application of either employer or employee, on the ground that the incapacity of the injured employee has subsequently increased, such increase growing directly out of the injury for which compensation had been allowed or diminished. In such case the provisions of paragraphs 1 and 3 of section 9 with reference to medical examination shall apply.

Benefits preferred.

SEC. 21. 1. All rights of compensation granted by this act shall have the same preference and priority for the whole thereof against the assets of the employer as is allowed by law for any unpaid wages for labor.

Exemptions.

SEC. 22. 1. Claims or payments due under this act shall not be assignable and shall be exempt from all claims of creditors and from levy or execution or attachment or garnishment except under a judgment of court for alimony in favor of a wife or ascendent or descendent. Fees of attorneys and physicians for services under this act shall be reasonable and measured according to the workman's station and shall be approved by the court.

Insurance policies.

SEC. 23. 1. No policy of insurance against liability arising under this act shall be issued unless it contains the agreement of the insurer that it will promptly pay to the person entitled to
compensation all installments of the compensation that may be
awarded or agreed upon, and that the obligation shall not be
affected by any default of the insured after the injury, or by any
default in the giving of any notice required by such policy, or
otherwise. Such agreement shall be construed to be a direct
obligation by the insurer to the person entitled to compensation,
enforceable in his name. No policy of insurance against liability
under this act shall be made unless such policy shall cover the
entire liability of the employer under this act.

Sec. 24. 1. All policies insuring the payment of compensation
under this act must contain a clause to the effect that as between
the employee and the insurer the notice to the insured or the
knowledge of the occurrence of the injury on the part of the insur-
ance shall be deemed to be notice or knowledge on the part of
the insurer, as the case may be, that the jurisdiction of the in-
sured for the purpose of this act shall be the jurisdiction of the
insurer; and that the insurer shall in all things be bound by and
subject to the awards, judgments, or decrees rendered against
such insured.

Sec. 25. 1. If any employer shall carry insurance against lia-

ability under this act, and said employer shall be or become in-
solvent, or any execution upon a judgment for compensation is
returned unsatisfied, an employee of such employer, or the depend-
ents of a deceased employee who shall be entitled to payments
under this act may enforce their claim to payments against the
insurer of such employer to the same extent that the employer
could have enforced his claim against such insurer had he made
such payments, any provision contained in any policy or agree-
ment of insurance written after the date of the approval of this act to
the contrary notwithstanding. The making of accrued pay-
ments to the person entitled thereto, in accordance with the pro-
visions of this act, shall relieve such insurer from liability.

Sec. 26. 1. Every policy for the insurance of the compensation
herein provided for, or against liability therefor, shall be deemed
Policies sub-
to be made subject to the provisions of this act. No company or
act*
association shall enter into any such policy of insurance unless
its form shall have been approved by secretary of state of
Louisiana.

Sec. 27. 1. An employer and employee who have elected to
come under the provisions of this act or who may be under the
provisions of this act as provided in paragraph 1 of section 1,
may by written agreement between themselves provide for com-
pensation, in event of injury to an employee, over and above the
compensation to be awarded under the provisions of this act.
Such additional compensation may be provided for by the em-
ployer insuring his liability therefor in any insurance company
or association authorized to do business in the State of Louisiana,
and the premium therefor may be paid by employer and employee
in such proportion as may be agreed upon between them.

Sec. 28. 1. No compensation shall be allowed for an injury
What inju-
cased (1) by the injured employee's willful intention to injure
tics not com-
himself or to injure another, or (2) by the injured employee's
pensated.
intoxication at the time of the injury, or (3) by the injured
employee's deliberate failure to use an adequate guard or pro-
tection against accident provided for him, or (4) by the em-
ployee's deliberate breach of statutory regulations affecting safety
of life or limb.

2. In determining whether or not an employer shall be exempt
Burdens of
proof.
from and relieved of paying compensation because of injury sus-
tained by an employee for the causes and reasons set forth in
this section, the burden of proofs shall be upon (upon) the
employer.

Sec. 29. 1. Where a judgment has been rendered under the pro-
visions of this act in favor of a minor or interdict, the tutor or
curator shall be required by the court to furnish a bond in favor
of the court for the faithful performance of his duties, and shall
be required by the court to furnish it annually with a report or accounting of the funds the said tutor or curator may be administering for the said minor or interdict. This report or accounting of the tutor or curator is not to be of the nature of the report of the tutor or curator required to be filed under existing laws, but it is to be a simple verified statement of the receipts of the tutor or curator with a detailed accounting of the expenditures.

Sec. 30. 1. This act shall not be construed to apply to any employer acting as a common carrier while 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 Louisiana, or for which employer and the employee 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 employed; and nothing in this act shall be construed to apply to any work done by, nor shall any compensation be payable under this act to, the master, officers, or any member of the crew of any vessel used in interstate or foreign commerce which said vessel is not registered or enrolled in the State of Louisiana.

2. Whenever an employee of a common carrier engaged in interstate or foreign commerce by railroad shall sustain a 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 employer was, at the time of the accident, engaged in such commerce.

Sec. 31. 1. In case of personal injury (including death resulting therefrom) all claims for payments shall be forever barred unless within one year after the injury or death the parties shall have agreed upon the payments to be made under this act, or unless within one year after the injury proceedings have been begun as provided in sections 17 and 18 of this act. Where, however, such payments have been made in any case, said limitations shall not take effect until the expiration of one year from the time of making the last payment.

Sec. 32. 1. In case any employee for whose injury or death payments are due under this act shall, at the time of the injury be employed and paid jointly by two or more employers subject to the provisions of this act, such employers shall contribute to such payments in proportion to their several wage liabilities to such employee: Provided, however, That nothing in this section shall prevent any arrangement between such employers for different distribution as between themselves of the ultimate burden of such payments. If one or more, but not all 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 payments which their proportionate wage liability bears to the entire wages of the employee: Provided, however, That such payment by such employer subject to this act shall not bar the right of recovery against any other joint employer.

Sec. 33. 1. In event the employer against whom there has been rendered a judgment of court awarding compensation in favor of an employee of dependents should become insolvent or fail to pay six successive installments as they become due, the installments not yet payable under said judgment shall immediately become due and exigible and the judgment shall become executory for the whole amount: Provided, That where the employee is adequately protected by insurance and receives payments thereunder this right shall not accrue to the employee.

Sec. 34. 1. The rights and remedies herein granted to an employee on account of a personal injury for which he is entitled to compensation under this act shall be exclusive of all other rights and remedies of such employee, his personal representatives, dependents, relations, or otherwise on account of such injury.
Sec. 35. 1. Nothing in this act shall affect the liability of the employer to a fine or penalty under any other statute.

Sec. 36. 1. 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.

Sec. 37. 1. If for the purpose of obtaining or defeating any benefit or payment under the provisions of this act, either for himself or any other person, any person willfully makes a false statement or representation, he shall be guilty of a misdemeanor and upon conviction thereof shall be fined not exceeding five hundred dollars or imprisoned not exceeding twelve months, or both, in the discretion of the court; and an employee from and after such conviction shall cease to receive any compensation under this act.

Sec. 38. 1. 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 or violently, with or without human fault and producing at the time objective symptoms of an injury.

Sec. 39. 1. The terms "injury" and "personal injuries" shall include only injuries by violence to the physical structure of the body and such diseases or infections as naturally result therefrom. The said terms shall in no case be construed to include any other form of disease or derangement, however caused or contracted.

Sec. 40. 1. Whenever in this act the singular is used, the plural shall be included; where the masculine gender is used, the feminine shall be included.

Sec. 41. 1. If any provision 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 provision so declared unconstitutional or invalid.

Sec. 42. 1. This act shall not affect any cause or action existing or pending before it went into effect.

Sec. 43. 1. This act shall take effect and be in force from and after January 1, 1915.

Approved June 18, 1914.
MAINE.

ACTS OF 1915.

CHAPTER 295.—Compensation of workmen for injuries.

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:

I. “Employer” shall include corporations, partnerships, natural persons, the State, counties, water districts, and all other quasi-municipal corporations of a similar nature, cities and also such towns as vote to accept the provisions of this act, and if employer is insured it includes the insurer, unless the contrary intent is apparent from the context or it is inconsistent with the purposes of this act.

II. “Employee” shall include every person in the service of another under any contract of hire, express or implied, oral or written, except: (a) Farm laborers; (b) domestic servants; (c) masters of and seamen on vessels engaged in interstate or foreign commerce; (d) persons whose employment is but casual or is not in the usual course of the trade, business, profession, or occupation of his employer; (e) officials of the State, counties, cities, towns, or water districts, and other quasi-municipal corporations of a similar character. Policemen and firemen shall be deemed employees within the meaning of this act. If, however, any policeman or fireman claims compensation under this act, there shall be deducted from such compensation any sum which such policeman, fireman, or other person may be entitled to receive for any pension or other benefit fund to which the State or municipal body may contribute. Any reference to an employee who has been injured shall, when the employee is dead, also include his legal representatives, dependents, and other persons to whom compensation may be payable.

III. “Assenting employer” shall include all employers who have complied with the provisions of section 6 hereof, and to whom a certificate authorized by said section has been issued, but only so long as such certificate remains in force.

IV. “Commissioner” shall mean the commissioner of labor and industry of the State of Maine. “Commission” shall mean the industrial accident commission created by section 29 hereof.

V. “Industrial accident insurance policy” shall mean a policy in such form as the insurance commissioner of the State of Maine approves, issued by any stock or mutual casualty insurance company that may be now or hereafter authorized to do business in this State, which in substance and effect guarantees the payment of the compensation, medical, and hospital services, and expense of sickness and burial herein provided for, in such installments, at such time or times, and to such person or persons, and upon such conditions as in this act provided. Whenever a policy or certificate of renewal thereof is filed as herein provided, a copy of such policy certified by the insurance commissioner of the State of Maine or his deputy, shall be admissible as evidence in any legal proceeding wherein the original would be admissible.

VI. “Insurance company” shall mean any casualty insurance company authorized to do business in the State of Maine, which may issue policies conforming to the provisions of the paragraph next preceding. Whenever in this act relating to procedure the word “insurance company” is used, it shall be held to apply only to cases in which the employer has elected to file such policy, instead of furnishing satisfactory proof of his ability to pay compensations and benefits hereinafter provided direct to his employees.
VII. "Representatives" may include executors, administrators, and the dependents of deceased employees. Payments may be made to dependents directly or to executors or administrators. If payments are made to the latter, they shall forthwith pay the same to the dependents as the same are hereinafter defined.

Dependents. VIII. "Dependents" shall mean members of the employee's family or next of kin, who are wholly or partly dependent upon the earnings of the employee for support at the time of the injury. 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 from whom she was living apart for a justifiable cause, or because he had deserted her, or upon whom she is dependent at the time of the accident.

(b) A husband upon a wife with whom he lives or upon whom he is dependent at the time of the accident.

(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 or they are living, or upon whom he is or they are dependent at the time of the death of said parent, there being no surviving dependent parent. In case there is more than one child thus dependent, the compensation shall be divided equally among them.

In all 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 any 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. If a dependent is an alien residing outside of the United States, or of the Dominion of Canada, the compensation paid to any such dependent shall be one-half that hereinafter provided in case of the death of an employee.

Computation of wages. IX. "Average weekly wages, earnings or salary" of an injured employee shall be computed as follows:

(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 regularly during the ordinary working hours concurrently by two or more employers, for one of whom he works at one time and for another 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, the number of hours constituting a full working-day in such employment during substantially the whole of such immediately preceding year, his "average weekly wages" shall be three hundred times the average weekly [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 em-
ployee can not reasonably and fairly be applied, such "average weekly wages" 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.

In the sections of this act relating to notices and procedure, all powers and rights granted to, or duties and obligations imposed upon employers or employees, shall inure to the benefit of and may be exercised by guardians of minors or other incapacitated persons and the legal representatives of deceased persons.

Sec. 2. In an action to recover damages for personal injuries 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 (a) that the employee was negligent; (b) that the injury was caused by the negligence of a fellow employee; (c) that the employee had assumed the risk of the injury.

Sec. 3. The provisions of section 2 shall not apply to employers who employ five or less workmen or operatives regularly in the same business, and in case of the employer being engaged in more than one kind of business, in one of which he employs five or more workmen or operatives regularly, and in another employs five or less workmen or operatives, the facts that he elects to become subject to the provisions of this act shall not bring him within the provisions of it as to any such business in which he employs five or less workmen or operatives, and at the time of electing to become subject to the provisions of this act, if engaged in more than one kind of business, he shall specify the business or businesses in which he is engaged and concerning which he desires to come under the provisions hereof.

Sec. 4. 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, or in the work of cutting, hauling, rafting, or driving logs.

Sec. 5. The provisions of section 2 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 this act in the manner provided in section 6 hereof. In the case of personal injury sustained by an employee in the course of his employment or of death resulting from personal injury so sustained, assenting employers shall be exempt from suits either at common law or under section 9, chapter 59, of the Revised Statutes, or chapter 265 of the Public Laws of 1909 [employers' liability act].

Sec. 6. I. Any employer desiring to become an assenting employer as herein provided, may file with the commission at its office in Augusta, his written assent in such form as the commission approves and also file with said commission a copy of an industrial accident insurance policy in any stock or mutual insurance company or association authorized to do business in the
State of Maine, said policy being stamped with the approval of the insurance commissioner of said State of Maine.

Any insurance company issuing policies covering the payment of compensation provided for in this act shall file with the insurance commissioner a copy of the form thereof, and no such policy shall be issued until said insurance commissioner has approved the same. Every such insurance company shall file with the insurance department its classification 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. The insurance commissioner may withdraw his approval of any classification of risks or premium rates relating thereto, and he may at any time approve a revised classification of risks and premium rates relating thereto.

II. Any employer desiring to become an assenting employer as herein provided, may file with the commission his written assent in such form as said commission approves, after furnishing satisfactory proof to the commission of his solvency and financial ability to pay the compensation and benefits herein provided, and upon the deposit of cash, satisfactory securities or a bond, as the commission may determine, such bond to run to the State treasurer and his successor in office in such sum as said commission may determine and shall be conditional upon the faithful performance and observance of all the provisions of this act relating to the payment of compensations and benefits to any injured employee. In case of cash being deposited it shall be placed at interest by the State treasurer and the accumulation of interest on said cash or securities so deposited shall be paid to the employer depositing the same: Provided, however, That the commission may at any time in their discretion deny to an assenting employer the right to continue in the exercise of the option granted by this paragraph.

III. Upon the filing of such assent and complying with the provisions of Paragraphs I or II of this section, the commissioner shall issue to such employer a certificate stating that such employer has conformed to the provisions of this act and setting forth the date on which the policy filed under Paragraph I expires. The certificate thus issued shall remain in full force until the date of the expiration of such policy, or until withdrawn as provided in Paragraph II, or until the employer assenting under Paragraph II shall notify the commissioner that he withdraws his assent, or files an industrial accident policy in place of the securities so deposited by him.

IV. Subject to the approval of the commission, any employer may continue with his employees in lieu of the compensation and insurance provided by this act the system of compensation, benefit, or insurance which was used by such employer on the first day of January, A. D. 1915. 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 if it requires contributions from the employees, unless it confers benefits in addition to those provided under this act at least commensurate with such contributions. Such substitute system may be terminated by the commission on reasonable notice and hearing 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 purposes of this act. An employer who is authorized to substitute a plan under the provisions of this section shall give his employees notice thereof in a form to be prescribed by the commission, and a statement of the plan approved shall be filed with the commission.

V. A notice in such form as the commission approves, stating that the employer has conformed to the provisions of this act and the date of the expiration of the policy filed, together with such further matters as the commission determines, shall be posted by the employer and kept posted by him at some place in each of his
mills, factories, or place of business, conspicuous and accessible to his employees. For willful failure to post such notices, the employer shall be subject to a penalty of ten dollars per day for every day of such willful neglect, to be recovered by complaint or indictment. Such failure to so post notices shall not, however, affect the rights or liabilities of the employer or the employee hereunder.

Sec. 7. An employee of an employer who shall have elected to become subject to the provisions of this act as provided in section 6 of this act shall be held to have waived his right of action at common law to recover damages for personal injuries; also under section 9 of chapter 89, R. S., or chapter 258 of the Public Laws of 1909 [employers' liability act], 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 have filed a copy thereof with the commission 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 commission 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 commission a notice 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 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, or under the statutes above referred to, 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, or under the statutes above referred to, may waive such claim by a notice in writing which shall take effect five days after the delivery to the employer or his agent.

Sec. 8. 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 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. This provision 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 while on duty.

Sec. 9. No compensation except as provided by section 10 of this act 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.

Sec. 10. During the first two weeks after the injury the employer shall furnish reasonable medical and hospital services, and medicines when they are needed, but the amount of the charge for such services and medicines shall not exceed the sum of thirty dollars, unless in case of major surgical operations being required, and the employer and employee being unable to agree upon the same, the amount to be allowed for such medical services or medicines shall be fixed by the commission upon petition by either party setting forth the facts.
Compensation payable, when.

Sec. 11. If an employee who has not given notice of his claim of common-law or statutory rights or action, or who has given such notice and has waived the same, as provided in section 7 of this act, 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.

Death.

Sec. 12. 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 stepchildren, under the age of eighteen years, or over said age but physically or mentally incapacitated from earning, are 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 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 13 of this act.

If no dependents.

Sec. 13. 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. 14. 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, nor the amount more than three thousand dollars. In the following cases it shall, for the purposes of this act, 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 both hands at or above the wrist, 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, and an injury to the skull resulting in incurable imbecility or insanity.

Partial disability.

Sec. 15. 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.
Sec. 16. In cases included in the following schedule the disabil-
y in each such case shall be deemed to be total for the period
specified and after such specified period, if there be a partial
incapacity for work resulting from the injury specified, the em-
ployee shall receive compensation while such partial incapacity
continues under the provisions of section 15, but in no case shall
compensation continue more than three hundred weeks after the
injury. The compensation to be paid for the injuries hereinafter
specified shall be as follows, to wit:

For the loss of a thumb, one-half the average weekly wages
during fifty weeks.

For the loss of the first finger, commonly called the index finger,
one-half the average weekly wages during thirty weeks.

For the loss of the second finger, one-half the average weekly
wages during twenty-five weeks.

For the loss of the third finger, one-half the average weekly
wages during eighteen weeks.

For the loss of the fourth finger, commonly called the little
finger, one-half the 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 said
thumb or finger, and the compensation shall be one-half the
amount above specified. The loss of more than one phalange
shall be considered as a loss of the entire thumb or finger: Pro-
vided, however, That in no case shall the amount received for the
loss of more than one finger exceed the amount specified in this
schedule for the loss of a hand.

For the loss of the great toe, one-half the average weekly wages
during twenty-five weeks.

For the loss of one of the toes other than the great toe, one-half
the 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 said toe and the 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, one-half the average weekly wages dur-
ing one hundred and twenty-five weeks.

For the loss of an arm, or any part above the wrist one-half
the average weekly wages during one hundred and fifty weeks.

For the loss of a leg, or any part above the ankle, one-half the
average weekly wages during one hundred and fifty weeks.

For the loss of a foot, one-half the average weekly wages for
one hundred and twenty-five weeks.

For the loss of an eye or the reduction of the sight of an eye,
with glasses, to one-tenth of the normal vision, one-half the aver-
age weekly wages during one hundred weeks.

The amounts specified in this section are all subject to the same
limitations as to maximum and minimum amounts, that is, of
not more than ten and not less than four dollars a week, as pro-
vided for total or partial disability.

Sec. 17. No proceedings for compensation for an injury under
this act shall be maintained unless a notice of the accident shall
have been given to the employer within thirty days after the hap-
pening thereof; and unless the claim for compensation with re-
spect to such injury shall have been made within one year after
the occurrence of the same, or, in case of his physical or mental
incapacity, within one year after death or the removal of such
physical or mental incapacity.

Sec. 18. Such notice shall be in writing and shall state in or-
dinary 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 representatives, or by a de-
pendent, or by a person in behalf of either.

Sec. 19. Such notice shall be served upon the employer, or upon
service of

one employer, if there are more employers than one, or, if the

notice.
employer is a corporation, upon any officer or agent upon whom process may 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 corporation 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 a completed service.

Defective notices.

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 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 the injury, at all 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 this State, to be selected and paid for by the employer. The employee shall have the right to have a physician or surgeon, selected and paid for by himself, present at such examination, of which right the employer shall give him notice when requesting such examination.

The chairman of the commission may at any time after the injury appoint a competent and impartial physician or surgeon to act as a medical examiner, and the reasonable fees of such medical examiner shall be fixed and paid by the commission.

Such medical examiner being first duly sworn to the faithful performance of his duties before any justice of the peace, or any clerk of the supreme judicial court, shall thereupon and as often as the chairman of the commission may direct, 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 commission, and a copy thereof certified by the clerk of said commission may be produced in evidence in any hearing or proceeding to determine the amount of compensation due said employee under the provisions of this act. If such employee refuses to submit himself to 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.

Savings or insurance of employee.

Sec. 22. 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.

Incompetence.

Sec. 23. 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 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 guardian.

Waivers.

Sec. 24. No agreement by an employee, except as provided in section 30, to waive his rights to compensation under this act shall be valid. No claims for compensation under this act shall be assignables, or subject to attachment, or liable in any way for debts.

Workmen going out of State.

Sec. 25. Employers who hire workmen within this State to work outside of the State may agree with such workmen that the remedies under this act shall be exclusive as regards injuries received outside this State by accident arising out of and in the
course of such employment; and all contracts of hiring in this State shall be presumed to include such an agreement.

Sec. 26. 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 obtain damages from or proceed at law against such other person to recover damages; and if compensation is claimed and awarded under this act, any employer having paid the compensation or 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.

Sec. 27. The claim for compensation under 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. 28. In case payments have continued for not less than six months either party may, upon due notice to the other party, petition the commission for an order commuting the future payments to a lump sum. Such petition shall be considered by the commission and may be summarily granted where it is shown to the satisfaction of the commission 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 commission 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 payment of 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.

Sec. 29. A commission is hereby created to be known as the Industrial Accident Commission of the State of Maine and it shall consist of three members. The insurance commissioner and the commissioner of labor and industry shall be ex officio members of this commission. The governor shall appoint a chairman of this commission, who shall be learned in the law and a member of the bar in good standing and who shall hold office for three years from date of appointment and unless removed, as hereunder provided, shall hold office until his successor is appointed and qualified. Such chairman shall be sworn, and for inefficiency, willful neglect of duty, or for malfeasance in office, may after notice and hearing be removed from office by the governor and council. In case of vacancy occurring through death, resignation, or removal, the governor shall appoint a successor for the whole term of three years, subject to removal as aforesaid. Such chairman shall receive a salary of twenty-five hundred dollars per annum. The other members of the commission shall receive a salary of five hundred dollars per annum in addition to compensation received by them under existing law. The members of the commission shall also receive their actual necessary cash expenses while away from their office on official business.
The commission shall have a secretary appointed and removable by it, whose salary shall be fifteen hundred dollars per annum. It shall be allowed the sum of two thousand dollars, or so much thereof as is necessary, for expert and clerical assistance and other expenses in organizing a suitable system of administration. From and after January first, 1916, there shall be appropriated the sum of seven thousand five hundred dollars per annum, or such part thereof as is necessary, for clerical and other assistance, traveling expenses, physicians' and witness fees, and other necessary expenses.

The commission shall have a seal bearing the words "Industrial Accident Commission of Maine." It shall have its office and keep its records in the statehouse in Augusta, but may hold sessions at any place within the State. The commission shall have general supervision over the administration of this act and shall have the following powers:

I. To make rules and regulations not inconsistent with this act or other laws of the State for the purpose of carrying out the provisions hereof.

II. To issue subpoenas for witnesses and subpoenas duces tecum to compel the production of books and papers relating to any questions in dispute before it.

III. The chairman of said commission at any hearing before him under the provisions of this act, shall also have power to issue subpoenas for witnesses and subpoenas duces tecum to compel the production of books and papers relating to any matters in dispute before him. Witness fees in all proceedings under this act shall be the same as witnesses before supreme judicial courts.

Sec. 30. If the employer and 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 commission. If the commissioner finds that such agreement is in conformity with the provisions of this act, he shall approve the same and the clerk of the commission shall record it in a book kept for that purpose. In case the commissioner shall find that any such agreement is not in conformity with the provisions of this act and shall refuse to approve the same, or 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 commission a petition setting forth the names and residences of the parties, the facts relating to the employment at the time of the injury, the cause, extent, and character of the injury and the knowledge of the employer or notice of the occurrence of the injury, and, if an agreement had been reached between the parties which had not been approved by the commissioner, the form of such agreement and such other facts as may be necessary and proper for the determination of the matter in dispute, and shall state the matter in dispute and the claims of the petitioner with reference thereto.

Sec. 31. Within four days after the filing of the petition a copy thereof attested by the clerk of the commission shall be mailed by said clerk, postage prepaid, to the other parties named in the petition, or notice be given in such other manner as the commission may determine.

Sec. 32. Within ten days after the filing of such petition all the other parties interested in opposition to the petition shall file an answer to said petition and furnish a copy thereof to the petitioner, which answer shall state the claims of the opponents with reference to the matter in dispute as disclosed by the petition. The chairman of said commission may grant further time for filing answer and allow amendments to said petition and answer at any stage of the proceedings. If any party opposing such petition does not file an answer within the time limited, the hearing
shall proceed upon the petition. If any party be an infant or person under disability, either parent or a guardian, or a guardian ad litem for such infant or person under disability may file the petition or answer required by this section.

Sec. 33. The whole matter shall then be referred to the chairman of said commission, who shall fix a time for hearing upon the request of either party, upon a three days' notice given to the other party. All hearings shall be held in the town where the accident occurred, unless the claimant shall in writing request that it be held in some other place.

Sec. 34. If from the petition and answer there appear to be facts in dispute, the chairman of the commission shall then hear such witnesses as may be presented by each party, or by agreement the claims of both parties as to the facts in dispute may be presented by affidavits. From the evidence thus furnished the chairman shall, in a summary manner, decide the merits of the controversy. His decision, together with a statement of the facts submitted, his findings of fact and rulings of law, and any other matters pertinent to the questions raised at the hearing, shall be filed in the office of the commission, and a copy thereof certified by the clerk of the commission mailed forthwith to all parties interested. His decision, in the absence of fraud, upon all questions of fact shall be final.

Any party in interest may present copies certified by the clerk of said commission of any order or decision of the commission or of its chairman, or of any memorandum of agreements approved by the commissioner, together with all papers in connection therewith, to the clerk of courts for the county in which the injury occurred; whereupon any justice of the supreme judicial court shall render a decree in accordance therewith and notify all 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 in equity duly heard and determined by said court, except there shall be no appeal therefrom upon questions of fact found by said commission or its chairman, or where the decree is based upon a memorandum of agreement approved by the commissioner. Upon any appeal therefrom the proceedings shall be the same as in appeals in equity procedure and the law court may, after consideration, reverse or modify any decree made by a justice, based upon an erroneous ruling or finding of law. There shall be no appeal from a decree based upon any order or decision of the commission or of its chairman, or upon any memorandum of agreement approved by the commissioner, which has not been certified and presented to the court within ten days after the notice of the filing thereof by the commission or its chairman. Upon the presentation to it of a certified copy of any decision of the chairman of the commission terminating, diminishing, increasing, or modifying any payments under the provisions of section 36, or under any decision of said chairman or any agreement approved by the commissioner the court shall revoke or modify its decree, if any has been based thereon, to conform to such decision.

Sec. 35. Any agreement between employer and employee filed with the commission and approved by the commissioner or any decision of the chairman of said commission under the provisions of section 34, shall have the same effect as the judgment of a court, and a copy thereof certified to by the clerk of said commission and filed with the clerk of the court of the county in which either the employer or employee resides, or where the business of the employer is located, shall be enforceable by the supreme judicial court by any suitable process, including execution against the goods, chattels, and real estate, and including proceedings for contempt for willful failure or neglect to obey the orders or decrees of the court, or in any other manner that decrees in equity may be enforced.

Sec. 36. At any time before the expiration of two years from the date of the approval of an agreement by the commissioner,
or the entry of a decree fixing compensation, 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 chairman of said commission 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 said chairman 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 said chairman upon such review shall be served on the parties and filed with the clerk of the commission and may be certified to the court 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 commissioner in the same manner as original agreements in regard to compensation are required to be approved by the provisions of section 30 of this act.

Forms and orders.

Sec. 37. The commission may 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 interpreting this act it shall construe it liberally and with a view to carrying out its general purpose. The rule that statutes in derogation of the common law are to be strictly construed shall have no application to this act.

Death of petitioner.

Sec. 38. 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.

Claims barred in two years.

Sec. 39. An employee's claim for compensation under this act shall be barred unless an agreement or a petition, as provided in section 30, 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.

Public employments.

Sec. 40. This act shall be compulsory as to the State, counties, cities, water districts, and other quasi-municipal corporations of a similar nature. The provisions of section 6 of this act shall not apply to the State, counties, cities, water districts, and other quasi-municipal corporations of a similar nature, or to any towns voting to accept the provisions of this act.

Reports of accidents.

Sec. 41. All assenting employers shall make prompt reports to the commission of all accidents to their employees in the course of employment, with the average weekly wages or earnings of such employees, and together with such other particulars as the commission may require and shall also report whenever the injured employee shall resume his employment and the amount of his wages or earnings.

Settlements.

Whenever any final settlement is made with any injured employee, either by the employer or insurance company, a copy of the receipt or final agreement showing the total amount of money paid to such injured employee, shall be filed with the commission, but shall not be binding without the approval of the commission or of its chairman. Any employer or insurance company that shall willfully neglect or refuse to make such reports or file any receipts or agreements required to be filed under this act, shall be liable to a forfeiture of ten dollars for each day of such willful neglect or refusal, to be enforced by the commission in an action of debt in the name of the State. All sums so recovered shall be paid into the State treasury and be credited to the appropriation made for the administration of this act.

Penalties.
Sec. 42. Any insurance company insuring employers under this act shall fill out any blanks and answer all questions submitted to them that may relate to policies, premiums, amount of compensations paid, and such other information as the commission or the insurance commissioner may deem important, either for the proper administration of this act or for statistical purposes. Any insurance company which shall refuse to fill out such blanks or answer such questions shall be liable to a forfeiture of ten dollars for each day of such refusal, to be enforced by the commission in an action of debt in the name of the State. All money so recovered shall be paid into the State treasury and credited to the appropriation for the administration of this act.

Sec. 43. The commission shall make an annual report giving full statistical information as may be contained in their department in relation to the administration of this act, particularly with reference to the number of employees effected [sic], the number injured, the amount of compensations received and the cost of the same to the employers.

Sec. 44. This act shall affect the liability of employers to employees engaged in interstate or foreign commerce or otherwise only so far as the same is permissible under the laws of the United States.

Sec. 45. 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 commission upon 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.

Sec. 46. If any part or section 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, which can be given effect without the part so decided to be unconstitutional or invalid.

Sec. 47. If for the purpose of obtaining any benefit or payment under the provisions of this act, either for himself or for any other person, anyone willfully makes a false statement or representation, he shall be guilty of a misdemeanor and liable to a fine of not exceeding fifty dollars, and he shall forfeit all right to compensation under this act after conviction for such offense.

Sec. 48. The duties of the commission shall begin on the first day of October, A. D. nineteen hundred and fifteen, but the provisions of this act shall not apply to injuries sustained or accidents which occur prior to January one, A. D. nineteen hundred and sixteen.

Sec. 49. The commission shall have authority to provide blank forms of notices, agreements, and other forms required in its department under this act.

Sec. 50. All acts and parts of acts inconsistent with this act are hereby repealed.

Sec. 51. This act may be cited as the workmen's compensation act.

7044°—Bull. 185—15—12
MARYLAND.

ACTS OF 1914.

Chapter 800.—Compensation of workmen for injuries.

Section 1. 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 governor shall appoint such commissioners (not more than two of whom shall belong to the same political party). 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 devote his entire time to the duties of the office, and shall not hold any position of trust 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. Each commissioner shall hold office until his successor shall be appointed and shall have qualified. Vacancies shall be filled by the governor for the unexpired term. A decision on any question arising under this act concurred in by two of the commissioners shall be the decision of the commission. The governor may at any time remove any commissioner from office 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 a time when he can be heard in his own defense, either in person or by counsel, which shall not be less than ten days thereafter, and such hearing shall be open to the public. The governor shall designate a member of said commission as chairman thereof. The principal office of the commission shall be in the city of Baltimore, but branch offices may be established at other places in the State for the purpose of administering this act.

Sec. 2. 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 remains. Any investigation, inquiry or hearing 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.

Sec. 3. The salary of each of the commissioners shall be three thousand dollars ($3,000) per annum, and shall be paid out of the State treasury, and in addition to the said sum of $3,000 per annum, each of said commissioners shall also receive the sum of $2,000 per annum which shall be paid out of its funds by the mayor and city council of Baltimore to each of said commissioners as employees of said municipal corporation. In addition to the salary provided in this section, each commissioner shall be allowed his actual and necessary traveling and incidental expenses.

Sec. 4. 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. 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 paid or allowed to any employee of the commission, or to any other person for service: Provided, however, That any person in the employ of the commission who shall divulge any information secured by him in respect to the transactions, property or business of any person, firm, company or corporation, association or joint partnership to any person other than the members of the commission, shall be guilty of a misdemeanor, and subject to a fine of not less than $100 or more than $500 or imprisonment, not exceeding 18 months in the discretion of the court, and shall thereafter be disqualified from holding any appointment or employment with the commission.

Sec. 5. The commission may employ a secretary, actuaries, accountants, inspectors, examiners, experts, clerks, stenographers and other assistants, and fix their compensation subject to the written approval of the governor; such compensation shall be paid out of the appropriation in the State treasury provided for in this act. The secretary, actuaries, accountants, inspectors, examiners, experts, clerks, stenographers and other assistants that may be employed shall be entitled to receive their actual 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. The commission shall keep and maintain its main office and such branch offices as it shall deem proper and necessary for the administration of the act, and shall provide suitable rooms, necessary office furniture, supplies, books, periodicals and maps for the same. All necessary expenses shall be audited and paid out of the appropriation in the State treasury provided for in this act. It shall provide itself with a seal for the authentication of its orders, awards and proceedings, upon which shall be inscribed the words "State Industrial Accident Commission, State of Maryland—Official Seal."

Each member of the commission and each person appointed to office or employment by the commission shall before entering upon the duties of his office or employment take and subscribe the constitutional oath of office.

Sec. 6. The secretary of the commission shall keep and maintain a full and true record of all proceedings of the commission, of all documents or papers ordered filed by the commission or by its rules, of decisions or orders made by any member of the commission 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. He shall have the 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. He may designate, from time to time with the approval of the commission, one of the clerks of the office appointed by the commission to exercise the powers and duties of the secretary during his absence. Under the direction of the commission, the secretary shall have general charge of its office, superintend its clerical business and perform such other duties as the commission may prescribe.

Sec. 7. Each member of the commission, the secretary thereof, and any special examiner or inspector shall for the purpose contemplated by this act have power to issue subpoenas, compel the attendance of witnesses, administer oaths, certify to official acts, take depositions within or without the State of Maryland as now provided by law, compel the production of pertinent books, pay rolls, accounts, papers, records, documents and testimony.

If a person in attendance before the commission or a commissioner refuse, without reasonable cause, to be examined or to answer a legal and pertinent question, or to produce a book or paper when ordered to do so by the commission, the commission may apply to any judge of the supreme bench of Baltimore City,
or of the circuit court of any county, upon proof by affidavit of the fact, for a rule or order returnable in not less than two or more than five days, directing such person to show cause before the judge who made the order, or any other judge aforesaid, why he should not be committed to jail: Upon the return of such order, the judge before whom the matter and such person shall come on for a hearing shall examine under oath such person and such person shall be given an opportunity to be heard; and if the judge shall determine that such person has refused, without reasonable cause or legal excuse, to be examined or to answer a legal or pertinent question, or to produce a book or paper which he was ordered to bring or produce, he may forthwith 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.

No person shall be excused from testifying or from producing any books or papers or documents in any investigation or inquiry by or upon any hearing before the commission or any commissioner, when ordered to do so by the commission or its secretary, upon the ground that the testimony or evidence, books, papers, or documents required of him may tend to incriminate him or subject him to penalty or forfeiture; but no person shall be prosecuted, punished or subjected to any penalty or forfeiture for or on account of any act, transaction, matter or thing concerning which he shall, under oath, have, by order of the commission or a commissioner or its inspector or examiner, testified to or produced documentary evidence of: Provided, however, That no person so testifying shall be exempt from prosecution or punishment for any perjury committed by him in his testimony.

Sec. 8. Each officer who serves such subpoena shall receive the same fee as the sheriff would receive in the county or city where said witness is subpoenaed 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 prescribed by law in cases pending before the circuit courts of the counties or the common-law courts of Baltimore City, as of the place where he gives his testimony, which shall be audited and paid from the State treasury in the same manner as other vouchers approved by any member of the commission and the secretary. No witness subpoenaed at the instance of a party other than the commission, or an inspector or examiner, shall be entitled to compensation from the State treasury unless the commission shall certify that his testimony was material to the matter investigated. 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 taken in cases pending before the circuit courts of the counties or the common-law courts of Baltimore City, as is now or hereafter may be provided by law.

Sec. 9. Subject to the provisions of this act, the State industrial accident commission shall adopt reasonable and proper rules to govern its procedure, which procedure shall be as summary and simple as reasonably may be. It shall regulate and provide for the kind and character of notices, and the services thereof, and in cases of injury by accident to employees, the nature and extent of the proofs and evidence and the method of taking and furnishing the same for the establishment of the right to compensation. It shall determine the nature and forms of application of those claiming to be entitled to benefits or compensation, and shall regulate the method of making investigations, physical examinations and inspections and prescribe the time within which adjudications and awards shall be made: Provided always, That all such rules and regulations shall conform to the provisions of this act.

Sec. 10. The 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 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.
Evidence.

Sec. 11. A transcribed copy of the evidence and proceedings or any specific part thereof, of 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, or of a particular witness, or any 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 in interest upon payment of the fee therefor, as provided for transcripts in the circuit courts of the counties or the common-law courts of Baltimore City.

Blanka.

Sec. 12. 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 or compensation notices, to employers, proof 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.

Reports.

Sec. 13. Annually on or before the first day of January the State Industrial accident commission shall make a report to the governor, which shall include a statement of the number of awards made by it, the causes of the accidents leading to the injuries for which the awards were made, and a detailed statement of the expenses of the commission and the condition of the State accident fund, together with any other matters which the commission deems proper to report to the governor, including any recommendations it may desire to make.

Compensation to be paid.

Sec. 14. Every employer, subject to the provisions of this act, shall pay or provide as required herein compensation according to the schedules of this act 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 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 act.

Suits allowed, when.

The liability prescribed by the last preceding paragraph shall be exclusive that [but] if an employer fail to secure the payment of compensation for his injured employees and their dependents as provided in this act, an injured employee or his legal representative in case death results from the injury, may, at his option, elect to claim compensation under this act, 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. If an employer, besides employing workmen in extra-hazardous employment within the meaning of this act, shall also employ workmen in employments not extra-hazardous, the provisions of this act shall apply only to the extra-hazardous employments within the meaning of this act and the workmen employed therein, except as provided in section 33 of this act.

Sec. 15. The employer shall secure compensation to his employees in one of the following ways:

(1) By insuring and keeping insured the payments of such compensation in the State accident fund, or
(2) By insuring and keeping insured the payments of such compensation with any stock corporation or mutual association authorized to transact the business of workmen’s compensation insurance in this State.

(3) Any such employer who does not with the approval of said commission voluntarily insure the payment of the compensation by one of the methods designated in the preceding paragraphs of this section, must furnish satisfactory proof to the commission of his financial ability to pay such compensation himself, in which case the commission may, at any time and from time to time in its discretion, require the deposit with the commission of securities, such as are accepted by the equity courts of Baltimore City for the investment of trust funds and in an amount or amounts to be determined by the commission, to secure the liability of the employer to pay the compensation specified in this act; and in order to be informed as to the continued financial responsibility of any such employer the commission may require reports from him annually or at such other times as the commission may deem necessary or advisable and may examine such employer under oath or make such other examination of his business as the commission may determine. If he should fail to furnish such satisfactory proof, or give bond, or deposit such securities as required by the commission, or if he should at any time fail to render satisfactory reports to the commission or otherwise satisfy the commission of his continued financial ability to pay the compensation himself, he shall be subject to the provisions of the first paragraph of this section of this act and shall be required by the commission to insure as provided in the first paragraph of said this section, unless he, at once insure voluntarily as provided in the second paragraph of this section.

Any employer subject to the provisions of this act, who after November first, nineteen hundred and fourteen, fails or refuses to submit to said commission, as provided in the next succeeding paragraphs, the method he desired to adopt for assuring compensation, shall be guilty of a misdemeanor, and shall be subject to a fine of not less than five hundred nor more than five thousand dollars. The court may, in its discretion, remit any such penalty, provided the employer in default assures the compensation as provided in this section.

Any employer who may wish to adopt any one of the methods mentioned in the preceding paragraphs for assuring the payment of compensation to his employees and their dependents, shall first submit to the State industrial accident commission the method he wishes to adopt. The said commission may approve or reject the method proposed. If rejected, the employer may submit another method authorized under this act. The said commission may from time to time revise or alter its decision in approving the election of any employer to adopt any one of the methods of assuring payment of the compensation as provided for in this act, if such action is reasonably necessary to secure and safeguard such payments to employees and for the diminishing and prevention of accidents. Any decision of said commission under this section or section 14 of this act may be reviewed by writ of certiorari in the circuit court for the county in which the employer may reside or in any of the common-law courts of Baltimore City, if the employer resides in Baltimore City.

Any employer subject to the provisions of this act, who fails or refuses to insure voluntarily the payment of the compensation specified in this act to his employees and their dependents through one of the methods of assurance of payment, mentioned in the second paragraph of this section of this act, or fails to furnish satisfactory proof to the commission of his financial ability to pay such compensation himself, or give bond or deposit securities as aforesaid, shall, at any time after November first, nineteen hundred and fourteen, be compelled by the commission to insure to his employees and their dependents the payment of the compensation, specified in this act, by paying to the State treasurer for
the use and benefit of the State accident fund, hereinafter au-

thorized to be established, the premiums or taxes levied and pub-

lished by the commission for the group of employments, industries 
or work to which such employer belongs. And any such em-

ployer who fails or refuses to so insure within ten days, after 
being ordered by the commission to do so, shall be liable to the 
State in an amount equal to the premiums or taxes required of 
him for six months’ insurance in the State accident fund, as a 
penalty, which, together with his premium or tax due the State 
accident fund for the first six months, may be collected by the 
commission in the same manner and with the same effect as pro-
vided in section 22 of this act for the collection of premiums or 
taxes in default.

In exercising the discretion conferred upon it by this section 
and section 14 of this act the State industrial accident commission 
shall consider the reputation of any insurance company or asso-
ciation, in which any such employer may desire to insure, for 
promptness and fairness in the settlement of compensation claims, 
without unreasonable resistance on the part of any such insur-
ance company or association, and shall also consider the financial 
strength of the employer, the number of employees employed, the 
degree of hazard to employees engaged in the employment, the 
likelihood or danger of several employees being injured or killed 
by one and the same accident, the relative influence, the different 
methods, by which compensation may be assured under this act, 
are likely to exert upon the employer and his employees for the 
prevention of accidents, and any other facts or conditions bearing 
upon the security and promptness of payment of the compensation 
and the prevention of accidents.

Sec. 16. The State industrial accident commission is hereby 
authorized and directed to create and establish a fund to be 
known as the “State accident fund,” for the purpose of insuring 
employers against liability under this act and to their employees 
and their dependents the payment of the compensation specified 
in this act. Such fund shall consist of all premiums or taxes 
received and paid into the fund and of property and securities 
acquired and interest earned through the use of moneys belonging 
to the fund. Said fund shall be administered by the commission 
without liability on the part of the State or the custodian thereof 
beyond the amount of such fund, and 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 act.

Sec. 17. For the purpose of creating such State accident fund 
each employer insured in this fund or required to be insured 
therein by this act shall pay into the State treasury the pre-
miums of liability based upon and being such percentage of the 
pay roll of such employer, as may have been determined and pub-
lished by the commission and be then in effect. The premiums 
shall be paid quarterly, and shall be the prescribed percentage 
of the total wages paid to all employees subject to the act for 
such preceding quarter. The State treasurer shall issue his re-
cipt for any sums paid him hereunder in duplicate, the original 
to be delivered to the person, firm or corporation or other em-
ployer paying the same and the duplicate to be filed with the com-
mision: Provided, however, That in order to create a fund avail-
able upon the application of this act as aforesaid on November 
first, one thousand nine hundred and fourteen, the payment for 
the months of November, one thousand nine hundred and four-
teen, to February, inclusive, one thousand nine hundred and fif-
teen, shall be made on or before November first, one thousand 
ine hundred and fourteen, and be preliminarily based upon the 
pay roll of the operations of the first four months of the year 
one thousand nine hundred and fourteen. If any employer be 
found to have overpaid for such four months he may deduct such 
overpayment from the second quarterly payment made to the 
fund; if any employer be found to have underpaid for such four 
months, he shall pay the deficiency with the first quarterly pay-
ment made by him after the end of said four months.
Sec. 18. If a single establishment of work insured in the State accident fund comprises several occupations listed in section 32 of this act, 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. In computing the pay roll the entire compensation received by every workman employed in extrahazardous work and insured in the State accident fund, within the meaning of this act, 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: Provided, The money value of board and similar advantages shall have been fixed by parties at the time of hiring.

Sec. 19. It shall be the duty of the commission to classify any industries subject to this act mentioned or not mentioned which are insured in the State accident fund. And the commission shall have power on or before the first day of January of each year to reclassify such industries, or oftener, if in the opinion of the commission the same should be deemed just and advantageous; 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 guarantee a workmen's compensation fund from year to year. It shall be the duty of the commission in determining the rates, in order to create a fund sufficiently large to guarantee a workmen's compensation fund from year to year to also reclassify from time to time the industries or occupations in order that there may be a flexible adjustment of the rates as the hazard fluctuates, and to use all means in their power through the rate adjustment to lessen the opportunities for injuries to the workmen. The classification so determined and the rates of premium established shall be applicable for such year; and based 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 the employee partly within and partly without the State shall be deemed to be such proportion of the total pay of such employee as his service within the State bears to his services outside the State.

Sec. 20. The commission may establish and require all employers insured in the State accident fund to install and maintain a uniform form pay roll. The commission shall ascertain and establish the amounts to be paid into and out of the accident fund, issue proper receipts for moneys received, and certificates for benefits accrued and accruing from the State accident fund.

Sec. 21. Every employer subject to the operation and effect of this act who shall insure in the State accident fund, shall every four months submit a report to the commission herein created, according to the regulations and requirements it may prescribe, of his pay roll for the four months then ending. A failure to comply with this section shall subject the employer to an extra contribution of one hundred dollars to be collected by the commission in a civil action in its name. The amount collected under this section shall be paid into the State accident fund. Any employer who shall with fraudulent intent misrepresent to the commission the amount of pay roll upon which the premium under this act is based shall be liable to the commission in ten times the amount of the difference in the premium paid and the amount the employer should have paid. The liability to the commission under this provision shall be enforced in a civil action in the name of the commission. All sums collected under this section shall be paid into the State accident fund.

Sec. 22. If an employer shall default in any payment required to be made by him to the State accident fund, the amount due from him shall be collected by civil action against him in the name of the State of Maryland, and it shall be the duty of the commis-
sion on the first Monday of each month after November first, nineteen hundred and fourteen, to certify to the attorney general 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 each employer, and it shall then be the duty of the attorney general forthwith to bring or cause to be brought against each 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 accident fund, and each employer’s compliance with the provisions of this chapter requiring payments to be made to the State accident fund shall date from the time of the payment of said money so collected as aforesaid to the said commission for credit to the State accident fund.

Sec. 23. Ten per centum of the premiums collected from employers insured in the State accident fund shall be set aside by the commission for the creation of a surplus until such surplus shall amount to the sum of fifty thousand dollars, and thereafter five per centum of such premiums until such time as in the judgment of said 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.

Sec. 24. The treasurer of the State shall be the custodian of the State accident fund and all disbursements therefrom shall be paid by him upon order or voucher, approved and signed by the chairman or acting chairman and secretary of the commission, and directed to the comptroller of the State, who shall draw his warrant therefor. It shall be the duty of the treasurer to keep and maintain the fund herein created separate and distinct from other State funds. On and after January 1st, 1915, the obligation in the bond of the State treasurer shall contain a provision securing the protection of this fund.

Sec. 25. Whenever and as often as there shall be in the hands of the treasurer any sum belonging to the State accident 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 invest the same in interest-bearing securities, such as are accepted by the equity courts of Baltimore City for the investment of trust funds, 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.

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 accident fund deposited by the State treasurer shall be collected by him and placed to the credit of the fund.

Sec. 26. Any employer, after entering the State accident fund may withdraw from said fund after the period of one year upon giving sixty (60) days’ written notice of his intention so to do and upon paying all arrears, if any, of premiums due the said fund and such other equitable assessments as may be determined by the commission to cover accidents occurring in the industries in which his occupation may be classified: Provided, That if at the time of such withdrawal liability shall exist against the accident fund for compensation to employees or dependents of employees who have heretofore been killed or injured as herein provided, such employer shall relieve the State accident fund from such liability by depositing with the State treasurer for the benefit of said fund the then present value of the total unpaid compensation for which such liability exists, assuming interest at
the rate of 6 per cent, or by purchasing an annuity with the limitations provided by law with any insurance company approved by the commission and licensed in this State.

Sec. 27. As soon as practicable after December thirty-first, 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 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 act.

Sec. 28. If this act shall be hereafter repealed, all moneys which are in the State 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.

Sec. 29. Every policy 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. No company or association shall enter into any such policy of insurance until such company or association shall first obtain from the insurance commissioner of Maryland a license of authority for the purpose, which said commissioner of insurance shall have full power and authority from time to time to determine the adequacy of its or their premium rates for carrying compensation insurance as provided in this law, and until the form of such policy shall have been approved by the State industrial accident commission; and said insurance commissioner shall have full power and authority to require said insurance companies to establish and maintain adequate rates to cover respective risks to which their policies are applicable under the provisions of this act. Any person violating the provisions of this section shall be subjected to a fine of not less than one hundred nor more than one thousand dollars for each offense.

Sec. 30. 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 State of Maryland 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.

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; the 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 for the payment of compensation under the provisions of this act.

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.
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, if engaged in extrahazardous employment, shall be absolutely void unless it shall also cover liability for the payment of the compensation provided for by this act.

Cancellation. No contract or insurance issued by a stock company or mutual association against liability arising under this act shall be canceled 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.

Existing policies, etc. Sec. 31. Nothing herein shall affect any existing contract of policy of employer's liability insurance or the liability of any mutual insurance association, or any arrangement now existing between employers and employees, providing 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; but liability for the compensation specified in 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 such insurance or other contract, have the right to recover the compensation directly from the employer.

Extrahazardous employments. Sec. 32. Compensation provided for in this act shall be payable for injuries sustained or death incurred by employees engaged in the following extrahazardous employments:

1. The operation, including construction and repair of railways operated by steam, electric or other motive power, street railways and incline railways, but not in their construction when constructed by any person other than the company which owns or operates the railways, including work of express, sleeping, parlor and dining car employees on railway trains.

2. Construction and operation of railways not included in paragraph one.

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.

4. The operation, including construction and repair, of car shops, machine shops, steam and power plants, not included in paragraph 3.

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.

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.

7. Construction of telegraph and telephone lines not included in paragraphs 5 and 6.

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.

9. Shipbuilding, including construction and repair in a shipyard or elsewhere, not included in paragraph 8.
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.

11. Subaqueous or caisson construction and pile driving.

12. Construction, installation or operation of electric-light and electric-power lines, dynamos or appliances and power transmission lines.

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 paragraph 5 of this section.

14. lumbering, logging, river driving, rafting, booming, sawmills, shingle mills, lath mills, manufacture of veneer and of excelsior, manufacture of staves, spokes or headings.

15. Pulp and paper mills.

16. Manufacture of furniture, interior woodwork, organs, pianos, plano actions, canoes, small boats, coffins, wicker and rattan ware, upholstering, manufacture of mattresses or bed springs.

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.

18. Mining, reduction of ores and smelting, preparation of metals or minerals.

19. Quarries; sand, shale, clay or gravel pits, lime kilns; manufacture of brick, tile, terra cotta, fireproofing, or paving blocks, manufacture of calcium carbide, cement, asphalt or paving material.

20. Manufacture of glass, glass products, glassware, porcelain or pottery.

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.

22. Operation and repair of stationary engines and boilers, not included in other paragraphs of this section.

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.

24. Manufacture of agricultural implements, threshing machines, traction engines, wagons, carriages, sleighs, vehicles, automobiles, motor trucks, toy wagons, sleighs or baby carriages.

25. Manufacture of explosive and dangerous chemicals, corrosive acids or salts, ammonia, gasoline, petroleum, petroleum products, celluloid, gas, charcoal, gun powder or ammunition.

26. Manufacture of paint, color, varnish, oil, japans, turpentine, printing ink, printers' rollers, tar, tarred, pitched or asphalted paper.

27. Distilleries, breweries; manufacture of spirituous or malt liquors, alcohol, wine, mineral water or soda waters.

28. Manufacture of drugs and chemicals, not specified in paragraph 25, medicines, dyes, extracts, pharmaceutical or toilet preparations, soaps, candles, perfumes, noncorrosive acids or chemical preparations, fertilizers, including garbage disposal plants; shoe blacking or polish.

29. Milling; manufacture of cereals or cattle foods, warehousing; storage; operation of grain elevators.

30. Packing houses, abattoirs, manufacture or preparation of meats or meat products or glue.

31. Tanneries.

32. Manufacture of leather goods and products, belting, saddlery, harness, trunks, valises, boots, shoes, gloves, umbrellas, rubber goods, rubber shoes, tubing, tires or hose.
33. Canning or preparation of fruit, vegetables, fish or foodstuffs; pickle factories and sugar refineries.
34. Bakeries, including manufacture of crackers and biscuits, manufacture of confectionery, spices or condiments.
35. Manufacture of tobacco, cigars, cigarettes or tobacco products.
36. Manufacture of cordage, ropes, fiber, brooms or brushes; manila or hemp products.
37. Flux mills; manufacture of textiles or fabrics, spinning, weaving and knitting manufactories; manufacture of yarn, thread, hosiery, cloth, blankets, carpets, canvas, bags, shoddy or felt.
38. Manufacture of men’s or women’s clothing, white wear, shirts, collars, corsets, hats, caps, furs or robes.
39. Power laundries; dyeing, cleaning or bleaching.
40. Printing, photo-engraving, stereotyping, electrotyping, lithography, embossing; manufacture of stationery, paper, cardboard boxes, bags or wall paper; and bookbinding.
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.
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; bricklaying, 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.
43. In addition to the employments set out in the preceding paragraphs, this act is intended to apply to all extra-hazardous employments not specifically enumerated herein.

Sec. 33. Any employer, his employee or employees engaged in works not extra-hazardous within the meaning of this act may, by their joint election, filed with the commission, accept the provisions of this act and such acceptances when approved by the commission, shall subject them to the provisions of this act to all intents and purposes as if they had been originally included in its terms.

Any workman of the age of sixteen years and upwards may himself exercise the election hereby authorized. The right of election hereby authorized shall be exercised on behalf of any workman under the age of sixteen years by his parent or guardian. Nothing herein shall be construed to apply to workmen of less than the minimum age prescribed by law for the employment of minors in the occupation in which such workman shall be engaged.

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 workmen 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, which shall subject the acceptors to the provisions of this act to all intents and purposes as if they had been originally included in its terms.

Sec. 334. Whenever there shall have been enacted by the Congress of the United States and shall be in effect any act providing an exclusive remedy and compensation to employees of common carriers by railroad while employed in interstate or foreign commerce who sustain personal injury by accident arising out of and in the course of such employment and resulting in disability, or to the dependents of such employees in case such injury results
In death, it shall be lawful for any such common carrier by railroad in this State and its employees or any of them, by agreement between such employer and employees, to provide for the payment by the employer of compensation in the amounts at the times and in the manner specified in said act of Congress to any employee who, while employed by such employer in commerce or business wholly within this State, 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 defined in said act of Congress, of such employee in case such injury results in his death; and in and by such agreement to stipulate and agree that, except as provided therein, such employer shall not be civilly liable for any injury to or death of any such employee resulting from any such accident.

If any such employer shall file with the commission an instrument in writing under its corporate seal offering to enter into such an agreement with all and any of its employees in this State and referring to such act of Congress, and shall cause notice of such offer filed to be published once each week for three successive weeks following the date of such filing in a newspaper published in each county in this State through which such employer runs regularly any freight or passenger train, and in two newspapers published in the city of Baltimore, if such employer runs regularly any freight or passenger train into or through said city, every employee of such employer shall be conclusively presumed to accept such offer of the employer and to have entered into such agreement, unless such employee shall, within thirty days after the filing of such offer by the employer, file with the commission a notice in writing or statement declining such offer; and at the expiration of said period of thirty days the terms of said agreement shall be mutually binding upon the employer and upon every employee not so declining, but any employee or the employer may at any time by filing with the commission not less than thirty days' notice in writing of his or its intention so to do, terminate such agreement upon his or its part as to all accidental injuries occurring after the expiration of such notice.

Sec. 34. Whenever the State, county, city or any municipality shall engage in any extra-hazardous work within the meaning of this act in which workmen are employed for wages, this act shall be applicable thereto. Whenever and so long as by State law, city charter or municipal ordinance, provision equal or better than that given under the terms of this act is made for municipal employees injured in the course of employment such employees shall not be entitled to the benefits of this act.

Sec. 35. Each employee (or in case of death his family or dependents), entitled to receive compensation under this act shall receive the same 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 whosoever.

1. In case of total disability adjudged to be permanent fifty per centum of the average weekly wages shall be paid to the employee during the continuance of such total disability, exclusive of the first week, 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 established 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, but not to exceed a total of $5,000. 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.

2. In case of temporary total disability fifty per centum of the average weekly wages shall be paid to the employee during the continuance thereof, but not in excess of a maximum of twelve
dollars per week, and not less than a minimum of five dollars per week [unless the employee’s established weekly wages are less than five dollars per week at the time of the injury], in which event he shall receive compensation equal to his full wages, but in no case to continue more than six years from the date of the injury or to exceed thirty-seven hundred and fifty dollars in the aggregate.

3. In case of disability partial in character but permanent in quality the compensation shall be fifty per centum of the average weekly wages in no case to exceed twelve dollars per week or more than three thousand dollars in the aggregate, and shall be paid to the employees for the period named in the schedule as follows:

<table>
<thead>
<tr>
<th>Partial Disability</th>
<th>Compensation Period</th>
</tr>
</thead>
<tbody>
<tr>
<td>Thumb</td>
<td>Fifty weeks</td>
</tr>
<tr>
<td>First finger</td>
<td>Thirty weeks</td>
</tr>
<tr>
<td>Second finger</td>
<td>Twenty-five weeks</td>
</tr>
<tr>
<td>Third finger</td>
<td>Twenty weeks</td>
</tr>
<tr>
<td>Fourth finger</td>
<td>Fifteen weeks</td>
</tr>
<tr>
<td>Great toe</td>
<td>Twenty-five weeks</td>
</tr>
<tr>
<td>Other toes</td>
<td>Ten weeks</td>
</tr>
<tr>
<td>Hand</td>
<td>One hundred and fifty weeks</td>
</tr>
<tr>
<td>Arm</td>
<td>Two hundred weeks</td>
</tr>
<tr>
<td>Foot</td>
<td>One hundred and fifty weeks</td>
</tr>
<tr>
<td>Leg</td>
<td>One hundred and seventy-five weeks</td>
</tr>
<tr>
<td>Eye</td>
<td>One hundred weeks</td>
</tr>
<tr>
<td>Loss of use</td>
<td>Ninety dollars</td>
</tr>
</tbody>
</table>

Amputations. Amputations between the elbow and the wrist shall be considered as the equivalent of the loss of an arm. 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 compensations, except the benefits provided in section 36 of this act.

Other cases. In all other cases in this class of disability the compensation shall be fifty per centum of the difference between his average weekly wages and his wage-earning capacity thereafter in the same employment or otherwise, if less than before the accident (but not to exceed twelve dollars per week), payable during the continuance of such partial disability, but not to exceed $3,000, and 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. In case of temporary partial disability, except the particular cases mentioned in subdivision three of this section, an injured employee shall receive fifty per centum of the difference between his average weekly wages and his wage earning capacity thereafter in the same employment or otherwise, if less than before the acci-
dent, during the continuance of such partial disability, but not in excess of three thousand five hundred dollars, except as otherwise provided in this act.

In case the injury causes death within the period of two years, the benefits shall be in the amounts and to the persons following:

If there be no dependents, the disbursements shall be limited to the expenses provided for in section thirty-six hereof.

If there are wholly dependent persons at the time of the death, the payment shall be fifty per cent of the average weekly wages, and to continue for the remainder of the period between the date of the death and eight years after the date of the injury, and not to amount to more than a maximum of four thousand two hundred and fifty dollars, nor less than a minimum of one thousand dollars.

If there are partly dependent persons at the time of the death, the payment shall be fifty per cent of the average weekly wages, and to continue for all or such portion of the period of eight years after the date of the injury, as the commission in each may determine, and not to amount to more than a maximum of three thousand dollars.

The following persons shall be presumed to be wholly dependent for support upon a deceased employee: A wife or invalid husband ("invalid" meaning one physically or mentally incapacitated from earning), a child or children under the age of sixteen years (or over said age if physically or mentally incapacitated from earning) living with or dependent upon the parent at the time of the injury or death.

In all other cases questions 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 death of such employee, but no person shall be considered as dependent unless such person be a father, mother, grandfather, grandmother, stepchild or grandchild, or brother or sister of the deceased employee, including those otherwise specified in this section.

An alien shall not be considered a dependent within the meaning of this act unless he be a resident within the United States.

Sec. 30. In addition to the compensation provided for herein the employer shall promptly provide for an injured employee, such medical, surgical or other attendance or treatment, nurse and hospital services, medicines, crutches and apparatus as may be required by the commission in an amount not to exceed the sum of one hundred and fifty dollars ($150). 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 or some one on his behalf 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 regulations by the commission, 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, and in case death ensues from the injury within two years, reasonable funeral expenses shall be allowed not to exceed the sum of seventy-five dollars ($75): Provided, however, That if there are no dependents and the deceased employee leaves sufficient estate to pay same, all expenses of last sickness and burial shall be paid by said estate and not by the employer or insurance company or commission out of the State accident fund, as the case may be. The commission shall have full power to adopt rules and regulations with respect to furnishing medical, nurse, hospital services and medicine to injured employees entitled thereto and for the payment therefor.

Sec. 37. Notice of an injury for which compensation is payable under this act shall be given to the employer within ten days after the accident, and also in case of the death of the employee resulting from such injury, within thirty days after such death. Such notice may 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. 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 accident fund, insurance company, or employer, as the case may be, has not been prejudiced thereby, shall be a bar to any claim under this act.

Whenever an accident occurs to any employee 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 (a) the time, cause and nature of the accident and injuries, and the probable duration of the injury resulting therefrom; (b) whether the accident arose out of or in the course of the injured person's employment; (c) any other matters the rules and regulations of the commission may prescribe.

Sec. 38. Where an employee is entitled to compensation under this act he shall file with the commission his application within thirty days together with the certificate of the physician, if any, who attended him.

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 attended by a physician, and such other proof as may be required by the rules of the commission.

Sec. 39. The commission shall make or cause to be made such investigation of any claim 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, if it deems proper, on the written application of any party in interest, or on its own motion, 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 with the right of either party to appeal to the commission from the finding of said arbitration committee on all questions of law and fact.

If changes of circumstances warrant an increase or rearrangement of compensation, like application shall be made. No increase or rearrangement shall be operative for any period prior to application therefor.

Sec. 40. Any person who shall knowingly secure or attempt to secure larger compensation or compensation for a longer term than he is entitled to, or knowingly secure or attempt to secure compensation when he is not entitled to any, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not exceeding five hundred dollars or imprisoned not exceeding twelve months, or both, in the discretion of the court, and shall from and after such conviction cease to receive any compensation.

Sec. 41. Any employee entitled to receive compensation under this act is required, if requested by the commission to submit himself for medical examination at a place reasonably convenient for the employee and as may be provided by the rules of the commission. If the employee refuses to submit to any such examination, or obstructs the same, his right to compensation shall be suspended until such exami-
nation has taken place, and no compensation shall be payable during or for account of such period.

Sec. 42. Should a further accident occur to an employee already receiving payment under this act for a disability, or who has been the recipient of a lump-sum payment under this act, his future compensation shall be adjusted according to the other provisions of this act, and with regard to the combined effect of his injuries and his past receipt of compensation under this act. In case of the remarriage of a dependent widow of a deceased employee without dependent children, all compensation under this act shall cease, and further no widow or widower shall receive any benefits under this act where the marriage shall have taken place after the person entitled to benefits hereunder shall have been injured, provided there are no dependent children.

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 any party in interest or upon its own motion, readjust for future application the rate of compensation in accordance with rules in this section provided, or in a proper case terminate the payments.

A husband or wife of an injured employee, who has deserted said employee for more than one year prior to the time of the injury or subsequently shall not be a beneficiary under this act.

In case of the remarriage of a dependent widow of a deceased employee without dependent children, all compensation under this act shall cease, and no widow or widower shall receive any benefits under this act where the marriage shall have taken place after the person entitled to benefits hereunder shall have been injured, provided there are no dependent children.

Sec. 43. 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 payments thereafter to become due to such beneficiary into a lump-sum payment, not in any case to exceed twenty-four hundred dollars, by paying a sum equal to three-fourths of the then value of such payments.

Sec. 44. If injury or death results to a workman from the Intentional injury.

Intentional

Injuries not compensated.

Sec. 47. 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 any injury to such minor employee unless otherwise herein provided.

Sec. 48. No compensation shall be allowed for two weeks after the injury is received except disbursements herein authorized for medical, nurse and hospital services and medicines, and for funeral expenses.

Sec. 49. 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 commission, which may apportion the benefits among the dependents in such manner as it may deem just and equitable. The dependent or persons to whom benefits are paid shall apply the same to the use of the sev-
eral beneficiaries thereof according to their respective claims upon
the decedent for support, in compliance with the findings and
direction of the commission.

Sec. 50. In every case providing for compensation to an em­
ployee or his dependent, excepting temporary disability, the com­
mission may, if in its opinion the facts and circumstances of the
 case warrant it, allow the compensation to be paid in a partial or
total lump sum.

Sec. 51. No money payable under this act shall prior to issuance
and delivery of the warrant or voucher therefor, be capable of
being assigned, charged or taken in execution or attachment.

Sec. 52. No employer or employee who are subject to the provi­
sions of this act shall exempt himself from the burden or waive
the benefit of this act by any contract, agreement, rule or regula­
tion, and any such contract, agreement, rule or regulation shall be
pro tanto void. No agreement by such employee to pay any por­
tion of the premium paid by such employer 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 two hundred dollars for each offense.

Sec. 53. The powers and jurisdiction of the commission over
each case shall be continuing, and it may from time to time make
such modifications or change with respect to former findings or
orders with respect thereto as in its opinion may be justified.

Sec. 54. If an employee shall be injured because of the absence
of any safeguard or protection required by the commission, the
employer shall be guilty of a misdemeanor and liable to a fine of
not less than $50 or more than $500 to be paid into the State acci­
dent fund.

Sec. 55. Any employer, employee, beneficiary or person feeling
aggrieved by any decision of the commission affecting his inter­
ests 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 or in the common-law courts of Baltimore City having
jurisdiction over the place where the accident occurred or over
the person appealing from such decision, and the court shall de­
terminate whether the commission has justly considered all the
facts concerning injury, whether it has exceeded the powers
granted it by the 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 cor­
rectly construed the law and facts, the decision of the commis­
sion shall be confirmed, otherwise it shall be reversed or modified.
Upon the hearing of such an appeal the court shall, upon motion
of either party filed with the clerk of the court according to the
practice in civil cases, submit to a jury any question of fact in­
volved in such case. The proceedings in every such an 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
personally upon some member of the commission within thirty
days following the rendition of the decision appealed from. An
appeal shall not be a stay. If the decision of the commission
shall be changed or modified, the practice prevailing in civil cases
as to the payment of costs and the fees of medical and other wit­
nesses shall apply. Appeal shall lie from the judgment of the
circuit court of the county or the common-law courts of Baltimore
City to the court of appeals as in other civil cases, and such ap­
peals shall have precedence over all cases except criminal cases.

The attorney general shall be the legal adviser of the commis­
sion and shall represent it in all proceedings whenever so re­
quested 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 the same.

Sec. 56. If the commission or the court before which any pro­
ceedings for compensation or concerning an award of compen­
tion have been brought, under this act, determines that such pro-
ceedings have not been so brought upon reasonable ground, it
shall assess the whole cost of the proceeding upon the party who
has so brought them. Claims for legal services in connection with
any claim for compensation under this act and claims for services or
treatment rendered or supplies furnished pursuant to section 36 of
this act, shall not be enforceable unless approved by the commis-
sion. 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.

Sec. 57. Where the injury or death 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, or in case of death, his
personal representative or dependents as hereinbefore defined,
may proceed either by law against that other person to recover
damages or against the employer for compensation under this act,
or in case of joint tort feasors against both; and if compensation
is claimed and awarded or paid under this act any employer may
enforce for the benefit of the insurance company or association
carrying the risk of the State accident fund, or himself, as the
case may be, the liability of such other person: Provided how-
ever, If damages are recovered 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 or, in case of death,
to his dependents, less the employer's expenses and costs of action.

Sec. 58. If the provisions of this act relative to compensation
for injuries to or death of employees 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 periodical pay-
ments 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 to the employee on account of injury for which the
action is prosecuted, shall be taken into account or disposed of as
follows: If the defendant employer shall have insured himself as
provided for in this act without delinquency, such sums as may
have been paid to the employee or his dependents on account of
injury or death, shall be credited upon recovery as payment
thereon.

Sec. 59. If any employer shall be adjudicated to be outside the
lawful scope of this act, the act shall not apply to him or his em-
ployees; 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.

Sec. 60. The rule that statutes in derogation of the common
law are to be strictly construed shall have no application to this to be liberal,
act; but this act shall be so interpreted and construed as to
enact its general purpose.

Sec. 61. In any proceedings for the enforcement of a claim for
compensation under this act, it shall be presumed in the absence
of substantial evidence to the contrary:
(a) That the claim comes within the provisions of this act.
(b) That sufficient notice thereof was given.
(c) 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.
(d) That the injury did not result solely from the intoxication
of the injured employee while on duty.

Sec. 62. Definitions as used in this act:
1. "Extra-hazardous employment" means a work or occupation
described in section 32 of this act.
2. "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 extrahazardous employments.

3. "Employee" means a person who is engaged in an extrahazardous employment in the service of an employer carrying on or conducting the same upon the premises or at a plant, or in the course of his employment away from the plant of his employer, and shall not include farm laborers. "Farm laborers" as used in this act, shall mean any employees who at the time of the accident, are engaged in rendering any agricultural service, including the threshing and harvesting of crops, or who, at the time of the accident, are engaged in service incidental to and in connection with agricultural pursuits or developments, whether the employer be the farmer or other person undertaking or contracting with the farmer to perform any such agricultural service, pursuit or development. This act shall not apply to farm laborers, domestic servants nor to country blacksmiths, wheelwrights or similar rural employments, nor in any case where the accident occurred before this act takes effect, nor to casual employees or any employee whose salary is in excess of two thousand dollars a year, or any employees who are employed wholly without the State.

4. "Employment" includes employment only in a trade, business or occupation carried on by the employer for pecuniary gain.

5. "Compensation" means the money allowance payable to an employee or to his dependents as provided for in this act, and includes funeral benefits provided therein.

6. "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.

7. "Death," when mentioned as a basis for the right to compensation means only death resulting from such injury.

8. "Average weekly wages" for the purposes of this act shall be taken to mean the average weekly wages earned by an employee when working on full time.

9. "State accident fund" means the State Insurance fund provided for in section 16 of this act.

10. "Child" shall include a posthumous child and a child legally adopted prior to the injury of the employee.

11. "Beneficiary" means a husband, wife, child, children or dependents of an employee in whom shall vest a right to receive payment under this act.

Appropriation.

Sec. 63. The sum of forty thousand dollars ($40,000) annually for the years 1914, 1915 and 1916, or so much thereof as may be necessary annually for the maintenance of the State Industrial accident commission and the payment of the salaries and expenses of said commission and its officers and employees, and so much thereof, if any, as may be necessary to maintain a solvent State accident fund, is hereby appropriated, and shall be payable on the order or orders of the said commission from time to time, as in this law provided; and the comptroller shall draw his warrant upon the treasurer of Maryland, as in law provided, for the annual appropriations. And a further appropriation is hereby made of the sum of fifteen thousand dollars for the year 1914 for the necessary expenses of the aforesaid State industrial accident commission to cover printing, office fixtures and such other legitimate expenses as the commission may incur in establishing their office or offices as in this act contemplated and the comptroller of the State of Maryland shall draw his warrant upon the treasurer of Maryland for the said sum of fifteen thousand dollars ($15,000), or any part thereof, upon the order or orders presented to the State comptroller by the said State industrial accident commission.

Repeal.

Sec. 64. Chapter 153 of the Acts of 1910, as amended by chapter 445 of the Acts of 1912 of the General Assembly of Maryland [establishing a miners' cooperative insurance fund in Allegany
and Garrett counties] are hereby repealed, except for the purpose of providing confirmation for all claims which may arise thereunder, prior to the first day of November, 1914; and if after all such claims are paid, there be a surplus in the fund, it shall be turned over to the treasurer of Maryland for the account of the State industrial accident fund, but if there be a deficit in said fund at the time this act takes effect as between employers and employees, the payments provided for under chapter 153 of the Acts of 1910 as amended by chapter 445 of the Acts of 1912 shall be continued by the employers and employees of Allegany and Garrett counties to the treasurers of said counties until such pending claims are paid, when said payments shall cease.
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 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.

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.

Sec. 3. The provisions of section one shall not apply to actions to recover damages for personal injuries sustained by employees of a subscriber.

Sec. 4. The provisions of sections one hundred and twenty-seven to one hundred and thirty-five, inclusive, and 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.

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.

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.

Sec. 2. If the employee is injured by reason of his serious and willful misconduct, he shall not receive compensation.

Sec. 3 (.3 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 intrusted 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

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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 (as amended by chapter 708, Acts of 1914). During the first two weeks after the injury, and, if the employee is not immediately incapacitated thereby from earning full wages then from the time of such incapacity, and in unusual cases, in the discretion of the board, for a longer period, the association shall furnish reasonable medical and hospital services, and medicines, when they are needed. Where, in a case of emergency or for other justifiable cause, a physician other than the one provided by the association is called in to treat the injured employee, the reasonable cost of his services shall be paid by the association, subject to the approval of the industrial accident board. Such approval shall be granted only if the board finds that there was such justifiable cause and that the charge for the services is reasonable.

Death benefits.

Sec. 6 (as amended by chapter 708, Acts of 1914). 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 sixty-six and two-thirds per cent of his average weekly wages, but not more than ten dollars nor less than four dollars a week, for a period of five hundred weeks from the date of the injury; but in no case shall the amount be more than four thousand dollars. 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 five hundred weeks from the date of the injury.

Dependents.

Sec. 7 (as amended by chapter 708, Acts of 1914). 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 at the time of his death, or from whom, at the time of his death, the industrial accident board shall find the wife was living apart for justifiable cause or because he had deserted her. The findings of the board upon the questions of such justifiable cause and desertion shall be final.

(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: Provided, That in the event of the death of an employee who has at the time of his death a living child or children by a former wife or husband, under the age of eighteen years, (or over said age, but physically or mentally incapacitated from earning), said child or children shall be conclusively presumed to be wholly dependent for support upon such deceased employee, and the death benefit shall be divided between the surviving wife or husband and all the children of the deceased employee in equal shares, the surviving wife or husband taking the same share as a child. The total sum due the surviving wife or husband and her or his own children shall be paid directly to the wife or husband for her or his own use and for the benefit of her or his own chil-
dren, and the sums due to the children by the former wife or hus-
band of the deceased employee shall be paid to their guardians or
legal representatives for the benefit of such children.

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, and 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 ex-
tent of their dependency.

Sec. 8. If the employee leaves no dependents, the association
shall pay the reasonable expenses of his last sickness and burial,
which shall not exceed two hundred dollars.

Sec. 9 (as amended by chapter 708, Acts of 1914). While the
incapacity for work resulting from the injury is total, the associa-
tion shall pay the injured employee a weekly compensation equal
to sixty-six and two-thirds per cent of 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 four
thousand dollars.

Sec. 10 (as amended by chapter 708, Acts of 1914). While the
incapacity for work resulting from the injury is partial, the asso-
ciation shall pay the injured employee a weekly compensation
equal to sixty-six and two-thirds per cent of the difference be-
tween his average weekly wages before the injury and the aver-
age 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 five hundred weeks
from the date of the injury, nor the amount more than four thou-
sand dollars.

Sec. 11 (as amended by chapter 708, Acts of 1914). In case of
the following specified injuries the amounts hereinafter named
shall be paid in addition to all other compensation:

(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, sixty-six and two-thirds per cent 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, sixty-six and
two-thirds per cent of the average weekly wages of the injured
person, for each hand or foot so severed, 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, of the same hand, or of
two or more toes of the same foot, sixty-six and two-thirds per
cent 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
twenty-five weeks for each hand or foot so injured.

(d) For the loss by severance of at least one phalange of a
finger, thumb, or toe, sixty-six and two-thirds per cent 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
twelve weeks for each hand or foot so injured.

(e) The additional amounts provided for in this section in case
of the loss of a hand, foot, thumb, finger, toe, or phalange, shall
also be paid for the number of weeks above specified in case the
injury is such that the hand, foot, thumb, finger, toe or phalange
is not lost but so injured as to be permanently incapable of use.

Sec. 12. No savings or insurance of the injured employee, inde-
pendents.
dependent 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.

Sec. 33 (as amended by chapter 708, Acts of 1914). 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. When the appointment of a legal representative of a deceased employee, not otherwise necessary, is required for carrying out the provisions of this act, the association shall furnish or pay for all legal services rendered in connection with the appointment of such legal representative, or in connection with any of his duties, and shall pay the necessary disbursements for such appointment, the necessary expenses of such legal representative, and reasonable compensation to him for time necessarily spent in carrying out said provisions. All of said payments shall be in addition to all sums paid for compensation.

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.

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.

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.

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.

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.

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 examina­
tion, 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 sub­
ject to attachment, or be liable in any way for any debts.

Sec. 22 (as amended by chapter 708, Acts of 1914). Whenever
any weekly payment has been continued for not less than six
months, the liability therefor may, in unusual cases where the
parties agree and the board deems it to be for the best interest
of the employee or his dependents, be redeemed by the payment,
in whole or in part, by the association of a lump sum which shall
be fixed by the board, but in no case to exceed the amount pro­
vided by this act. The board may, however, in its discretion at
any time in the case of a minor who has received permanently
disabling injuries, either partial or total, provide that he be com­
penated in whole or in part by the payment of a lump sum, the
amount of which shall be fixed by the board, but in no case to ex­
ceed the amount provided by this act.

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 per­
son 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 pro­
cedings under this act if it is found that it was occasioned by
mistake or other reasonable cause.

Sec. 24 (added by chapter 708, Acts of 1914). Whenever any
question involving the compensation of an injured employee, or
his dependents, is appealed to the supreme judicial court, and
the decision rendered is in favor of the employee or his depend­
ents, interest to the date of payment shall be paid by the associa­
tion on all sums due as compensation to such employee or de­
pendents.

PART III.

PROCEDURE.

Section 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 mem­
ber shall be appointed every year for the full term of five years.

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 sal­
ary of not more than three thousand dollars a year, and may re­
move him. It shall also be allowed such sums as may annually
be appropriated by the general court for clerical service, and
traveling and other necessary expenses. The board shall be pro­
vided with an office in the statehouse or in some other suitable
building in the city of Boston, in which its records shall be kept.
Sec. 3 (as amended by chapter 275, Acts of 1915). 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 simple and 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. Upon the written request of the board or of any member thereof, together with interrogatories and cross-interrogatories, if any there be, filed with the clerk of the superior court for any county of this Commonwealth, commissions to take depositions of persons or witnesses residing without the Commonwealth, or in foreign countries, or letters rogatory to any court in any other of the United States or to any court in any foreign country, shall forthwith issue from the said superior court, as in cases pending in said superior court, and upon the return of the said depositions or answers to letters rogatory the same shall be opened by the clerk of the court which issued the commissions or letters, and the said clerk shall indorse thereon the date upon which any deposition or answer to letters rogatory was received and the same shall forthwith be delivered shall be charged in such cases. 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. 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.

Sec. 5 (as amended by chapter 708, Acts of 1914). If the association and the injured employee fail to reach an agreement in regard to compensation under this act, or if they have reached such an agreement, which has been signed and filed in accordance with the provisions of this act, and compensation has been paid or is due in accordance therewith and the parties thereto then disagree as to the continuance of any weekly payments under such agreement, 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.

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.
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, 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.

Sec. 8 (as amended by chapter 708, Acts of 1914). 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, and the association shall reimburse the board for the amount so paid.

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.

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.

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 (as amended by chapter 708, Acts of 1914). Any weekly payment under this act may be reviewed by the industrial accident board, and on such review the board may, in accordance with the evidence and subject to the provisions of this act, issue any order which it deems advisable.

Sec. 13 (as amended by chapter 708, Acts of 1914). Fees of attorneys and physicians and charges of hospitals for services under this act shall be subject to the approval of the industrial accident board. If the association and any physician or hospital, or the employee and any attorney, fail to reach an agreement as to the amount to be paid for such services, either party may notify the board, which may thereupon call for the formation of a com-
mittee of arbitration in accordance with the provisions of this act, and all proceedings thereunder shall be in accordance with the provisions of this act.

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.

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.

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.

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.

Sec. 18 (as amended by chapter 746, Acts of 1913). 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 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. Upon the termination of the disability of the injured employee, the employer shall make a supplemental report upon blanks to be procured from the board for that purpose. If the disability extends beyond a period of sixty days, the employer shall report to the board at the end of such period that the injured employee is still disabled, and upon the termination of the disability shall file a final supplemental report, as provided above.

The said reports shall contain the name and nature of the business of the employer, the situation of the establishment, the name,
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age, sex, and occupation of the injured employee, and shall state the date and hour of any accident causing the injury, 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.

Copies of all reports of injuries filed by employers with the industrial accident board, and all statistics and data compiled therefrom, shall be kept available by the said board, and shall be furnished on request to the State board of labor and industries for its own use.

Within sixty days after the termination of the disability of the injured employee the association or other party liable to pay the compensation provided for by Part II of this act shall file with the board a statement showing the total payments made or to be made for compensation and for medical services for such injured employee.

PART IV.

THE MASSACHUSETTS EMPLOYEES INSURANCE ASSOCIATION.

Section 1 (as amended by special act 314, Acts of 1915). 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. The said association may also transact within the Commonwealth any kind of liability insurance which mutual companies are allowed by law to transact, and shall be governed by the laws now or hereafter in force relating to the transaction of such business by mutual companies, so far as the same are not in conflict with the provisions of this act.

Sec. 2 (as amended by chapter 338, Acts of 1914). The board of directors of the association shall consist of not less than fifteen members, to be elected by ballot by the members, who shall hold office for such term or terms as the by-laws may provide in accordance with the provisions of section twenty-six of chapter five hundred and seventy-six of the acts of the year nineteen hundred and seven and until their successors are elected.

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.

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.

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.

Sec. 6. Any employer in the Commonwealth may become a subscriber.

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.

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

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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.

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, and subscriptions to be subject to the provisions contained in the preceding section.

License.

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.

Risk groups.

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.

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.

Liabilities.

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.

Assessments.

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.

Every subscriber shall pay his proportional part of any assessments which may be laid by the associations, 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.

All premiums, assessments, and dividends shall be fixed by and for each group 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.

Dividends.

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.

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.
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.

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.

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.

Sec. 22. If a subscriber, who has complied with all the rules, regulations and demands of the association, is required by a judgment 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.

Sec. 23. [Repealed by special act 314, Acts of 1915.]

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.

PART V.

MISCELLANEOUS PROVISIONS.

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.

Sec. 2 (as amended by chapter 708, Acts of 1914). 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 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 the 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.

Sec. 4. [Repeals earlier laws.]

Sec. 5. [Prior injuries not covered.]

Sec. 6. [Time for taking effect.]

Sec. 7 (added by chapter 708, Acts of 1914). The association and all insurance companies insuring employees under the provisions of this act shall, at the request of the industrial accident board, furnish to said board in writing any information required in connection with the administration by said board of said act, including any statistical facts and figures and the names of all employees insured by them.

Sec. 8 (added by chapter 708, Acts of 1914). There may be established and maintained under the care and direction of the industrial accident board not more than four branch offices in such cities as may be selected by said board, from time to time, after proper investigation, for the purpose of the better adjustment of disputed cases and for the better information of all parties as to their rights under this act. Said board is hereby authorized to provide such offices with useful rooms, furniture and equipment required for the transaction of the business authorized by this act, also to appoint such officers, agents, clerks and assistants as are necessary to discharge in connection with such offices the duties required by this act, under the direction of said industrial accident board.

Sec. 9 (added by chapter 708, Acts of 1914). The industrial accident board may appoint a medical adviser, who shall be a duly qualified physician. The board shall prescribe the duties of said medical adviser. His compensation shall be fixed by said board, subject to the approval of the governor and council, and shall not exceed the sum of four thousand dollars a year.
Section 1. The industrial accident board established by section one of Part III of chapter seven hundred and fifty-one of the acts of the year nineteen hundred and eleven shall make an annual report to the general court; of which report there shall be printed four thousand five hundred copies, fifteen hundred to be bound, and the remainder to be unbound. Of the said copies, five hundred bound and five hundred unbound shall be distributed by the secretary of the Commonwealth, and the remainder shall be distributed by the board.

Chapter 708.—Compensation of workmen for injuries.

Section 16. All insurance rates under said chapter seven hundred and fifty-one and acts in amendment thereof and in addition thereto, now on file and approved by the insurance commissioner, shall continue to apply to the several classifications after the taking effect of the provisions of this act, unless the insurance commissioner withdraws approval in accordance with the provisions of chapter six hundred and sixty-six of the acts of the year nineteen hundred and twelve.


Chapter 132.—Workmen’s compensation—Appeals.

Section 1. An order or decision of the industrial accident board, a decree of the superior court upon such an order, 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 industrial accident board shall have effect, notwithstanding an appeal, until it is otherwise ordered by a justice of the supreme judicial court who may, in any county, suspend or modify such decree, order, or decision during the pendency of the appeal.

Approved April 2, 1915.

Chapter 183.—Workmen’s compensation insurance—Withdrawing companies.

Section 1. Every foreign insurance company transacting the business of workmen’s compensation insurance in this Commonwealth shall within five days after its withdrawal from the transaction of business herein, or after the revocation of its license issued by the insurance commissioner or of his refusal to renew the same, deposit with a trustee to be named by the industrial accident board an amount equal to twenty-five per cent of its obligations incurred or to be incurred under workmen’s compensation policies issued to employers in this Commonwealth, and within thirty days after such withdrawal, revocation of license, or refusal to renew a license, such company shall deposit with said trustee an amount equal to the remainder of such obligations, incurred or to be incurred, the amount of which obligations shall be determined by the industrial accident board. The amounts so deposited shall be available for the payment of the said obligations of the company to the same extent as if the company had continued to transact business in this Commonwealth, and it shall be the duty of the trustee so receiving said deposits to pay such obligations of the retiring company at the times and in a manner satisfactory to the industrial accident board.
Sec. 2. Every such foreign insurance company shall, within sixty days after the passage of this act, furnish a bond, running to the Commonwealth, with some surety company authorized to transact business in this Commonwealth as surety, for such amount and in such form and with such surety as may be approved by the insurance commissioner, the bond being conditioned upon the making by said company of the deposits required by section one of this act. In place of the said bond the company may furnish other security, satisfactory to the insurance commissioner, that said deposits will so be made.

Approved April 19, 1915.

Chapter 230.—Workmen’s compensation—Inexperienced workmen.

Section 1. Whenever an employee is injured under circumstances that would entitle him to compensation under 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, if it be established that the injured employee was of such age and experience when injured that, under natural conditions, his wages would be expected to increase, that fact may be taken into consideration in determining his weekly wages.

Approved May 10, 1915.

Chapter 244.—Workmen’s compensation—Public employees.

Section 1. Every board, commission, and department of the Commonwealth employing laborers, workmen, and mechanics, the Boston transit commission, and every county, city, town, and district which has accepted the provisions of chapter eight hundred and seven of the acts of the year nineteen hundred and thirteen, shall, through its executive officer or board, designate a person to act as its agent in furnishing the benefits due under 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. Such agent shall be held responsible for the proper carrying out of this act under the direction and supervision of the industrial accident board until his agency is revoked and a new agent designated. The name and address of every such agent shall be filed with the industrial accident board immediately upon his designation; and each of the foregoing boards, commissions, departments, counties, cities, towns, and districts shall designate such an agent within thirty days after this act takes effect.

Sec. 2. This act shall not apply to counties, cities, towns, and districts which are insured under the provisions of chapter seven hundred and fifty-one of the acts of the year nineteen hundred and eleven and acts in amendment thereof.

Approved May 10, 1915.

Chapter 287.—Workmen’s compensation insurance—Approval of policies.

Section 1. Every policy of workmen’s compensation insurance issued or delivered in this Commonwealth shall cover separately and for a separate consideration all the liabilities which are imposed upon an insurer by the provisions of chapter seven hundred and fifty-one of the acts of the year nineteen hundred and eleven and amendments thereof, whatever other contingencies may be insured by riders attached thereto or indorsements made thereon. On the face of every such policy there shall be printed conspicuously the words: “Insurance under this policy is in Class ______ of the company’s Workmen’s Compensation Classification Manual,” and in the blank thus provided the number or other designation in said manual under which the said policy is written shall be placed before the policy is issued.
Sec. 2. No such policy of insurance or rider to be used there-with shall be issued or delivered until a copy thereof has been filed with the insurance commissioner at least thirty days prior to such issue or delivery, unless before the expiration of the thirty days the said commissioner shall have approved the form of the policy in writing; nor if the insurance commissioner notifies the company in writing that in his opinion the form of said policy or rider does not comply with the laws of this Commonwealth, specifying the reasons for his opinion: Provided, That upon petition of the company the opinion of the insurance commissioner shall be subject to review by the supreme judicial court of this Commonwealth.

Approved May 27, 1915.
MICHIGAN.

ACTS OF 1912—FIRST EXTRA SESSION.

Act No. 10.—Compensation of workmen for injuries.

[Parts I and II of this act (printed at pp. 277-290 of Bulletin No. 126) were not amended in 1915. Part III, Procedure, is amended by adding a new section, as follows:]

PART III.

Section 20 (added by act No. 171, Acts of 1915). The board may appoint not to exceed two deputy commissioners who shall hold office during its pleasure. Such deputy commissioners shall take and subscribe the constitutional oath of office, have power to administer oaths, certify official acts, take depositions, issue subpoenas to compel the attendance of witnesses and the production of books, accounts, and papers, and under the direction of the board any such deputy may conduct an investigation, inquiry, hearing, or arbitration in the same manner and with like effect as if done by a member of the board. The salary of such deputies shall be fixed by the board, not exceeding in any case eighteen hundred dollars per year.

Approved May 7, 1915.

[Part IV, Method of Payment, is amended (subsec. 4, sec. 1) by act No. 104, Acts of 1915, by striking out the clause withholding from the State commissioner of insurance the administration of medical and hospital benefits provided by section 4 of Part II, so that this as well as the other benefits may now be cared for by the State accident fund.

Part V is amended so as to read as follows:]

PART V.

ADMINISTRATION BY COMMISSIONER OF INSURANCE.

Section 1 (as amended by act No. 153, Acts of 1915). Whenever five or more employers, who have become 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 collecting from them such premiums or assessments 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.

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Section 2 (as amended by act No. 153, Acts of 1915). The commissioner of insurance shall immediately upon assuming the administration 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, and also the expense of the administration of said accident fund, 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 the order of the auditor general. Said bond must be approved by the board of State auditors.

Section 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.

Section 4 (as amended by act No. 153, Acts of 1915). 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.

Section 5 (as amended by act No. 153, Acts of 1915). All premiums or assessments shall be due and payable within forty-five days from the date on which the insurance became effective, and formal demand for the payment of such premium shall be made within thirty days from said date. If any employer shall make default in the payment of any contribution, premium, or assessment required as aforesaid by the commissioner of insurance, the insurance of such employer shall become void, and the sum due for the period insured 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 after the default in the payment of any such premium, assessment, or contribution, the defaulting employer shall not, if such default be fifteen days 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.

Sec. 6 (as amended by act No. 153, Acts of 1915). Every employer requesting insurance under the administration of the commissioner of insurance shall, upon complying with the rules and regulations adopted by said commissioner of insurance, be furnished with a certificate showing the date on which such insurance becomes effective. Such insurance shall be in force for a period of one year, and may be renewed for subsequent periods of one year providing such employer shall have complied with all of the rules and regulations adopted by the commissioner of insurance.

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.

Sec. 8 (as amended by act No. 153, Acts of 1915). 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. Any such employer who shall knowingly submit to the commissioner of insurance a false statement of pay roll for the purpose of securing a lower premium charge shall be guilty of a misdemeanor, and upon conviction shall be subject to a fine of not less than one hundred dollars or imprisonment for not more than thirty days in the county jail, or both such fine and imprisonment, in the discretion of the court.

Sec. 9 (as amended by act No. 158, Acts of 1915). 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 accident fund, 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 contested and why, and general
statistics in respect to all business transacted by him under the provisions of this act.

Sec. 10 (as amended by act No. 153, Acts of 1915). 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.

Sec. 11 (as amended by act No. 153, Acts of 1915). If this act shall be hereafter repealed (or if it shall in the judgment of the commissioner of insurance become necessary to dissolve the accident fund) all moneys which are in the accident fund at such time 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.

[Part VI, Miscellaneous Provisions, is amended (sec. 7) by act No. 170 by increasing the amount of the annual appropriation from $40,000 to $45,000.]

ACTS OF 1913.

Act No. 388.—Compensation of workmen for injuries—Insurance of State employees.

SECTION 1. On and after the passage of this act, no officer or agent of this State * * * shall pay out any public moneys or funds on account of any insurance * * * against any liability arising or that may arise under the provisions of act number ten of the first special session of nineteen hundred twelve [workmen's compensation bill], except in a manner hereinafter provided.

Sec. 6. Upon July first, nineteen hundred thirteen, and annually thereafter the commissioner of insurance shall determine the premium or assessment necessary to pay the compensation accruing under act number ten of the first special session of nineteen hundred twelve to persons in the service of the State, except that such premium shall not cover the medical and hospital services and medicines as required by said act, but the cost of same shall be paid by each State institution out of its current expense fund, and he shall then certify the same to the auditor general, and the auditor general shall order the State treasurer to credit to the "accident fund" created by the above-mentioned act the amount so certified, and the amount so credited by the State treasurer to said accident fund shall be debited by him to the current expense fund appropriated by the legislature for each State institution or department, and for the purposes of this act the State shall be entitled to all of the benefits and subject to all of the liabilities of an individual employer who has availed himself of the provisions of part five of said act number ten of the first special session of nineteen hundred twelve: Provided, however, That any credits that may be due the State under said act shall be credited to the respective funds or accounts contributing to said accident fund.

ACTS OF 1915.

Act No. 130.—Workmen's compensation insurance adjusters.

SECTION 1. No person, partnership, association, or corporation shall, after this act takes effect, engage in the business of adjusting claims for compensation under act number ten of the Public Acts of nineteen hundred twelve, and acts amendatory thereto, for companies carrying workmen's compensation insurance, without
first procuring a certificate of authority to act as such adjuster from the commissioner of insurance of this State. The commissioner of insurance shall issue such adjuster's certificate of authority only to persons, partnerships, associations, or corporations applying therefor, who are trustworthy and competent to transact such business in such manner as to safeguard the interests of the public. Every person, partnership, association, or corporation to whom such certificate is issued shall pay to the commissioner of insurance as a license fee therefor the sum of two dollars to be paid into the State treasury of this State as other fees paid to such commissioner.

Sec. 2. Such license and certificate of authority may be suspended or revoked by the commissioner of insurance for fraud or serious misconduct on the part of any such adjuster. Before revoking the license of any adjuster under this act the commissioner shall give notice in writing to such adjuster of the charges of fraud or misconduct preferred against him, and shall give such adjuster full opportunity to be heard in relation to the same.

Sec. 3. Any person, partnership, association, or corporation, or their agents or employees, violating the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than one hundred dollars, and in default of the payment thereof shall be imprisoned in the county jail for not more than thirty days, or by both such fine and imprisonment, in the discretion of the court.

Approved May 6, 1915.

Act No. 182.—Workmen's compensation insurance—Classifications.

SECTION 1. Every employers' liability company and every employers' insurance association insuring employers against the liability provided for by act number ten of the Public Acts of nineteen hundred twelve, first extra session, as amended, shall file with the insurance commissioner of the State its classification of risks and normal premiums relating thereto together with any and all reasonable percentage of allowance made upon such premiums above or below the said normal premium for increased or diminished hazards in said classifications of risks. The classifications so filed shall be classifications upon which the insurer filing same shall classify its risks and the premiums and percentage of allowances thereon shall be the premiums which must be charged by the insurer filing same, on its risks until such classification and premiums and percentage allowances shall be changed as herein provided.

Sec. 2. No insurer against liability provided for in this act shall fix any classification or allowance or charge any premium against liability under said act number ten of the Public Acts of nineteen hundred twelve which is unreasonable or which discriminates unfairly between risks in the application of like charges and credits, or which discriminates unfairly between risks on essentially the same hazards and having substantially the same degree of protection against accident.

Sec. 3. Any deviation of any such insurer from the classifications and schedules of premiums and percentages relating hereto, as filed with the insurance commissioner shall be uniform in its application to all the risks in the class for which the deviation is made, and no such uniform deviation shall be made unless notice thereof shall be filed with the insurance commissioner of the State at least fifteen days before such uniform deviation is in effect.

Sec. 4. The State banking commissioner, the attorney general, and the commissioner of insurance of this State shall constitute a commission, and upon written complaint or upon its own information that discrimination in classification of risks or in the normal premiums relating thereto, or in any percentage of allowance upon such premiums, exists, or that any such classification of risks or that any premiums or any percentage of allowance upon
such premiums discriminates between risks of essentially the same hazard and having substantially the same degree of protection against accident, the commission may order a hearing for the purpose of determining such questions of discrimination and the review of such classification of risks, such premiums or such percentage allowance before said commission shall be had only after due notice to all parties interested, and if upon such hearing the commission shall determine that said classification, such premium or premiums or such percentage allowance is or are discriminatory, it shall have power to order the discrimination removed. Any party in interest being dissatisfied with any order of the commission may, within thirty days from the issuance of such order and notice thereof, commence an action in the circuit court in chancery for the county of Ingham against the commission, as defendant, to vacate and set aside any such order upon the ground that such order is unlawful or unreasonable; in which suit the commission shall be served with a subpoena and a copy of the complaint. The commission shall file its answer and on leave of court any interested party may file an answer to said complaint. Upon the filing of the answer of the commission said action shall be at issue and stand ready for hearing upon ten days' notice by either party. The said circuit court for the county of Ingham in chancery is hereby given jurisdiction of such suits and empowered to affirm, vacate, or set aside the order of the commission in whole or in part, and to make such other order or decree as the court shall decide to be in accordance with the facts and the law. During pendency of such proceedings the order shall be suspended, and in the event of final determination against any insurer any overcharge during the pendency of such proceedings shall be refunded by the insurer to the persons entitled thereto.

Approved May 11, 1915.
MINNESOTA.

ACTS OF 1913.

CHAPTER 467.—Employers' liability—Compensation of workmen for injuries.

PART 1.

EMPLOYERS' LIABILITY.

SEC. 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.

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.

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.

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.

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.

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.

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.
PART 2.

ELECTIVE COMPENSATION.

Section 8 (as amended by chapter 193, Acts of 1915). This act shall not be construed or held to apply to any common carrier by steam railroad, domestic servants, farm laborers or persons whose employment at the time of the injury is casual, and not in the usual course of the trade, business, profession or occupation of his employer.

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.

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 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.

Sec. 12 (as amended by chapter 209, Acts of 1915). 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, such notice to be given as provided in section 11. 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.

Sec. 12a (added by chapter 209, Acts of 1915). Minors who are permitted to work by the laws of this State shall, for the purposes of Part 2 of this act, have the same power to contract, make election of remedy, make settlements, and receive compensation as adult employees, subject, however, to the power of the court, in its discretion, at any time to require the appointment of a guardian to make such settlement and to receive moneys thereunder or under an award.

Sec. 13 (as amended by chapter 209, Acts of 1915). Following is the schedule of compensation: (a) For injury producing tem-
porary total disability, fifty per centum of the wages received at
the time of injury, subject to a maximum compensation of eleven
dollars ($11) per week and a minimum of six and one-half dollars
($6.50) per week: Provided, That if at the time of injury the em-
ployee received wages of less than six and one-half dollars ($6.50)
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, pay-
ments to be made at the intervals when the wage was payable, as
nearly as may be.

(b) In all cases of temporary partial disability the compensa-
tion 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 as stated in clause (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 paid at the prescribed rate during one-
half the time 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: 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 daily wages dur-
ing 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 paid at the prescribed rate during one-half the time specified
above for such toe.

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.

For the complete and permanent loss of hearing in both ears,
fifty per centum of daily wages during one hundred and fifty-six
(156) weeks.

For the loss of an eye and a leg, fifty per centum of daily wages
during three hundred and fifty (350) weeks.
For the loss of an eye and an arm, fifty per centum of daily wages during three hundred and fifty (350) weeks.

For the loss of an eye and a hand, fifty per centum of daily wages during three hundred and twenty-five (325) weeks.

For the loss of an eye and a foot, fifty per centum of daily wages during three hundred (300) weeks.

For the loss of two arms other than at the shoulder, fifty per centum of daily wages during four hundred (400) weeks.

For the loss of two hands, fifty per centum of daily wages during four hundred (400) weeks.

For the loss of two legs, fifty per centum of daily wages during four hundred (400) weeks.

For the loss of two feet, fifty per centum of daily wages during four hundred (400) weeks.

For the loss of one arm and the other hand, fifty per centum of the daily wages during four hundred (400) weeks.

For the loss of one hand and one foot, fifty per centum of the daily wages during four hundred (400) weeks.

For the loss of one leg and the other foot, fifty per centum of the daily wages during four hundred (400) weeks.

For the loss of one leg and one hand, fifty per centum of the daily wages during four hundred (400) weeks.

For the loss of one arm and one foot, fifty per centum of the daily wages during four hundred (400) weeks.

Where an employee sustains concurrent injuries resulting in concurrent disabilities, he shall receive compensation only for the injury which produces the longest period of disability; but this section shall not affect liability for the concurrent loss of more than one member, for which members compensations are provided in the specific schedule and in subsection (e) below.

In all cases of permanent partial disability 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.

In cases of permanent partial disability due to injury to a member, resulting in less than total loss of such member, not otherwise compensated in this schedule, compensation shall be paid at the prescribed rate during that part of the time specified in the schedule for the total loss of the respective member, which the extent of injury to the member bears to its total loss.

All compensation provided in clause (c) of this section for loss of members, or loss of use of members, are subject to the same limitations as to maximum and minimum as are stated in clause (a).

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, subject to a maximum of eleven ($11) dollars per week. Compensation shall continue during disability, not, however, beyond three hundred (300) weeks.

(d) For permanent total disability as defined in subsection (e), below fifty per centum of the wages received at the time of the injury, subject to a maximum compensation of eleven ($11) dollars per week and a minimum compensation of six and one-half ($6.50) dollars per week: Provided, That if, at the time of injury, the employee was receiving wages of less than six and one-half ($6.50) dollars per week, then he shall receive the full amount of his wages per week. This compensation shall be paid during such permanent total disability, not exceeding five hundred and fifty (550) weeks; but in all such cases drawing more compensation than six and one-half ($6.50) dollars per week, the payments after the first four hundred (400) weeks shall be reduced to six and one-half ($6.50) dollars per week for the remainder of the permanent total disability.
five hundred and fifty (550) weeks, while the permanent total dis-
ability continues, payment to be made at the intervals when the
wage was payable as nearly as may be. The total amount of com-
ensation payable under this subsection shall not exceed five thou-
sand ($5,000) dollars in any case: Provided, however, That in case
an employee who is permanently and totally disabled becomes an
inmate of a public institution, then no compensation shall be pay-
able unless he has wholly dependent on him for support a person
or persons named in subsections (1), (2), and (3) of section 14
(whose dependency shall be determined as if the employee were
deceased); in which case the compensation provided for in this
subsection shall be paid for the benefit of said persons so de-
pendent during dependency, in the manner ordered by the court,
while the employee is an inmate of such institution.

(e) The total and permanent loss of the sight of both eyes or
the loss of both arms at the shoulder, or complete and permanent
paralysis, or total and permanent loss of mental faculties shall
constitute permanent total disability.

(e) 1. For permanent total disability other than as defined in
subsection (e) fifty per centum of the wages received at the time
of injury, subject to a maximum compensation of eleven ($11)
dollars per week and a minimum compensation of six and one-
half ($6.50) dollars per week: Provided, That if at the time of in-
jury the employee was receiving wages of less than six and one-
half ($6.50) dollars per week, then he shall receive the full amount
of his wages per week. This compensation shall be paid during
the period of such permanent total disability, not exceeding four
hundred weeks, payments to be made at the intervals when the
wage was payable as nearly as may be.

(f) In case a workman sustains an injury due to accident aris-
ing out of and in the course of his employment, and during the
period of disability caused thereby death results proximately
therefrom, all payments previously made as compensation for such
injury shall be deducted from the compensation, if any, due on
account of death.

Sec. 14 (as amended by chapter 209, Acts of 1915). (1) For the
purposes of this act the following described persons shall be con-
clusively presumed to be wholly dependent: (a) Wife, unless it be
shown that she was voluntarily living apart from her husband at
the time of his injury or death; (b) minor children under the
age of sixteen years.

(2) Children between sixteen and eighteen years of age, or
those over eighteen, if physically or mentally incapacitated from
earning, shall, prima facie, be considered dependent.

(3) Wife, child, husband, mother, father, grandmother, grand-
father, sister, brother, mother-in-law, and father-in-law 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.

(3A) Any member of a class named in subdivision (3), who
regularly derived part of his support from the wages of the de-
ceased workman at the time of his death and for a reasonable
period of time immediately prior thereto shall be considered his
partial dependent, and payment of compensation shall be made to
such dependents in the order named.

(4) In death cases compensation payable to dependents shall be
computed on the following basis and shall be paid to the persons
entitled thereto without administration.

(5) If the deceased employee leave a widow and no depend-
cent 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 depend-
cent child, there shall be paid to the widow for the benefit of her-
sel and such child forty-five 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-five 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.

(8A) In all cases where compensation is payable to a widow for the benefit of herself and dependent child or children the court shall have power to determine, in its discretion, what portion of the compensation shall be applied for the benefit of any such child or children, and may order the same paid to a guardian.

(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. This sum shall be paid to her within sixty (60) days after written notice to the employer of such remarriage. 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 the deceased, with ten per centum additional for each additional orphan, 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 child 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, thirty per centum of the monthly wages of the deceased, and if both parents, forty 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 grandparent, brother, sister, mother-in-law, or father-in-law wholly dependent on him for support, there shall be paid to such dependent, 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 remarriage of such dependent, unless otherwise provided herein.

(15) 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 income of the dependent during the same time.

(16) In all cases where death results to an employee caused by accident arising out of and in the course of employment the employer shall pay, in addition to the medical and hospital expenses provided for in section 18, the expense of last sickness and burial, not exceeding in amount one hundred ($100) dollars, except in cases where an insurer of the deceased or a benefit association is liable therefor, or for a part thereof; in which case the employer shall not be required to pay any part of such expense for which such insurer or a benefit association is liable unless such nonpayment by the employer would diminish the benefits received by the dependents of the deceased from any such insurer or benefit association. In case any dispute arises as to the reasonable value of the services rendered in connection with the last sickness and burial, the same shall be approved by the court before payment, after such reasonable notice to interested parties as the court shall require. If the deceased leave no dependents no compensation shall be payable except as provided by this subsection.
The compensation payable in case of death to persons wholly dependent shall be subject to a maximum compensation of eleven ($11) dollars per week and a minimum of six and one-half ($6.50) dollars per week: Provided, That if at the time of injury the employee receives wages of less than six and one-half ($6.50) dollars per week, then the compensation shall be the full amount of such wages per week. The compensation payable to partial dependents shall be subject to a maximum of eleven ($11) dollars per week and a minimum of six and one-half ($6.50) dollars per week: Provided, That if the income loss of the said partial dependents by such death is less than six and one-half ($6.50) dollars per week, then the dependents shall receive the full amount of their income loss. 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.

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, with the period of three hundred (300) weeks.

Actual dependents shall be entitled to take compensation in the order named in subsection (3) above until fifty per centum of the monthly wages of the deceased during the time specified in subsection (17) shall have been exhausted, but the total compensation to be paid to all actual dependents of a deceased employee shall not exceed in the aggregate eleven ($11) dollars per week.

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.

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.

Sec. 17 (as amended by chapter 209, Acts of 1915). In cases of temporary total or temporary partial disability 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.

Sec. 18 (as amended by chapter 209, Acts of 1915). 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 ($100) dollars in value; except that the court may, upon
necessity being shown therefor, at any time within one hundred (100) days after the date of the injury require the employer to furnish such additional medical, surgical, and hospital treatment, and supplies during said period of ninety (90) days as may be reasonable, which together with any such sums or relief theretofore furnished shall not exceed in all two hundred dollars ($200) in value.

The pecuniary liability of the employer for the medical, surgical, and hospital service herein required, and the liability of the employee for any amount in excess thereof 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, and in all cases of dispute as to the value of the medical or hospital service rendered an injured employee either party may require that the same before payment shall be approved by the court, after such reasonable notice to interested parties as the court shall require.

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.

Sec. 20. The notice referred to in section 19 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 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 ______, ______—, 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.

Sec. 20a (added by chapter 209, Acts of 1915). The time within which the following acts shall be performed under Part 2 of this act shall be limited to the following periods respectively:

(1) Actions or proceedings by an injured employee to determine or recover compensation one (1) year after the occurrence of the injury.
(2) Actions or proceedings by dependents to determine or recover compensation one year after the date of notice in writing given by the employer to the department of labor of the State, stating his willingness to pay compensation when it is shown that the death is one for which compensation is payable. In case the decedent is a native of a foreign country and leaves no known dependent or dependents within the United States, it shall be the duty of the department of labor to give written notice of said death to the consul or other representative of said foreign country forthwith.

(3) Proceedings to obtain judgment in case of default of employer for thirty (30) days to pay any compensation due under any settlement or determination, one (1) year after such default.

(4) In case of physical or mental incapacity, other than minority, of the injured person or his dependents to perform or cause to be performed any act required within the time in this section specified, the period of limitation in any such case shall be extended for one year from the date when such incapacity ceases.

Sec. 21 (as amended by chapter 209, Acts of 1915). (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) 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) 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.

(5) Any physician whose services are furnished or paid for by the employer who treats, or who makes or is present at any examination, of an injured employee, may be required to testify as to any knowledge acquired by him in the course of such treatment or examination, relative to the injury or the disability resulting therefrom.

Sec. 22 (as amended by chapter 209, Acts of 1915). (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. There shall be but one fee of twenty-five cents (25c.) charged by said clerk for services in each case under this subsection and said fee shall cover all services performed by him.

(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.

Sec. 23 (as amended by chapter 209, Acts of 1915). In case a deceased employee, for whose injury or death compensation is payable, leaves surviving him an alien dependent or dependents residing outside of the United States, the said judge shall direct payment of all compensation due to the deceased or to his dependents to be made to the duly accredited consular officer of the country of which the beneficiaries are citizens, if such consular officer reside within the State of Minnesota, or, if not, to his designated representative residing within the State, and such consular officer or his representative shall be the sole representative of such deceased employee and of such dependents to settle all claims for compensation and to receive for distribution to the persons entitled thereto all compensation arising hereunder. The distribution of said funds to be made only on order of the district court. Such consular officer or his representative shall furnish, if required by the district court, a good and sufficient bond satisfactory to the court, conditioned upon the proper application of the moneys received by him. Before such bond is discharged such consular officer or representative shall file with the court a verified account of the items of his receipts and disbursements of such compensation.

Such consular officer or his representative shall before receiving the first payment of such compensation, 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 name, age, residence, extent of dependency, and relationship to the deceased of each dependent.

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.

Sec. 24a (as amended by chapter 209, Acts of 1915). The commissioner of labor and the officers and employees of the department of labor and industries, upon demand of an employer or an employee or his dependent, shall advise such party or parties of his or their rights under this act, and shall assist, so far as possible, in adjusting differences between the employee or his dependent and the employer under Part 2 hereof, and are hereby empowered to appear in person before the court in any proceeding under Part 2 of this act as the representative or adviser of any such party; and in any such case such party shall not be required to be also represented by an attorney at law. The commissioner of labor 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.

Sec. 25 (as amended by chapter 209, Acts of 1915). 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 total loss of hearing or from the loss of an arm or a hand or a foot or a leg or an eye or of more than one such member. These may be commuted only with the consent of the district court.

In making such commutation the lump-sum payments shall, in the aggregate, amount to a sum equal to the present value of all future installments of compensation calculated on a six per cent basis.
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.

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:
(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.

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.

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.

Sec. 30 (as amended by chapter 209, Acts of 1915). 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 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 may file and serve a verified answer to said complaint, which shall admit or deny the substantial averments of the complaints, and shall state the con-
tention of the defendant with reference to the matter in dispute as disclosed by the complaint. Within five (5) days after the service of the answer the complainant may file and serve a verified reply admitting or denying the matters set forth in the answer.

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 monies 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: Provided, That if it shall appear that the employer, prior to the commencement of the action, made to the person or persons entitled thereto a written offer of compensation in specific terms, which terms were in accordance with the provisions of this act, then no costs shall be awarded or taxed against such employer. Whenever any decision or order is made and filed by the judge upon any matter arising under Part 2 of this act, the clerk of the court shall forthwith make and forward to the commissioner of labor a certified copy of said decision or order with any memorandum of the judge and of any judgment entered. No fee or other charge shall be collected therefor.

Sect. 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.

Sect. 31a (as amended by chapter 209, Acts of 1915). Any employer who is responsible for compensation as provided under Part 2 of 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 Part 2 of this act, operating by the mutual assessment or other plan or otherwise, then, in so far 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; but nothing herein contained shall prevent an employer from insuring only a particular class or classes of employees or of risks.

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 workmen 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.

No agreement by an employee to pay to an employer any portion of the cost of insuring his risk under this act shall be valid; but 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 involves a contribution by the workman shall not prevent its validity if such plan has been approved in writing by the commissioner of labor. Any employer who shall make any charge or deduction prohibited by this section shall be guilty of a misdemeanor.

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: 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.

(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.

(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(1).
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 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.

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 to 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.

(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.

(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, also stepchildren who were members of the family of the deceased at the time of his injury and dependent upon him for support.

(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.

(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
Questions of constitutionality.

(a) 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.
MONTANA.

ACTS OF 1915.

CHAPTER 96.—Compensation of workmen for injuries—Provisions for safety.

PART I.

GENERAL PROVISIONS.

SECTION 1. (a) This act shall be known and may be cited as the workmen's compensation act. Part I shall contain those sections which have a general application to the whole of the act and may be referred to as the "general provisions"; Part II shall contain those sections which refer to compensation plan number one; Part III shall contain those sections which refer to compensation plan number two; Part IV shall contain those sections which refer to compensation plan number three; Part V shall contain those sections which may be referred to as the "safety provisions."

(b) Whenever compensation plan number one, two, or three, or the safety provisions of this act shall be referred to, such reference shall also be held to include all other sections which are applicable to the subject matter of such reference.

(c) The "compensation provisions" of this act, whenever referred to, shall be held to include the provisions of compensation plans number one, two, or three, and all other sections of this act applicable to the same or any part thereof.

SECTION 2. (a) There is hereby created a board to consist of three members. The commissioner of labor and industry shall be one member, the State auditor shall be one member, and one member shall be appointed by the governor, which board shall be known as the industrial accident board, and shall have the powers, duties, and functions hereinafter conferred. The term of office of the appointed member of the board shall be for four years and until his successor shall have been appointed and qualified. He shall receive an annual salary of four thousand dollars, payable monthly, and shall be the chairman of the board. The board shall elect one of their number as treasurer of the board.

(b) A vacancy in the office of the appointed member of the board shall be filled in the same manner as the original appointment, but shall only be for the unexpired term of such vacancy. The appointed member shall not be removed except for cause, and after a hearing had before and a finding made by the remaining members of the board, and both of the remaining members of the board must concur in the removal of the appointed member.

(c) Each member shall, upon entering upon the duties of his office, execute to the State of Montana and file with the secretary of state a bond in the sum herein prescribed, executed by not less than four responsible sureties or by some surety company authorized to become sole surety on bonds in the State of Montana, such bonds to be approved by the governor, and conditioned that he will faithfully and impartially discharge the duties of his office. Such bonds shall be in addition to any other bonds required by law to be furnished.

(d) The bond of the treasurer of the board shall be in a sum to be fixed by the governor, not less than twenty-five thousand dollars ($25,000) nor more than one hundred thousand dollars ($100,000). The bonds of the members of the board other than the treasurer shall be in the sum of ten thousand dollars ($10,000).
(e) Neither the commissioner of labor and industry nor the State auditor shall receive any additional compensation for the duties imposed upon them by this act.

A majority of the board shall constitute a quorum for the transaction of any business. A vacancy on the board shall not impair the right of the remaining members to perform all of the duties and exercise all the powers and authority of the board. The act of the majority of the board when in session as a board shall be deemed to be the act of the board, but any investigation, inquiry, or hearing which the board has power to undertake or to hold may be undertaken or held by or before any member thereof or any examiner or referee appointed by the board for that purpose. Every finding, order, decision, or award made by any commissioner, examiner, or referee pursuant to such investigation, inquiry, or hearing, when approved and confirmed by the board and ordered filed in its office, shall be deemed to be the finding, order, decision, or award of the board.

(g) The board shall have a seal bearing the following inscription: "Industrial Accident Board, State of Montana, Seal." The seal shall be affixed to all writs and authentications of copies of records, and to such other instruments as the board shall direct. All courts shall take judicial notice of said seal.

(h) The board shall keep its principal office in the capital of the State, and shall be provided with suitable rooms, necessary office furniture, stationery, and other supplies. For the purpose of holding sessions in other places, the board shall have power to rent temporary quarters.

(i) The board shall appoint a secretary, who shall hold office at the pleasure of the board. It shall be the duty of the secretary to keep a full and true record of all the proceedings of the board, to issue all necessary processes, writs, warrants, and notices which the board is required or authorized to issue, and generally to perform such other duties as the board may prescribe.

(j) The board shall employ such assistants and other employees as it may deem necessary to carry out the provisions of this act.

(k) All officers and employees of the board shall receive such compensation for their services as may be fixed by the board, shall hold office at the pleasure of the board, shall perform such duties as are imposed on them by law or by the board.

(l) The salaries of members of the board, secretary, and every other person holding office or employment under the board, as fixed by law or by the board, shall be paid monthly, after being approved by the board upon claims therefor, to be audited and approved by the State board of examiners.

(m) All expenses incurred by the board 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 board, either within or without the State, shall, unless otherwise provided in this act, be paid from the industrial administration fund, after being approved by the board upon claims therefor, to be audited and approved by the State board of examiners.

(n) The board shall cause to be printed 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 of record in which shall be recorded all awards made by the board, and such other books or records as it shall deem requisite for the purpose and efficient administration of this act. All such records are to be kept in the office of the board.

(o) The board shall have the power and authority to publish and distribute, at its discretion, from time to time, in addition to its annual report, such further reports and bulletins covering its operations, proceedings, and matters relative to its work as it may deem advisable.

(p) The board shall have power and authority to charge and collect the following fees:
1. For copies of papers and records not required to be certified or otherwise authenticated by the board, 15 cents for each folio; for certified copies of official documents and orders filed in its office or of the evidence taken at any hearing, 20 cents for each folio.

2. To fix and collect reasonable charges for publications issued under its authority.

3. The fees charged and collected under this section shall be paid monthly into the treasury of the State to the credit of the industrial administration fund, and shall be accompanied by a detailed statement thereof.

(q) The attorney general shall be the legal adviser of the board and shall represent it in all proceedings whenever so requested by the board or any member thereof.

Sec. 3. (a) In an action to recover damages for personal injuries 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 (1) that the employee was negligent, unless such negligence was willful; (2) that the injury was caused by the negligence of a fellow employee; (3) that the employee had assumed the risks inherent in, incident to, or arising out of his employment, or arising from the failure of the employer to provide and maintain a reasonably safe place to work or reasonably safe tools or appliances.

(b) The provisions of section 3 (a) shall not apply to actions to recover damages for personal injuries sustained by household or domestic servants, farm or other laborers engaged in agricultural pursuits, or persons whose employment is of a casual nature.

(c) Any employer who elects to pay compensation as provided in this act shall not be subject to the provisions of section 3 (a), nor shall such employer be subject to any other liability whatsoever for the death of or personal injury to any employee except as in this act provided; and, except as specifically provided in this act, all causes of action, actions at law, suits in equity, and proceedings whatever, and all statutory and common-law rights and remedies for, and on account of such death or personal injury to any such employee are hereby abolished: Provided, That section 3 (a) shall not apply to actions brought by an employee who has elected not to come under this act, or by his representatives, for damages for personal injuries or death against an employer who has elected to come under this act.

(d) Where both the employer and employee have elected to come under this act, the provisions of this act shall be exclusive, and such election shall be held to be a surrender by such employer and such employee of their right to any other method, form, or kind of compensation, or determination thereof, or to any other compensation, or kind of determination thereof, or cause of action, action at law, suit in equity, or statutory or common law, right, or remedy, or proceeding whatever, for, or on account of, any personal injury to or death of such employee, except as such rights may be hereinafter specifically granted; and such election shall bind the employee himself and in case of death shall bind his personal representative and all persons having any right or claim to compensation for his injury or death, as well as the employer, and those conducting his business during liquidation, bankruptcy, or insolvency.

(e) Where a public corporation is the employer, or any contractor engaged in the performance of contract work for such public corporation, the terms, conditions, and provisions of compensation plan number three shall be exclusive, compulsory, and obligatory upon both employer and employee. Any sums necessary to be paid under the provisions of this act by any public corporation shall be considered to be ordinary and necessary expenses of such corporation, and the governing body of such public cor-

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poration shall make appropriation of and pay such sums into the
cost of administration, as the case may be, at the time
and in the manner provided for in this act, notwithstanding that
such governing body may have failed to anticipate such ordinary
and necessary expense in any budget, estimate of expenses, appro-
\(\text{portation, ordinance, or otherwise.}

(f) Every employer engaged in the industries, works, occupations,
or employment in this act specified as “hazardous” may
on or before the 1st day of July, 1915, if such employer be then
engaged in such hazardous industry, work, occupation, or em-
ployment or at any time thereafter, or, if such employer be not
so engaged on said date, may on or after thirty days before enter-
ing upon such hazardous work, occupation, or employment, or at
any time thereafter, elect whether he will be bound by either
of the compensation plans mentioned in this act. Such election
shall be in the form prescribed by the board, and shall state
whether such employer shall be bound by compensation plan num-
ber one or compensation plan number two or compensation plan
number three, and a notice of such election, with the nature
thereof, shall be posted in a conspicuous place in the place of
business of such employer, and a copy of such notice, together
with an affidavit of such posting, shall be filed with the board.

By employees.

(g) Every employee in the industries, works, occupations, or
employments in this act specified as “hazardous” shall become
subject to and be bound by the provisions of that plan of compen-
sation which shall have been adopted by his employer, unless such
employee shall elect not to be bound by any of the compensation
provisions of this act and until such employee shall have made
such election. Such election shall be made by written notice in
the form prescribed by the board, served upon the employer, and
a copy filed with the board, together with the proof of such
service.

(h) If the employer shall fail to make the election herein pro-
vided for at the time and in the manner herein prescribed such
employer shall be presumed to have elected not to be bound by
the provisions of either compensation plan number one or com-
pensation plan number two or compensation plan number three
for that fiscal year, unless such employer shall elect to become
subject to or bound by this act in the manner provided for such
election in the first instance. After having once elected to be
bound by one or the other of the compensation plans provided in
this act, such employer shall be bound by such election for said
first fiscal year and each succeeding fiscal year, unless such em-
ployer shall, not less than thirty or more than sixty days prior
to the end of any fiscal year, elect not to be bound by either of
such compensation plans, after the expiration of said fiscal year
or unless he shall elect to be bound for the succeeding fiscal year
by a different compensation plan than the one by which he is then
governed. Such election must be made in the manner provided for
in reference to the first election of such employer under this act.

(i) It is the intention of this act that any employer engaged in
hazardous occupations as defined herein shall, before being bound
by either of the compensation plans herein provided, elect to be so
bound thereby, and that the employee shall be presumed to have
elected to be the subject to and bound by the provisions of the
particular plan which may have been adopted by his employer,
unless such employee shall affirmatively elect not to be bound by
this act.

(j) Any employee who has elected not to be bound by the pro-
visions of this act in the manner herein provided may revoke such
election and elect to come thereunder at any time. Any employer
who has failed to elect to be bound by either one or the other of
the compensation plans herein mentioned may, at any time during
any fiscal year, elect to be bound thereby, which said election shall
be made as here before provided; but whenever any employer or
employee shall have elected to come under the provisions hereof,
such election, when it shall have been made, shall bind such em-
ployer and employee for the rest of the then fiscal year.
(k) No compensation shall be paid to any employee, whether such employee has elected to come under this act or not, where his employer has failed to elect and has failed to come under one or the other of the compensation plans herein provided.

Sect. 4. (a) This act is intended to apply to all inherently hazardous works and occupations within this State, and it is the intention to embrace all thereof in sections 4 (b), 4 (c), 4 (d), and 4 (e), and the works and occupations enumerated in said sections are hereby declared to be hazardous.

(b) **Construction work.**—Tunnels, bridges, trestles, subaqueous works, ditches and canals (other than irrigation without blasting), dock excavations, fire escapes, sewers, house moving, house wrecking, iron or steel frame structures or parts of structures, electric light or power plants or systems, telegraph or telephone systems, pile driving; steam railroads, steelworks, towers, or grain elevators not metal framed; dry docks, without excavation; jetties, breakwaters, chimneys, marine railways, waterworks or water systems; electric railways, cable railways, street railways, with or without rock work or blasting; erecting fireproof doors or shutters; steam heating plants; blasting; tanks, water towers, or windmills, not metal framed; shaft sinking; concrete buildings; freight or passenger elevators; fireproofing of buildings; galvanized iron or tin work; gas works or systems; marble, stone, or brick work; road making, with or without blasting; roof work; safe moving; slate work; plumbing work, inside or outside; metal smokestacks or chimneys; excavations not otherwise specified; blast furnaces; street or other grading; advertising signs; ornamental work on buildings; ship or boat building or rigging, with or without scaffolding; carpenter work not otherwise specified; installation of steam boilers or engines; placing wires in conduits; installing dynamos; putting up belts for machinery; marble, mantel, stone, or tile setting; metal ceiling work; mill or shipwrighting; 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; drilling wells; installing electrical apparatus or fire-alarm apparatus in buildings; house heating or ventilating systems; glass setting; building hothouses; lathing, paper hanging, plastering, wooden-stair building.

(c) **Operation** (including repair work) of logging, cable, electric, street, steam, or other railroads; dredges; interurban electric railroads using third-rail systems; electric light or power plants; quarries; telegraph systems; stone crushers; blast furnaces; smelters; coal mines; gas works; steamboats; tugs and ferries; mines other than coal; steam heating or power plants; grain elevators; laundries; waterworks; paper mills; pulp mills; garbage and fertilizer works.

(d) **Factories using power-driving machinery.**—Stamping tin metal; 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, doors, blinds, barrel, keg, mill, 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 or spars, with or without machinery; canneries; metal stamping; creosoting works; 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; briquettes; breweries; bottling works; boiler works; foundries; machine shops not otherwise specified; cordage; working in foodstuffs, including oils, fruits, and vegetables; working in wool, cloth, leather, paper, broom, brush, rubber, or textiles not otherwise specified; making jewelry; making
soap, tallow, lard, grease, condensed milk; creameries; printing, electrotyping, photo-engraving, engraving, and lithographing; sugar factories.

(e) Miscellaneous work.—Operating stockyards, with or without railroad entry; packing houses; wharf operations; artificial ice and refrigerating or cold-storage plants; tanneries; electric systems not otherwise specified; theater stage employees, including moving-picture machine operators; fireworks manufacturing; powder works.

Sec. 5. If there be or arise any hazardous occupation or work other than hereinbefore enumerated it shall become under this act and its terms, conditions, and provisions as fully and completely as if hereinbefore enumerated.

Definitions.

Sec. 6. Unless the context otherwise required, words and phrases employed in this act shall have the meaning hereinafter defined.

(a) "Factories" means undertakings in which the business of working at commodities is carried on with power-driven machinery, whether in manufacture, repair, or change, and shall include the premises, yards, and plant of the concern.

(b) "Workshop" means any plant, yard, premises, room, or place where power-driven machinery is employed and manual labor is exercised by way of trade or gain or otherwise incidental to the process of making, altering, repairing, printing, or ornamenting, finishing, or adapting for sale or otherwise any article, part of article, machinery, or thing over which premises, room, or place the employer of the person working therein has the right of access or control.

(c) "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.

(d) "Mine" means any mine where coal, clay, ore, mineral, gypsum, or rock is dug or mined underground.

(e) "Quarry" means an open cut from which coal is mined or clay, ore, mineral, gypsum, sand, shale, gravel, or rock is cut or taken for manufacturing, building, or construction purposes.

(f) "Engineering work" means any work of construction, improvement, or alteration or repair of buildings, streets, highways, sewers, street railways, railroads, logging roads, interurban roads, harbor, docks, canals; electric, steam or water power plants; telegraph and telephone plants and line; electric light and power lines, and includes any other work for the construction, alteration, or repair of which machinery driven by mechanical power is used.

(g) "Reasonably safe place to work" means that the place of employment has been made as free from danger to the life or safety of the employee as the nature of the employment will reasonably permit.

(h) "Reasonably safe tools and appliances" are such tools and appliances as are adapted to and are reasonably safe for use for the particular purpose for which they are furnished, and shall embrace all safety devices and safeguards provided or prescribed by the "safety provisions" of the act for the purpose of mitigating or preventing a specific danger.

(i) "Employer" means any person, firm, association, or corporation, and includes the State, counties, municipal corporations, cities under special charter and commission form of government, school districts, towns, or villages, and independent contractors, and shall include the legal representatives of a deceased employer.

(j) "Employee" and "workman" are used synonymously, and means every person in this State, including a contractor other than "an independent contractor," who, after July first, 1915, is engaged in the employment of an employer carrying on or conducting any of the industries classified in sections 4 (a), 4 (b), 4 (c), 4 (e) and 5 of this act, whether by way of manual labor or otherwise or whether upon the premises or at the plant of such employer, or who is engaged in the course of his employment away from the plant of his employer: Provided, however,
1. 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 such injury, beneficiaries or dependents, as the case may be, shall elect whether to take under this act or seek a remedy against such others; such election shall be made in advance of the commencement of the action.

2. If he take under this act, the cause of action against such other shall be assigned to the State for the benefit of the industrial accident fund, or the employer or insurer, as the case may be.

3. Any such cause of action assigned to the State may be prosecuted or compromised by the board in its discretion.

4. If such workman, his beneficiaries, or dependents, as the case may be, shall elect to proceed against the person responsible for the injury, such election shall constitute a waiver of any right to compensation under the provisions of this act.

(k) "Injury" means and shall include death resulting from injury.

(l) "Beneficiary" means and shall include a surviving wife or husband and a surviving child or children under the age of sixteen years, and an invalid child or invalid children over the age of sixteen years, or if no surviving wife or husband, then the surviving child or children under the age of sixteen years, and any invalid child or invalid children over the age of sixteen years in whom such a right to receive compensation under this act.

(m) "Major dependent" means if there be no beneficiaries as defined in section 6 (l), the father and mother of the survivor of them, if actually dependent to any extent upon the decedent at the time of his injury.

(n) "Minor dependent" means, if there be no beneficiary as defined in section 6 (l), and if there be no major dependent as defined in sections [sic] 6 (m), the brothers and sisters, if actually dependent upon the decedent at the time of his injury.

(o) "Invalid" means one who is physically or mentally incapacitated.

(p) "Child" shall include a posthumous child, a stepchild, a child legally adopted prior to the injury, an illegitimate child legitimatized prior to the injury.

(q) "Injury" or "injured" refers only to an injury resulting from some fortuitous event as distinguished from the contraction of disease.

(r) Wherever the singular is used the plural shall be included, and wherever the plural is used the singular shall be included.

(s) Wherever the masculine gender is used the feminine and neuter shall be included.

(t) The term "physician" shall include "surgeon," and in either case shall mean one authorized by law to practice his profession in this State.

(u) "Week" means six working days, but includes Sundays.

(v) "Wages" mean the average daily wages received by the employee at the time of the injury for the usual hours of employment in a day, and overtime is not to be considered.

(w) "Wife" or "widow" means only a wife or widow living with or legally entitled to be supported by the deceased at the time of the injury.

(x) "Husband" or "widower" means only a husband or widower incapable of supporting himself and living with or legally entitled to be supported by the deceased at the time of her injury.

(y) "Board" means the Industrial Accident Board of the State of Montana.

(z) "Commissioner" means one of the members of the industrial accident board.

(aa) "Appointed member of the board" means that member of the industrial accident board appointed by the governor.

(bb) "Order" shall mean and include any decision, rule, regulation, direction, requirement, or standard of the board, or any other determination arrived at or decision made by such board, excepting general or local orders, as herein specified.
(cc) "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 employees working in such places of employment classed as hazardous in this act.

(dd) "Local order" shall mean and include any ordinance, order, rule, or determination of any public corporation, or any order or direction of any other public official, board, or department upon any matter over which the industrial accident board has jurisdiction.

(ee) "Pay roll," "annual pay roll," or "annual pay roll for the preceding year" means the average annual pay roll of the employer for the preceding calendar year, or if the employer shall not have operated a sufficient, or any, length of time during such calendar year, twelve times the average monthly pay roll for the current year: Provided, That an estimate may be made by the board for any employer starting in business where no average pay rolls are available, such estimate to be adjusted by additional payment by the employer or refund by the board, as the case may actually be, on December 31st of such current year.

(ff) "Year," unless otherwise specified, means calendar year. "Fiscal year" means the period of time between the first day of July and the 30th day of the succeeding June.

(gg) "Public corporation" means the State, or any county, municipal corporation, school district, city, city under commission form of government, or special charter, town or village.

(hh) "Insurer" means any insurance company authorized to transact business in this State insuring any employer under this act.

(ii) "Casual employment" means employment not in the usual course of trade, business, profession, or occupation of the employer.

(jj) "The plant of the employer" shall include the place of business of a third person while the employer has access to or control over such place of business for the purpose of carrying on his usual trade, business, or occupation.

(kk) "An independent contractor" is one who renders service in the course of an occupation, representing the will of his employer only as the result of his work and not as to the means by which it is accomplished.

Sec. 7. (a) In computing compensation to children and to brothers and sisters, only those under sixteen years of age, or invalid children over the age of sixteen years, shall be included, and in the case of invalid children only during the period in which they are under that disability (within the maximum time limitations elsewhere in this act provided) after which payment on account of such person shall cease. Compensation to children or brothers or sisters (except invalids) shall cease when such persons reach the age of sixteen years.

(b) If any beneficiaries or major or minor dependents of a deceased employee die, or if the widow or widower remarry, the right of such beneficiary or major or minor dependent, or such widow or widower, to compensation under this act shall cease.

Sec. 8. (a) No compensation under this act, except as otherwise provided by treaty, shall be paid to any major or minor dependents not residing within the United States at the time of the injury to the decedent.

(b) Except as otherwise provided by treaty, no compensation in excess of fifty per centum of the compensation provided in this act shall be payable to any beneficiary not residing within the United States at the time of the injury to the decedent: Provided, however, That no compensation shall be allowed to any nonresident, alien beneficiary who is a citizen of a government having compensation law which excludes citizens of the United States, either resident or nonresident, from partaking of the benefit of such law in the same degree as herein extended to nonresident beneficiaries.
(c) Nothing in section 8 (b) shall prevent the compromise of any sums due a beneficiary not residing in the United States at the time of the injury to the decedent for a sum less than fifty per centum of the compensation provided in this act, upon the approval of the board of such compromise settlement.

(10) Before payment of compensation to a beneficiary not residing within the United States, satisfactory proof of such relationship as to constitute a beneficiary under this act shall be furnished by such beneficiary duly authenticated under seal of an officer of a court of law in the country where such beneficiary resides, at such times and in such manner as may be required by the board. And such proof shall be conclusive as to the identity of such beneficiary, and any other claim of any other person to any such compensation shall be barred from and after the filing of such proof.

Sec. 9. (a) Payment of compensation to a beneficiary not residing within the United States may be made to any plenipotentiary or consul or consular agent within the United States representing the country in which such nonresident beneficiary resides, and the written receipt of such plenipotentiary or consul or consular agent shall acquit the employer, the insurer, or the board, as the case may be.

(b) Where payment is due to a child under sixteen years of age or to a person adjudged incompetent the same shall be made to the parent or to the duly appointed guardian, as the case may be, and the written receipt of such parent or guardian shall acquit the employer, the insurer, or board, as the case may be. In other cases payment shall be made to the person entitled thereto or to his duly authorized representative.

Sec. 10. (a) In case of personal injury or death all claims shall be forever barred unless presented within six months from the date of the happening of the accident.

(b) No limitations of time, as provided in this act, shall run as against any injured workman who is mentally incompetent and without a guardian or an injured minor under sixteen years of age who may be without a parent or guardian. A guardian in either case may be appointed by any court of competent jurisdiction, in which event the period of limitation, as provided in section 10 (a), shall begin to run on the date of the appointment of such guardian, or when such minor arrives at the age of sixteen years.

Sec. 11. (a) Where any employer procures any work to be done, wholly or in part for him by a contractor other than an independent contractor, and the work so procured to be done is a part or process in the trade or business of such employer, then such 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. And the work so procured to be done shall not be construed to be "casual employment."

(b) Where any employer procures work to be done as specified in section 11 (a), such contractor and his employees shall be presumed to have elected to come under that plan of compensation adopted by the employer, unless they shall have otherwise elected, as provided herein.

(c) Where any employer procures any work to be done, wholly or in part for him, by a contractor, where the work so procured to be done is casual employment as to such employer, then such contractor shall become the employer for the purposes of this act.

(d) Where any employer procures any work to be done, payment for which is to be made in property other than money or its equivalent, and the value of which property is speculative or intangible, the wages of the employees receiving such compensation shall be determined by the board in accordance with the going wage for the same or similar work in the district or locality where the same is to be performed: Provided, however, That where an employer procures any work to be done by any contractor, or
through him by a subcontractor, the payment for which is to be made in property other than money or its equivalent, and the value of which property is speculative or intangible, then and in that event the employer shall not be liable for compensation, but such liability shall fall upon the contractor or subcontractor, as the case may be.

Sec. 12. (a) If an injured employee dies and the injury was the proximate cause of such death, then the beneficiary or the major or minor dependents of the deceased, as the case may be, shall receive the same compensation as though the death occurred immediately following the injury, but the period during which the death benefit shall be paid shall be reduced by the period during or for which compensation was paid for the injury.

(b) If the employee shall die from some cause other than the injury, there shall be no liability for compensation after his death.

(c) The question as to who constitutes a beneficiary or a major or minor dependent shall be determined as of the date of the happening of the accident to the employee, whether death shall immediately result therefrom or not.

Sec. 18. (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 or the insurer, submit from time to time to examination by a physician, who shall be provided and paid for by such employer or insurer, and shall likewise submit to examination from time to time by any physician selected by the board or any members or examiner or referee thereof.

(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, shall fail or refuse to submit to such examination, or shall in any way obstruct the same, his right to compensation shall be suspended. Any physician employed by the employer, the insurer, of the board who shall make or be present at any such examination may be required to testify as to the results thereof.

Sec. 14. (a) Nothing in this act shall be construed as preventing employers and workmen from waiving the provisions of section 16 (f) of this act and entering into mutual contracts or agreements providing for hospital benefits and accommodations to be furnished to the employee.

(b) Such hospital contract or agreements must provide for medical, hospital, and surgical attendance for such employee for sickness contracted during the employment, except venereal diseases and sickness as a result of intoxication, as well as for injuries received arising out of and in the course of the employment.

(c) No assessment of employees for such hospital contracts or benefits shall exceed $1 per month for each employee, except in cases where it shall appear to the satisfaction of the board, after a hearing had for that purpose, that the actual cost of such service exceeds the said amount of $1 per month, and any such finding of the board may be modified at any time when justified by a change of conditions or otherwise, either upon the board's own motion or the application of any party in interest.

(d) No profit, directly or indirectly, shall be made by any employer as a result of such hospital contract or assessments. It is the purpose and intent of this act to provide that where hospitals are maintained by employers such hospitals shall be no more than self-supporting from assessment of employees, and that where hospitals are maintained by other than the employer all sums derived by assessment of employees shall be paid in full to such hospital without deduction by the employer.

(e) Each and every hospital maintained wholly or in part by payments from workmen, which furnishes treatment and services to employees for sickness and injury, as provided in this act, shall be under the supervision of the board as to the services and treat-
ment rendered such employees, and shall from time to time make reports of such services, attendances, treatments, receipts, and disbursements as the board may require.

(f) Neither an employer, an insurer, nor the board shall be liable in any way for any act in connection with the treatment or care, or malpractice in treatment or care, of any sickness or injury sustained by an employee or the beneficiary of any hospital contract, where such act or treatment or malpractice in treatment is caused, or alleged to have been caused, by any physician, hospital, or attendant furnished by such employer, insurer, or the board. In any action for malpractice arising out of the operations of this act the merits of such action shall be investigated by the industrial accident board, and the finding of the board in relation thereto shall be filed with the clerk of the court in which such action is pending.

Sec. 15. In any action to recover damages for any act connected with the treatment or care or malpractice in treatment or care of any sickness of or injury sustained by an employee the question of whether or not due care was given by the defendants shall be a question of law for the court.

Sec. 16. Every employer who shall become bound by and subject to the provisions of compensation plan number one, and every employer and insurer who shall become bound by and subject to the provisions of compensation plan number two, and the industrial accident fund where the employer of the injured employee has become bound by and subject to the provisions of compensation plan number three, shall be liable for the payment of compensation in the manner and to the extent hereinafter provided to an employee who has elected to come under this act and who shall receive an injury arising out of and in the course of his employment, or in the case of his death from such injury to his beneficiaries, if any; or, if none, to his major dependents, if any; or, if none, to his minor dependents, if any.

(a) For an injury producing temporary total disability, fifty per centum of the wages received at the time of the injury, subject to a maximum compensation of ten dollars per week and a minimum compensation of six dollars per week; Provided, That if at the time of injury the employee received wages of less than six dollars per week that he shall receive the full amount of such wages per week. Such compensation shall be paid during the period of disability, but not, however, in any event, exceeding 300 weeks.

(b) For an injury producing total disability permanent in character, fifty per centum of the wages received at the time of the injury, subject to a maximum compensation of ten dollars per week and a minimum compensation of six dollars per week; Provided, That if at the time of the injury the employee received wages of less than six dollars per week then he shall receive the full amount of such wages per week. Such compensation shall be paid during the period of disability, not exceeding 400 weeks, after which time payment shall continue during disability at the rate of five dollars per week.

(c) For an injury producing partial disability, one-half of the difference between the wages received at the time of the injury and the wages which such injured employee is able to earn thereafter, not exceeding, however, the difference between the wages which the injured employee is able to earn after the injury and the maximum compensation allowed in cases of total disability; Provided, however, That such a sum shall be paid as compensation in each case, which, when added to the wages which the injured employee is able to earn after the injury, will equal the minimum compensation allowed in cases of total disability. Such compensation shall be paid during the period of disability, not exceeding, however, 150 weeks in cases of permanent partial disability and 50 weeks in cases of temporary partial disability.

(d) Where the injury causes death, fifty per centum of the wages received at the time of the injury to his beneficiaries, if
any, residing within the United States at the date of the happening of the injury, or if residing outside of the United States, fifty per centum of such compensation, or if none, then forty per centum of the wages received at the time of the injury to his major dependents, if any, residing within the United States at the date of the happening of the injury, or, if none, then thirty per centum of the wages received at the time of the injury to his minor dependents, if any, residing within the United States at the date of the happening of the injury, subject to a maximum compensation of ten dollars per week and a minimum compensation of six dollars per week, for a period not exceeding 400 weeks: Provided, That if at the time of the injury the employee received wages of less than six dollars per week, the full amount of such wages per week for a period of not exceeding 400 weeks.

Burial expenses. (e) There shall be paid, in addition to other compensation, if death occurs within six months of the happening of the injury, the reasonable burial expenses of the employee, not exceeding $75. If the employee leaves no beneficiaries or major or minor dependents, this shall be the only compensation.

Medical and hospital services. (f) During the first two weeks after the happening of the injury the employer or insurer or the accident fund, as the case may be, shall furnish reasonable medical and hospital services and medicines as and when needed, in an amount not to exceed fifty dollars in value, except as otherwise in this act provided, and where the employer is a party to a hospital contract, unless the employee shall refuse to allow them to be furnished.

Waiting time. (g) No compensation shall be allowed or paid during the first two weeks of any injury, except as may be required by the provisions of section 16 (f).

Order of payments. (h) Compensation for all classes of injuries shall run consecutively and not concurrently, and as follows: First, the two weeks' medical and hospital services and medicines as provided in section 16 (f), unless the employee is a contributor to a hospital fund, as otherwise in this act provided; after the first two weeks, compensation as provided in section 16 (a) or 16 (b) or 16 (c); following either or none of the above, compensation as provided in section 16 (i); following any or either or none of the above, if death results from the accident within six months of the date of the injury, burial expenses as provided in section 16 (e); following which, if no beneficiaries, compensation to major dependents; following which, if no beneficiaries and no major dependents, compensation to minor dependents, if any: Provided, That no compensation shall be paid to a major or minor dependent who does not reside within the United States or who did not reside within the United States at the date of the happening of the injury. Compensation due to beneficiaries shall be paid to the surviving spouse, if any, or if none, then divided equally among or for the benefit of the children. Compensation due to major dependents, where there be more than one, shall be divided equally among them.

Specified injuries. (i) In case of the following specified injuries, the compensation, in lieu of any other compensation provided by this act, other than that provided in section 16 (f), unless the employee is a contributor to a hospital fund, as otherwise in this act provided, shall be fifty per centum of the wages received at the time of the injury, subject to a maximum compensation of ten dollars per week and a minimum compensation of six dollars per week: Provided, That if at the time of the injury the employee received wages of less than six dollars per week, then he shall receive the full amount of such wages per week, and shall be paid for the following periods:

For the loss of—

One arm at or near shoulder 200 weeks
One arm at the elbow 180 weeks
One arm between wrist and elbow 160 weeks
One hand 150 weeks
One thumb and the metacarpal bone thereof____________ 60 weeks
One thumb at the proximal joint____________________ 30 weeks
One thumb at the second distal joint------------------ 20 weeks
One first finger and the metacarpal bone thereof________ 30 weeks
One first finger at the proximal joint________________ 20 weeks
One first finger at the second distal joint------------- 15 weeks
One first finger at the second joint__________________ 10 weeks
One second finger and the metacarpal bone thereof____ 30 weeks
One second finger at the proximal joint--------------- 15 weeks
One second finger at the second joint---------------- 10 weeks
One second finger at the distal joint----------------- 5 weeks
One third finger and the metacarpal bone thereof______ 20 weeks
One third finger at the proximal joint_______________ 12 weeks
One third finger at the second joint------------------ 8 weeks
One third finger at the distal joint------------------- 4 weeks
One fourth finger and the metacarpal bone thereof_____ 12 weeks
One fourth finger at the proximal joint---------------- 9 weeks
One fourth finger at the second joint---------------- 6 weeks
One fourth finger at the distal joint------------------ 3 weeks
One leg at or so near the hip joint as to preclude the use of an artificial limb___________________________ 180 weeks
One leg at or above the knee where stump remains sufficient to permit the use of an artificial limb__________ 150 weeks
One leg between the knee and ankle__________________ 140 weeks
One foot at the ankle_______________________________ 125 weeks
One great toe with the metatarsal bone thereof________ 30 weeks
One great toe at the proximal joint__________________ 15 weeks
One great toe at the second joint____________________ 10 weeks
One toe other than the great toe with the metatarsal bone thereof_______________________________ 12 weeks
One toe other than the great toe at proximal Joint____ 6 weeks
One toe other than the great toe at second or distal Joint__________________________________________ 3 weeks
One eye blind by enucleation________________________ 120 weeks
Total blindness of one eye___________________________ 100 weeks

The loss of both hands, or both arms, or both feet, or both legs, or both eyes, or any two thereof, in the absence of conclusive proof to the contrary shall constitute total disability permanent in character.

(j) A workman in order to be entitled to compensation for hernia must clearly prove: (1) That the hernia is of recent origin, (2) that its appearance was accompanied by pain, (3) that it was immediately preceded by some accidental strain suffered in the course of the employment, and (4) that it did not exist prior to the date of the alleged injury. If a workman, after establishing his right to compensation for hernia as above provided, elects to be operated upon, a special operating fee of not to exceed fifty dollars shall be paid by the employer, the insurer, or the board, as the case may be. In case such workman elects not to be operated upon, and the hernia becomes strangulated in the future, the results from such strangulation will not be compensated.

(k) For the purpose of section 16 (i) the complete paralysis of an arm, hand, foot, or leg shall be considered the loss of such member. For the purpose of section 16 (i) the complete paralysis of both arms, both hands, both feet, or both legs, or any two of them, shall be considered the loss of such members.

(1) Should a further accident occur to a workman who is already receiving compensation hereunder, or who has been previously the recipient of a payment or payments under this act, his further compensation shall be adjusted according to the other provisions of this act, and with regard to the combined effect of his injuries and his past receipt of compensation.

(m) 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, where the maximum payments for disabilities as provided in this

Hernia.

Paralysis.

Subsequent Injuries.

Revision of Awards.
(n) All payments of compensation, as provided in this act, shall be made monthly, except as otherwise provided herein.

(o) The monthly payments provided for in this act may be converted, in whole or in part, into a lump-sum payment, which lump-sum payment shall not exceed the estimated value of the present worth of the deferred payments capitalized at the rate of five per centum per annum. Such conversion can only be made upon the written application of the injured workman, his beneficiary, or major or minor dependents, as the case may be, and shall rest in the discretion of the board both as to the amount of such lump-sum payment and the advisability of such conversion.

Sec. 17. (a) No payments under this act shall be assignable, subject to attachment or garnishment, or be held liable in any way for any debts.

(b) In case of bankruptcy, insolvency, liquidation, or the failure of an employer or insurer to meet any obligations imposed by this act, every liability which may be due under this act shall constitute a first lien upon any deposit made by such employer or insurer, and if such deposit shall not be sufficient to secure the payment of such liability in the manner and at the times provided for in this act the deficiency shall be a lien upon all the property of such employer or insurer within this State, and shall be prorated with other lienable claims and shall have preference over the claim of any creditor or creditors of such employer or insurer except the claims of other lienors.

(c) No agreement by an employee to waive any rights under this act for an injury to be received shall be valid.

(d) Any employer who shall misrepresent to the board the amount of a payroll upon which the premiums or assessments under compensation plan number three are to be levied, or upon which fees for factory inspection, subsequent inspection, or re-inspection, as elsewhere provided in this act, are based, shall be liable to the State in ten times the amount of difference between the amount paid and the amount which should have been paid. Such liability may be recovered in a civil action brought in the name of the State. All sums collected under this section shall be paid into the fund to which the original payments were or should have been credited.

(e) The provisions of this act shall not apply to any railroad engaged in interstate commerce, except that railroad construction work shall be included in and subject to the provisions of this act.

(f) Every employer coming under the provisions of compensation plan number one and every insurer coming under the provisions of compensation plan number two shall, on or before the fifteenth day of each and every month, file with the industrial accident board duplicate receipts for all payments made during the previous month to injured workmen or their beneficiaries or dependents, and statements showing the amounts expended during the previous month for medical, surgical, and hospital services and for the burial of injured workmen.

(g) No claims to recover compensation under this act for injuries not resulting in death shall be maintained unless, within sixty days after the occurrence of the accident which is claimed to have caused the injury, notice in writing, stating the name and 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, shall be served upon the employer or the insurer: 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.
(h) Every employer of labor and every insurer is hereby required to file with the board, under such rules and regulations as the board 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 board in such form and with such detail as the board shall from time to time prescribe, and shall make specific answer to all questions required by the board under its rules and regulations, except, in case he is unable to answer any such questions, a good and sufficient reason shall be given for such failure.

(i) No information furnished to the board by an employer or an insurer shall be open to public inspection or made public except on order of the board, or by the board or a member of the board in the course of a hearing or proceeding. Any officer or employee of the board who, in violation of the provisions of this section, divulges any information shall be guilty of a misdemeanor.

(j) Whenever it is necessary to estimate the sum of money to set aside as a reserve in any case, the American Experience Table of Mortality shall be used.

(k) It shall be unlawful for the employer to deduct or obtain any part of any premium required to be paid by this act 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 misdemeanor, except that nothing in this section shall be construed as prohibiting contributions by employees to a hospital fund, as elsewhere in this act provided.

Sec. 18. (a) All hearings and investigations before the board, or any member thereof, shall be governed by this act and by rules of practice and procedure to be adopted by the board, and in the conduct thereof neither the board nor any member thereof shall be bound by the technical rules of evidence. No informality in any proceedings or in the manner of taking testimony shall invalidate any order, decision, award, rule, or regulation made, approved, or confirmed by the board.

(b) The board, or any member thereof, or any party to the action or proceeding may, in any investigation or hearing before the board, 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 district courts of this State, and to that end may compel the attendance of witnesses and the production of books, documents, papers, and accounts.

(c) The board 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.

(d) The board 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 board, 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 board, or any member thereof.

The person executing any such process shall receive such compensation as may be allowed by the board, not to exceed the fees now prescribed by law for similar service and such fees shall be paid in the same manner as provided herein for the fees of witnesses.

(e) The board and each member thereof, its secretary and referees, shall have the 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 injury [inquiry], investigation, hearing, or proceeding in any part of the State. Each witness who shall appear by order of the board, or any member thereof, shall be entitled to receive, if...
demanded, for his attendance the same fees and mileage allowed
by law to a witness in civil cases in the district court, which
amount shall be paid by the party at whose request such witness
is subpoenaed, unless otherwise ordered by the board. When any
witness cannot or will not be required to attend at the request of
any party is subpoenaed by the board, his fees and mileage may
be paid from the funds appropriated for the use of the board in
the same manner as other expense[s] of the board are paid. Any
witness subpoenaed, except one whose fees and mileage may be
paid from the funds of the board, may at the time of service de­
mand 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 board, or a member thereof or referee, as directed
in the subpoena.

Aid by courts.

(f) The district court in and for the county in which any in­
quiry, investigation, hearing, or proceeding may be held by the
board, or any member thereof, shall have the power to compel
the attendance of witnesses, the giving of testimony, and the pro­
duction of papers, books, accounts, and documents as required by
any subpoena issued by the board or any member thereof. The
board, or any member thereof, before whom the testimony is to be
given, shall have the power to compel the attendance of witnesses
or testify or produce any papers required by such subpoena, may
report to the district court in and for the county, in which the
proceeding is pending, by petition, setting forth that due notice
has been given of the time and place fixed for the attendance of
said witness or the production of said papers, and that the wit­
ess has been summoned 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 before the board, or any
member thereof, in the case or proceeding named in the notice
and subpoena, or has refused to answer questions propounded to
him in the course of such proceedings, and ask an order of said
court compelling the witness to attend and testify or produce said
papers before the board. The court, upon the petition of the board,
or any member of the board, shall enter an order directing the
witness to appear before the court at the time and place to be
fixed by the court in such order not more than ten days from
the date of the order, and then and there show cause why he had
not attended or testified or produced such papers before the board.
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
board, or a member thereof, and regularly served, the court shall
thereupon enter an order that said witness appear at the time and
place fixed in said 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 sec­
tion is cumulative and shall not be construed to impair or interfere
with the power of the board, 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.

(g) Copies of official documents and orders filed or deposited
according to law in the office of the board, certified by a member
of the board or by the secretary under the official seal of the board
to be true copies of the original, shall be evidence in like manner
as the originals.

(h) The costs and disbursements, incurred in any proceeding
or hearing before the board, or a member thereof, may be apportioned
between the parties on the same or adverse sides in the
discretion of the board.

Sec. 19. The books, records, and pay rolls of the employer,
pertinent to the administration of this act, shall always be open
to inspection by the board or any duly authorized employee thereof,
for the purpose of ascertaining the correctness of the pay roll, the number of men employed, and such other information as may be necessary for the board and its management under this act. Refusal on the part of the employer to submit said books, records, and pay rolls for such inspection 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 industrial administration fund.

Scc. 20 (a) All proceedings to determine disputes or controversies arising under this act shall be instituted before the board and not elsewhere, and heard and determined by them, except as otherwise in this act provided, and the board is hereby vested with full power, authority, and jurisdiction to try and finally determine all such matters, subject only to review in the manner and within the time in this act provided.

(b) All orders, rules, and regulations, findings, decisions, and awards of the board 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 board or upon review.

(c) After a final hearing by the board it shall, within thirty days, make and file its findings upon all facts involved in the controversy and its award, which shall state its determination as to the right of the parties.

(d) The board 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: Provided, however, That the payment of such award and indemnity shall be in the same manner as that of undisputed awards and indemnities coming within the particular plan provided for in this act to which said award and indemnity belong.

(e) If in any proceeding it is proved that an accident has happened for which the employer would be liable to pay compensation if disability has resulted therefrom, but it is not proved that an incapacity has resulted, the board may, instead of dismissing the application, award a nominal disability indemnity if it appears that disability is likely to result at a future time.

(f) The board shall have continuing jurisdiction over all its orders, decisions, and awards, 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. Any order, decision, or award rescinding, altering, or amending a prior order, decision, or award shall have the same effect as original orders or awards.

(g) A full and complete record shall be kept of all proceedings and hearings had before the board, or any member thereof, of any formal hearing had, and all testimony produced before the board or any member thereof, shall be taken down by a stenographic reporter appointed by the board, and the parties shall be entitled to be heard in person or by attorney. In cases of an action to review any order or decision of the board, a transcript of such testimony, together with all exhibits, and of the pleadings, records, and proceedings in the cause, shall constitute the record of the board.

(h) No orders or decisions of the board shall be subject to collateral attack, and may be reviewed or modified only in the manner provided herein.

Scc. 21. (a) At any time within twenty days after the service of any order or decision of the board any party or parties aggrieved thereby may apply for a rehearing upon one or more of the following grounds and upon no other grounds:

1. That the board 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 findings.
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 do not support the order, decision, or award.
6. That the order, decision, or award is unreasonable.

(b) Nothing contained in section 21 (a) shall, however, be construed to limit the right of the board, at any time after 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.

(c) The application for rehearing shall set forth specifically and in full detail the grounds upon which the applicant considers said order, decision, award, rule, or regulation to be unjust or unlawful, and shall in other respects conform to such rules and regulations as the board may prescribe.

(d) The board shall have full power and authority to make and prescribe rules to govern the procedure upon rehearing, and any matter before it and any order made after such rehearing abrogating or changing the original order shall have the same force and effect as an original order and shall not affect any right, or enforcement of any right, arising from or by virtue of the original order.

(e) An application for rehearing or the appeal heretinafter provided shall not excuse any employer, employee, or other person from complying with or obeying any order or requirement of the board or operate in any manner to stay or postpone the enforcement of an order or requirement thereof, except as the board or the court may direct.

Section 22. (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, and within twenty days after notice thereof, any party affected thereby may appeal to the district court of the judicial district of the State of Montana, including the county in said State wherein the employer may have his place of residence, or if such employer be a corporation may have its principal office or place of business, or if said appeal be prosecuted by an injured workman or his dependents, such appeal may be taken to the district court wherein is located the county within which such workman was injured, which said appeal shall be 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.

(b) Said appeal shall be taken by serving a written notice of said appeal upon the chairman of such industrial accident commission, or upon any other member thereof, which said service shall be made by the delivery of a copy of such notice to such chairman or member, and filing the original with the clerk of the court to which said appeal is taken. A copy of such notice must also be served upon the adversary party, if there be any, by mailing the same to said adversary party to such address of such party as said party shall have left with the board. If such party shall have left no address with the board, then no service upon such party shall be required. The order of filing and service of said notice is immaterial. Immediately upon service upon said board of said notice the said board shall certify to said district court the entire record and proceedings, including all testimony and evidence taken by said board, with the clerk of said district court. Immediately upon the return of such certified record the district court shall fix a day for the hearing of said cause, and shall cause notice to be served upon the board and upon the appellant, and also upon the adversary party, if there be any. The court may, upon
the hearing, for good cause shown, permit additional evidence to
be introduced, but in the absence of such permission from the
court the cause shall be heard on the record of the board as cer-
tified to the court by it. The trial of the matter shall be de novo,
court shall determine whether or not the
board regularly pursued its authority, and whether or not the find-
ings of the board ought to be sustained, and whether or not such
findings are reasonable under all the circumstances of the case.

(c) The board and each party to the action or proceeding before
the board shall have the right to appear in the proceeding, and it
shall be the duty of the board to so appear. If the court shall find
from such trial as aforesaid that the findings and conclusions of
the board are not in accordance with either the facts or the law,
or that they ought to be other or different than those made by the
board, or that any finding and conclusion or any order, rule, or re-
quirement of the board is unreasonable, the court shall set aside
such finding, conclusion, order, judgment, decree, rule, or require-
ment of said board, or shall modify or change the same as law
and justice shall require, and the court shall also make and enter
any finding, conclusion, order, or judgment that shall be required
or shall be legal and proper in the premises.

(d) Either the board or the appellant or any adversary party,
if there be one, may appeal to the Supreme Court of the State
of Montana from any final order, judgment, or decree of the said
district court, which said appeal shall be taken in like manner as
appeals are now taken in other civil actions to the said supreme
court, and upon such appeal the said supreme court shall make
such orders in reference to a stay of proceedings as it finds to be
just in the premises, and may stay the operation of any order,
judgment, or decree of said district court without requiring any
bond or undertaking from the applicant for such stay. When
any such cause is so appealed it shall have precedence upon the
calendar of the said supreme court, and shall be tried anew by
said supreme court upon the record made in said district court
and before said board, and judgment and decree shall be entered
therein as expeditiously as possible.

Sec. 23. (a) There is hereby appropriated out of the State
Appropria-
treasury the sum of fifty thousand ($50,000) dollars, or so much
thereof as may be necessary, to be known as the industrial ad-
administration fund, out of which the salaries, traveling and office
expenses of the board shall be paid, and all other expenses inci-
dent to the administration of this act.

(b) There is hereby appropriated out of the industrial accident
fund such sums as may be necessary to pay the compensation
provided for in this act.

Sec. 24. (a) Whenever this act, or any part or section thereof,
is interpreted by a court, it shall be liberally construed by such
Construction
of act.
court.

(b) If any section, subsection, subdivision, sentence, clause,
paragraph, or phrase of this act is for any reason held to be un-
constitutional or void, such decision shall not affect the validity of
the remaining portions of this act, so long as sufficient remains
of the act to render the same operative and reasonably effective
[effective] for carrying out the main purpose and intention of the
legislature in enacting the same as such purpose and intention
may be disclosed by the act.

(c) The moneys coming into the industrial accident fund shall
Disposition of
be held in trust for the purpose for which such fund is created,
funds.
and if this act shall be hereafter repealed, such moneys shall be
subject to such disposition as may be provided by the legislature
repealing this act; in default of such legislative provision, dis-
tribution thereof shall be in accordance with the justice of the
matter, due regard being had to obligations of compensation in-
curred and existing.

(d) This act shall not affect any action pending or any cause
Prior causes.
of action existing on the thirtieth day of June, 1915.

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Annual reports.

SEC. 25. (a) The board shall, not later than the first day of October of each year, make a report to the governor covering its entire operations and proceedings for the preceding fiscal year, with such suggestions or recommendations as it may deem of value for public information. A reasonable number of copies of such report shall be printed for general distribution.

Act in effect.

(b) This act shall take effect and be in force from and after its passage and approval, except as to its compensation provisions, which shall not take effect until the first day of July, 1915.

PART II.

COMPENSATION PLAN NUMBER ONE.

Election of system of direct payments.

SECTION 30. (a) Any employer in the industries, trades, works, occupations, or employments in this act specified as hazardous, by filing his election to become subject to and be bound by compensation plan number one, upon furnishing satisfactory proof to the board of his solvency and financial ability to pay the compensation and benefits in this act provided for, and to discharge all liabilities which are reasonably likely to be incurred by him during the fiscal year for which such election is effective, may, by order of the said board, make such payments directly to his employees as they may become entitled to receive the same under the terms and conditions of this act.

Proof of solvency.

(b) Every such employer now or hereafter engaged in the State of Montana in the industries, trades, works, occupations, or employments herein mentioned, and who shall have elected to be bound by such compensation plan number one, shall file such proof of his solvency within the time and in such form as may be prescribed by the rules or orders of the board.

If such employer making such election shall be found by the board to have the requisite financial ability to pay the compensation and benefits in this act provided for, then the board shall grant to such employer permission to carry on his said business for the fiscal year within which such election is made and such proof filed, or the remaining portion of such fiscal year, and to make such payments directly to his employees as they may become entitled to receive the same. Every employer, so long as he continues in his said employment, and so long as he continues to be bound by such compensation plan number one, shall, at least thirty days before the expiration of each fiscal year, renew his application to be permitted to continue to make such payments as aforesaid directly to his employees for the next ensuing fiscal year and under like circumstances as those mentioned for the granting of such permission upon such first application, the board may renew the same from year to year.

(c) The board may at any time require from any employer acting under compensation plan number one additional proof of solvency and financial ability to pay the compensation provided by this act, and may at any time, upon notice to such employer of not less than ten or more than twenty days, after and upon a full hearing, revoke any order or approval theretofore made.

(d) If said industrial accident board shall find that such employer has not financial responsibility for the payment of the compensation herein provided to be paid which might reasonably be expected to be chargeable to such employer during the fiscal year to be covered by such permission, said industrial accident board must so find, and must require such employer, before granting to him such permission, or before continuing or engaging in such employment, subject to the provisions of compensation plan number one, to give security for such payment, which security must be in such an amount as said board shall find it reasonable and necessary to meet all liabilities of such employer which may reasonably and ordinarily be expected to accrue during such fiscal year. Said security must be deposited with the treasurer of the board and may be a certain estimated per centum of said employer's last
preceding annual pay roll, or a certain per centum of the estab-
lized amount of his annual pay roll for said fiscal year, or said
security may be in the form of a bond or undertaking executed
to said industrial accident board in the amount to be fixed by it
with two or more sufficient sureties, which undertaking must be
conditioned that such employer will well and truly pay, or cause
to be paid, all such sums and amounts for which the employer
shall become liable under the terms of this act to his employees
during said fiscal year, or such security may consist of any State,
county, municipal, or school district bonds, or the bonds or evi-
dence of indebtedness of any individuals or corporations which
the board may deem solvent; and every such deposit and the
character and amount of such securities shall at all times be sub-
ject to approval, revision, or change by the board as in its judg-
ment may be required, and upon proof of the final payment of the
liability for which such securities are given such securities, or
any remaining part thereof, shall be returned to the depositor.

The treasurer of the board and his bondsmen shall be liable for
the value and safe-keeping of all such deposits or securities, and shall
at any time upon demand of the bondsmen or the depositor or the
board account for the same and the earnings thereof.

(e) Upon the failure of said employer to pay any compensation
provided for in this act upon the terms and in the amounts and
at the times when the same shall become due and payable, it shall
be the duty of such State accident board, upon demand of the per-
son to whom compensation is due, to apply any deposits made
with the board to the payment of the same, and it shall be its
duty to take the proper steps to convert any securities on deposit
with the said board, or sufficient thereof, into cash and to pay
the same upon the liabilities of said employer accruing under the
terms of this act, and it shall be its duty, in so far as the same
shall be necessary, to collect and enforce the collection of the
liability of all sureties upon any bonds which may be given by the
said employer to insure the payment of his said liability. And to
these ends and for these purposes the board shall be deemed to
be the owner of said deposit and security and the obligee in said
bond in trust for the said purposes and may proceed in its own
name to recover upon such bonds or foreclose and liquidate said
securities.

(f) Within thirty days after the happening of an accident where
death or the nature of the injury renders the amount of future
payments certain, or reasonably certain, the employer shall make
a deposit or give security as herein defined with the treasurer of
the board for the protection and guaranty of the payment of
such liability in such sum as the board may direct: Provided,
however, That if sufficient securities are already on deposit with
the said board or if the said board shall have determined that the
employer has sufficient financial responsibility to meet said lia-
ibility of the said employer, together with other liabilities already
accrued, no such additional deposit or security shall be demanded.

(g) Any employer against whom liability may exist for com-
pensation under this act may, with the approval of the board, be
relieved therefrom by (1) depositing the present value or the
estimated present value of the total unpaid compensation for
which such liability exists, assuming interest at five per centum
per annum, with the treasurer of the board; or (2) purchasing
an annuity within the limitations provided by law in any insur-
ance company granting annuities and authorized to transact busi-
ness in this State, subject to the approval of the board.

PART III.

COMPENSATION PLAN NUMBER TWO.

SECTION 35. (a) Any employer in the industries, trades, works,
occupations, or employments in this act specified as hazardous, by
filing his election to become subject to and bound by compensation
plan number two, may insure his liability to pay the compensation and benefits herein provided for in any insurance company authorized to transact such business in this State.

(b) Any employer electing to become subject to and bound by compensation plan number two shall file with the board written acceptance of the provisions of compensation plan number two, together with a statement, upon forms provided by the board, of the nature of his employment, the character and location of his works, the number of men employed during the preceding year, or any part of the preceding year, and the probable number of men to be employed during the first fiscal year to be covered by such election; and the board shall thereupon determine the amount of insurance which will be reasonably necessary to secure the compensation with which the said employer may reasonably be expected to become chargeable during such fiscal year. And thereupon the said employer shall file the policy or policies of insurance herein provided for with the board, which policy or policies shall insure in the amounts so fixed by the board against any and all liability of the employer to pay the compensation and benefits provided for in this act. The amount of such insurance shall be fixed by the board for each ensuing fiscal year during which said employer shall engage in his said employment, and shall remain subject to the provisions of compensation plan number two, and for the purpose of fixing such amount of said insurance, the said board may make all reasonable and necessary investigation, and the said employer shall furnish to such board all information which it may require.

(c) All policies insuring the payment of compensation under this act must contain a clause to the effect that as between the employee and the insurer the notice to or knowledge of the occurrence of the injury on the part of the insured shall be deemed notice or knowledge, as the case may be, on the part of the insurer; that jurisdiction of the insured for the purpose of this act shall be jurisdiction of the insurer; and that the insurer shall in all things be bound by and subject to the awards, orders, judgments, or decrees rendered against such insured.

(d) No such policy shall be issued unless it contains the agreement of the insurer that it will promptly pay to the person entitled to compensation all the installments of compensation or other payments in this act provided for, and that the obligation shall not be affected by any default of the insured after the injury, or by any default in the giving of any notice required by such policy or by this act, or otherwise. Such agreement shall be construed to be a direct promise by the insurer to the person entitled to compensation.

(e) Every policy 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. No insurer shall enter into any such policy of insurance unless its form shall have been approved by the board and as otherwise provided by law.

(f) Every renewal of such policy shall be made and delivered to said board at least thirty days prior to the expiration of the expiring policy.

(g) Within thirty days of the happening of an accident where death or the nature of the injury renders the amount of future payments certain or reasonably certain, the insurer shall make a deposit as herein defined with the treasurer of the board for the protection and guaranty of the payment of such liability in such sum as the board may direct.

(h) Any insurer against whom liability may exist for compensation under this act may, with the approval of the board, be relieved therefrom by (1) depositing the present value or the estimated present value of the total unpaid compensation for which such liability exists, assuming interest at five per centum per annum, with the treasurer of the board; or (2) by purchasing an annuity within the limitations provided by law in any insurance
company granting annuities and authorized to transact business in this State, subject to the approval of the board.

(1) No policy of insurance issued under the provisions of compensation plan number two shall be canceled within the time limited for its expiration, except upon thirty days' notice to the employer in favor of whom such policy is issued, and to the board, unless such policy sought to be canceled shall have been sooner replaced by other insurance.

(2) Every insurance company transacting business under this act shall, at the time and in the manner prescribed by the board, make and file with the board such reports of accidents as the board may require.

(k) Every policy or contract insuring against liability for compensation under compensation plan number two must contain a clause to the effect that the insurer shall be directly and primarily liable to and will pay directly to the employee, or in case of death, to his beneficiaries or major or minor dependents, the compensation, if any, for which the employer is liable. Every such policy shall at all times be subject to the approval, change, or revision by the board, and shall contain the clauses, agreements, and promises required by this act.

(1) Any deposit made under the provisions of compensation plan number two shall be held in trust by the treasurer of the board as security for the payment of the liability for which the deposit was made. Such deposit may be reduced from time to time with the permission of the board, as the payment of the liability of the insurer may reduce the amount required to be on deposit. Such deposit may be changed or renewed when desired by the depositor by withdrawing the same, or any part thereof, and substituting other deposits therefor; upon proof of the final payment of the liability for which such deposit was made any deposit remaining shall be returned to the depositor. All earnings made by such deposit shall be first applied upon any liability of the depositors, and if no such liability exists then such earnings shall upon demand be delivered to such depositor. The treasurer of the board and his bondsmen shall be liable for the value and safekeeping of such deposit, and shall at any time upon demand of his bondsmen, the depositor, or the board account for the same and the earnings thereof.

PART IV.

COMPENSATION PLAN NUMBER THREE.

SECTION 40. (a) Every employer, subject to the provisions of compensation plan number three, shall, in the manner and at the times herein specified, pay into the State treasury, in accordance with the following schedule, a sum equal to the percentage of his total annual pay roll specified in this section, which said schedule is subdivided into classes, and the percentage of payments of premiums or assessments to be required from each of said classes is as follows:

Class one.—Broom or brush manufacturing, without sawmill; theater stage employees; moving-picture operators; electrotyping; engraving; lithographing; photo-engraving; stereotyping; embossing; bookbinding; printing; jewelry manufacturing; not otherwise specified; sixty-five one-hundredths of one per centum.

Class two.—Cloth, textile, and wool manufacturing, not otherwise specified; wharf employees, other than stevedores and longshoremen; eight-tenths of one per centum.

Class three.—Manufacturing alcohol, drugs, other than ammonia; candy, crackers, saddles, harness, leather novelties, mattresses, not including spring or wire, paint, varnish, wagons, buggies, carriages, sleighs, cutters; operation of tugs and steamboats; manufacturing roofing paper and articles of paper not otherwise specified, paper boxes, automobiles, motor trucks, hardware; working in rubber, not otherwise specified; manufacturing

Cancellation.
Reports of accidents.
Provision for direct liability.
Classified premium rates.
Classified pre-

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boots and shoes; manufacturing articles of and working in leather not otherwise specified; one and three-tenths per centum.

Class four.—Manufacturing cheese, condensed milk; operating creameries, manufacturing spices and condiments; paper hanging; kalsomining; whitewashing; making willow baskets; setting tiles mantels and marble work, inside work only; making grease, lard soap, tallow; inside plumbing work; installing heating systems painting and decorating, inside work only; metal ceiling work one and four-tenths per centum.

Class five.—Operating breweries, bottling works, grain warehouses, grain elevators; manufacturing articles of brass, copper, lead, and zinc; operating machine shops, not otherwise specified; lathing, plastering; canneries of meat, fruit, vegetables, or fish, not including can manufacturing; cutting stone or paving blocks, other than in quarries, with or without machinery; installing electrical apparatus inside; installing fire- alarm apparatus inside; covering boilers or steam pipes; concrete laying in floors, street paving, or sidewalks, not otherwise specified; laying asphalt and other paving not otherwise specified; including shop and yard; manufacturing canoes and rowboats; well drilling; constructing and repairing of paving of bricks or blocks; one and five-tenths per centum.

Class six.—Operating of laundries with power, dyeing, bleaching, and cleaning works; manufacturing of furniture, show cases, office and store furniture and fixtures; cabinetmaking; manufacture of wire mattresses, bed springs, wooden coffins, caskets, rough wooden boxes for coffins; building hothouses, working in foodstuffs, fruits, edible oils or vegetables, not otherwise classified; manufacturing flour mills, chop mills, feed mills; one and six-tenths per centum.

Class seven.—Manufacturing wood fiber ware; installing automatic sprinklers or ventilating systems; setting glass; erecting fireproof doors and shutters inside of buildings; operating tanneries, sugar factories; beveling glass; manufacturing peat fuel; building wooden stairs; manufacturing brick, including kilns and buildings and diggings in pits, briquettes; brooms with sawmills, earthenware, fire clay, porcelain ware, pottery, tile, terra cotta; brush making with sawmills; one and eight-tenths per centum.

Class eight.—Manufacturing of ammonia; operating waterworks, gas works; grading, either of streets or otherwise, or road making, without blasting; construction of plank road, plank street, or plank skidwalk; operating creosoting works; pile treating works; treating ties or other timber products; plumbing, both at the works and at the yard; laying of mains and connections, without blasting; construction of waterworks, gas works, and coke ovens, including laying of mains and connections, without blasting; one and nine-tenths per centum.

Class nine.—Manufacturing artificial ice; operating refrigerator plants, cold-storage plants, foundries, packing houses, including slaughtering; manufacturing agricultural implements, threshing machinery, traction engines, harvesting machinery; manufacturing asphalt; operating steam heating and power plants; manufacturing gas or gasoline engines; operating ferries; stone crushing, not at quarries; boat or ship building, other than canoes or rowboats, without scaffolds; laying hot flooring composition, not otherwise specified; operating stockyards; two per centum.

Class ten.—Operating paper mills, pulp mills; longshoring; stevedoring; manufacturing fertilizers; operating garbage works; incinerators, crematories, lime kilns, or burners, no quarrying; installing boilers, steam engines, dynamos, machinery, not otherwise specified; putting up belts for machinery; manufacturing barrels, kegs, pails, staves, tubs, excelsior, veneer, packing cases, sash, doors, and blinds; operation and maintenance of interurban railways without third rail; two and two-tenths per centum.

Class eleven.—Millwrighting, not otherwise specified; manufacturing building material, not otherwise specified; working in building material, not otherwise specified; two and one-quarter per centum.
Class twelve.—Operation of smelters; manufacturing of metallic coffins; manufacturing of iron or steel; boat or ship rigging; planing mills, independent; cement manufacturing; operating blast furnaces; two and three-tenths per centum.

Class thirteen.—Street or road making, with blasting; manufacturing wood baskets, kindling wood, window and door screens, cordage, and rope; manufacturing and refining oil; placing wires in conduits; two and four-tenths per centum.

Class fourteen.—Concentrating and amalgamating of ores; woodworking, not otherwise specified; operating gravel bunkers; handling gravel from gravel pits; operating wood saws; painting, exterior work; operating boiler works; making steam shovels; boilers; shipwrighting; operating sawmills, lath mills; bridge-work factories; operation of and work in mines, other than coal; two and five-tenths per centum.

Class fifteen.—Operating rolling mills; manufacturing tanks, not otherwise specified; erecting and repairing advertising signs; harvesting and storing of ice, including loading on cars; making and repairing of locomotives and railroad cars; cutting stone at stonework connected with quarries; boat or ship building with scaffolds; logging operations, with or without machinery; booming or driving logs, ties, or other timber products; operating single mills; operating quarries; two and three-quarters per centum.

Class sixteen.—Operating dredges; construction of telephone and telegraph systems; construction of dams and reservoirs, electric light and power plants, waterworks, and water systems; installing furnaces; constructing blast furnaces; sewer building, maximum depth of excavation at any point seven feet; operation and maintenance of steam railways, including logging railways; operating coal mines; three per centum.

Class seventeen.—Operating dry docks, including floating dry docks; ornamental metal work within building; electric railway construction, without rock work or blasting; railroad construction, including street and cable railways, without rock work or blasting; building canals, without rock work or blasting; installing freight or passenger elevators; operation of telephone and telegraph systems; making dredges; constructing dry docks; three and one-quarter per centum.

Class eighteen.—Carpenters not otherwise specified; constructing grain elevators, not metal framed; stump pulling with donkey engines; steam, electric, and cable railway construction, with rock work or blasting; construction of logging railways, with rock work or blasting; operation and maintenance of electric railways using third rail, electrified railways, all systems, including electric and cable; operation and maintenance of electric light and power plants, including transmission systems and extensions of lines; electric systems, not otherwise specified; three and one-half per centum.

Class nineteen.—Pile driving; clearing land with blasting; galvanized iron or tin works; marble works; fireproofing of buildings, by means of wire netting and concreting; cellar excavation, with or without blasting; three and three-quarters per centum.

Class twenty.—Constructing breakwaters, marine railways and jetties; installation and repair of electrical apparatus, not otherwise specified, outside work only; stamping of metal or tin; building trestles and tunnels other than mining; shaft sinking, not otherwise specified; four per centum.

Class twenty-one.—Moving safes, boilers, machinery; construction of tanks, water towers, windmills, not metal frame; plumbers making house connections with blasting; roof work; slate work; stonework; stone setting; brickwork construction, not otherwise specified; construction of canals, with rockwork or blasting; bridge building, wooden; construction of floating docks; constructing chimneys of metal or concrete; four and one-half per centum.

Class twenty-two.—Excavations, not otherwise specified; laying of mains and connections, with blasting; sewer building, where
maximum depth of excavation at any point exceeds seven feet; blasting, not otherwise specified; manufacturing fireworks; five per centum.

Class twenty-three.—Erecting fire escapes, fireproof doors and shutters outside of buildings; building concrete structures, not otherwise specified; concrete or cement work not otherwise specified; six per centum.

Class twenty-four.—Constructing iron or steel frame structures or parts; constructing and repairing steel frame structures; subaqueous work; caisson works; six and one-half per centum.

Class twenty-five.—House moving, house wrecking; construction or repair of steeples; construction of brick chimneys; six and three-quarters per centum.

Class twenty-six.—Manufacturing powder, dynamite, and other explosives, not otherwise specified; ten per centum.

Class twenty-seven.—Any employer and his employees engaged in nonhazardous work or employment, by their joint election, filed with and approved by the board, may accept the provisions of compensation plan number three. In such event such employer and employees shall be known as class twenty-seven, the rate of assessment in which shall be one-half of one per centum.

Separable occupations.

(b) If a single establishment or work comprises several occupations listed in section 40 (a) in different classifications, the assessment shall be computed according to the pay roll of each occupation if clearly separable, otherwise an average rate of assessment shall be charged for the entire establishment, taking into consideration the number of employees and the relative hazards.

Revision of rates.

(c) The classification of hazardous occupations in section 40 (a) and the rates of premium or assessment therein fixed are advisory only, and the board is hereby given full power and authority to re-arrange, revise, add to, take from, change, modify, increase, or decrease any classification or rate named in section 40 (a) as in its judgment or experience may be necessary or expedient: Provided, That no change in the classification or rates prescribed in section 40 (a) shall be made effective prior to the end of the first fiscal year, and thereafter any changes so made shall not become effective until thirty days after the date of the order or decision of the board making such change except that in case of new industries, or industries not enumerated in section 40 (a), the board shall have the right to make an immediate classification thereof and establish a rate therefor.

Common fund.

(d) It is the intent and purpose of compensation plan number three that each industry, trade, occupation, or employment coming under the provisions of said plan shall be liable and pay for all injuries happening to employees coming under the provisions of said plan, and that all funds collected by assessments as herein provided shall be paid into one common fund to be known as the industrial accident fund, which fund shall be devoted exclusively to the payment of all valid claims for injuries happening in each industry, trade, occupation, or employment coming under the provisions of compensation plan number three: Provided, That accounts shall be kept with each industry, trade, occupation, or employment in according (accordance) with the foregoing classification or otherwise, as the board may direct, both as to receipts and disbursements, for the purpose of providing information and statistics necessary for determining any changes in such rates or classifications.

Separate accounts.

(e) There shall be collected from all classes as initial payment into the industrial accident fund, on or before the fifteenth day of July, 1915, one-fourth of the premium of assessment for that fiscal year and one-twelfth thereof at the first of each month beginning with October first, 1915: Provided, That if such fund shall have a sufficient balance on hand at the end of the first three months, or any month thereafter, to meet the requirements of the Industrial accident fund, no assessment shall be called for such month.
(f) The first payment shall be collected upon the payroll of
the months of April, May, and June, 1915. At the end of each
calendar year an adjustment of the account shall be made upon
the basis of the actual payroll. Any shortage shall be made good
within thirty days thereafter. Every employer who shall enter
into business at any intermediate day shall make his payments in
the same manner and upon the same basis before commencing op-
erations; the amount of such payments shall be calculated upon
his estimated payroll, and an adjustment shall be made on or
before February first in the year following, in the manner above
provided.

(g) Any employer who is in default in the observance of any
order of the board, issued pursuant to the provisions of sections
40 (a) to 40 (f), inclusive, shall, in addition to any other penalty
provided by this act, be charged an advance of twenty-five per
centum over the established rate, and such advanced rate shall
continue and be in force until such employer shall have ceased
to be in such default.

(h) Any change in classification of risks or premium rates, or
any change caused by change in the class of work, occurring dur-
ing the calendar year, shall be equalized by the board within
thirty days after the end of such year in proportion to its dura-
tion in accordance with the schedules provided in this act.

(i) If at the end of any year it shall be seen that the contribu-
tion to the industrial accident fund by any class of industry shall
be less than the drain upon such fund on account of that class,
the deficiency shall be made good to the fund on the first day of
February of the following year by the employers of that class in
proportion to their respective payments for the previous year.

(j) Upon the happening of an accident where death or the
nature of the injury renders the amounts of future payments cer-
tain or reasonably certain, the board shall forthwith cause the
treasurer of the board to set apart out of the industrial accident
fund a sum of money, to be calculated on the basis of the maxi-
mum sum required to pay the compensation accruing on account
of such injury, which will meet such required payments, not
exceeding, however, the sum of four thousand dollars for any one
case.

(k) The treasurer of the board shall invest such reserve in
bonds of the United States, bonds of the State of Montana, or
bonds of any county, city, or school district in the State of Mon-
tana, or any other security which may be approved by said board,
and out of the same and its earnings shall be paid the monthly in-
stallments and any lump sum then or thereafter arranged for the
case. Any deficiency shall be made good out of any balance
or overplus shall revert to the industrial accident fund.

(l) The treasurer of the board shall keep an accurate account
of all such segregations of the industrial accident fund, and upon
direction of the board shall divert from the main fund any sums
necessary to meet monthly payments, pending the conversion into
cash of any security, and in such case shall repay the same out of
the cash realized from the security.

(m) If any employer shall default in any payment to the in-
dustrial accident fund, the sum due may be collected by an action
at law in the name of the State, and such right of action shall be
cumulative.

(n) For any injury happening to any of his workmen during
default in any payment to the industrial accident fund, the def-
culting employer as to such injury shall be considered as having
received not to come under the provisions of this act, except that
he shall be and remain liable to pay to the industrial accident
fund the amount of such default, together with the penalty pre-
scribed by section 40 (g).

(o) The person entitled to sue under the provisions of section
40 (n) shall have the option of proceeding by suit or taking under
this act. If such person take under this act, the cause of action against the employer shall be assigned to the State for the
benefit of the industrial accident fund. If such person shall elect to proceed against the defaulting employer, such election shall constitute a waiver of any right to compensation under the provisions of this act.

(p) Any cause of action assigned to the State under the preceding section may be prosecuted or compromised by the board, in its discretion.

(q) Where a workman is entitled to compensation under compensation plan number three, he shall file with the board his application therefor, together with the certificate of the physician who attended him, and it shall be the duty of such physician to lend all necessary assistance in making application for compensation and such proof of other matters as may be required by the rules of the board without charge to the workman.

(r) For a proper compliance with the provisions of the preceding section the physician, after approval by the board, shall be paid out of the industrial administration fund one and one-half dollars for each case.

(s) Where death results from the injury the parties entitled to compensation under compensation plan number three, or some one in their behalf, shall make application for the same to the board. The application must be accompanied with proof of death and proof of relationship, showing the parties entitled to compensation, certificate of the attending physician, if any, and such other proof as may be required by the rules of the board.

(t) In computing the pay roll the entire compensation received by every workman employed in the hazardous occupations enumerated in this act 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.

(u) Disbursements out of the industrial accident fund shall be made by the treasurer of the board as the board may order. If at any time there shall not be sufficient money in the accident fund with which to pay any warrants drawn thereon, the employer, on account of whose workmen the warrant was drawn, shall pay the same, and upon his next contribution to such fund he shall be credited with the amount so paid with interest thereon at the rate of six per centum per annum from the date of such payment to the date upon which the next assessment becomes payable, and if the amount of the credit exceeds the amount of such assessment, he shall have a warrant upon such fund for the excess, and if said warrant be not paid for want of funds it shall be credited to such employer and be applied upon succeeding assessments.

(v) All earnings made by the industrial accident fund by reason of interest paid for the deposit thereof or otherwise shall be credited to and become a part of said fund, and the making of profit, either directly or indirectly, by the treasurer of the board, or any other person, out of the use of the accident fund shall constitute a felony, and on conviction thereof shall subject the person making such profit to imprisonment in the State penitentiary for a term not exceeding two years, or a fine not exceeding five thousand dollars, or both such fine and imprisonment, and the treasurer of the board shall be liable upon his official bond for all profits realized for any unlawful use of the said fund.

PART V.

SAFETY PROVISIONS.

Safe place. Section 50. (a) No employer shall construct, maintain, or operate, or cause to be constructed, maintained, or operated any place of employment that is not safe.

(b) 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 protection of any employee in such employment or place of employment, or fail or neglect to do anything reasonably necessary to protect the life and safety of himself and other employees.

(c) The board 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.

(d) The board shall have power, in addition to other powers herein granted, 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 as are well adapted to render employees and places of employment safe.

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 and methods of protection as may be necessary for the protection of the life and safety of employees.

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 act necessary for the protection of life and safety of employees.

5. To declare and prescribe the general form of industrial accident 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 board from requiring supplemental accident reports: Provided, however, That where by the laws of the State of Montana the manner or method of carrying on any business, or the rules or regulations in relation thereto, or the character or kind of safety devices has been prescribed, no other or additional requirements shall be made by the board, but it shall be the duty of the board to see that the employer lives up to and obeys said laws.

(e) 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, the board shall cause a notice of such hearing to be published in one or more daily newspapers of general circulation, published and circulated in the State. No defect or inaccuracy in such notice or in the publication thereof shall invalidate any general order issued by the board after a hearing has been had.

Sec. 51. (a) After July 1, 1915, every place of employment of a work or occupation defined by sections 4 (a), 4 (b), 4 (c), 4 (d), 4 (e), and 5 of this act to be hazardous shall be inspected at least once during each year by an inspector or examiner appointed by the board. Such inspection shall be for the purpose of determining the condition and operation of such places of employment as regards the safety of employees working therein, and the use of safeguards, safety appliances, and reasonably safe tools and appliances.

(b) A report of such inspection shall be filed in the office of the board, and a copy thereof given the employer.

(c) Each place of employment inspected as provided in section 51 (a) and found in a satisfactory condition shall receive from the board, upon payment of the inspection fees hereinafter provided for, a certificate to that effect, which certificate must be prominently displayed, under glass, in one of the principal places of the establishment so inspected.
Orders.

(d) If after such inspection and report thereof to the board it shall be found that any such place of employment is not constructed, maintained, or operated as provided in this act, the board shall order the installation, use, maintenance, and operation, within such reasonable time as the board may direct, of such safety devices, safeguards, and other means and methods of protection as may be necessary to reasonably insure the safety of the workmen employed therein, subject to the provisions of section 51 (e).

Closing place of work.

(e) If after such inspection the board or any inspector or examiner thereof shall find such place of employment in such an unsafe condition as to constitute an immediate menace to the safety of the workmen employed therein, the board, or any inspector or examiner thereof, may order any such place of employment closed, or the work therein to cease, until such safety devices, safeguards, and other means and methods or changes or removals as may be ordered by the board, or any inspector or examiner thereof, shall have been installed, repaired, changed, or removed, and such place of employment put in such condition as will reasonably insure the safety of the workmen employed therein.

Fees.

Sec. 52. (a) For each annual inspection made under the provisions of this section the employer shall pay, at the time of such inspection, a fee of five cents for each one thousand dollars or fraction thereof of his annual pay roll for the preceding year: Provided, That no inspection fee under this section shall be less than five dollars.

(b) The fees for any subsequent or reinspection made during any year in which an annual inspection shall have been made shall be:

Where the annual pay roll for the preceding year shall have been not more than twenty-five thousand ($25,000) dollars, five ($5) dollars.

Where the annual pay roll for the preceding year shall have been more than twenty-five thousand ($25,000) dollars but not more than one hundred thousand ($100,000) dollars, ten ($10) dollars.

Where the annual pay roll for the preceding year shall have been more than one hundred thousand ($100,000) dollars but not more than five hundred thousand ($500,000) dollars, twenty ($20) dollars.

Where the annual pay roll for the preceding year shall have been more than five hundred thousand ($500,000) dollars but not more than one million ($1,000,000) dollars, forty ($40) dollars.

Where the annual pay roll for the preceding year shall have been more than one million ($1,000,000) dollars, fifty ($50) dollars.

(c) All fees received by the board for inspection or for subsequent or reinspection, and all fines imposed or collected for a violation of the safety provisions of this act, shall be paid monthly to the State treasurer, who shall credit such payments to the industrial administration fund.

Orders of board.

Sec. 53. (a) Whenever the board shall find that any employment or place of employment is not safe, or that the practice or means or methods of operation 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 employs and places of employment, the board 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 the 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 places of employment safe, in the manner and within the time specified in such order.
(b) The board 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 board for an extension of time, which the board shall grant if it finds such an extension of time necessary.

(c) Whenever the board 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 summarily investigate the same, with or without notice or hearings, and enter and serve such order as may be necessary relative thereto.

(d) 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 board, and shall do everything necessary or proper in order to secure compliance with and observance of every such order, decision, rule, or regulation.

(e) Nothing contained in this act shall be construed to deprive any other public corporation, board, or department of any power or jurisdiction over or relative to any place of employment: Provided, That whenever the board shall by order fix a standard of safety for employments or places of employment such order shall, upon the filing by the board of a copy thereof with the secretary or clerk of any such public corporation to which or within whose jurisdiction 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 board.

(f) Every order of the board, general or special, its rules or regulations, findings or decisions, shall be admissible in evidence in any prosecution for, or suit to prevent, the violation of any of the provisions of this act, and shall be presumed to be reasonable. This presumption is, however, a rebuttable presumption.

(g) The board may investigate the cause of all industrial accidents occurring in any employment or place of employment, or directly or indirectly arising from or connected therewith, resulting in personal injury or death; and the board 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 board, nor any accident report filed with the board, 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.

(h) If by reason of poor or careless management or otherwise any place of employment be unduly dangerous, in comparison with other like places of employment, and the employer operating the same shall not have complied with the safety provisions of this act, and such employer shall be under compensation plan number three, the board, in addition to any other penalty provided by this act, shall advance the rate upon such place of employment fifty per centum, and such advanced rate shall continue and be in force until such place of employment shall have ceased to be unduly dangerous in comparison with other like places of employment, and such employer shall have obtained a certificate of the inspector or examiner provided for herein.

Sec. 54. 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 provisions contained in 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.

Sec. 55. (a) Whenever in this act the inspection of mines is referred to, such inspection shall be made by the inspector of mines or his deputy, and nothing in this act contained shall be
construed as modifying or limiting in any way the duties required to be performed by the inspector of mines as may be otherwise provided by law: Provided, however, That the inspector of mines shall collect and account for the fees herein prescribed for inspection or subsequent or reinspection.

No rule, regulation, or requirement relating to the operation of mines within the State of Montana made by said board shall be lawful or valid unless the same shall be concurred in and approved by the State mine inspector, and shall have been within the power of the said State mine inspector to make in the first instance.

Orders.

(b) A copy of any order, direction, or requirement of the inspector of mines shall be filed with the board and shall thereupon become and have all the force and effect of an order of the board, subject only to review by the court as in this act provided.

Repealer.

Sec. 56. All acts and parts of acts in conflict herewith are hereby repealed.

Act in effect.

Sec. 57. This act shall be in full force and effect from and after its passage and approval.

Approved March 8, 1915.
NEVADA.

ACTS OF 1913.

CHAPTER 111.—Compensation of workmen for injuries.

SECTION 1 (as amended by chapter 190, Acts of 1915). (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 by accident 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.

(b) Where the State, county, municipal corporation, school district, cities under special charter and commission form of government, or contractors under the State, county, municipal corporation, school district, or cities under special charter or 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.

(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 cases 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:

1. The employee assumed the risks inherent 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 co-employee;

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;

4. In actions by an employee against an employer for personal injuries 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.

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.
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:

**EMPLOYER'S NOTICE TO REJECT.**

To the employees of the undersigned, and the Nevada Industrial Commission:

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 the Nevada Industrial insurance act, and elects to pay damages for personal injuries received by such employees under the common law and the statutes of this State modified by subdivisions 1, 2, 3, and 4 of section 1 of 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.

**Construction of contracts.**

Where neither the employer nor the employee has 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.

**Injuries not compensated.**

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 while intoxicated.

**Remedy 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; 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.

(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:

EMPLOYEES' NOTICE TO REJECT TERMS OF THIS ACT.

To (name of employer) and the Nevada Industrial Commission:

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 3 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.

Sec. 4 (as amended by chapter 190, Acts of 1915). (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 provided in subsection (b) of this section.

(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 this 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 both parties 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 third persons, 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 compen-

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sation 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 com-
ensation under this act, the Nevada Industrial Commission, by
whom the compensation was paid, shall be entitled to indemni-
ty 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 em-
ployer.

Contractors.

Industrial
commission.

Sec. 8 (as amended by chapter 190, Acts of 1915). (a) The ad-
ministration of this act on and after April 1, 1915, is hereby im-
posed upon a commission to be known as the “Nevada Industrial
Commission,” and said commission, to consist of three comis-
sioners, is hereby created. The governor, attorney general, and
inspector of mines shall constitute an industrial commission board
for the appointment of such commissioners. Vacancies shall be
filled in the same manner for unexpired terms. No more than
two of the commission shall be members of the same political
party at the date of any appointment. Each commissioner shall
hold office for the term of four years from and after date of his
appointment, and until his successor shall be appointed and shall
have qualified. One commissioner shall be designated by the gov-
ernor to be, and upon being so designated shall be, chairman of
the commission. A decision on any question arising under the
act concurred in by two of the commissioners shall be the decision
of the commission.

Removal of
members.

(b) The industrial commission board may remove any com-
missioner for inefficiency, neglect of duty, or misconduct in office,
giving him a copy of the charges against him and an opportunity
of being publicly heard in person or by counsel in his own defense
upon not less than ten days’ notice. If such commissioner shall be
removed, the industrial commission board shall file in the office
of the secretary of state a complete statement of all charges made
against such commissioner, and the findings thereon, together with
a complete record of the proceedings.

Salaries.

(c) Each commissioner shall receive as compensation for his
services the sum of ten dollars per day for all days in which he
is actually engaged in the business of the commission, which in
no case shall exceed one hundred and fifty ($150) dollars per
month. The chairman shall also serve as executive officer of the
commission, in charge of the office and affairs of the commission,
and shall be entitled to additional compensation for such service,
which shall be fixed by the industrial commission board and ap-
proved by the governor. The executive officer of the commission
shall not be financially interested in any business interfering or
inconsistent with his duties. A member of the commission or an
employee of the commission shall not serve on any committee of
any political party.

Sessions.

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 ad-
journed without further notice thereof on its records. All pro-
ceedings of the commission shall be shown on its record of pro-
ceedings, 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.

Office.

Sec. 10 (as amended by chapter 190, Acts of 1915). The com-
mission shall keep and maintain its office at the capitol, in the
town of Carson City, Nevada, and shall be provided by the board
of capitol commissioners with suitable rooms. Except in cases of
emergency, all necessary printing, including forms, blanks, en-
velopes, letterheads, circulars, pamphlets, bulletins, and reports
required to be printed by said commission shall be done at the
State printing office, and it is made the duty of the State printer
to have such printing done as expeditiously as possible.
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.

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.

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.

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.

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.

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 or the 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.

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.
Sec. 18. In an investigation the commission may cause deposition 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.

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.

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.

Sec. 21 (as amended by chapter 190, Acts of 1915). (a) Every employer coming within the provisions of this act shall, on or before the fifteenth day of each and every month pay to the Nevada Industrial Commission 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.**

<table>
<thead>
<tr>
<th>Description</th>
<th>Premium Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tunnels; bridges; trestles; subaqueous works, ditches and canals (other than irrigation without blasting); fire escapes; sewers; house moving; house wrecking</td>
<td>.035</td>
</tr>
<tr>
<td>Iron or steel structures or parts of structures</td>
<td>.040</td>
</tr>
<tr>
<td>Electric light or power plants or systems; telegraph or telephone systems; pile driving; steam railroads</td>
<td>.050</td>
</tr>
<tr>
<td>Steeples, towers, or grain elevators, not metal framed; chimneys; water works or systems; electric railways with rock work or blasting; blasting; erecting fireproof doors or shutters</td>
<td>.050</td>
</tr>
<tr>
<td>Steam-heating plants; tanks, water towers, or windmills, not metal frames</td>
<td>.040</td>
</tr>
<tr>
<td>Shaft sinking</td>
<td>.030</td>
</tr>
<tr>
<td>Concrete buildings; freight or passenger elevators; fireproofing of buildings; galvanised iron or tin works; gas works or systems; marble, stone, or brick work; road work with blasting; roof work; safe moving; slate work; outside plumbing work; metal smokestacks or chimneys</td>
<td>.050</td>
</tr>
<tr>
<td>Excavations not otherwise specified; blast furnaces</td>
<td>.030</td>
</tr>
<tr>
<td>Street or other grading; cable or electric street railways without blasting; advertising signs; ornamental metal work in buildings</td>
<td>.025</td>
</tr>
<tr>
<td>Carpenter work not otherwise specified</td>
<td>.035</td>
</tr>
<tr>
<td>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</td>
<td>.030</td>
</tr>
</tbody>
</table>
Drilling wells; installing electrical apparatus or fire-alarm systems in buildings; house heating or ventilating systems; glass setting; building boughouses; lathing; paper hanging; plastering; inside plumbing; wooden-stair building; road making. 0.020

The absence of power-drive 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 0.025

Electric light or power plants; interurban electric railroads not using third-rail system; quarries 0.025

Street railways; all employees; telegraph or telephone systems; stone crushing; blasting furnaces; smelters; coal mines; mills; steamboats; tugs; ferries 0.030

Mines, other than coal; steam heating or power plants 0.025

Grain elevators; laundries; waterworks; paper or pulp mills; garbage works 0.020

FACTORIES USING POWER-DRIVEN MACHINERY—FACTORIES.

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-fiber ware; rolling mills; making steam shovels or dredges; tanks; water towers; asphalt; building material not otherwise specified; fertilizer; stone with or without machinery; kindling wood; masts and spars with or without machinery; canneries, metal stamping extra; creosoting works; pile-treating works 0.020

Excelsior, iron, steel, copper, zinc, brass, or lead articles or wares not otherwise specified; hardware; tile, brick, terra cotta; fire clay; pottery; earthenware; ware; porcelain; peat fuel; briquettes 0.020

Breweries; bottling works; boiler works; foundries; machine shops not otherwise specified 0.020

Cordage; working in foodstuffs, including oils, fruits, and vegetables; working in wool, cloth, leather, paper, broom, brush, rubber, or textiles not otherwise specified 0.015

Making jewelry, soap, tallow, lard, grease, condensed milk 0.015

Creameries; printing; electrotyping; photo-engraving; engraving; lithographing 0.015

MISCELLANEOUS WORK.

Operating stockyards, with or without railroad entry; packing houses 0.025

Artificial ice, refrigerating or cold-storage plants; tanneries; electric systems not otherwise specified 0.020

Theater stage employees 0.015

Fireworks manufacturing 0.050

Powder works 0.100

All other employments not herein specified 0.015

(b) The Nevada Industrial Commission shall have the power, as experience and conditions demand, to increase or decrease the Changing rates.
rates above provided; sixty days' notice of any change in rates shall be given before the same shall become effective; the commission shall have the power, and it shall be their duty, to classify occupations with respect to their degree of hazard, and determine the risks of the different classes and fix the rates of premiums 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 create a surplus sufficiently large to guarantee a satisfactory State insurance fund from year to year.

(c) In addition to the premiums which the employer is required to contribute to the State insurance fund, the employer shall furnish and promptly provide for an injured employee such medical, surgical, or hospital aid or treatment as may be reasonably required at the time of the injury, and thereafter during the disability, but not exceeding four months, to cure and relieve from the effects of the injury. If the employer neglects or refuses seasonably to do so, the injured employee may do so at the expense of the employer.

To equalize the burden of the cost of medical, surgical, or hospital aid or treatment, as provided for in this section, mutual or cooperative arrangements may be made between the employer and employee, and the employer may assess each employee and deduct from the wages of each employee a sum not to exceed one dollar each month as the employee's contribution to a fund to provide medical, surgical, or hospital aid or treatment required by this act.

Any employer may jointly with other employers organize and maintain mutual or cooperative associations to furnish medical, surgical, or hospital aid or treatment equal to or greater than is provided for in this act.

In the event that any employer neglects or refuses seasonably to furnish the medical, surgical, or hospital aid or treatment provided for in this act, the injured employee may elect to receive such medical, surgical, or hospital aid or treatment provided by or through the Nevada Industrial Commission. If the injured employee elects to have such medical, surgical, or hospital aid or treatment provided by or through the Nevada Industrial Commission, the cause of action of said injured employee against the employer or hospital association shall be assigned to the Nevada Industrial Commission for the benefit of the State insurance fund, and the Nevada Industrial Commission shall furnish to said injured employee the medical, surgical, or hospital aid or treatment provided for in this act.

All fees and other charges for such medical, surgical, or hospital aid or treatment shall be subject to regulation by the commission, and shall be limited to such charges as prevail in the same community for similar treatment of injured persons of like standard of living.

Sec. 22 (as amended by chapter 190, Acts of 1915). Whenever an establishment or work is dangerous in comparison with other like establishments or works, the Nevada Industrial Commission may advance its classification of risk and premium rates in proportion to the hazard. Such advancement of classification of risks and premium rates may be made without previous notice.

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.

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 hereinbefore provided.

Sec. 25 (as amended by chapter 190, Acts of 1915). Every employee or workman coming within the provisions of this act, who shall be injured by accident arising out of or in the course of em-
pployment, or his dependents, as hereinafter defined, shall be entitled to receive the following compensation:

If death results from the injury, compensation shall be paid to the dependents of deceased employee in monthly installments, as follows:

(a) If there be total dependents, compensation shall be paid only to such total dependents, as follows:

1. To the dependent widow or widower, if there be no dependent children, forty per cent of the average monthly wage, but not less than twenty dollars nor more than sixty dollars per month for a period of one hundred months, but in no case to exceed the sum of four thousand dollars.

2. To the dependent widow or widower, if there be one child or two children, fifty per cent of the average monthly wage, but not less than twenty dollars nor more than sixty dollars per month for a period of one hundred months, but in no case to exceed the sum of five thousand dollars.

3. To the dependent widow or widower, if there be more than two dependent children, sixty per cent of the average monthly wage, but not less than twenty dollars nor more than sixty dollars per month for a period of one hundred months, but in no case to exceed the sum of six thousand dollars.

Compensation to the widow or widower shall be for the use and benefit of such widow or widower and of the dependent children, and the Nevada Industrial Commission may from time to time apportion such compensation between them in such way as it deems best.

4. If there be no dependent widow or widower, but a dependent child or children, compensation shall be allowed for the support of minor children under the age of sixteen years, the total amount thereof to be not less than ten dollars nor more than thirty-five dollars per month, to be fixed by the commission. The duration of such compensation shall also be fixed by the commission.

5. If the deceased employee leaves dependents only partly dependent upon his earnings for support at the time of his injury, the monthly compensation to be paid shall be equal to the same proportion of the monthly payments for the benefit of persons totally dependent as the amount contributed by the employee to such partial dependents bears to the average wages of deceased at the time of his injury. The duration of such compensation to partial dependents shall be fixed by the commission, but in no case shall exceed one hundred months.

6. In all other cases questions of total or partial dependency shall be determined in accordance with the facts as the facts may be at the time of the injury; and in such 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. 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 the dependency: Provided, however, That when a lump sum is paid, as contemplated by this act, the 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 becomes sixteen years of age.

7. If death results from the injury, burial expenses, not to exceed the sum of one hundred and twenty-five dollars, shall be paid in addition to the compensation payable under this act.

For temporary total disability, compensation of fifty per cent of the average monthly wage, but not more than sixty dollars nor less than twenty dollars a month, but not exceeding one hundred months, during the period of such disability, total amount not to exceed five thousand dollars.

For permanent total disability, compensation of fifty per cent of the average monthly wage, but not more than sixty dollars nor less than twenty dollars a month, for a period not to exceed one hundred months, total amount not to exceed five thousand dollars.
In case of the following specified injuries, the disability caused thereby shall be deemed total and permanent:

1. The total and permanent loss of sight in both eyes.
2. The loss by separation of both legs at or above the knee.
3. The loss by separation of both arms at or above the elbow.
4. The loss by separation of one arm at or above the elbow and one leg by separation at or above the knee.
5. An injury to the spine resulting in permanent and complete paralysis of both legs or both arms.
6. An injury to the skull resulting in incurable imbecility or insanity.

The above enumeration is not to be taken as exclusive, and in all other cases permanent total disability shall be determined in accordance with the facts.

Where there has been a previous disability, as the loss of one eye, one hand, one foot, or any other previous permanent disability, the percentage of disability for a subsequent injury shall be determined by computing the percentage of the entire disability and deducting therefrom the percentage of the previous disability as it existed at the time of the subsequent injury.

For temporary partial disability, one-half of the difference between the wages earned before injury and wages which the injured is able to earn thereafter, but not more than forty dollars a month for a period not to exceed sixty months during the period of such disability.

Specific injuries. In the case of any of the following specified injuries, the disability caused thereby shall be deemed a permanent partial disability, and the amounts named shall be paid in addition to compensation paid for temporary total disability:

1. For the loss of a thumb, fifty per cent of the average monthly wages during fifteen months.
2. For the loss of the first finger, commonly called the index finger, fifty per cent of the average monthly wages during nine months.
3. For the loss of a second finger, fifty per cent of the average monthly wages during seven months.
4. For the loss of a third finger, fifty per cent of the average monthly wages during five months.
5. For the loss of a fourth finger, commonly called the little finger, fifty per cent of the average monthly wages during four months.
6. The loss of the distal or second phalange of the thumb or the distal or third phalange of the first, second, third, or fourth fingers shall be considered a permanent partial disability and equal to the loss of one-half of such thumb or finger, and compensation shall be one-half of the amount specified for the loss of the entire thumb or finger.
7. The loss of more than one phalange of the thumb or finger 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 of the average monthly wages during seven months.
9. For the loss of one of the other toes other than the great toe, fifty per cent of the average monthly wages during two and one-half months.
10. 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.
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 of the average monthly wages during forty months.
13. For the loss of an arm, fifty per cent of the average monthly wages during fifty months.
14. For the loss of a foot, fifty per cent of the average monthly wages during thirty-five months.
15. For the loss of a leg, fifty per cent of the average monthly wages during forty-five months.
16. For the loss of an eye, fifty per cent of the average monthly wages during twenty-five months.
17. For permanent and complete loss of hearing in one ear, fifty per cent of the average monthly wages during twenty months.
18. For permanent and complete loss of hearing in both ears, fifty per cent of the average monthly wages during sixty months.
19. The permanent and complete loss of the use of a finger, toe, arm, hand, foot, or leg may be deemed the same as the loss of any such member by separation.
20. The permanent and complete loss of sight in one eye may be deemed as the loss of one eye.
21. Facial disfigurement: For permanent disfigurement about the head and face, the commission may allow such sum for compensation thereof as it may deem just, not exceeding fifty per cent of monthly wages during twelve months.

In all cases of permanent partial disability, not otherwise specified in the foregoing schedule, the disability shall be determined according to the percentage thereof, taking into account, among other things, any previous disability, the occupation of the injured employee, the nature of the physical injury or disfigurement, and the age of the employee at the time of the injury; and the compensation paid therefor shall be the percentage of the disability caused by the injury times fifty per cent of the average monthly wage (but not more than fifty dollars a month) for not exceeding one hundred months during the life of the injured employee. Whenever the monthly payments under this subsection are so small that the payments thereof during the full period will work a hardship on the beneficiary, or be of no substantial benefit, the period may be shortened and the payments correspondingly increased in such a manner that the same may be of substantial benefit to the injured employee.

Sec. 26 (as amended by chapter 190, Acts of 1915). The following persons shall be conclusively presumed to be totally dependent for support upon a deceased employee:

1. A wife upon a husband whom she has not voluntarily abandoned at the time of injury.
2. A husband, mentally or physically incapacitated from wage earning, upon a wife whom he has not voluntarily abandoned at the time of injury.
3. A natural, posthumous, or adopted child or children, whether legitimate or illegitimate, under the age of sixteen years, or over that age, if physically or mentally incapacitated from wage earning, upon the parent with whom he or they are living at the time of the injury resulting in the death of such parent, there being no surviving parent. In cases where 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 age of such dependents and other facts bearing on such dependency. Step-parents may be regarded in this act as parents, if the fact of dependency is shown, and a stepchild or stepchildren may be regarded in this act as a natural child or children if the existence and fact of dependency is shown.

Questions as to who constitute dependents and the extent of their dependency shall be determined as of the date of the accident or injury 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 benefits shall be directly recoverable by and payable to the dependent or dependents entitled thereto, or to their legal guardians or trustees.

Sec. 27 (as amended by chapter 190, Acts of 1915). No compensation shall be paid under this act for an injury which does not incapacitate the employee for a period of at least seven days from earning full wages, but if the incapacity extends beyond the period
of seven days, compensation shall begin on the eighth day after the injury: Provided, however, That if such disability continues for two weeks beyond the period of said seven days, such compensation shall be computed from the date of the injury.

Sec. 28 (as amended by chapter 190, Acts of 1915). Compensation payable under this act, whether determined or due, or not, shall not, prior to the issuance and delivery of the warrant therefor, be assignable; shall be exempt from attachment, garnishment, and execution, and shall not pass to any other person by operation of law: Provided, however, That the payments to the consul general, consul, vice consul general, or vice consul, of the nation of which any dependent of a deceased employee is a resident or subject, or a representative of such consul general, consul, vice consul general, or vice consul, of any compensation due under this act to any dependent residing outside of the United States, any power of attorney to receive or receipt for the same to the contrary notwithstanding, shall be as full a discharge of the benefits or compensation payable under this act as if payments were made directly to the beneficiary.

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.

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.

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 rules and regulations and system of computation as may be devised for obtaining the present value of such compensation.

Sec. 32 (as amended by chapter 190, Acts of 1915). (a) 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. 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. If the employee refuses to submit to any such examination or obstructs the same, his right to compensation shall be suspended until such examination has taken place, and no compensation shall be payable during or for account of such period. Any physician who shall make or be present at any such examination may be required to testify as to the result thereof.

(b) If any employee shall persist in unsanitary 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 commission may, in its discretion, reduce or suspend the compensation of any such injured employee.

(c) If, for the purpose of obtaining any benefit or payment under the provisions of this act, either for himself or for any other person, anyone willfully makes a false statement or representation, he shall be guilty of a misdemeanor, and if a claimant he shall forfeit all right to compensation under this act after conviction for such offense.

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.

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 to [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.

(c) If 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.

(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. 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.

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 and paid into the accident fund, and the individual who shall personally give such misrepresentation shall be guilty of a misdemeanor.

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 act may be sued by the plaintiff. The person so entitled under the provisions of this act may be sued by the plaintiff. 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 subdivision 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.

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, the commission shall be entitled to recover the costs incurred by the commission, and the costs of suit, and the powers and duties conferred by this act shall ever be required to be furnished by the commission.

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 [minimum] 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.

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 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.

Sec. 40 (as amended by chapter 190, Acts of 1915). (a) The premiums, contributions, penalties, properties, or securities paid, collected, or acquired by operation of this act shall constitute a fund to be known as the "State insurance fund." All disbursements from the State insurance fund shall be paid by the State treasurer upon warrants or vouchers of the Nevada Industrial Commission, authorized and signed by any two members of the commission. The State treasurer shall be liable on his official bond for the faithful performance of his duty as custodian of the State insurance fund. The State of Nevada shall not be liable for the payment of any compensation or any salaries or expenses in the administration of this act, save and except from the State insurance fund, but shall be responsible for the safety and preservation of the State insurance fund.

(b) The Nevada Industrial Commission may, pursuant to a resolution of the commission, approved by the governor, invest not to exceed sixty per cent of the amount of said fund in the bonds of the United States, in the bonds of this or other States, or in the bonds of any county of the State of Nevada, or other States. The commission shall make due and diligent inquiry as to the financial standing of the State or States, county or counties, whose...
bonds or securities it proposes to purchase, and shall also require
the attorney general to give his legal opinion in writing as to the
validity of any act or acts of any State or county under which
such bonds are issued.

All such bonds or securities shall be placed in the hands of the
State treasurer, who shall be the custodian thereof. He shall
collect the principal and interest thereon when due and pay the
same into the State insurance fund. He shall notify the Nevada
Industrial Commission of the amounts so paid into the State insur-
ance fund, giving full details of the transaction. The State
treasurer shall pay all vouchers drawn on the State insurance
fund for the making of such investments when signed by two mem-
ers of the commission, upon delivery of such bonds or securities
to him when there is attached to such vouchers a copy of the
resolution of the commission authorizing the investment, approved
by the governor, said copy to be certified by the secretary under
seal of the commission. The commission may, upon like resolution
approved by the governor, sell any of such bonds or securities.

(c) The State treasurer may, upon written authority of the
Nevada Industrial Commission, approved by the governor, deposit
an additional fifteen per cent of said fund in bank or banks in the
State of Nevada upon special time deposits bearing interest at not
less than three per cent per annum: Provided, however, That such
bank or banks in which deposits may be made shall give to the
Nevada Industrial Commission a good and sufficient surety deposit
bond guaranteeing said Nevada Industrial Commission against
any loss of said deposit by reason of failure, suspension, or other-
wise of said bank. Interest earned by such portion of the State
insurance fund which may be deposited in any bank or banks, as
herein provided, shall be placed to the credit of the State insur-
ance fund.

(d) Each member of the commission, before entering upon the
duties of his office, shall take the oath prescribed by the constitu-
tion, and shall give good and sufficient bond, running to the State
of Nevada, in the penal sum of ten thousand dollars, conditioned
that he shall faithfully discharge the duties of his office; said
bonds shall be signed by a surety company duly authorized to do
business in this State or by two or more individuals as surety or
sureties, shall be subject to approval by the governor, and shall
then be filed with the secretary of state. If surety company bonds
be furnished, the premium therefor shall be paid out of the State
insurance fund, and all expenses of the commission assessed.

(e) The commission shall have a seal upon which shall be in-
scribed the words “Nevada Industrial Commission—State of
Nevada.” Its seal shall be fixed to all orders, proceedings, and
copies thereof, and to such other instruments as the commission
may direct. All courts shall take judicial notice of such seal, and
any copy of any record or proceeding of the commission certified
under such seal shall be received in all courts as evidence of the
original thereof.

Sec. 41 (as amended by chapter 190, Acts of 1915). If a work-
man or employee within the provisions of this act who has been
hired in this State and whose usual and ordinary duties of such
employment are confined to the State is sent out of the State on
business or employment of his employer, and receives personal in-
jury by accident arising out of and in the course of such employ-
ment, he shall be entitled to receive compensation according to the
provisions of this act, even though such injury was received out-
side of this State.

Sec. 42. This act shall be known as the “Nevada Industrial In-
surance Act.”

Sec. 43 (as amended by chapter 190, Acts of 1915). This act
shall apply to all employers of labor in the State of Nevada and
their employees and dependents of their employees, but excludes
any employee engaged in farm or agricultural labor, stock or
poultry raising, or household domestic service; and no contract
of employment, insurance, relief benefit, or indemnity, or any
other device shall modify, change, or waive any liability created by this act; and such contract of employment, insurance, relief benefit, 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.

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 workmen; 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 part thereof.

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 validity 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.

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.

Sec. 47. This act shall not affect any action pending or cause of action existing on June 30, 1913.

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 JERSEY.

ACTS OF 1911.

Chapter 95 (as amended by chapter 174, Acts of 1913).—Employers' liability—Compensation of workmen for injuries.

[Paragraph 12 of this act is amended by chapter 244, Acts of 1914, so as to read as follows:]

12 (as amended by chapter 244, Acts of 1914). In case of death compensation shall be computed, but not distributed, on the following basis:

- 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, step-parents, 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.

If death results from the accident whether there be dependents or not, 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.

Approved April 17, 1914.
ACTS OF 1915.

[The following acts were passed as supplements to the compensation law of the State (chapter 95, Acts of 1911, as amended by chapter 174, Acts of 1913).]

CHAPTER 59.—Compensation payments on behalf of minors.

1. In case where an infant or minor under the age of twenty-one years shall be entitled to receive a sum or sums amounting in the aggregate to not more than two hundred and fifty dollars as compensation for injuries or as a distributive share by virtue of the provisions of the act to which this act is a supplement, whether heretofore or hereafter arising, the father, mother, or natural guardian upon whom such infant or minor shall be dependent for support shall be authorized and empowered to receive and receipt for such moneys to the same extent as a guardian of the person and property of such infant or minor duly appointed by the surrogate of the orphans' court of the county in which such infant or minor resides and the release or discharge of such father, mother, or natural guardian shall be a full and complete discharge of all claims or demands of such infant or minor thereunder.

Approved, March 17, 1915.

CHAPTER 190.—Judgments in compensation cases—Failure to pay.

1. Any judgment entered in the court of common pleas pursuant to the provisions of section twenty of the act to which this act is a supplement may be docketed in the supreme court and thenceforward operate as a judgment recovered in that court. Upon failure to comply with the original order for compensation the court may order that the entire amount of compensation shall become due immediately and execution may issue upon proof of such failure for the entire amount of compensation, without discount or commutation. Supplementary proceedings in aid of execution may be resorted to upon a judgment so docketed and becoming due in whole as in any other case.

Approved, April 6, 1915.
NEW YORK.

ACTS OF 1913—EXTRA SESSION.

CHAPTER 316.—Compensation of workmen for injuries.

[This act was approved December 16, 1913, prior to the date of the taking effect of the amendment to the constitution authorizing a compulsory statute. To avoid possible questions as to constitutionality the law was reenacted as chapter 41, Acts of 1914, with slight amendments. Amendments were also made by chapter 316, Acts of 1914, and by chapters 167, 168, 615, and 674, Acts of 1915. The law as originally enacted appears in Bulletin No. 126, pages 340-357.

The first section amended is section 3, subdivision 3, which is amended by chapter 316, Acts of 1914, so as to include the State and municipal corporations, etc., instead of excluding them.

Section 11 now reads as follows:]

Sec. 11 (as amended by chapter 316, Acts of 1914). 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 it shall not be necessary to plead or prove freedom from contributory negligence nor may the defendant plead as a defense that the injury was caused by the negligence of a fellow servant nor that the employee assumed the risk of his employment nor that the injury was due to the contributory negligence of the employee.

[Subdivision 6 of section 15 is amended by chapter 615, Acts of 1915, so as to read as follows:]

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: Provided, however, That an employee who is suffering from a previous disability shall not receive compensation for a later injury in excess of the compensation allowed for such injury when considered by itself and not in conjunction with the previous disability.

[Subdivision 2 of section 16 is amended by chapter 316, Acts of 1914, so as to authorize the payments to a child to be increased from 10 per cent to 15 per cent in case of the death of the surviving parent before the child reaches the age of 18 years.

Section 20 now reads as follows:]

Sec. 20 (as amended by chapter 167, Acts of 1915). 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 employer and if rejected or if within ten days after presentation, a report containing an agreement for compensation be not made and filed with the
commission as provided by this section, the claim 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 presented to it for compensation under the provisions of this chapter. The commission shall make or cause to be made such investigations 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. When a claim is presented to an employer, and the employer and employee, or in case of death, his principal dependent, enter into an agreement for the payment of compensation therefor pursuant to this chapter, a joint report of such claim containing such agreement shall be made to the commission upon a form prepared by it and signed by the employer and employee, or in case of death his principal dependent. The commission shall examine such report and approve the same when the terms are strictly in accordance with this chapter and such approval shall constitute an award. However, the commission may make an award in the manner provided in this section in any case, and if the terms of the award vary from the joint report, the employer shall comply with the award. In case of unfair dealing or of bad faith on the part of the employer under this section, the commission may impose a penalty of not more than ten per centum of the award.

[The following new section was also added:]

Sec. 20a (added by chapter 168, Acts of 1915). Any employer shall, upon the making of the agreement provided for in section twenty, advance to any injured employee, or to the principal dependent of a deceased employee, the payment or payments provided for in the agreement, in return for which he shall receive a receipt on a form supplied by the commission and signed by the person receiving the money, which receipt shall specifically state in what capacity the signer acted while so receiving such money; such receipt shall be forwarded to the commission within forty-eight hours after date of its issuance, and the sum stated on its face shall be returned to said employer as provided in section twenty-five.

Prior to the making of said agreement, or in the event of no agreement, any employer may at his option advance to any injured employee, or to the principal dependent of a deceased employee, any sum of money, in return for which he shall receive a receipt on a form supplied by the commission and signed by the person receiving the money, which receipt shall specifically state in what capacity the signer acted while so receiving such money; such receipt shall be forwarded to the commission within forty-eight hours after date of its issuance. Should any agreement or award be made the sum so stated on the face of the receipt shall be credited to the payment under the award or agreement and shall be repaid as hereinbefore provided. Any money so advanced shall be at the employer's risk.
[Sections 25, 26, and 30 are amended so as to read as follows:]

Sec. 25 (as amended by chapter 167, Acts of 1915). Compensation under the provisions of this chapter shall be payable periodically by the employer, 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 any payments may be made monthly or at any other period, as it may deem advisable. The State fund or insurance corporation in which an employer is insured shall, within ten days after demand by such employer and on the presentation of evidence of payment of compensation in accordance with this chapter, reimburse the employer therefor. An injured employee, or in case of death his dependents or personal representatives, shall give receipts for payment of compensation to the employer paying the same, and such employer shall forward receipts therefor promptly to the commission. The commission, whenever it shall so deem advisable, may commute such periodical payments to one or more lump-sum payments to the injured employee, or in case of death his dependents, provided the same shall be in the interest of justice.

Sec. 26 (as amended by chapter 167, Acts of 1915). If payment of compensation, or an installment thereof, due under the terms of an award, be not made by the employer within ten days after the same is due, the insurance carrier shall be liable therefor, and if not paid within ten days after demand by the injured employee, or in case of death his dependents or by the commission, the amount of such payment shall constitute a liquidated claim for damages against the self-insurer 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. An employer who negligently or intentionally defaults in payment of compensation in the first instance under this chapter shall be liable to a penalty of not more than ten per centum of the amount of such compensation, notwithstanding the fact that the insurance corporation or State fund subsequently pays the compensation as provided in this section. 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 penalties, 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 interest 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.

2. A claim for compensation presented to the commission prior to the date when this act takes effect [April 21, 1915] shall be determined by the commission, although such claim shall not have been theretofore presented to the employer as provided by section twenty, as amended by this act.

Sec. 30 (as amended by chapter 316, Acts of 1914). 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, except that in case of the death of an employee of the State, a municipal corporation, or any other political subdivision of the State any benefit payable under a pension system which is not sustained in whole or in part by the contributions of the employee may be applied toward the payment of the death benefit provided by this chapter.
[The second paragraph of subdivision 3 of section 50 is amended by chapter 316, Acts of 1914, so as to read as follows:]

If an employer fail to comply with this section, he shall be liable to a penalty during which such failure continues [sic] of an amount equal to the pro rata premium which would have been payable for insurance in the State fund for such period of noncompliance to be recovered in an action brought by the commission.

[Sections 60 and 61 are repealed, the administration of the act being committed by chapter 674 to the newly created State industrial commission. This body consists of five commissioners, appointed by the governor, with the advice and consent of the senate, not more than three to be of the same political party. The commission is at the head of the department of labor and is charged with the duties and powers formerly in the hands of the commissioner of labor, the deputy commissioners of labor, the industrial board, and the workmen's compensation commission. Three deputy commissioners are provided for, the second one to be in charge of the workmen's compensation bureau in the department of labor.

[Section 62 is amended so as to read as follows:]

Sec. 62 (as amended by chapter 674, Acts of 1915). The commission may make the necessary expenditure to obtain statistical and other information to establish classifications of employments with respect to hazards and risks. The 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.

[Other sections of this chapter (674) relating to this subject are as follows:]

Sec. 4. The State workmen's compensation commission, created as provided in section sixty of the workmen's compensation law, is hereby abolished, and the terms of office of the members of such commission then in office shall cease on the appointment and qualification of the members of the industrial commission. All the powers, duties, obligations, and liabilities conferred or imposed by law upon the workmen's compensation commission by the workmen's compensation law or any other statute are hereby conferred and imposed upon the State industrial commission, and such commission may exercise and perform such powers and duties and shall be subject to such obligations and liabilities in the same manner, to the same extent, and with the same force and effect as would have been the case had the workmen's compensation commission been continued in office. For the purpose of exercising such powers, performing such duties, being subjected to such obligations and liabilities, the State industrial commission shall be deemed to be a continuation of such workmen's compensation commission. The offices of secretary to the workmen's compensation commission and of the deputies appointed by the workmen's compensation commission are hereby abolished, and the powers and duties of such officers then in office shall cease upon the appointment and qualification of the members of the industrial commission.

Sec. 5. All other officers, assistants, inspectors, and employees of the department of labor or the workmen's compensation commission in office when this act takes effect shall continue in office until removed by the industrial commission or until their offices are abolished as provided by law.

Sec. 6. The rules, regulations, and orders of the commissioner of labor, the industrial board, or the workmen's compensation commission in force when this act takes effect enacted or promul-
gated pursuant to law are continued in full force and shall be
operative until modified, superseded, or repealed by the industrial
commission. This act shall not affect pending cases or proceed-
ings, civil or criminal, brought by or against the commissioner of
labor or the workmen's compensation commission. All proceed-
ings, hearings, investigations, and other matters pending before
the commissioner of labor, the industrial board, or the workmen's
compensation commission shall be continued and brought to a final
determination before the industrial commission in the same man-
ner as though the commissioner of labor, the industrial board, and
the workmen's compensation commission had been continued in
office. Any award or determination made by the workmen's com-
ensation commission prior to the taking effect of this act shall
have the same force and effect as though the workmen's compensa-
tion commission had been continued in office.

Sec. 7. Whenever the term "department of labor," "commiss-
one of labor," "industrial board," or "workmen's compensa-
tion commission" occurs in any law or in any rule or regulation made
in pursuance of law, or whenever in any law reference is made
to such department, commissioner, board, commission, or officer,
such term or reference shall be deemed to mean the industrial
commission as established by this act.

ACTS OF 1914.

CHAPTER 16.—Workmen's compensation insurance—Premium rates.

Section 1. Article one of chapter * * twenty-eight of the
Consolidated Laws is hereby amended by adding at the end thereof
a new section, to be section sixty-seven, to read as follows:

Section 67. Every insurance corporation or association, except
the State insurance fund as administered by the State workmen's
compensation commission, authorized to transact business in this
State, which insures employers against liability for compensation
under the workmen's compensation law, shall file with the super-
intendent of insurance its classification of risks and premiums
relating thereto, and any subsequent proposed classification of
risks and premiums, together with basis rates and schedules, if
a system of schedule rating be in use, none of which shall take
effect until the superintendent of insurance shall have approved
the same as adequate for the risks to which they respectively
apply. The superintendent of insurance may withdraw his ap-
proval of any premium rate or schedule made by any insurance
corporation or association if, in his judgment, such premium rate
or schedule is inadequate to provide the necessary reserves.
OHIO.

ACTS OF 1914.

Workmen’s compensation—Industrial commission.

[Section 1465-78 of this law, allowing suits for injuries at the option of the injured workman or his representatives, in cases where the injury is due to the willful act of the employer, was amended by act, page 193, Acts of 1914, by adding to said section the following definition:]

The term “willful act,” as employed in this section, shall be construed to mean an act done knowingly and purposely with the direct object of injuring another.

ACTS OF 1914—SECOND SPECIAL SESSION.

Workmen’s compensation.

(Page 3.)

[The following proviso is added to section 1465-65:]

Provided, however, That should the industrial commission of the several taxing districts therein certify to the auditor of state that sufficient money is in the State insurance fund to the credit of any county or counties to provide for the payment of compensation to the injured and to the dependents of killed employees of such county or counties and the several taxing districts therein for the ensuing year, the auditor of state shall not prepare and file with the county auditors and the treasurer of state said list or lists for such county or counties specified in such certificate; and it shall be the duty of the industrial commission of Ohio to make and file such certificate with the auditor of state whenever in its judgment there is sufficient money in the State insurance fund to the credit of any county or counties to provide for the probable disbursements required to be made to the injured and to the dependents of killed employees of such county or counties and the several taxing districts therein for the ensuing year.

ACTS OF 1916.

Workmen’s compensation.

(Page 508.)

[This act amends section 1465-103, to read as follows:]

Section 1465-103. As a part of its annual report, such board, under oaths of at least two of its members, shall make a report for the preceding fiscal year, of the number of awards made by it, a general statement of the causes of accidents leading to the injuries for which awards were made and a detailed statement of the condition of its respective funds. From time to time the board shall collate such general information as to the business transacted by the department as in its judgment may be for dis-
OKLAHOMA.

ACTS OF 1915.

CHAPTER 246.—Compensation of workmen for injuries.

ARTICLE 1.

Section 1. This act shall be known as the "Workman's compensation law."

Sec. 2. Compensation provided for in this act shall be payable for injuries sustained by employees engaged in the following hazardous employments, to wit:

Factories, cotton gins, mills and workshops where machinery is used; printing, electrotyping, photograving, and stereotyping plants where machinery is used; foundries, blast furnaces, mines, wells, gas works, waterworks, reduction works, elevators, dredges, smelters, powder works; laundries operated by power; quarries; engineering works; logging, lumbering; street and interurban railroads not engaged in interstate commerce; buildings being constructed, repaired, or demolished, farm building and farm improvements excepted; telegraph, telephone, electric light or power plants or lines, steam heating or power plants, and railroads not engaged in interstate commerce. If there be or arise any hazardous occupation or work other than those hereinafore enumerated, it shall come under this act.

Sec. 3. As used in this act:

1. "Hazardous employment" shall mean manual or mechanical work or labor connected with or incident to one of the industries, plants, factories, lines, occupation, or trades mentioned in section 2 of this act, but shall not include anyone engaged in agricultural, horticultural, or retail mercantile pursuits or dairy or stock raising or in operating any steam railroad engaged in interstate commerce.

2. "Commission" means the State industrial commission, as constituted by this act.

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, and shall include the State, county, city, or any municipality when engaged in any hazardous work within the meaning of this act in which workmen are employed for wages: Provided, however, That so long as by State law, city charter, or municipal ordinance, provision equal to or better than that given under the terms of this act is made for such employees injured in the course of employment such employees shall not be entitled to the benefits of this act.

4. "Employee" means any person engaged in manual or mechanical work, in the employment of any person, firm, or corporation carrying on a business covered by the terms of this act.

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 as provided for in this act.

7. "Injury or personal injury" means 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. "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.

9. "Insurance carrier" shall include stock corporations, reciprocal, or Interinsurance association[s], or mutual associations with...
which employers have insured, and employers permitted to pay compensation directly under the provisions or subdivision (d) of section 1 of article 3 of this act.

10. "Factory" means any undertaking in which the business of working at commodities is carried on with power-driven machinery, either in manufacture, repair, cleaning, or assorting, and shall include the premises, yard, and plant of the concern, but shall not include any such plants or machinery used on farms.

11. "Workshop" means any premises, yard, plant, room, or place wherein power-driven machinery is employed and manual or mechanical labor is exercised by way of trade for gain or otherwise or incidental to the process of making, altering, repairing, printing, or ornamenting, cleaning, 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.

12. "Mine" means any mine where coal, ore, mineral gypsum, or rock is dug or mined under the ground.

13. "Quarry" means an opening or cut from which coal is mined or clay, ore, mineral gypsum, gravel, sand, or rock is cut or taken for manufacturing, building, or construction purposes.

14. "Construction work" means improvements or alteration or repair of building, structures, streets, highways, sewers, street railways, railroads, logging roads, interurban railroads, electric, steam, or water plants, telegraph and telephone plants and lines, electric lines or power lines, and includes any other work for the constructions, altering, or repairing for which machinery driven by mechanical power is used.

15. "Where several classes or kinds of work is performed the commission shall classify such employment, and the provisions of this act shall apply only to such employees as are engaged in manual or mechanical labor of a hazardous nature."

**Article 2.**

**Compensation payable when.**

Section 1. Every employer subject to the provisions of this act shall pay or provide, as required by this act, compensation according to the schedules of this article for the disability 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 injury of himself or of another, or where the injury results directly from the willful failure of the injured employee to use a guard or protection against accident furnished for his use pursuant to any statute or by order of the State labor commissioner, or results directly from the intoxication of the injured employee while on duty: Provided, That the provisions of this act shall not apply to any employer unless he shall employ more than two workmen.

**Remedy exclusive.**

Section 2. The liability prescribed in the last preceding section shall be exclusive, except that if an employer has failed to secure the payment of compensation for his injured employees, as provided in this act, then an action may be maintained in the courts for damages on account of such injury for the benefit of such injured employee, and in such an action the defendant may not plead or prove as 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, and this claim shall be prosecuted for the injured employee by the commissioner without expense to such employee, and the amount recovered in such action shall be paid by the commission to such injured party: Provided, That this section shall not be construed to relieve the employer from any other penalty provided for in this act for failure to secure the payment of compensation provided for in this act.

**Exception.**

Defenses abrogated.
Sec. 3. No compensation shall be allowed for the first fourteen days of disability, except the benefits provided for in section four of this article.

Sec. 4. The employer shall promptly provide for an injured employee such medical, surgical, or other attendance or treatment, nurse and hospital service, medicine, crutches, and apparatus as may be necessary after the injury. If the employer fails 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 14 of this article, and shall be limited to such charges as prevail in the same community for similar treatment of injured person of a like standard of living. Provided, The employer shall not be liable to make any of the payments provided for in this section, in case of a contest of liability where the commission shall decide that the injury does not come within the terms of this act.

Sec. 5. Except as otherwise provided in this act, 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 and shall be determined as follows:

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 can not 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.

Sec. 6. The following schedule of compensation is hereby established:

1. In case of total disability adjudged to be permanent, fifty per centum of the average weekly wages shall be paid to the employees during the continuance of such total disability, not exceeding five hundred weeks. Loss of both hands, or both feet, or both legs, or both eyes, or 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.
2. In case of temporary total disability, fifty per centum of the average weekly wages shall be paid to the employee during the continuance thereof, but not in excess of three hundred weeks, except as otherwise provided in this act.

3. In case of disability partial in character but permanent in quality the compensation shall be fifty per centum of the average weekly wages and shall be paid to the employee for the period named in the schedule as follows:

Thumñ. For the loss of a thumb, sixty weeks.
First finger. For the loss of a first finger, commonly called index finger, thirty-five weeks.
Second finger. For the loss of a second finger, thirty weeks.
Third finger. For the loss of a third finger, twenty 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 [of] 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 weeks.
Other toes. For the loss of one of the toes other than the great toe, ten 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 weeks.
Arm. For the loss of an arm, two hundred fifty weeks.
Foot. For the loss of a foot, one hundred fifty weeks.
Eye. For the loss of an eye, one hundred weeks.
Leg. For the loss of a leg, one hundred seventy-five 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 a leg.

The compensation for the foregoing specific injuries shall be in lieu of all other compensation, except the benefits provided in section 4 of article 2 of this act.

Other cases. In all other cases in this class of disability, the compensation shall be fifty 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; not to exceed three hundred weeks, but subject to reconsideration of the degree of such impairment by the commission on its own motion or upon the application of any party in interest.

4. In case of temporary partial disability, except the particular cases mentioned in subdivision three of this section, an injured employee shall receive fifty per centum of the difference between his average weekly wages and his wage-earning capacity thereafter in the same employment or otherwise, if less than before the injury during the continuance of such partial disability, but not in excess of three hundred weeks, except as otherwise provided in this act.

5. The compensation payments under the provisions of this act shall not exceed the sum of ten ($10) dollars per week or be less than $6 per week: Provided, however, That if the employee's
wages at the time of the injury are less than six ($6) dollars per week he shall receive his full weekly wages: Provided further, that the compensation received as provided under subdivision 4 of this section shall not, when added to the wages received by such employee after such injury, amount to a greater sum than his average weekly wages received prior to said injury.

6. The fact that an employee has suffered previous disability or received compensation therefor shall not preclude him from the compensation for a later injury, but in determining compensation for the later injury his average weekly wages shall be such sum as will reasonably represent his earning capacity at the time of the later injury.

Sec. 7. Compensation under this act to aliens not residents (or about to become nonresidents) of the United States 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 computed amount of such future installments of compensation as determined by the commission.

Sec. 8. Notice of an injury for which compensation is payable under this act shall be given to the commission and to the employer within thirty days after injury. 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 in his 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 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 insurance carrier or employer, as the case may be, has not been prejudiced thereby, shall be a bar to any claim under this act.

Sec. 9. An employee injured claiming or entitled to compensation under this act 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 refuses to submit himself to examination, his right to prosecute any proceeding under this act shall be suspended, and no compensation shall be payable for the period of such refusal.

Sec. 10. At any time after the expiration of the first fourteen days of disability on the part of the injured employee a claim for compensation may be presented to the commission. If the employer and the injured employee shall reach an agreement as to the facts with relation to an injury for which compensation is claimed under this act, a memorandum of such agreement, in form as prescribed by the commission and signed by both employer and the employee, may be immediately filed by the employer with the commission, and, if approved by the commission, shall, in the absence of fraud, be deemed binding upon the parties thereto. Such agreement shall be approved by said commission only when the terms conform to the provisions of this act. The commission shall have full power and authority to determine all questions in
relating to the payment of claims for compensation under the provisions of this act. 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 13 of this article, as to all questions of law.

Sec. 11. In any proceedings for the enforcement of a claim for compensation under this act it shall be presumed, in the absence of substantial evidence to the contrary:

1. That the claim comes within the provisions of this act.
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 of himself or of another.
4. That the injury did not result solely from the intoxication of the injured employee while on duty.
5. That the injury did not result directly from the willful failure of the injured employee to use a guard or protection against accident furnished for his use pursuant to any statute or by order of the labor commissioner [commission].

Sec. 12. 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 act, 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 effect [affect] such award as regards any money already paid.

Sec. 13. The award or decision of the commission shall be final and conclusive upon all questions within its jurisdiction between the parties, unless within thirty days after a copy of such award or decision has been sent by said commission to the parties affected, and action is commenced in the supreme court of the State to review such award or decision. Said supreme court shall have original jurisdiction of such action, and is authorized to prescribe rules for the commencement and trial of the same. Such action shall be commenced by filing with the clerk of the supreme court a certified copy of the award or decision of the commission attached to the petition by the complainant, wherein the complainant or petitioner shall make his assignments or specifications as to wherein said award or decision is erroneous and illegal. Said proceedings shall be heard in a summary manner and have precedence over all other civil cases in such court, except preferred corporation commission appeals. The commission shall be deemed a party to such proceeding, and the attorney general, without extra compensation, shall represent the commission therein. Such action shall be subject to the law and practice applicable to other civil actions cognizable in said court. Upon the final determination of said action in which the award or decision of the commission is sought to be reviewed, the commission shall make an order or decision in accordance with the judgment of said court.
The commission shall not be liable for any costs apart from said proceeding, but otherwise the costs shall be taxed as in other cases.

Sec. 14. If the commission or the court before which any proceedings for compensation or concerning an award of compensation have been brought under this act, determine that such proceedings have not been so brought on reasonable ground, it shall assess the whole cost of the proceedings on the party who has so brought them. Claims for legal services in connection with any claim arising under this act, and claims for services or treatment rendered or supplies furnished pursuant to section 4 of article 2 of this act 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.

Sec. 15. Compensation 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, and shall be provided for in any award; but the commission may determine that all payment or payments 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. All payments as required by the award shall be made to the injured employee in the manner and form prescribed by the commission. And employers and insurance companies shall for such purposes be permitted, or when necessary to protect the interests of the beneficiary may be required, to make deposits with the commission to secure the prompt and convenient payment of such compensation.

Sec. 16. If payment of compensation, or an installment thereof, due under the terms of an award, except in case of appeal from 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 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 in this section. Any such action may be compromised by the commission or may be prosecuted to final judgments, as in the discretion of the commission may best serve the interests of the persons entitled to receive the compensation for 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.

Sec. 17. The right to claim compensation under this act shall be forever barred unless within one year after the injury a claim for compensation thereunder shall be filed with the commission.

Sec. 18. If a workman entitled to compensation under this act be injured by the negligence or wrong of another not in the same employ, such injured workman shall, before any suit or claim under this act, elect whether to take compensation under this act 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 elects to take compensation under this act, the cause of action against such other shall be assigned to the insurance carrier liable for the payment of such compensation, and if he elects to proceed against such other person or insurance carrier, as the case may be, shall contribute only the de-
efficiency, if any, between the amount of the recovery against such other person actually collected, and the compensation provided or estimated by this act for such case. The compromise of any such cause of action by the workman at any amount less than the compensation provided for by this act shall be made only with the written approval of the commission, and otherwise with the written approval of the person or insurance carrier liable to pay the same.

**What not considered.**

Sec. 19. No benefits, savings, or insurance of the injured employee independent of the provisions of this act shall be considered in determining the compensation or benefits to be paid under this act.

**Burden on employer.**

Sec. 20. No agreement by any employee to pay any portion of the premiums paid by his employer 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 act shall be guilty of a misdemeanor.

**Waivers.**

Sec. 21. No agreement by an employee to waive his right to compensation under this act shall be valid.

**Assignments, etc.**

Sec. 22. Claims for compensation or benefits due under this act shall not be assigned, released, or commuted except as provided by this act, 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.

**Preferences.**

Sec. 23. The right of compensation granted by this act 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.

**Article 3.**

**SECTION 1.** An employer shall secure compensation to his employees in one of the following ways:

(a) By insuring and keeping insured the payment of such compensation with any stock corporation or mutual association or by exchanging contracts of indemnity or interinsurance, under reasonable regulations prescribed by the commission providing for and securing the payment of the compensation provided in this act, or other concerns authorized to transact the business of workman's compensation insurance in this State. If insurance be so effected in such a corporation or mutual association or reciprocal or interinsurance 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 or reciprocal or interinsurance association, together with a copy of the contract or policy of insurance.

(b) By obtaining and keeping in force guaranty insurance with any company authorized to do such guaranty business in the State; or,

(c) Subject to the approval of the commission, any employers may enter into or continue an agreement with his or their workman 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 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 State industrial commission shall be granted, if the scheme provides for contributions by workmen, only when it confers benefits in addition to those required by this act commensurate with such contributions.
(d) 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 or indemnity bond in an amount and of a kind to be determined by the commission to secure his liability to pay the compensation provided in this act.

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. 2. Every employer who has complied with section 1 of article 3 of this act shall post and maintain in a conspicuous place or places in and about his place or places of business type-written 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 act.

Sec. 3. Failure on the part of any employer to secure the payment of compensation provided in this act shall have the effect of enabling the commission to proceed on behalf of an injured employee of such employer against the employer as provided in section 2 of article 2 of this act and as provided in section 1 of article 3 of this act.

Sec. 4. (a) Every policy of insurance covering the liability of the employer for compensation issued by a stock company or by mutual association or other concern authorized to transact workman'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 Oklahoma 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 said 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.

(b) 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 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 for the payment of compensation under the provision of this act.

(c) 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 sustained by an employee during the life of such policy.

(d) Every such policy shall contain a provision that as 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 act.

(e) No contract of insurance issued by a stock company, mutual association, or other concern against the liability arising under this act shall be canceled 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

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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.**

**Section 1.** A State industrial commission is hereby created, consisting of three commissioners, 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. The term of office of the members of the commission shall be six 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] seventeen, and one on January first, nineteen hundred and nineteen, and one on January first, nineteen hundred and twenty-one. Successors shall be appointed in like manner for a full term of six years. Vacancies shall be filled in like manner by appointment for the unexpired term. Each member of the commission shall, before entering upon the duties of his office, execute an official undertaking in the sum of ten thousand dollars, to be approved by the governor and filed in the office of the secretary of state. The governor may remove any 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 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. The salary of each of the commissioners shall be twenty-five hundred dollars ($2,500) per annum, except the salary of the chairman of said commission, which shall be three thousand dollars ($3,000) per annum, and shall be paid out of the State treasury, and in addition to the said sum of twenty-five hundred dollars ($2,500) per annum and three thousand dollars ($3,000) per annum each commissioner shall be allowed all traveling and necessary expenses incurred by him when away from the seat of government in the discharge of his official duty.

**Section 2.** The commission may employ a secretary, an actuary, and such inspectors and other assistants as it may deem necessary and fix their compensation, both the number and compensation of such employees to be subject to the written approval of the governor; such compensation shall be paid on vouchers signed by at least two of the commissioners and paid out of the appropriation provided therefor. The members of the commission and all assistants shall be entitled to receive their actual necessary expenses while traveling on the business of the commission. Such expenses shall be itemized and sworn to by the person who incurred the expenses and allowed by the commission.

**Section 3.** The commission shall keep and maintain its principal office in the city of Oklahoma City, in rooms in the capitol assigned by the board of affairs. The office shall be supplied with the 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.
Sec. 4. The commission shall be in continuous session and open for transaction of business during all business hours of every day excepting Sunday 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 session anywhere in the State. Every vote and official act of the commission shall be entered on record, and the record 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 the majority remains.

Sec. 5. Any investigation, inquiry or hearing with which the commission is authorized to hold or undertake, may be held or taken at any place in the State by or before any commissioner and the award, decision, or order of a 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 shall, for the purpose of 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. The commission may authorize any inspector to conduct any such investigation, inquiry, or hearing, in which case he shall have the power of a commissioner in respect thereof.

Sec. 6. The secretary of the commission shall:
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, 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.

Sec. 7. The commission shall adopt reasonable rules, not inconsistent with this act, 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 of 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 hearing 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 forms and by the governor as to sufficiency.
8. Carrying into effect the provisions of this act.

Sec. 8. The commission or a commissioner or inspector in making an investigation of or inquiry or conducting a hearing shall be required to preserve a complete record of all oral or document-
Subpoenas.

Sec. 9. A subpoena shall be signed and issued by a commissioner, an inspector, or by the secretary of the commission, and may be served by any person of full age and 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.

Refusal to testify, etc.

Sec. 10. In case of disobedience of any person to comply with the order of the commission, or subpoena issued by it, or one of its members, 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 county judge of the county in which the person resides, or of the county in which such hearing is being conducted, 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 requirements of subpoena issued from such court on a refusal to testify therein.

Fees.

Sec. 11. Each witness who appears in obedience to a subpoena before the commission, or a commissioner, inspector, or a 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 courts of record, which shall be audited and paid out of funds appropriated therefor 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, inspector, or person acting under the authority of the commission, shall be entitled to fees for compensation from the funds appropriated therefor if the commission certify that his testimony was material to the matter investigated, but not otherwise.

Depositions.

Sec. 12. The commission may cause depositions of witnesses residing within or without the State to be taken in the manner prescribed by law for depositions in civil actions in courts of record.

Transcripts.

Sec. 13. 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 as [with] the original notes, may be received in evidence by the commission with the same effect as if said 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 courts of record.

Reviews.

Sec. 14. 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, including the right to require physical examination as provided for in section 9 of article 2 of this act and subject to the same penalties for refusal.

Annual reports.

Sec. 15. Annually on or before the first day of January the commission shall make a report to the governor, to be by him transmitted 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, together with any other matter which the commission deems proper to report to the governor, including any recommendations it may desire to make.

Blanks.

Sec. 16. 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 employees, proofs of injury, 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 1. All penalties imposed by this act 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 purpose prescribed by this section.

Sec. 2. 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 or a reasonable time thereafter, 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 reports 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. Any 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 ($500).

Sec. 3. Every employer shall furnish the commission upon request any information required by it to carry out the provisions of this act. The commission, a commissioner, or any inspector, may examine under oath any employer, officer, agent, or employee. An employer or 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 a good and sufficient reason for such failure. Answers to such questions shall be certified under oath and returned to the commission within the period fixed by the commission therefor.

Sec. 4. 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 other 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 purposes and uses of the commission in the administration of this act. No person shall be excused from testifying or from producing any books or papers or documents in any investigation or inquiry, by or upon any hearing before the commission or any commissioner, when ordered to do so by the commission or its secretary, upon the ground that the testimony or pay roll or other competent evidence required of him may tend to incriminate him or subject him to penalty or forfeiture; but no person shall be prosecuted, punished or subjected to any penalty or forfeiture for or on account of any act, transaction, matter or thing concerning which he shall under oath, have, by order of the commission or a commissioner or its inspector or examiner, testified to or produced documentary evidence of:

Provided, however, That no person so testifying shall be exempt from prosecution or punishment for any perjury committed by him in his testimony.

Sec. 5. The provisions of this act shall apply to employers and employees engaged in intrastate commerce and also to those engaged in interstate or foreign commerce for whom no rule of liability has been established by the Congress of the United States.

Sec. 6. If for the purpose of obtaining any benefit or payment under the provisions of this act, either for himself or any other person, any person willfully makes a false statement or representation, he shall be guilty of a misdemeanor.
Incompetents.

Sect. 7. No limitation of time provided in this act shall run against any person who is mentally incompetent or a minor dependent so long as he has no committee, guardian or next friend.

Duty of commissioner of labor.

Sect. 8. 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.

Provisions severable.

Sect. 9. If 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 this act as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

Pending causes.

Sect. 10. This act shall not affect any action pending or cause of action existing or which accrued prior to September 1, 1915.

ARTICLE 6.

Injuries causing death.

Sect. 1. It is not intended that any of the provisions of this act shall apply in cases of accidents resulting in death and no right of action for recovery of damages for injuries resulting in death is intended to be denied or affected.

Sect. 2. The right of action to recover damages for personal injuries not resulting in death arising and occurring in hazardous employments as herein defined, except the right of action reserved to the State industrial commission for the benefit of an injured employee in section two of article two of this act, is hereby abrogated, and all jurisdiction of the courts of this State over such causes, except as to the cause reserved to the State industrial commission for the benefit of injured employees in section two of article two of this act, is hereby abolished.

Sect. 3. This act shall take effect July 1, 1915: Provided, That the application of this act as between employers and employees and the payment of compensation for injuries to employees shall take effect September 1, 1915.

Approved March 22, 1915.

HOUSE JOINT RESOLUTIONS—1915.

No. 1.—Proposed amendment to constitution—Compensation of workmen for injuries.

Sect. 1. The following amendment to section 7, article 23, of the constitution of this State, is hereby proposed; * * *

The right of action to recover damages for injuries resulting in death shall never be abrogated and the amount recoverable shall not be subject to any statutory limitations: Provided, That the legislature may provide for compulsory or elective compensation by the employer to the employee in case of death, permanent or partial disability; such compensation in case of death, to be made for the benefit of those dependent upon the intestate: And provided further, That the legislature is authorized to create the machinery or agency for the administration of such compensatory fund and the board or agency may administer the same without being required to have any fact determined by the intervention of a jury.

Approved March 30, 1915.
OCEAN.

ACTS OF 1913.

CHAPTER 112.—Compensation of workmen for injuries—State insurance fund.

(This act, filed in the office of the secretary of state February 25, 1913, was submitted to a referendum vote and approved November 4, 1913. See Bulletin No. 126, pp. 373-385.

Section 2 was amended by general legislation, chapter 334, Acts of 1915, fixing the term of office of State appointees, the third sentence of the original section being stricken out.

Sections 19, 25, and 31 are amended by chapter 271, Acts of 1915, so as to read as follows:)

SECTION 19 (as amended by chapter 271, Acts of 1915). Every employer engaged in any of the hazardous occupations enumerated in section 18 hereof who shall not have served notice of his election not to contribute hereunder, as in this act provided, shall, except as hereinafter provided, pay to the commission on or before the 15th day of each month a percentage of his total pay roll for the preceding calendar month of workmen subject to this act according to and at the rates hereinafter set forth, to wit:

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<td><strong>CONSTRUCTION WORK.</strong></td>
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<td>Tunnels; trestles; bridges; pile driving; jetties; breakwaters</td>
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<td>Sewers; shaft sinking; ditches and canals (other than irrigation without</td>
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<td>blasting); erection of tanks; towers, not metal framed; windmills, not</td>
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<td>metal framed; roof work; freight and passenger elevators</td>
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<tr>
<td>Electric light or power plants or systems; telegraph or telephone systems;</td>
<td>.060</td>
</tr>
<tr>
<td>steam or electric railroads with rock work or blasting; waterworks or</td>
<td></td>
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<tr>
<td>systems; road work with blasting; erecting fireproof doors or shutters;</td>
<td></td>
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<tr>
<td>concrete buildings; galvanized iron or tin work, with scaffold; marble,</td>
<td></td>
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<tr>
<td>stone, or brick work with scaffold; gas works or systems; excavation not</td>
<td></td>
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<tr>
<td>otherwise specified; ship or boat building or wrecking; painting of</td>
<td></td>
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<tr>
<td>buildings or structures, outside work</td>
<td>.060</td>
</tr>
<tr>
<td>Steam-heating plants; advertising signs; ornamental metal work or metal</td>
<td></td>
</tr>
<tr>
<td>ceilings in buildings; carpenter work, not otherwise specified; ship or</td>
<td>.040</td>
</tr>
<tr>
<td>boat rigging; ship or millwrighting; grain elevator, not metal framed</td>
<td></td>
</tr>
<tr>
<td>Street railways without blasting; installation of steam boilers or engines;</td>
<td>.035</td>
</tr>
<tr>
<td>installation of dynamos; installation of automatic sprinklers; installation</td>
<td></td>
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<tr>
<td>of machinery not otherwise specified; drilling wells</td>
<td></td>
</tr>
<tr>
<td>Street or other grading; road making; concrete foundations; asphalt laying;</td>
<td>.030</td>
</tr>
<tr>
<td>covering steam pipes or boilers; construction work not otherwise specified;</td>
<td></td>
</tr>
<tr>
<td>street paving</td>
<td>.025</td>
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</tbody>
</table>

Lathing; plastering
Plumbing; house heating or ventilating systems; inside wiring, installation of electrical apparatus or fire-alarm systems in buildings; marble, stone, or tile setting, inside work; mantel setting; glass setting; paper hanging, decorating, or painting, inside work; concrete and composition walks

OPERATION (INCLUDING REPAIR WORK) OF—

[All combinations of material take the higher rate when not otherwise provided.]

Logging railroads; railroads; wood saws; stevedoring; longshoring

Electric light or power plants; interurban electric railroads; stone crushing; quarries; mines other than coal

Logging, with or without machinery; coal mines

Dry or floating docks; steamboats; tugs; ferries; dredges; smelters; creosoting and wood-treating works

Telephone or telegraph systems

Street railways; garbage works; gas works; waterworks; steam heating or power plants; grain elevators or grain warehouses; flour, grain, chop, and feed mills; gravel, sand, and coal bunkers; operations not otherwise specified

FACTORIES USING POWER-DRIVEN MACHINERY.

Stamping tin or metal

Saw mills; shingle mills; lath mills

Furniture, staves, veneer, box, packing cases, sash, door or blinds, keg, pail, barrel, basket, tub, woodenware or wooden fiber ware; work in wood not otherwise specified

Boiler works; paper or pulp mills

Foundries

Canneries of fish or meat; cement manufacturing; soap, tallow and grease; briquettes, machine shops, not otherwise specified; iron, steel, copper, zinc, brass, or lead articles or ware not otherwise specified; hardware; marble, stone, or granite work (shop or monument erection); factories not otherwise specified

Tile, brick, terra cotta, fire clay; pottery, charcoal, earthenware; porcelain; breweeries; bottling works; paints, oils, and varnishes

Working in foodstuffs, including oils, fruits, and vegetables; working in wool, cloth, leather, paper, broom, brush, rubber, or textiles not otherwise specified; cardboard; jewelry; laundries

Condensed milk; creameries

Printing; electrotyping; photo-engraving; engraving; lithography

MISCELLANEOUS WORK.

Operations of powder works; manufacture of fireworks

Clearing land with blasting

Making artificial ice; operating refrigerating or cold storage plants; operating tanneries; manufacture of fertilizer; operation of packing houses and stockyards

Every employer who is hereby required to make such payments to the commission is hereby authorized and required to retain from the moneys earned by each of his workmen subject to this act the sum of one (1) cent a day for each day or part of day such workman shall be employed and to pay the sum so retained to the commission at the time his own payment is due hereunder.

If only a part of an employer's workmen are engaged in any of the hazardous employments above specified the workmen of such employer not so engaged shall not be subject to this act nor entitled to the benefits thereof. If an employer and his workmen

Contributions by employees.

Contributions by employees.
are engaged in two or more of such hazardous employments for which different rates of contribution are prescribed, the employer shall contribute according to the several rates applicable to the various employments in which his workmen are so engaged and according to his pay roll for each of such employments. Any workman engaged for the same employer in two or more of such hazardous employments shall for the purpose of determining the rate of contribution hereunder be deemed to be engaged solely in the employment taking the higher rate.

Whenever for a period of twelve months the total amount paid out of the industrial accident fund or set apart therefrom as hereinafter provided on account of injuries sustained by the workmen of any employer shall not exceed fifty per cent of the amount contributed to said fund by such employer during such period, not including, however, moneys retained from his workmen's wages, the rate of contribution of such employer shall thereafter be reduced by ten per cent of the amount hereinbefore prescribed, and whenever for a further period of 12 months the total amount so paid out and set aside shall not exceed 50 per cent of the amount so contributed by such employer, his rate of contribution shall be further reduced by a like amount: Provided, That such rate of contribution shall be immediately restored to the rate first above prescribed whenever the total amount paid out or set apart hereunder on account of injuries sustained by his workmen during the preceding 12 months shall exceed 50 per cent of his contributions to such fund during such period of 12 months: And provided further, That no employer shall be entitled to any such reduction if the commission shall find that during the preceding 12 months he has willfully failed to install or maintain any safety appliance, device, or safeguard required by statute.

Whenever the commission shall determine that the industrial accident fund amounts to a sufficient sum to meet all payments which shall have then accrued, together with a surplus of 30 per cent thereon, and whenever 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, all employers who have contributed to said fund for the preceding six successive months shall be exempt from contributions hereunder for the current calendar month, and the workmen of such employers shall be likewise exempt from contributions hereunder.

Sec. 25 (as amended by chapter 271, Acts of 1915). It shall be the duty of the industrial accident commission to investigate all cases where they have reason to believe that employers subject to this act have failed to install or maintain any safety appliance, device, or safeguard required by statute, and in all cases of failure on the part of any employer to comply with such safety statute, to report the facts to the prosecuting attorney for the district in which such violation of law occurred and request the prosecution of the offending employer.

Sec. 31 (as amended by chapter 271, Acts of 1915). Any employer engaged in any occupation other than those defined in section 13 hereof may make written application to the commission to fix a rate of contribution for such occupation, and thereupon it shall be the duty of the commission to fix such rate, which shall be based on the hazard of such occupation in relation to the hazards of the occupations for which rates are prescribed by section 19 hereof. When such rate shall be so fixed such employer may give thirty days' notice in writing to the commission of his election to contribute under this act, and shall at the same time display in a conspicuous manner about his works and in a sufficient number of places reasonably to inform his workmen of the fact printed notices stating that he has elected to contribute to the fund, and stating when his election will become effective. Any workman in the employ of such an employer shall be entitled at any time within ten days of the date when the election of his em-
ployer will become effective to give written notice to such em­
ployer of his election not to become subject to this act. At the
expiration of the time fixed by the notice of such employer, the
employer and such of his workmen as shall not have given such
written notice of their election to the contrary shall be subject to
all of the provisions of this act and entitled to all of the benefits
thereof. Any employer becoming subject to this act in the manner
provided in this section shall pay the rate so fixed by the commis­
ion, and shall be entitled to a reduction of such rate in the man­
ner provided by section 19 hereof, and shall retain and pay to
the commission the proportion of his workmen's wages prescribed
by section 19 hereof.
ACTS OF 1915.

ACT No. 838.—Compensation of workmen for injuries.

ARTICLE I.—Interpretation and definition.

SECTION 1. This act shall be called and cited as the workmen's compensation act of 1915, and shall apply to all accidents occurring within this Commonwealth, irrespective of the place where the contract of hiring was made, renewed, or extended, and shall not apply to any accident occurring outside of the Commonwealth.

Sec. 102. Wherever in this act the singular is used the plural shall be included; where the masculine gender is used the feminine genders and neuter shall be included.

Sec. 103. The term "employer" as used in this act is declared to be synonymous with master, and to include natural persons, partnerships, joint-stock companies, corporations for profit, corporations not for profit, municipal corporations, the Commonwealth, and all governmental agencies created by it.

Sec. 104. The term "employee" as used in this act is declared to be synonymous with servant, and includes all natural persons who perform services for another for a valuable consideration, exclusive of persons whose employment is casual in character and not in the regular course of the business of the employer, and exclusive of persons to whom articles or materials are given out to be made up, cleaned, washed, altered, ornamented, finished, or repaired, or adapted for sale in the worker's own home or on other premises not under the control or management of the employer.

Sec. 105. The term "contractor" as used in article two, section two hundred and three, and article three, section three hundred and two (b), shall not include a contractor engaged in an independent business, other than that of supplying laborers or assistants, in which he serves persons other than the employer in whose service the accident occurs, but shall include a subcontractor to whom a principal contractor has sublet any part of the work which such principal contractor has undertaken.

Sec. 106. The exercise and performance of the powers and duties of a local or other public authority shall, for the purposes of this act, be treated as the trade or business of the authority.

Sec. 107. The term "bureau" when used in this act shall mean the bureau of workmen's compensation of the department of labor and industry.

The term "board" when used in this act shall mean the workmen's compensation board of the bureau.

ARTICLE II.—Damages by action at law.

SECTION 201. In any action brought to recover damages for personal injury to an employee in the course of his employment, or for death resulting from such injury, it shall not be a defense—

(a) That the injury was caused in whole or in part by the negligence of a fellow employee; or

(b) That the employee had assumed the risk of the injury; or

(c) That the injury was caused in any degree by the negligence of such employee, unless it be established that the injury was caused by such employee's intoxication or by his reckless
indifference to danger. The burden of proving such intoxication or reckless indifference to danger shall be upon the defendant, and the question shall be one of fact to be determined by the jury.

Sec. 202. The employer shall be liable for the negligence of all employees, while acting within the scope of their employment, including engineers, chauffeurs, miners, mine foreman, fire bosses, mine superintendents, plumbers, officers of vessels, and all other employees licensed by the State or other governmental authority, if the employer be allowed by law the right of free selection of such employees from the class of persons thus licensed; and such employees shall be the agents and representatives of their employers, and their employers shall be responsible for the acts and neglects of such employees, as in the case of other agents and employees of their employers; and, notwithstanding the employment of such employees, the property in and about which they are employed, and the use and operation thereof, shall at all times be under the supervision, management and control of their employers.

Sec. 203. An employer who permits the entry upon premises occupied by him or under his control of a laborer or an assistant hired by an employee or contractor, for the performance upon such premises of a part of the employer's regular business entrusted to such employee or contractor, shall be liable to such laborer or assistant in the same manner and to the same extent as to his own employees.

Sec. 204. No agreement, composition, or release of damages made before the happening of any accident, except the agreement defined in article three 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 article three herein, is declared to be against the public policy of this Commonwealth. The receipt of benefits from any association, society, or fund shall not bar the recovery of damages by action at law, nor the recovery of compensation under article three hereof; and any release executed in consideration of such benefits shall be void.

ARTICLE III.—Elective compensation.

SECTION 301. When employer and employee shall by agreement, either express or implied, as hereinafter provided, accept the provisions of article three of this act, compensation for personal injury to, or for the death of, such employee, by an accident, in the course of his employment, shall be made in all cases by the employer, without regard to negligence, according to the schedule contained in sections three hundred and six and three hundred and seven of this article: Provided, That no compensation shall be made when the injury or death be intentionally self-inflicted, but the burden of proof of such fact shall be upon the employer.

The terms "injury" and "personal injury" as used in this act shall be construed to mean only violence to the physical structure of the body, and such disease or infection as naturally results therefrom; and wherever death is mentioned as a cause for compensation under this act, it shall mean only death resulting from such violence and its resultant effects, and occurring within three hundred weeks after the accident. The term "injury by an accident in the course of his employment," as used in this article, shall not include an injury caused by an act of a third person intended to injure the employee because of reasons personal to him, and not directed against him as an employee or because of his employment; but shall include all other injuries sustained while the employee is actually engaged in the furtherance of the business or affairs of the employer, whether upon the employer's premises or elsewhere, and shall include all injuries caused by the condition of the premises or by the operation of the employer's business or affairs thereon, sustained by the employee, who, though not so engaged, is injured upon the premises occupied by or under
the control of the employer, or upon which the employer's business or affairs are being carried on, the employee's presence thereon being required by the nature of his employment.

Sec. 802. (a) In every contract of hiring made after December thirty-first, one thousand nine hundred and fifteen, and in every contract of hiring renewed or extended by mutual consent, expressed or implied, after said date, it shall be conclusively presumed that the parties have accepted the provisions of article three of this act, and have agreed to be bound thereby, unless there be, at the time of the making, renewal, or extension of such contract, an express statement in writing from either party to the other, that the provisions of article three of this act are not intended to apply, and unless a true copy of such written statement, accompanied by proof of service thereof upon the other party, setting forth under oath or affirmation the time, place, and manner of such service be filed with the bureau within ten days after such service and before any accident has occurred. Every contract of hiring, oral, written, or implied from circumstances, now in operation, or made or implied on or before December thirty-first, one thousand nine hundred and fifteen, shall be conclusively presumed to continue subject to the provisions of article three hereof, unless either party shall, on or before said date, in writing, have notified the other party to such contract that the provisions of article three hereof are not intended to apply, and unless there shall be filed with the bureau a true copy of such notice, together with proof of service, within the time and in the manner hereinafore prescribed: Provided, however, That the provisions of this section shall not be so construed as to impair the obligation of any contract now in force. In the employment of minors, article three shall be presumed to apply, unless the said written notice be given by or to the parent or guardian of the minor. It shall not be lawful for any officer or agent of this Commonwealth, or for any county, city, borough, or township therein, or for any officer or agent thereof, or for any other governmental authority created by the laws of this Commonwealth, to give such notice of rejection of the provisions of this article to any employee of the State or of such governmental agency.

(b) After December thirty-first, one thousand nine hundred and fifteen, an employer who permits the entry upon premises occupied by him or under his control of a laborer or an assistant hired by an employee or contractor for the performance upon such premises of a part of the employer's regular business entrusted to that employee or contractor, shall be conclusively presumed to have agreed to pay to such laborer or assistant compensation in accordance with the provisions of article three, unless the employer shall post in a conspicuous place, upon the premises where the laborer's or assistant's work is done, a notice of his intention not to pay such compensation, and unless there be filed with the bureau, within ten days thereafter and before any accident has occurred, a true copy of such notice, together with proof of the posting of the same, setting forth upon oath or affirmation the time, place, and manner of such posting; and after December thirty-first, one thousand nine hundred and fifteen, any such laborer or assistant who shall enter upon premises occupied by or under the control of such employer for the purpose of doing such work, shall be conclusively presumed to have agreed to accept the compensation provided in article three, in lieu of his right of action under article two, unless he shall have given notice in writing to the employer, at the time of entering upon such employer's premises for the purpose of doing his work, of his intention not to accept such compensation, and unless within ten days thereafter and before any accident has occurred there shall have been filed with the bureau a true copy of such notice, accompanied by proof of service thereof upon such employer, setting forth under oath or affirmation, the time, place, and manner of such service; and in such cases, where article three binds such employer and such laborer or assistant, it shall not be in effect between the inter-
mediate employer or contractor and such laborer or assistant unless otherwise expressly agreed.

**Remedy exclusive.**

Sec. 303. Such agreement shall constitute an acceptance of all the provisions of article three of this act, and shall operate as a surrender by the parties thereto of their rights to any form or amount of compensation or damages for any injury or death occurring in the course of the employment, or to any method of determination thereof, other than as provided in article three of this act. Such agreement shall bind the employer and his personal representatives, and the employee, his or her wife or husband, widow or widower, next of kin, and other dependents.

**Termination of agreements.**

Sec. 304. Any agreement between employer and employee for the operation or nonoperation of the provisions of article three of this act may be terminated prior to any accident, by either party, upon sixty days' notice to the other in writing, if a copy of such notice, with proof of service, be filed in the bureau, as provided in section three hundred and two of this article.

**Insurance.**

Sec. 305. Every employer liable under this act to pay compensation shall insure the payment of compensation in the State workmen's insurance fund, or in any insurance company, or mutual association or company, authorized to insure such liability in this Commonwealth, unless such employer shall be exempted by the bureau from such insurance. An employer desiring to be exempt from insuring the whole or any part of his liability for compensation shall make application to the bureau, showing his financial ability to pay such compensation, whereupon the bureau, if satisfied of the applicant's financial ability, shall, by written order, make such exemption. The bureau may from time to time require further statements of the financial ability of such employer, and if at any time such employer appear no longer able to pay compensation, shall revoke its order granting exemption; in which case the employer shall immediately subscribe to the State fund, or insure his liability in a mutual association or company, as aforesaid.

**Exemption.**

Sec. 306. Every employer liable under this act to pay compensation shall insure the payment of compensation in the State workmen's insurance fund, or in any insurance company, or mutual association or company, authorized to insure such liability in this Commonwealth, unless such employer shall be exempted by the bureau from such insurance. An employer desiring to be exempt from insuring the whole or any part of his liability for compensation shall make application to the bureau, showing his financial ability to pay such compensation, whereupon the bureau, if satisfied of the applicant's financial ability, shall, by written order, make such exemption. The bureau may from time to time require further statements of the financial ability of such employer, and if at any time such employer appear no longer able to pay compensation, shall revoke its order granting exemption; in which case the employer shall immediately subscribe to the State fund, or insure his liability in a mutual association or company, as aforesaid.

**Failure to insure.**

If an employer shall fail to comply with the provisions of this section, the bureau shall, by registered mail, or in such other manner as the rules and regulations of the bureau shall provide, serve upon such employer a notice to forthwith comply with such provisions; and if such employer does not within thirty days thereafter insure his liability as aforesaid or satisfy the bureau of his financial ability to pay such compensation, whereupon the bureau, if satisfied of the applicant's financial ability, shall, by written order, make such exemption. The bureau may from time to time require further statements of the financial ability of such employer, and if at any time such employer appear no longer able to pay compensation, shall revoke its order granting exemption; in which case the employer shall immediately subscribe to the State fund, or insure his liability in a mutual association or company, as aforesaid.

**Compensation—Total disability.**

Sec. 306. The following schedule of compensation is hereby established for injuries resulting in total disability:

(a) For the first five hundred weeks after the fourteenth day of total disability, fifty per centum of the wages of the injured employee, as defined in section three hundred and nine; but the compensation shall not be more than ten dollars per week nor less than five dollars per week, and shall not exceed in aggregate the sum of four thousand dollars: 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. Nothing in this clause shall require the payment of compensation after disability shall cease. Should partial disability be followed by total disability, the period of five hundred weeks mentioned in this clause of this section shall be reduced by the number of weeks during which compensation was paid for such partial disability.

(b) For disability partial in character (except the particular cases mentioned in clause (c)), fifty per centum of the difference between the wages of the injured employee, as defined in section three hundred and nine, 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 fourteenth day of such total disability. Should total disability be followed by partial disability, the period of three hundred weeks mentioned in this clause shall be reduced by the number of weeks during which compensation was paid for such total disability.

(c) For all disability resulting from permanent injuries of the following classes, the compensation shall be exclusively as follows:
   For the loss of a hand, fifty per centum of 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.

   Unless the board shall otherwise determine, 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 clause (a).

   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 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 hand, arm, foot, leg, or eye shall be considered as the equivalent of the loss of such hand, arm, foot, leg, or eye.

   This 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 he shall receive the full amount of such wages per week as compensation.

(d) No compensation shall be allowed for the first fourteen days after disability begins, except as hereinafter provided in clause (e) of this section.

(e) During the first fourteen days after disability begins the employer shall furnish reasonable surgical, medical, and hospital services, medicines and supplies, as and when needed unless the employee refuses to allow them to be furnished by the employer. The cost of such services, medicines, and supplies shall not exceed twenty-five dollars, unless a major surgical operation shall be necessary; in which case the cost shall not exceed seventy-five dollars. If the employer shall, upon application made to him, refuse to furnish such services, medicines, and supplies, the employee may procure the same, and shall receive from the employer the reasonable cost thereof within the above limitations. If the employee shall refuse reasonable surgical, medical, and hospital services, medicines and supplies, tendered to him by his employer,
he shall forfeit all right to compensation for any injury or any in-
crease in his incapacity shown to have resulted from such refusal.

(f) Should the employee die as a result of the injury, the period
during which compensation shall be payable to his dependents,
under sections three hundred and six [three hundred and seven]
of this article, shall be reduced by the period during which com-
pensation was paid to him in his lifetime, under this section of this
article. No reduction shall be made for the amount which may
have been paid for medical and hospital services and medicines,
no for the expenses of the last sickness and burial. Should the
employee die from some other cause than the injury, the liability
for compensation shall cease.

Sec. 307. In case of death, compensation shall be computed on
the following basis, and distributed to the following persons:

1. To the child or children, if there be no widow nor widower
entitled to compensation, twenty-five per centum of wages of de-
ceased, with ten per centum additional for each child in excess
of two, with a maximum of sixty per centum, to be paid to their
guardian.

2. To the widow or widower, if there be no children, forty per
centum of wages.

3. To the widow or widower, if there be one child, forty-five
per centum of wages.

4. To the widow or widower, if there be two children, fifty
per centum of wages.

5. To the widow or widower, if there be three children, fifty-
five per centum of wages.

6. To the widow or widower, if there be four or more children,
sixty per centum of wages.

7. If there be neither widow, widower, nor children, then to
the father and mother, or the survivor of them, if dependent to
any extent upon the employee for support at the time of his death,
twenty per centum of wages.

8. If there be neither widow, widower, children, nor dependent
parent, then to the brothers and sisters, if actually dependent
to any extent upon the decedent for support at the time of his
death, fifteen per centum of wages for one brother or sister, and
five per centum additional for each additional brother or sister,
with a maximum of twenty-five per centum; such compensation
to be paid to their guardian.

9. Whether or not there be dependents as aforesaid the reason-
able expenses of the last sickness and burial, not exceeding one
hundred dollars (without deduction of any amounts theretofore
paid for compensation or for medical expenses), payable to the
dependents, or if there be no dependents then to the personal
representatives of the deceased.

Compensation shall be payable under this section to or on ac-
count of any child, brother, or sister, only if and while such child,
brother, and [or] sister is under the age of sixteen. No com-
penation shall be payable under this section to a widow, unless
she was living with her deceased husband at the time of his
death, or was then actually dependent upon him for support. No
compensation shall be payable under this section to a widower,
unless he be incapable of self-support at the time of his wife's
death and be at such time dependent upon her for support. The
terms "child" and "children" shall include stepchildren and
adopted children, and children to whom he stood in loco parentis,
if members of decedent's household at the time of his death, and
shall include posthumous children. Should any dependent of a
deceased employee die, or should the widow or widower remarry,
or should the widower become capable of self-support, the right
of such dependent, or such widow or widower, to compensation
under this section shall cease. If the compensation payable under
this section to any person shall for any cause cease, the compen-
sation to the remaining persons entitled thereunder shall there-
after 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.
The wages upon which death compensation shall be based shall not in any case be taken to exceed twenty dollars per week nor be less than ten dollars per week.

The compensation shall be paid during three hundred weeks, and in the case of children entitled to compensation under this section the compensation of each child shall continue after said period of three hundred weeks until such child reach the age of sixteen at the rate of fifteen per centum of wages, if there be but one child, with ten per centum additional for each additional child, with a maximum of fifty per centum.

Sec. 308. Except as hereinafter provided all compensation payable under this article shall be payable in periodical installments, as the wages of the employee were payable before the accident.

Sec. 309. Wherever in this article 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 to the contract of hiring, nor shall it include amounts deducted by the employer, under the contract of hiring, for labor, material, supplies, tools, or other things furnished or paid for by the employer and necessary for the performance of such contract by the employee. In occupations involving seasonal employment, or employment 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 a basis of calculation his earnings during so much of the preceding six months as he worked for the same employer. Where the employee is working under concurrent contracts with two or more employers his wages from all employers shall be considered as if earned from the employer liable for compensation.

Sec. 310. Compensation under this article to alien dependent widows and children, not residents of the United States, shall be two-thirds of the amount provided in each case for residents; and the employer may at any time commute all future installments of compensation payable to alien dependents, not residents of the United States, by paying to such alien dependents the then value thereof, calculated in accordance with the provisions of section three hundred and sixteen of this article. Alien widowers, parents, brothers, and sisters, not residents of the United States, shall not be entitled to any compensation. Nonresident alien dependents may be officially represented by the consular officers of the nation of which such alien or aliens may be citizens or subjects, and in such cases the consular officers shall have the right to receive for distribution to such nonresident alien dependents all compensation awarded hereunder, and the receipt of such consular officers shall be a full discharge of all sums paid to and received by them.

Sec. 311. Unless the employer shall have actual knowledge of the occurrence of the injury or unless the employee or some one in his behalf or some of the dependents of some one in their behalf shall give notice thereof to the employer within fourteen
days after the accident no compensation shall be due until such notice be given or knowledge obtained; but if the employee or other beneficiary shall show that his delay in giving notice was due to his mistake or ignorance of fact or of law or to his physical or mental inability or to fraud, misrepresentation, or deceit, or to any other reasonable cause or excuse, then compensation shall be allowed, unless the employer shall show that he did not know and by reasonable diligence could not have learned of the accident and that he was prejudiced by the delay, in which case he shall be relieved to the extent of such prejudice.

Sec. 312. The notice referred to in section three hundred and eleven hereof shall be substantially in the following form:

To (name of employer).

You are hereby notified that an injury of the following character _______ was suffered by (name of employee injured), who was in your employment at (place), while engaged as (kind of employment) on or about the _____ day of ______, anno Domini _______, and that compensation will be claimed therefor.

Date _______. (Signed) ______

But no variation from this form shall be material if the notice be sufficient to inform the employer that a certain employee, by name, received an injury, the character of which is described in ordinary language, in the course of his employment on or about a time specified and at or near a place specified.

Sec. 313. The notices referred to in section three hundred and two and section three hundred and eleven hereof may be served personally upon the employer, or upon the manager or superintendent in charge of the works or business in which the accident occurred, or by sending them through the registered mail to the employer at his or its last-known residence or place of business, or, if the employer be a corporation, either foreign or domestic, then upon the president, vice president, secretary, or treasurer thereof. Knowledge of the occurrence of the injury on the part of any of said agents shall be the knowledge of the employer.

Sec. 314. At any time after an injury the employee, if so requested by his employer, must submit himself for examination, at some reasonable time and place, to a physician or physicians legally authorized to practice under the laws of such place, who shall be selected and paid by the employer. If the employee shall refuse, upon the request of the employer, to submit to the examination by the physician or physicians selected by the employer, the board may, upon petition of the employer, order the employee to submit to an examination at a time and place set by it and by the physician or physicians selected and paid by the employer or by a physician or physicians designated by it and paid by the employer; and if the employee shall, without reasonable cause or excuse, disobey or disregard such order he shall be deprived of his right to compensation under this article. The board may at any time after such first examination, upon petition of the employer, order the employee to submit himself to such further examinations as it shall deem reasonable and necessary, at such times and places and by such physicians as it may designate, and in such case the employer shall pay the fees and expenses of the examining physician or physicians and the reasonable traveling expenses and loss of wages incurred by the employee in order to submit himself to such examination. The refusal or neglect, without reasonable cause or excuse, of the employee to submit to such examination ordered by the board, either before or after an agreement or award, shall deprive him of the right to compensation under this article during the continuance of such refusal or neglect, and the period of such neglect or refusal shall be deducted from the period during which compensation would otherwise be payable.

The employee shall be entitled to have a physician or physicians of his own selection, to be paid by him, participate in any examination requested by his employer or ordered by the board.
Sec. 315. In cases of personal injury all claims for compensation shall be forever barred, unless within one year after the accident the parties shall have agreed upon the compensation payable under this article; or unless within one year after the accident one of the parties shall have filed a petition as provided in article four hereof. In cases 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 payable under this article; or unless within one year after the death one of the parties shall have filed a petition as provided in article four hereof. Where, however, payments of compensation have been made in any case, said limitations shall not take effect until the expiration of one year from the time of the making of the last payment.

Sec. 316. The compensation contemplated by this article may at any time be commuted by the board at its then value when discounted at five per centum interest, with annual rests, disregarding the probability of the beneficiary's death, 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, and 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 whole or the greater part of his business or assets. Except as provided in section three hundred and ten hereof, and in this section, no commutation of compensation shall be made.

Sec. 317. At any time after the approval of an agreement or 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), with the approval of the bureau, 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 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 prothonotary's docket 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 periods 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. Should, however, there remain any unexpended balance of any fund after the payment of all sums due under this act, such balance shall be repaid to the employer who made the original payment, or to his legal representatives.

Sec. 318. The right of compensation granted by this article of this act shall have the same preference (without limit of amount) against the assets of an employer, liable for such compensation, as is now or may hereafter be allowed by law for a claim for unpaid wages for labor: Provided, however, That no claim for compensation shall have priority over any judgment, mortgage, or conveyance of land recorded prior to the filing of the petition, award, or agreement as to compensation in the office of the prothonotary of the county in which the land is situated. Claims for payments due under this article of this act shall not be assignable, and (except as provided in section five hundred and one of article five hereof) shall be exempt from all claims of creditors, and from levy, execution, or attachment, which exemption may not be waived.

Sec. 319. Where a third person is liable to the employee or the dependents for the injury or death, the employer shall be subrogated to the right of the employee or the dependents against
such third person, but only to the extent of the compensation payable under this article by the employer. Any recovery against such third person in excess of the compensation theretofore paid by the employer 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.

**Article IV.—Procedure.**

**Definitions.**

Section 401. The term “referee” when used in this article shall mean workmen’s compensation referee.

The term “fund” when used in this article shall mean the State insurance fund of this Commonwealth.

The term “employer” when used in this article shall mean the employer as defined in article one of this act, or his duly authorized agent, or his insurer, if such insurer has assumed the employer’s liability, or the fund, if the employer be insured therein.

Sec. 402. All proceedings before the board or any referee and all appeals to the board shall be instituted by petition addressed to the board. All petitions shall be in writing and in the form prescribed by the board.

**Petitions.**

Sec. 403. All petitions, all copies of agreements for compensation, and all other papers requiring action by the board shall be mailed or delivered to the bureau at its principal office.

Sec. 404. The bureau shall, immediately upon their receipt properly file and docket all petitions, agreements for compensation, findings of fact by the board or any referee, awards or disallowances of compensation, or modifications thereof, and all other reports or papers filed with it under the provisions of this act or the rules and regulations of the board.

**Forwarding.**

Sec. 405. The bureau shall, by mail or in such other manner as the board shall direct, transmit to the board or the proper referee true copies of all petitions, agreements, or other papers requiring action by the board or a referee.

**Filing.**

Sec. 406. At the close of each day the board and all referees shall, in such manner as the rules of the board shall prescribe, transmit to the bureau all findings of fact, awards or disallowances of compensation, or modifications thereof, or other decisions or reports rendered during the day.

**Papers requiring action.**

Sec. 407. Immediately upon receiving from the board or any referee any approval or disapproval of any agreement for or any award or disallowance of compensation, or any modification thereof, or any other decision, the bureau shall serve a certified copy thereof on all parties in interest.

**Daily reports.**

Sec. 408. All notices and certified copies to which any party shall be entitled under the provisions of this article shall be served by mail or in such other manner as the board shall direct. For the purposes of this article any notice or certified copy shall be deemed served on the date when mailed, properly stamped and addressed, and shall be presumed to have reached the party to be served; but any party may show by competent evidence that any notice or certified copy was not received, or that there was unusual or unreasonable delay in its transmission through the mails. In any such case proper allowance shall be made for the party’s failure within the prescribed time to assert any right given him by this act.

The bureau, the board, and every referee shall keep a careful record of the date of mailing every notice and certified copy required by this act to be served on the parties in interest.

**Service of decisions.**

Sec. 409. A referee’s findings of fact shall be final, unless the board shall allow an appeal therefrom, as hereinafter provided.

The board’s findings of fact shall in all cases be final.

From the referee’s decision on any question of law an appeal may be taken to the board, and from any decision of the board on a question of law an appeal may be taken to the courts, as hereinafter provided.
Sec. 410. On or after the fourteenth day after any accident shall have occurred the employer and the employee, or his dependent, may agree upon the compensation payable to the employee or his dependent under this act; but any agreement made prior to the fourteenth day after the accident shall have occurred, or permitting a commutation of payments contrary to the provisions of this act, or varying the amount to be paid or the period during which compensation shall be payable as provided in this act, shall be wholly null and void.

All agreements made in accordance with the provisions of this section shall be in writing and signed by all parties in interest.

Sec. 411. Whenever an agreement shall be executed between an employer and an employee or his dependent as provided by this act, a certified copy of the same, signed by all parties in interest, shall be mailed or delivered to the board. It shall be the duty of the board to examine the agreement and to determine whether it conforms to the provisions of section four hundred and ten, and, within thirty days after the copy of the agreement has been mailed or delivered to it, to notify the parties thereto of its validity or invalidity under the aforesaid section: Provided, however, That any payment made in accordance with any agreement prior to the receipt of notice of invalidity shall discharge, under article three of this act, the employer making such payments.

Sec. 412. If after any accident the employer and the employee or his dependent concerned in any accident shall fail to agree upon the facts thereof and the compensation due under this act, the employee or his dependent may present a claim for compensation to the board.

Sec. 413. Whenever a claim petition shall be presented to the board, the bureau shall promptly assign it to a referee for hearing and determination. The bureau shall forthwith notify such referee that the petition has been assigned to him, and shall serve upon each adverse party in interest a certified copy of the petition and a notice that unless an answer shall within seven days be filed with the referee to whom the petition has been assigned (giving his name and address), the allegations of the petition shall be deemed admitted.

Sec. 414. Within seven days after a certified copy of the petition and a notice as herein required shall have been served upon any adverse party, he may file with the referee designated in the notice an answer in the form prescribed by the rules and regulations of the board.

Sec. 415. Seven days after notice of a claim petition shall have been served upon the adverse parties thereto, the referee shall fix a time and place for hearing the claim and shall notify all the parties in interest. The time of hearing shall be not less than twelve days nor more than twenty-one days after notice of the filing of the petition shall have been mailed or delivered to all adverse parties thereto. Together with the notice of the time and place of hearing, a copy of any answer filed by any adverse party shall be mailed or delivered to the petitioner or petitioners. Whenever all adverse parties in interest have concurred in the answer, all facts not denied therein shall be deemed admitted, and no testimony shall be required from the petitioner or petitioners or heard on behalf of the adverse parties upon any fact not controverted in such answer.

Sec. 416. The referee designated by the bureau, or such other referee as the board shall substitute for him, shall hear evidence relating to the claim at the time and place stated in the notice to the parties.

Sec. 417. The referee, if he shall deem it necessary, shall, either before or after any hearing, make an investigation of the facts set forth in the petition or cause the same to be made. With the consent of the board he may appoint one or more impartial physicians or surgeons to examine the injuries of the plaintiff and report thereon, or he may employ the services of such other
experts as shall appear necessary to ascertain the facts. The
board shall fix the compensation of such physicians, surgeons,
and experts, and the referee shall tax the same as a part of the
cost of the proceedings, to be paid by either party or both, as
the board may direct. The report of any physician, surgeon, or
expert appointed by the referee shall be filed with him and shall
be a part of the record and open to inspection by any party to
the same.

Findings.

Sec. 418. Within seven days after the conclusion of any hearing
the referee shall in writing state his findings of fact, his award
or disallowance of compensation in accordance with the provisions
of this act, and such other matters as the rules of the board shall
require.

Appeals.

Sec. 419. Any party in interest may, within ten days after notice
of a referee's award or disallowance of compensation shall have
been served on him, take an appeal to the board on the ground:
(1) That the award or disallowance of compensation is not in
conformity with the terms of this act, or that the referee com­
mited any other error of law; or (2) that the findings of fact
and award or disallowance of compensation was unwarranted
by the evidence, or because of fraud, coercion, or other improper
conduct by any party in interest.

Hearing on points of law.

Sec. 420. Whenever an appeal shall be based upon an alleged
error of law it shall be the duty of the board to grant a hearing
thereon. The board shall fix a time and place for such hearing
and shall serve notice thereof on all parties in interest.

As soon as may be after any such hearing the board shall either
sustain or reverse the referee's award or disallowance of compen­
sation or make such modification thereof as it shall deem
proper.

Fraud, etc.

Sec. 421. Whenever an appeal shall be taken on the ground that
the referee's award of [or] disallowance of compensation was un­
warranted by the evidence, or because of fraud, coercion, or other
improper conduct by any party in interest, the board may, in its
discretion, grant a hearing de novo or sustain the referee's award
or disallowance of compensation. If the board shall grant a hear­
ing de novo it shall fix a time and place for the same and shall
notify all parties in interest.

The board shall at all times have the power to make any in­
vestigation which it shall deem necessary to ascertain the facts.
It may employ physicians, surgeons, or other experts to aid
in its investigation, and shall in all cases fix the compensation of
such physicians, surgeons, or experts, and tax the same as a part
of the cost of the proceedings, to be paid by either party, or both,
as the board may direct.

As soon as may be after any hearing de novo by the board it
shall in writing state its findings of fact and award or disallow
compensation in accordance with the provisions of this act.

Decision on agreed facts.

Sec. 422. Whenever the employer and the employee or his de­
pendent shall, or after the fourteenth day after any accident,
agree on the facts on which a claim for compensation depends,
but shall fail to agree on the compensation payable thereunder,
they may by petition request the board to determine the compen­
sation payable. Such petition shall contain the agreed facts and
shall be signed by all parties in interest. The board shall fix a
time and place for hearing the petition and shall notify all parties
in interest. As soon as may be after such hearing the board shall
award or disallow compensation in accordance with the provi­
sions of this act.

Reviews.

Sec. 423. All agreements for compensations shall be subject to
review by the board at any time upon presentation of a petition
alleging fraud, mistake, coercion, or other proper cause. The
board shall fix a time and place for hearing the petition, and shall
notify all parties in interest.

As soon as may be after such hearing, the board shall either
ratify or disapprove the agreement.
Sec. 424. If any party shall desire the commutation of future installments of compensation, he shall present a petition therefor to the board. The board shall appoint a time and place for hearing the petition, and shall notify all parties in interest.

Every question of fact arising out of such petition shall be heard by the board, but the board may refer any question of fact arising out of such petition to a referee, whose findings shall be final, unless upon petition the board shall, for cause shown, grant a hearing on the facts.

The board shall fix a time and place for the hearing, and shall notify all parties in interest.

Sec. 425. If any party in interest shall desire to appeal from the decision of the board on matters of law, he shall, within ten days after notice of its decision shall have been served on him, file a notice of appeal with the prothonotary of the court of common pleas of the county in which the accident occurred or of the county in which the adverse party resides or has a permanent place of business, or, by agreement of the parties, to the court of common pleas of any other county. In such case it shall be the duty of the bureau within ten days to prepare and mail or deliver to the prothonotary of the proper county a transcript of the agreement or award, or disallowance of compensation or modification thereof involved in the appeal.

Any appeal from a decision of the board to the courts of common pleas, and from them to the supreme or superior court, shall take precedence over all other civil cases.

Sec. 426. Any agreement or award of compensation may be modified or terminated at any time by a subsequent agreement approved by the board, and may be modified or terminated by the board or a referee designated by the board on the petition of either party on the ground that the incapacity of the injured employee has subsequently increased, decreased, or terminated, or that the status of any dependent has changed. In such case the procedure shall be the same as that provided in the case of an original agreement or petition.

Sec. 427. All hearings before the board or before a referee shall be public.

Sec. 428. Neither the board nor any referee shall be bound by the technical rules of evidence in conducting any hearing or investigation.

Sec. 429. Wherever, after an accident, any employee or his dependents shall have entered into a compensation agreement with his employer, or shall file a claim petition with the board, he may file a certified copy thereof with the prothonotary of the court of common pleas of any county. The prothonotary shall enter the amount stipulated in any such agreement or claimed in any such petition as a judgment against the employer. If the agreement be approved by the board, or compensation awarded as claimed in the petition, the amount of compensation stipulated in the agreement or claimed in the petition shall be a lien as of the date when the agreement or petition was filed with the prothonotary. Pending the approval of the agreement or the award of compensation, no other lien which may be attached to the employer's property during such time shall gain priority over the lien of such agreement or award; but no execution shall issue on any compensation judgment before the approval of the agreement or the award of compensation on the said petition.

If the agreement be disapproved, or, after hearing, compensation shall be disallowed, the employer may file with the prothonotary of any county in which the petition or agreement is on record as a judgment, a certified copy of the disapproval of the agreement or disallowance of compensation, and it shall be the duty of such prothonotary to strike off the judgment.

If the amount of compensation claimed be disallowed, but another amount awarded, the compensation judgment shall be a lien to the extent of the award, as of the date of filing the petition with the prothonotary, with the same effect as to other liens and the same disability to issue execution thereon as if the compensa-
tion claimed had been allowed. In such cases the prothonotary shall make such modification of the record as shall be appropriate.

If, after approval of the agreement or award, the agreement or award be subsequently modified, either party may file with the prothonotary a certified copy of the modified award or agreement, and it shall be the duty of the prothonotary to make such modification of the record as shall be appropriate, and the lien of the judgment shall be modified accordingly.

Sec. 430. If any party against whom a compensation agreement or award is on record in any county of this Commonwealth shall at any time present to the board receipts or copies thereof, certified by any referee, showing the payment of compensation as required by the agreement or award in full, to the date of presentation to the referee, the board shall issue a certificate to such party in the form prescribed, stating the extent to which the judgment of the agreement or award has been reduced. Upon presentation of such certificate to the prothonotary of any county in which the agreement or award is on record, it shall be the prothonotary's duty to mark the judgment satisfied to the extent of the payments so certified.

Sec. 431. The lien of any judgment entered upon any award shall not be divested by any appeal. If, however, the party appealing from the award shall file with the board a bond, in such amount and in such form as the rules and regulations of the board shall direct, the appeal shall, pending its decision, excuse the payment of so much of the compensation as is contested therein; but if the final decision on appeal shall sustain the award, it shall be the duty of the employer by whom such award is payable to make payments of compensation as from the date of the original award. If on appeal the award is sustained as to a part, it shall be the duty of the employer by whom such part is payable to make payments as from the date of the original award. In case the award is annulled on appeal, it shall be the duty of the prothonotary of any county in which such award has been entered as a judgment to mark it satisfied.

Sec. 432. The cost of the prothonotary for entering the amount of compensation as provided in this act, or making a modification of the record, or marking the judgment satisfied, shall be allowed, taxed, and collected as upon a confession of judgment.

Sec. 433. It shall be the duty of the prothonotary of each court of common pleas and of the supreme and superior courts of the Commonwealth to make a monthly report to the board of the disposition of all appeals taken to such court under the provisions of this article.

ARTICLE V.—General provisions.

SECTION 501. No claim or agreement for legal services or disbursements in support of any demand made or suit brought under the provisions of article two of this act shall be an enforceable lien against the amount to be paid as damages, 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 common pleas court of the county in which the accident occurred.

No claim or agreement for legal services or disbursements in support of any claim for compensation, or in preparing any agreement for compensation, under article three of this act shall be an enforceable lien against the amount to be paid as compensation, or be valid or binding in any other respect, unless the same be approved by the board. Any such claim or agreement shall be filed with the bureau, which shall, as soon as may be, notify the person by whom the same was filed of the board's approval or disapproval thereof, as the case may be.

After the approval as herein required, if the employer be notified in writing 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 board shall fix, at the time of approval, the proportion of each installment to be paid on account of legal services and disbursements.

Sec. 502. If any provision of this act shall be held by any court to be unconstitutional, such judgment shall not affect any other section or provision of this act, except that articles two and three are hereby declared to be inseparable and as one legislative thought; and if either article be declared by such court void or inoperative in an essential part, so that the whole of such article must fall, the other article shall fall with it and not stand alone.

Sec. 503. Nothing in this act shall affect or impair any right of action which shall have accrued before this act shall take effect.

Sec. 504. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Sec. 505. This act shall not apply in the case of an accident occurring prior to the first day of January next succeeding its passage and approval.

Approved June 2, 1915.

Act No. 339.—Bureau of workmen's compensation—Board.

Section 1. The bureau of workmen's compensation of the department of labor and industry is hereinafter called bureau.

The workmen's compensation board is hereinafter called the board.

The commissioner of labor and industry is hereinafter called the commissioner.

The workmen's compensation referee is hereinafter called the referee.

Sec. 2. The bureau of workmen's compensation of the department of labor and industry is hereby created.

Sec. 3. The board is hereby created to supervise and direct the bureau. It shall consist of three members, who shall be appointed by the governor by and with the advice and consent of the senate. The commissioner shall be an ex officio member of the board, but shall not vote on orders, decisions, or awards. The members of the board shall be appointed for terms of four years, but they shall at all times be removable by the governor, by and with the advice and consent of the senate.

Whenever a vacancy on the board shall occur because of the death, resignation, or removal of a member the governor shall, by and with the advice and consent of the senate, appoint a member of the board to fill the remainder of the term of the member whose death, resignation, or removal created the vacancy.

Sec. 4. The governor shall designate a member of the board to serve as its chairman during his term of office. It shall be the duty of the chairman when present, to preside at all meetings of the board.

Two members shall be a quorum of the board, and any action of the board shall not be valid unless it shall have the concurrence of two members. A vacancy on the board shall not impair the right of a quorum to exercise all the rights and perform all the duties of the board.

Sec. 5. The attorney general shall ex officio be the general counsel of the bureau. He shall appoint an attorney or attorneys learned in the law as counsel for the bureau, whose salaries shall not in the aggregate exceed the sum of ten thousand dollars.

Sec. 6. It shall be the duty of the board, immediately upon its organization, to divide the Commonwealth into districts to be known as workmen's compensation districts. Each district shall, as near as may be practicable, be compact and of contiguous territory.
Referees. Sec. 7. As soon as such districts shall have been created the commissioner, with the approval of the governor, shall appoint as many referees as shall be necessary to fulfill the purposes of this act, not to exceed ten in number.

Assignment. Sec. 8. The board may assign any referee or referees to any workmen’s compensation district.

Secretary. Sec. 9. The board shall appoint a secretary to serve at its pleasure, who shall perform such duties as shall be imposed upon him by the board.

Sergeant at arms. Sec. 10. The board shall appoint a sergeant at arms, who shall attend all hearings, preserve order thereat, superintend the serving of subpoenas and such other papers as the board may direct, and perform such other duties as may be prescribed by the board.

Blanks. Sec. 11. It shall be the duty of the bureau to publish such blank forms as will be useful in the administration of any workmen’s compensation law now in force or hereafter to be enacted, to distribute the same to all employers, insurers, or employees applying therefor in person or by mail, and to perform such other duties as shall be required by law.

Notice of accidents. Sec. 12. It shall be the duty of the bureau, if the State workmen’s insurance board shall file with it a written notice that any employer has become a subscriber to the State workmen’s insurance fund, promptly to transmit to the State workmen’s insurance board a copy of any notice received by such bureau of any accident to any employee of such subscribing employer.

Rules. Sec. 13. It shall be the duty of the board to make all proper and necessary rules and regulations for the conduct of the bureau, and to promptly hear and determine all petitions and appeals, and to perform such other duties as shall be required by law.

Duties of referees. Sec. 14. It shall be the duty of every referee to hear such claims for compensation as shall be assigned to him by the bureau, to perform such duties as shall be required of him by the board, and to perform all other duties imposed by law.

Clerks, etc. Sec. 15. The commissioner shall, with the approval of the governor, appoint three clerks, whose salary shall not exceed two thousand dollars per annum, and not more than twenty-four clerks, one-half at least of whom shall be stenographers, at an annual salary not exceeding fourteen hundred dollars, to perform such duties in connection with the work of the bureau as the board shall direct. The commissioner may also appoint, with the approval of the governor, one clerk for each referee, at an annual salary not to exceed one thousand dollars, and a messenger for the bureau, at a salary not to exceed one thousand dollars per annum. The commissioner may also, from time to time, detail to the assistance of the board or the referees such other employees of the department of labor and industry as may be necessary.

Offices of referees. Sec. 16. It shall be the duty of the commissioner to provide suitable places in the various workmen’s compensation districts in which referees may hold hearings. The commissioner shall have the power, with the approval of the board, to establish permanent offices for referees in the various compensation districts. The expenses of procuring places for hearings and establishing permanent offices for referees shall be paid as other expenses of the department of labor and industry are paid.

Investigations. Sec. 17. The board and every referee shall have the power to conduct any investigation which may be deemed necessary to ascertain the facts of any claim or any other matter properly before such board or referee. Such investigations may be made by the board or referee personally, or by any inspector of the department of labor and industry, or by any other person or persons authorized by law. Every inspector of the said department of labor and industry is hereby empowered and directed to conduct any investigation authorized by this act at the request of the board or any referee, with the consent of the commissioner.

Powers as to oaths, etc. Sec. 18. Every member of the board and every referee shall have the power to issue subpoenas, administer oaths, and summon...
witnesses at the request of either party to a petition, or of his own motion, and to require the attendance of witnesses, and the production of books and papers pertinent to any hearing, and to examine them and such public records as he may require in relation to any matter which he has power to investigate.

Any witness who refuses to obey a subpoena of a member of the board or any referee, or who refuses to be sworn or to testify, or who fails to produce any papers, books, or documents touching any matter under investigation, or who is guilty of any contempt after summons to appear, may be punished as for contempt of court, and for this purpose an application may be made to any court of common pleas within whose territorial jurisdiction the offense was committed, and for which purpose such court is hereby given jurisdiction.

The secretary of the board and all referees are hereby directed to administer any oaths required by this act, without charge, to the parties to any petition, and all certified copies of awards or disallowances of compensation, or modifications thereof, or of receipts for payments of compensation shall be made by the bureau or any referee without charge.

Sec. 19. All subpoenas issued by a member of the board or by a referee shall be signed by him or by the secretary of the board, and may be served by any adult in any part of this Commonwealth.

Sec. 20. Each witness required to attend before the board or any referee shall receive for each day's attendance the sum of one dollar and fifty cents, and, in addition thereto, three cents for each mile circular traveled by such witness by the usual route from his home to the place where his presence is required. The fees for serving subpoenas shall be the same as those paid sheriffs for similar services. The fees, expenses, and costs of any hearing may be imposed by the board upon either party, or may be divided between the parties in such proportions as the board may determine.

Sec. 21. Each member of the board shall receive an annual salary of seven thousand dollars, except the chairman, who shall receive seven thousand five hundred dollars; the secretary shall receive an annual salary of four thousand dollars; the sergeant at arms shall receive an annual salary of one thousand five hundred dollars; each referee shall receive an annual salary of two thousand five hundred dollars.

The salaries hereinafter mentioned and the salaries of all other officers, agents, appointees, and the employees of the bureau, shall be payable monthly.

Each member of the board, its secretary, counsel, sergeant at arms, and other officers, agents, employees, and appointees, and each referee shall be paid in addition to their stipulated salary or compensation the railroad fare, board, lodging, and other traveling expenses necessarily and actually incurred by each of them in the performance of the duties required by this act or performed by direction of the board.

Approved June 2, 1915.

Act No. 340.—Workmen's compensation insurance board—State fund.

Section 1. The State workmen's insurance board is hereinafter called the board; the State workmen's insurance fund is hereinafter called the fund; and the bureau of workmen's compensation of the department of labor and industry is hereinafter called the bureau.

Sec. 2. The State workmen's insurance board is hereby created, consisting of the commissioner of labor and industry, the insurance commissioner, and the State treasurer.

Sec. 3. Certain sums to be paid by employers, as hereinafter provided, are hereby constituted a fund, to be known as the State
workmen's insurance fund, for the purpose of insuring such em­
ployers against liability under article three of the workmen's com­
pensation act of 1915, and of assuring the payment of the com­
pensation therein provided. Such fund shall be administered by
the board, without liability on the part of the State, except as
hereinafter provided, beyond the amount thereof, and shall be ap­
plicated to the payment of such compensation.

Sec. 4. The State treasurer shall be the custodian of the fund,
and all disbursements therefrom shall be paid by him, upon
vouchers authorized by the board and signed by any two members
thereof, except as hereinafter provided in sections twenty-two and
twenty-three. He may deposit any portion thereof not needed
for immediate use as other State funds are lawfully deposited,
and the interest thereon shall be collected by him and placed to
the credit of the fund.

Schedule of premiums.

Sec. 5. On or before the first day of October in each year the
said board shall prepare and publish a schedule of premiums or
rates of insurance for employers who shall have accepted article
three of the workmen's compensation act of 1915, which schedule
shall be printed and distributed free of charge to such employers
as shall make application therefor; and any such employer may,
at his option, as hereinafter provided, pay to the fund the amount
of the premium appropriated to his business or domestic affairs,
and upon payment thereof shall thereafter be considered a sub­
scriber to the fund, and shall be insured as hereinafter provided
for the calendar year for which such premium is paid; and such
insurance shall cover all payments becoming due in any year be­
cause of accidents occurring during the year for which said pre­
mium is paid.

Rates.

Sec. 6. The said board shall determine the amount of premiums
which the subscribers to the fund shall pay, and shall fix the pre­
miums for insurance in accordance with the nature of their busi­
ness and of the various employments of their employees, and the
probable risk of injury to their employees therein; and they shall
fix the premiums at such an amount as shall be adequate to enable
them to pay all sums which may become due and payable to the
employees of such subscribers under the provisions of article
three of the workmen's compensation act of 1915; and to create
and maintain the surplus provided in section nine of this act, and
to provide an adequate reserve sufficient to carry all policies and
claims to maturity. In fixing the premiums payable by any sub­
scriber the board may take into account the condition of the plant,
workroom, shop, farm, mine, quarry, operation, and all other prop­
erty or premises of such subscriber in respect to the safety of
those employed therein, as shown by the report of any inspector
appointed by the board or by the department of labor and induc­
try; and they may from time to time change the amount of pre­
miums payable by any of the subscribers, as circumstances may
require and the condition of the plant, workroom, shop, farm,
mine, quarry, operation, or other property or premises of such
subscribers in respect to the safety of their employees may jus­
tify; and they may increase the premiums of any subscriber neg­
lecting to provide safety devices required by law or disobeying
the rules or regulations made by the board in accordance with the
provisions of section 15 of this act. The insurance of any sub­
scriber shall not be effective until he shall have paid in full the
premiums so fixed and determined.

List of subscribers.

Sec. 7. The board shall file with the workmen's compensation
bureau of the department of labor and industry a notice setting
forth the names and places of business of those employers who
from time to time shall become subscribers to the said fund.

Expenses.

Sec. 8. The expenses of the organization and administration of
the fund shall, until the first day of July, one thousand nine hun­
dred and nineteen, be paid by the State, out of funds hereinafter
appropriated therefor.

Surplus fund.

Sec. 9. The board shall set aside five per cent of all premiums
collected for the creation of a surplus until such surplus shall
amount to one hundred thousand dollars; and thereafter they may set apart such percentage, not exceeding five per centum, as in their discretion they may determine to be necessary to maintain such surplus sufficiently large to cover the catastrophe hazard of all the subscribers to the fund, and to guarantee the solvency of the fund.

Sec. 10. The said board shall divide the subscribers into groups, in accordance with the nature of the business of such subscribers and the probable risk of injury therein, and they shall fix all premiums for each group in accordance with the experience thereof. Where the employees in any business are engaged in various employments in which the risk of injury is substantially different, the board may subdivide the employments into classes and shall fix the premium for each in accordance with the probable risk of injury therein.

Sec. 11. The board shall keep an accurate account of the money paid in premiums by the subscribers and the disbursements on account of injuries to employees thereof, and if at the expiration of any year there shall be a balance remaining, after deducting such disbursements, the unearned premiums on undetermined risks, and the percentage of premiums paid or payable to create or maintain the surplus provided in section nine of this act, and after setting aside an adequate reserve, so much of the balance as the board may determine to be safely distributable shall be distributed among the subscribers in proportion to the premiums paid by them; and the proportionate share of such subscribers as shall remain subscribers to the fund shall be credited to the installment of premium next due by them, and the proportionate share of such subscribers as shall have ceased to be subscribers in the fund shall be refunded to them out of the fund in the manner hereafter provided.

Sec. 12. The said board may invest any of the surplus or reserve belonging to the fund in such securities and investments as are authorized for investment by savings banks. All such securities or evidence 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 fund. The State treasurer shall pay all vouchers drawn on the fund for the making of such investments, when signed by two members of the board, 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 board authorizing the investment. The said board may, upon like resolution, sell any of such securities.

Sec. 13. The said board shall have the power to make all contracts necessary for supplying medical, hospital, and surgical services, as provided in section three hundred and six, subsection (e), article three, of the workmen's compensation act of 1915.

Sec. 14. The said board shall have the power to reinsure any risk which they may deem necessary.

Sec. 15. The said board shall be entitled to inspect the plant, workroom, shop, farm, mine, quarry, operation, and all other property or premises of any subscriber, and shall be entitled to examine from time to time the books, records, and pay rolls of any subscriber or intending subscriber for the purpose of determining the amount of the premium payable to such subscriber or intending subscriber; and they shall have the power to appoint such inspectors and auditors as may be necessary to carry out the powers given in this section; or they may, with the consent of the department of labor and industry and commissioner of insurance, cause such inspection and examination to be made by the inspectors of the said department of labor and industry and the auditors of the State insurance department, and such inspectors and auditors shall have free access to all such premises, books, records, and pay rolls during the regular working and office hours.
Rules for safety. The board shall make reasonable rules and regulations for the prevention of injuries upon the premises of the subscribers, and they may refuse to insure, or may terminate the insurance of, any subscriber who refuses to permit such examinations or disregards such rules or regulations, and may forfeit one-half of the unearned premiums previously paid by him.

Sec. 16. Any employer who shall have accepted the provisions of article three of the workmen's compensation act of 1915, and who shall desire to become a subscriber to the said fund, for the purpose of insuring therein his liability to those of his employees, or any class thereof, who have accepted the said provisions, shall make a written application for such insurance to the said board, in which application the applicant shall state, under oath or affirmation: (a) The nature of the business or domestic affairs in which insurance is desired; (b) the average number of employees expected to be employed in such business during the year for which insurance is sought, and the average number of employees if any, engaged in such business during the previous calendar year; (c) The approximate money wages expected to be paid during the year for which insurance is sought, and the money wages paid to the preceding employees during the same period; (d) the place where such business is to be transacted; (e) the place where the employee's pay roll and books of accounts are kept, and where the employees are customarily paid, and such other facts and information as the board shall require; and, when the employments are subdivided into classes, as provided in section ten of this act, the applicant shall further state, (f) the number of employees of each class expected to be employed or previously employed, as aforesaid; (g) the approximate money wages expected to be paid or previously paid, as aforesaid, to employees of each class for which insurance is sought. Thereupon the board shall make such investigations as they may deem necessary, and within thirty days after such application shall issue a certificate showing the classification or group in which such applicant is entitled to be placed, and the amount of premium payable by such applicant for the calendar year or the remainder of the calendar year for which insurance is sought. No insurance shall be issued for a longer period than a single calendar year.

Payment of premiums. All premiums shall be payable to the State treasurer, who shall issue an appropriate receipt therefor; and such receipt, together with the certificate of the board specified in section sixteen hereof, shall be the evidence that the applicant has become a subscriber to the fund and is insured therein.

Statements by subscribers. Each subscriber to said fund shall, within one month after his subscription has terminated, furnish a written statement under oath or affirmation to the said board setting forth the maximum average and minimum number of employees insured in the fund that such subscriber had employed during the preceding year and the actual amount of the money pay roll of such employees for such year; and setting forth, when the board has subdivided the employments in any group into classes, as provided in section ten of this act, the number and actual amounts of the money pay roll of such employees of each of such classes; and thereupon within thirty days the said board shall state the account of such subscriber for such calendar year, based on the facts thus proven, and shall render a copy of such statement to the subscriber; and if the amount of the premium theretofore paid by such subscriber shall exceed the amount due according to such stated account then the excess shall be forthwith refunded to the subscriber by payment out of the fund in the manner hereinafter provided; and if the amount shown by said statement exceed the amount of the premium theretofore paid by such subscriber the excess shall be forthwith due and payable by the subscriber into the fund, and until paid shall be a lien, as State taxes are a lien, upon the real and personal property of the subscriber; and, if unpaid, shall be collectible as State taxes are now collectible, with interest at the
rate of twelve per centum per annum, commencing thirty days after service of the copy of said account, which service shall be by registered mail.

Sec. 19. Any person who shall falsely make oath or affirmation to any certificate, application, or statement herein required shall be guilty of a misdemeanor; and any subscriber who shall, after notice from the said board, neglect or refuse to file the statement mentioned in section eighteen hereof, within ten days after such notice, shall be liable to pay to the fund a penalty of ten dollars for each day that such neglect or refusal shall continue, to be recovered at the suit of the fund.

Sec. 20. Any subscriber to the fund who shall, within seven days after knowledge or notice of an accident to an employee in the course of his employment, as required by section three hundred and eleven of article three of the workmen's compensation act of 1915, have filed with the board a true statement of such knowledge, or a true copy of said notice, shall be discharged from all liability for the payment of compensation for the personal injury or death of such employee by such accident; and all such compensation due therefor, under article three of the workmen's compensation act of 1915, shall be paid out of the fund: Provided, however, That the report of such accident required by the act entitling "An act requiring employers to make reports to the department of labor and industry of accidents to employees and prescribing a penalty for noncompliance therewith," approved the nineteenth day of July, one thousand nine hundred and thirteen, shall be sufficient compliance with this section, if such report be made within said period of seven days and shall state that the employer making the same is a subscriber to the fund: Provided, That nothing in this section shall discharge any employer from the duty of supplying the medical and surgical services, medicine, and supplies required by section three hundred and six of the workmen's compensation act of 1915: And provided further, That any subscriber who has supplied such services, medicines, and supplies shall be reimbursed therefor from the fund.

Sec. 21. In every case where a claim is made against the fund, the fund shall be entitled to every defense against such claim that would have been open to the employer, and shall be subrogated to every right of the employer arising out of such accident against the employee, the dependents, and against third persons. The fund may, in the name of the State workmen's insurance fund, sue in any county of this Commonwealth, or be sued, in the court of common pleas of Dauphin County, to enforce any right given against or to any subscribed or other person under this act or the workmen's compensation act of 1915; and the proceedings provided in article four of the workmen's compensation act of 1915 may be instituted by or against the fund, in the said name, to enforce, before the board of workmen's compensation or any referee thereof, the rights given to or against the said fund by the workmen's compensation act of 1915.

Sec. 22. Upon receipt of a notice or statement of knowledge of an accident to an employee of a subscriber occurring in the course of his employment the said board shall, if it deem necessary, cause an investigation to be made by an inspector appointed by it or an inspector of the department of labor and industry.

Sec. 23. The board is hereby empowered to execute the agreements provided in the workmen's compensation act of 1915 and to appoint such agents and make such rules as they may deem necessary for this purpose. When any such agreement has been approved by the bureau the same shall be properly filed and docketed, and the board shall from time to time, until such agreement shall be modified or terminated, as provided in the workmen's compensation act of 1915, issue such warrant or warrants as may be necessary to pay the sums therein agreed upon. Such warrant or warrants shall be signed by a member of the said board or an agent appointed by the said board for this purpose.
and shall be mailed to the person or persons entitled thereto under such agreement. When any award is made by the board of workmen's compensation or by a referee designated by the bureau in any proceedings brought by an employee of a subscriber or the dependents of such employee against the said fund such award shall be filed and docketed; and the State workmen's insurance board shall from time to time, until such award is modified, reversed, or terminated, issue such warrant or warrants as may be necessary to pay the sums therein lawfully awarded against the said fund. Such warrant or warrants shall be signed by a member of the State workmen's insurance board or by an agent appointed by the board for that purpose and shall be mailed to the person or persons entitled thereto under such award.

Sec. 24. All payments to employees, dependents of deceased employees, physicians, attorneys, investigators, and others entitled to be paid out of the fund shall be made by the State treasurer on a warrant of the board as aforesaid. But where periodical installments are required to be paid, under article three of said workmen's compensation act of 1915, a single warrant shall be sufficient to authorize such periodical payments, but upon the modification of any agreement or award, in accordance with the provisions of article four, section four hundred and twenty-six of the workmen's compensation act of 1915, or upon review by the court, the board shall issue a further warrant in accordance with such subsequent agreement or such modification, and such warrant when issued shall supersede and cancel the previous warrant.

Sec. 25. Information acquired by the fund, its officers and employees, from employers, employees, or insurance corporations or associations shall not be open to public inspection.

Sec. 26. The board may, with the approval of the governor, appoint a manager, at a salary not to exceed seven thousand five hundred dollars; an assistant manager, at a salary not to exceed four thousand dollars; an actuary, at a salary not to exceed four thousand five hundred dollars; and may, with the approval of the governor, appoint at salaries fixed by the board, with the approval of the governor, such underwriters, bookkeepers, comptrollers, auditors, inspectors, examiners, medical advisers, agents, assistants, and clerks as may be necessary for the proper administration of the fund and the performance of the duties imposed upon the board by the provisions of this act. The commissioner of labor and industry shall include in his annual report a full and complete statement of the administration of the said fund.

Sec. 27. The attorney general shall ex officio be the general counsel of the board. He shall appoint, at an annual salary or salaries to be fixed by him, not to exceed in the aggregate the sum of ten thousand dollars, an attorney or attorneys who shall act as counsel for the board.

Sec. 28. The sum of three hundred thousand dollars, or so much thereof as may be necessary, is hereby appropriated for the expenses of the organization and administration of the said fund.

Sec. 29. This act shall take effect on July first, one thousand nine hundred and fifteen.

Approved June 2, 1915.

Act No. 341.—Workmen's compensation insurance—Provisions of policies.

Direct payments. Section 1. No policy of insurance against liability arising under article three of the workmen's compensation act of 1915 shall be made unless the same shall contain the agreement of the insurer that, in the event of the failure of the insured promptly to pay any installment of compensation insured against, the insurer will forthwith make such payments to the injured employee or the dependents of the deceased employee, and that the obligations shall
not be affected by any default of the insured, after the accident, in the payment of premiums, or in the giving of any notices required by such policy or otherwise. Such agreement shall be construed to be a direct promise to such injured employee and to such dependents, enforceable by action brought in the name of such injured employee or in the name of such dependents.

Sec. 2. No suit shall be maintained for the collection of premiums upon any such policy of insurance unless said covenant is contained in said policy.

Sec. 3. No policy of insurance against liability arising under said article of said act shall contain any limitation of the liability of the insurer to an amount less than that payable by the insured on account of the risk insured against under said article of said act; nor shall any such policy contain any limitation of the total liability of the insurer because of injuries to two or more persons in a single accident; nor shall any action be maintained for the collection of premiums on any policy violating this section; but policies may be issued to employers insuring them against their liability under the said article to any designated class or part of their employees, or against any particular hazard to which their employees or any class or part thereof may be exposed.

Sec. 4. The State workmen's insurance fund, and every insurance association and corporation which insures employers against liability for compensation under the workmen's compensation act of 1915, shall file with the commissioner of insurance its classification of risks and premiums, together with basis rate and schedule or merit ratings, if a system of schedule or merit rating be in use; none of which shall take effect until the commissioner of insurance shall have approved the same as adequate for the risks to which they respectively apply. The commissioner of insurance may withdraw his approval of any premium rate or schedule made by the State workmen's insurance fund, or any insurance corporation or association, if, in his judgment, such premium rate or schedule is inadequate to provide the necessary reserves. Such premium rates or system of schedule or merit rating shall take no account of any physical impairment of employees or the extent to which employees have persons dependent upon them for support.

On and after January first, one thousand nine hundred and sixteen, neither the State workmen's insurance fund nor any insurance association or corporation may issue, renew, or carry beyond anniversary date, any insurance for compensation under the workmen's compensation act of 1915, at premium rates which are less than those approved by the commissioner of insurance for such carrier and for the risks to which they respectively apply:

Provided, however, That if the commissioner of insurance shall have previously approved a system of schedule or merit rating, filed with him by the State workmen's insurance fund or any insurance corporation or association, it may apply the same to risks subject thereto; but any reduction from the basis rate filed with and approved by the commissioner of insurance on account of the application of such system of schedule or merit rating, shall be clearly set forth in the insurance contracts or the endorsements attached thereto.

The statistical and actuarial data compiled by the State workmen's insurance fund shall at all times be available to the State insurance commissioner for his use in judging the adequacy or inadequacy of rates and schedules filed, and it shall be the duty of the manager of the State workmen's insurance fund to render all possible assistance to the State insurance department in carrying out the provisions of this act.

The commissioner of insurance may require every insurance association or corporation, which insures employers or employees under the workmen's compensation act of 1915, to file with its annual statement a sworn report of its loss experience in such detail and form as may be prescribed by the commissioner of insurance.
Revocation of licenses. The commissioner of insurance shall have the power to suspend or revoke the license of any insurance association or corporation which violates any of the provisions of this act.
Approved June 2, 1915.

ACT No. 343.—Workmen's compensation—Exemptions.

Section 1. Nothing contained in any article or any section of an act entitled the workmen's compensation act of 1915 shall apply to or in any way affect any person who, at the time of injury, is engaged in domestic service or agriculture.
Approved June 3, 1915.

JOINT RESOLUTION No. 3.—Amendment to constitution authorizing compulsory compensation.

Section 1. The following amendment to the constitution of the Commonwealth of Pennsylvania is hereby proposed in accordance with the eighteenth article thereof:
Amend section twenty-one, article three, of the constitution of the Commonwealth of Pennsylvania, * * * so that it shall read as follows:
The general assembly may enact laws requiring the payment by employers, or employers and employees jointly, of reasonable compensation for injuries to employees arising in the course of their employment, and for occupational diseases of employees, whether or not such injuries or diseases result in death, and regardless of fault of employer or employee, and fixing the basis of ascertainment of such compensation and the maximum and minimum limits thereof, and providing special or general remedies for the collection thereof; but in no other cases shall the general assembly limit the amount to be recovered for injuries resulting in death, or for injuries to persons or property, and in case of death from such injuries, the right of action shall survive, and the general assembly shall prescribe for whose benefit such actions shall be prosecuted. No act shall prescribe any limitations of time within which suits may be brought against corporations for injuries to persons or property, or for other causes, different from those fixed by general laws regulating actions against natural persons, and such acts now existing are avoided.

Note.—This proposed amendment to the constitution was submitted to the voters of the State at the election hold November 2, 1915, and was adopted.
PHILIPPINE ISLANDS.

ACTS OF U. S. PHILIPPINE COMMISSION—1907.

Act No. 1998.—Compensation for injuries of employees of the insular Government, etc.

Section 25 (as amended by act No. 2120).

(d) When an officer or employee in the civil service, insular or provincial, or of the city of Manila, permanent or temporary, is wounded or injured in the performance of duty, the governor general or proper head of department may direct that absence during the period of disability caused by such wound or injury shall be on full pay for a period not exceeding six months: Provided: That if the officer or employee is entitled to the vacation leave provided in section twenty-four of this act, absence for this reason shall be charged first against such vacation leave: And provided further, That the governor general or proper head of department may, in his discretion, authorize payment of medical attendance, necessary transportation, subsistence and hospital fees for all insular officers, employees and laborers, and the municipal board of the city of Manila may also in its discretion, authorize the payment of such expenses for all officers, employees and laborers of the city of Manila, whether permanently or temporarily appointed, and whatever their rate of compensation[,] pay, or wages, who have been wounded or injured in the performance of their duty: And provided further, That the governor general or proper head of department or the municipal board of the city of Manila, as the case may be, may authorize payment of reasonable burial expenses and of three months' salary or wages to the widow or dependent child or children of any officer, employee or laborer who is killed or dies from wounds or injuries received while in line of duty: And provided further, That payments made under this paragraph shall not be made from the appropriation for general purposes when the bureau or office concerned has an available appropriation for contingent expenses or public works, as the case may be, from which such payments can be made, nor shall the provisions of this section be construed to cover sickness as distinguished from physical wounds: Provided, however, That when such sickness is the direct and immediate result of the performance of some act in the line of duty, the governor general or proper head of department may in his discretion authorize the payment of necessary hospital fees.
RHODE ISLAND.

ACTS OF 1912.

CHAPTER 831.—Compensation of workmen for injuries.

[Section 13 of Article II (Payments) of this act is amended so as to read as follows:]

Section 13 (as amended by chapter 1268, Acts of 1915). The computing "average weekly wages, earnings, or salary" of an injured employee shall be ascertained as follows:

(a) "Average weekly wages, earnings, or salary" shall mean the total earnings of the injured employee received from the employer in whose service he is injured during the period of the twenty-six calendar weeks immediately preceding the date of the injury, divided by the number of calendar weeks during which, or any portion of which, said workman was employed by, and actually worked for, the said employer; but if the injured employee has lost one or more calendar weeks during such period then the total earnings for the remainder of such twenty-six weeks shall be divided by the number of weeks remaining after the time so lost has been deducted. In computing the time so lost, 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, or was terminated by the said injury other than at the end of a calendar week, such calendar week and the wages earned during such week, shall be excluded in making the above computations.

(b) Where the employment previous to the injury is less than a net period of two calendar weeks, and where the foregoing method of arriving at the average weekly wages, earnings or salary can not 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 establishment or 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.

(c) 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.

(d) 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 provisions of this section: Provided, That in computing the average weekly wages earned subsequent to the first injury the time worked and wages earned prior to said injury shall be excluded.

(e) The provisions of this section shall not apply to injuries sustained prior to the first day of July, A. D. 1915.

[Article V (Miscellaneous Provisions) of said act is renumbered, being made Article VII, and two new articles are inserted as follows.]

Section 1. Every employer who has elected to become subject to the provisions of this act as provided in section 5 of Article I thereof shall secure in one of the following ways the compensation for which he is or may become liable under said act:

1. By insuring and keeping insured against liability to pay such compensation in any stock or mutual company or association authorized to take such risks in this State.

2. By furnishing a sworn statement or other proof, from time to time, reasonably satisfactory to the commissioner of industrial statistics, of his financial ability to pay directly to injured employees or their dependents such compensation: Provided, That such statement or proof shall be approved by said commissioner, who shall give written notice thereof to the employer; And provided further, That demand for such statement or proof shall not be made upon the employer by the said commissioner oftener than once in any calendar year: And provided further, That any party aggrieved by any unreasonable requirement or demand of said commissioner may appeal to the superior court, and the provisions of section 8 shall not apply while said appeal is pending.

3. By furnishing security, indemnity, or a bond, reasonably satisfactory to said commissioner, guaranteeing the payment of such compensation. Such bond shall run to the said commissioner for the benefit of the employees and their dependents, and, with such indemnity or security, shall be deposited with him.

4. By a combination of the last two of the foregoing methods.

Sec. 2. Every policy hereafter written insuring the payment of compensation under this act shall contain provisions to the effect that as between the employee and the insurer notice to and knowledge of the occurrence of injury on the part of the employer shall be deemed notice and knowledge on the part of the insurer; that jurisdiction of the employer 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, orders, and decrees rendered against the employer for the payment of compensation under this act.

Sec. 3. Every such policy shall cover the entire liability of the employer under this act, and shall contain an agreement by the insurer to the effect that the insurer shall be directly and primarily liable to the employee, and, in the event of his death, to his dependents, to pay to him or them the compensation, if any, for which the employer is liable.

Sec. 4. Every such policy shall also provide that the employee or, in the event of his death, his dependents, shall have a first lien upon any amount which shall become owing on account of such policy to the employer from the insurer because of any accident to such employee, 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 insurer may and shall pay the same directly to the said employees or his dependents, thereby discharging to the extent of such payment the obligations of the employer to the employee or his dependents; and no such policy shall contain any provisions relieving the insurer from payment because of the employer's inability to pay on account of insolvency, bankruptcy, or otherwise during the period that the policy is in force or the compensation remains owing.

Sec. 5. Any employee entitled to compensation from his employer under this act shall, irrespective of any insurance contract, have the right to recover such compensation directly from the employer in the manner provided in this act, and in addition thereto the right to enforce in his own name, in the manner provided in this act, either by making the insurer a party to the original petition or by filing a separate petition, the liability of
any insurer who may have insured the employer against liability for such compensation: Provided, however, That payment in whole or in part of such compensation by either the employer or insurer 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 insurer, payment by either directly to any employee shall be subject to the conditions of the insurance contract between them.

Sec. 6. When any employer is insured against liability for compensation and the insurer shall have paid any compensation for which the employer was liable, or shall have assumed the liability of the employer therefor, the insurer shall be subrogated to all the rights and duties of the employer and may enforce such rights in its own name.

Sec. 7. Every contract hereafter made for the insurance of the compensation provided for in this act, or against liability therefor, shall be deemed to be made subject to the provisions of this act, and all provisions of such policies inconsistent with this act shall be void.

Sec. 8. If any employer shall fail to comply with the provisions of this article within ten days after said article shall take effect, or in case he shall elect to become subject to the provisions of this act after this article takes effect, then within ten days after such election he shall be liable for compensation to any injured employee or his dependents, according to the provisions of said act, at the option of such employee or his dependents: Provided, Such option is exercised and notice thereof in writing given to the employer within thirty days after the accident to such employee, otherwise the employer shall be liable only for the compensation payable under this act by employers who have elected to become subject to the provisions of said act.

Sec. 9. Every policy hereafter written insuring against liability for personal injuries, other than payment of compensation under this act, shall contain provisions to the effect that the insurer shall be directly liable to the injured party, and, in the event of his death, to the party entitled to sue therefor, to pay him the amount of damages for which such insured is liable. Such injured party or, in the event of his death, the party entitled to sue therefor, in his suit against the insurer, may join the insurer as a defendant, in which case judgment shall bind either or both the insurer and the insured: Provided, however, That payment in whole or in part of such liability by either the insured or the insurer shall, to the extent thereof, be a bar to recovery against the other of the amount so paid: And provided further, That in no case shall the insurer be liable for damages beyond the amount of the face of the policy.

All policies made for the insurance against liability described in this section shall be deemed to be made subject to the provisions hereof, and all provisions of such policies inconsistent herewith shall be void.


SECTION 1. Every employer who shall be or become subject to the provisions of this act shall report in writing to the commissioner of industrial statistics all personal injuries sustained by accident by employees arising out of and in the course of their employment, if such injuries prove fatal or incapacitate the employee from earning full wages for a period of at least two weeks. If such injuries are immediately fatal, such report shall be made
within forty-eight hours after they occur, and if they prove fatal later, then within forty-eight hours after death shall occur and come to the knowledge of the employer; if such injuries are not fatal, such report shall be made within one week after the expiration of such period of two weeks; at the termination of the period of incapacity, regardless of its duration, a supplementary report in writing shall be made. All reports required by the provisions of this section shall be made upon blanks supplied by said commissioner. If the employer and employee reach an agreement in regard to compensation under this act, with the memorandum of such agreement filed in the office of the clerk of the superior court in accordance with section 1 of Article III of this act, a duplicate of such memorandum shall be filed, and upon the approval of said agreement by the court said duplicate, duly attested by the clerk, shall be forthwith sent by the clerk to said commissioner.

Sec. 2. Any such employer who refuses or neglects to make the reports required by the provisions of the last preceding section shall be deemed guilty of a misdemeanor, and upon conviction thereof may be punished by a fine of not more than fifty dollars for each offense.

Sec. 3. No report of injuries to employees other than those required by this act shall be required by any other department or officer of the State from employers to whom the provisions of this act apply, and copies of all such reports received by the commissioner of industrial statistics in accordance with the requirements of this act shall be transmitted by him immediately to the factory inspector.

Sec. 4. No report required by this act shall be admitted in evidence or referred to at the trial of any action or in any judicial proceedings whatsoever, except in prosecutions for the violation of this act.

Sec. 5. No such report, or part or copy thereof, shall be open to the public, nor shall any of the contents thereof be disclosed in any manner, or be permitted to become known, by any officer or employee of the State or other person having access thereto, but the same shall be used for State investigation and statistics only, and such statistics shall in no way disclose the identity of the employer making the report. Any person who violates the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than $100 for each offense, and if the offender be an officer or employee of the State, he shall be dismissed from the office and be incapable thereafter of holding an office under the State for a period of one year.

Sec. 6. So far as is not inconsistent with other provisions of this act, the commissioner of industrial statistics shall have general supervision of the operation of said act, and from time to time he may furnish employers and employees with such information relative to said act as may assist them in an understanding of their rights and obligations thereunder. The annual salary of the commissioner of industrial statistics is hereby fixed at five thousand dollars; and the State auditor is hereby authorized to draw his order or orders on the general treasurer from time to time for the payment of said sum, or so much thereof as may be necessary, and the sum of five thousand dollars is hereby annually appropriated for said purpose.

The sum of fifteen hundred dollars, or so much thereof as may be necessary, is hereby appropriated out of any money in the treasury not otherwise appropriated, in addition to moneys herefore appropriated, for the purpose of carrying this act into effect.

Sec. 7. The provisions of this article shall not apply to any public utility which is now required by law to make reports of accidents to the public utility commission.

Approved April 24, 1915.
Section 1. The governor of this State is hereby authorized and directed to appoint a commission to consist of seven members, as follows: One State senator, one State representative, two employers of labor, two representatives of labor, and one attorney at law. The duties of the commission so appointed shall be to make an inquiry, examination, and investigation into the subject of a direct compensation law or a law affecting the liability of employers to employees for industrial accidents.

Sec. 2. The members of such commission shall serve without compensation, except that each shall be entitled to his actual and necessary expenses incurred in the performance of his duties under the provisions of this act.

Sec. 3. For the purpose of its investigations the commission or any member or subcommittee thereof is hereby authorized to visit different localities in the State, to send for persons and papers, to investigate the laws of other States and countries, to administer oaths, and to examine witnesses and papers respecting all matters pertaining to the subjects referred to in this act, to purchase books and supplies and to employ and pay all necessary assistants.

Sec. 4. The expenses incurred by the commission and its employees shall be paid upon the presentation of proper itemized vouchers signed by the chairman of the commission and approved by the governor, provided such expenses shall not exceed five hundred dollars.

Sec. 5. The commissioner of immigration, labor, and statistics is hereby directed to cooperate with the commission and to render any proper aid and assistance by the bureau of immigration, labor and statistics as in his judgment will not interfere with proper conduct of his department.

Sec. 6. The commission herein authorized to be appointed shall organize by the election of a chairman and secretary and shall submit a full report of its work and findings to the members and members-elect of the next legislature at least sixty days before its next regular session and shall include therein its recommendations for legislation, together with such bill or bills providing for a speedy remedy for employees for injuries received in the course of their employment as will be fair, just, and reasonable both to employers and employees.

Approved March 16, 1915.
VERMONT.

ACTS OF 1915.

Act No. 164.—Compensation of workmen for injuries.

Section 1. This act, except sections 2 and 3, relating to defenses, and section 55, relating to reports, shall not apply to any employer or employee unless prior to the injury they shall have so elected by agreement, either express or implied, as hereinafter provided. 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 as provided in this act, and shall bind the employee himself, his widow, the employee’s widower, personal representative and next of kin and dependents as hereinafter defined, as well as the employer and those conducting his business during bankruptcy or insolvency.

Every contract of hiring—verbal, written, or implied—now in operation or made or implied prior to the time limited for this act to take effect shall, after this act takes effect, be presumed to continue subject to the provisions of this act, unless either party shall at any time prior to accident, in writing, notify the other party to such contract and the board that the provisions of this act, other than sections 2, 3, and 55, are not intended to apply.

Every contract of hiring—verbal, written, or implied—made subsequent to the time provided for this act to take effect shall be presumed to have been made subject to the provisions of this act, unless there be, as a part of said contract, an express statement in writing prior to accident, either in the contract itself or by written notice by either party to the other and to the board, that the provisions of this act, other than sections 2, 3, and 55, are not intended to apply, and it shall be presumed that the parties have elected to be subject to the provisions of this act and to be bound thereby. In the employment of minors this act shall be presumed to apply unless the notice be given by or to the parent or guardian of the minor.

The agreement for the operation of the provisions of this act, other than sections 2, 3, and 55, may be terminated by either party upon 60 days’ notice to the other and to the board in writing prior to any accident.

Sec. 2. If an employee has elected, as aforesaid, to come under this act and his employer has elected, as aforesaid, not to come under this act, then if an action is brought by the employee or his next of kin or personal representative to recover for personal injuries sustained after such election by the employer arising out of and in the course of his employment, 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 had assumed the risk of the injury.

Sec. 3. If an employer has elected, as aforesaid, to come under this act and his employee has elected, as aforesaid, not to come under this act, then if an action is brought by the employee to recover damages for personal injuries or by his personal representative for damages on account of his death resulting from personal injuries sustained after the employee has so elected, and arising out of and in the course of his employment, the employer shall have all the defenses which he would have had if this act had not been enacted.
Scope of law.
Sec. 4. This act shall apply to all public and all industrial employment, as hereinafter defined, but shall not apply to domestic servants or to employers who regularly employ but ten employees or less: Provided, That an employer who employs ten men or less may notify the board herein provided that he wishes to be included within the provisions of this act and thereafter, the provisions of this act shall apply to him, the same as if he employed to exceed ten men. If a workman receives personal injury by accident arising out of and in the course of such employment, his employer or the insurance carrier shall pay compensation in the amounts and to the person or persons hereinafter specified.

Public employees.
Sec. 5. This act shall apply to employees (other than officials, as hereinafter defined) of cities, towns, and incorporated villages and fire districts within the State. Policemen, firemen, and others entitled to pensions shall be deemed employees within the meaning of this act. If, however, any policeman, fireman, or other person entitled to a pension claims compensation under this act, there shall be deducted from such compensation any sum which such policeman or fireman or other person may be entitled to receive from any pension or other benefit fund to which the municipal body may contribute: Provided, however, That the provisions of this act shall not apply unless and until such municipal body so votes at any meeting duly warned for that purpose.

Injuries not covered.
Sec. 6. No compensation shall be allowed for an injury caused (1) by the employee's willful intention to injure himself or to injure another, or (2) by or during his intoxication, or (3) by failure to use a safety appliance provided. If the employer claims an exemption or forfeiture under this section, the burden of proof shall be upon him.

Remedy exclusive.
Sec. 7. The rights and remedies herein granted to an employee on account of a personal injury for which he is entitled to compensation under this act shall exclude all other rights and remedies of such employee, his personal representatives, dependents, or next of kin, at common law or otherwise, on account of such injury.

Employers who hire workmen within this State to work outside of the State may agree with such workmen that the remedies under this act shall be exclusive as regards injuries received outside this State by accident arising out of and in the course of such employment, and all contracts of hiring in this State shall be presumed to include such an agreement.

Liability of third persons.
Sec. 8. 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 obtain damages from or proceed at law against such other person to recover damages; and if compensation is claimed and awarded under this act any employer having paid the compensation or having become liable therefor 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.

Waivers.
Sec. 9. 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.

Compensation for death.
Sec. 10. If death results from the injury within two years, the employer or the insurance carrier shall pay to the persons entitled to compensation or, if there are none, then to the personal representative of the deceased employee, burial expenses not to exceed seventy-five dollars, and shall also pay to or for the following persons for the following periods a weekly compensation equal to the following percentages of the deceased employee's average weekly wages as defined in section 17: Provided, That the total amounts payable on account of a single death shall not exceed
the sum of thirty-five hundred dollars and the amounts herein allowed shall be ratably reduced, if necessary, to conform to this limitation:

(a) To the dependent widow or widower, if there be no dependent children, thirty-three and one-third per cent.

(b) To the dependent widow or widower, if there be one or two dependent children, forty per cent; or if there be three or more dependent children, forty-five per cent. Such compensation to the widow or widower shall be for the use and benefit of such widow or widower and of the dependent children, and the industrial accident board may from time to time apportion such compensation between them in such way as it deems best.

(c) If there be no dependent widow or widower, but a dependent child or children, then to such child or children, twenty-five per cent, with ten per cent additional for each child in excess of two, with a maximum of forty per cent, to be divided equally among such children, if more than one.

(d) If there be neither dependent widow, widower, nor child, but there be a dependent father or mother, then to such parent, if wholly dependent, twenty-five per cent, or if partially dependent, fifteen per cent, or if both parents be dependent, then one-half of the foregoing compensation to each of them, or if there be no such parents, but a dependent grandparent, then to every such grandparent the same compensation as to a parent.

(e) If there be neither dependent widow, widower, child, parent, or grandparent, but there be a dependent grandchild, brother, or sister, or two or more of them, then to such dependents fifteen per cent for one such dependent and five per cent additional for each additional such dependent, with a maximum of twenty-five per cent, to be divided equally between such dependents, if more than one.

Sec. 11. The following persons, and they only, shall be deemed dependents and entitled to compensation under the provisions of this act:

A child if under eighteen years of age, or incapable of self-support and unmarried, whether ever actually dependent upon the deceased or not.

The widow only if living with the deceased, or actually dependent, wholly or partially, upon him.

The widower only if incapable of self-support, and actually dependent, wholly or partially, upon the deceased at the time of her injury.

A parent or grandparent only if actually dependent, wholly or partially, upon the deceased.

A grandchild, brother, or sister only if under eighteen years of age, or incapable of self-support, and wholly dependent upon the deceased. The relation of dependency must exist at the time of the injury.

Sec. 12. The compensation herein provided for shall be payable during the following periods:

To a widow, until death or remarriage, but in no case to exceed two hundred sixty weeks.

To a widower, during disability or until remarriage, but in no case to exceed two hundred sixty weeks.

To or for a child during dependency as hereinbefore defined but in no case to exceed two hundred sixty weeks.

To a parent or grandparent, during the continuation of a condition of actual dependency, but in no case to exceed two hundred eight weeks.

To or for a grandchild, brother, or sister, during dependency as hereinbefore defined, but in no case to exceed two hundred eight weeks.

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.
Wage basis. Sec. 13. In computing death benefits the average weekly wages of the deceased employee shall be considered not to be more than twenty-five dollars, nor less than five dollars; but the total weekly compensation shall not exceed in any case the average weekly wages computed as provided in section 17.

Payments. Payment of death benefits by an employer in good faith to a dependent subsequent in right to another or other dependents shall protect and discharge the employer unless and until such dependent or dependents prior in right shall have given him notice of his or their claim. In case the employer is in doubt as to the respective rights of rival claimants he may apply to the industrial accident board to decide between them.

In case death occurs after a period of disability, either total or partial, the period of disability shall be deducted from the total periods of compensation respectively stated in section 12.

The compensation of a person who is insane shall be paid to his or her guardian.

Medical and surgical aid. Sec. 14. During the first fourteen days of disability the employer shall furnish reasonable surgical, medical, and hospital services and supplies not exceeding the amount of seventy-five dollars. 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 person.

Total disability. Sec. 15. Where the injury causes total disability for work the employer during such disability, but not including the first fourteen days thereof, shall pay the injured employee a weekly compensation equal to fifty per cent of his average weekly wages, but not more than twelve dollars and fifty cents, nor less than three dollars a week. In no case shall the weekly payments continue after the disability ends, nor longer than two hundred sixty weeks in case of permanent disability, nor longer than twenty-six weeks in the case of temporary disability, unless the board upon application and investigation decides that it should be longer continued, in which case it may order the continuance of such payments for not to exceed an additional fifty-two weeks.

In case of an employee whose average weekly wages are less than three dollars a week the weekly compensation shall be the full amount of such average weekly wages, but where the disability is permanent the weekly compensation in such case shall be three dollars. In case the total disability begins after a period of partial disability the period of partial disability shall be deducted from such total period of two hundred sixty weeks.

In case of the following injuries the disability caused thereby shall be deemed total and permanent, to wit:

1. The total and permanent loss of sight in both eyes.
2. The loss of both feet at or above the ankle.
3. The loss of both hands at or above the wrist.
4. The loss of one hand and one foot.
5. An injury to the spine resulting in permanent and complete paralysis of both legs or both arms or of one leg and of one arm.
6. An injury to the skull resulting in incurable imbecility or insanity.

The above enumeration [remuneration] is not to be taken as exclusive: Provided, That the total amount payable on account of an accident to one person resulting in permanent total disability shall not exceed the sum of four thousand dollars.

Partial disability. Sec. 16. Where the injury causes partial disability for work, the employer, during such disability and for a period of five years, beginning on the fifteenth day of disability, shall pay the injured workman a weekly compensation equal to fifty per cent of the difference between his average weekly wages before the accident and the weekly wages he is most probably able to earn thereafter, but not more than ten dollars a week. In no case shall the weekly payments continue after the disability ends, and in case the partial disability begins after a period of total disability, the period of
total disability shall be deducted from such total period of five years.

In case of the following injuries the compensation shall be fifty per cent of the average weekly wages, but not more than ten dollars to be paid weekly for the periods stated against such injuries, respectively, to wit:

1. 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, one hundred seventy weeks.
2. The permanent and complete loss of hearing in both ears, one hundred seventy weeks.
3. 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, one hundred seventy weeks.
4. 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, one hundred forty weeks.
5. 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, one hundred twenty weeks.
6. The loss by separation of a thumb, forty weeks.
7. The loss by separation of a first finger, commonly called the index finger, twenty-five weeks.
8. The loss by separation of a second finger, twenty weeks.
9. The loss by separation of a third finger, fifteen weeks.
10. The loss by separation of a fourth finger, ten weeks.
11. 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 loss of one-half of the first phalange shall be for one-fourth of the periods of time above specified.
12. 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.
13. The loss by separation of a great toe, twenty weeks.
14. The loss by separation of one of the toes other than a great toe, eight weeks.
15. 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 specified above.
16. The loss of more than one phalange of any toe shall be considered as the loss of the entire toe.
17. The loss of an eye, one hundred weeks.

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.

Sec. 17. Average weekly wages shall be computed in such a manner as is best calculated to give the average weekly earnings of the workman during the twelve months preceding his injury: Provided, That where, by reason of the shortness of the time during which the workman has been in the employment, or the casual nature of the employment, or the terms of the employment, it is impracticable to compute the rate of remuneration, regard may be had to the average weekly earnings which, during the twelve months previous to the injury, were being earned by a person in the same grade employed at the same work by the employer of the injured workman, or if there is no person so employed, by a person in the same grade employed in the same class of employment and in the same district.

If a workman at the time of the injury is regularly employed in a higher grade of work than formerly during the year and with larger regular wages, only such larger wages shall be taken into consideration in computing his average weekly wages.
Advance payments.

Sec. 18. Any payments made by the employer or his insurer to the injured workman during the period of his disability, or to his dependents, which by the terms of this act were not due and payable when made, may, subject to the approval of the board, be deducted from the amount to be paid as compensation: Provided, that in case of disability such deduction shall be made by shortening the period during which compensation must be paid and not by reducing the amount of the weekly payments under sections 15 and 16.

Time of payments.

Sec. 19. The board, upon the application of either party, may, in its discretion, having regard to the welfare of the employee and the convenience of the employer, authorize compensation to be paid monthly or quarterly instead of weekly.

Lump sums.

Sec. 20. Whenever the board determines that it is for the best interest of all parties, the liability of the employer for compensation may, on application to the board by any party interested, be discharged in whole or in part by the payment of one or more lump sums to be fixed by the board.

Trustees.

Sec. 21. Whenever for any reason the board deems it expedient, any lump sum which is to be paid as provided in section 20 shall be paid by the employer to some suitable person or corporation appointed by the board as trustee to administer or apply the same for the benefit of the person or persons entitled thereto in the manner provided by the board. The receipt of such trustee for the amount so paid shall discharge the employer or anyone else who is liable therefor.

Medical examinations.

Sec. 22. After an injury and during the period of disability the workman, if so requested by his employer or ordered by the board, shall submit himself to examination at reasonable times and places to a duly qualified physician or surgeon designated and paid by the employer. The workman shall have the right to have a physician or surgeon designated and paid by himself present at such examination, which right, however, shall not be construed to deny to the employer's physician the right to visit the injured workman at all reasonable times and under all reasonable conditions during total disability. If a workman refuses to submit himself to or in any way obstructs such examination, his right to take or prosecute any proceeding under this act shall be suspended until such refusal or obstruction ceases, and no compensation shall be payable for the period during which such refusal or obstruction continues.

Notice.

Sec. 23. No proceedings under this act for compensation for an injury 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 a claim for compensation with respect to such injury shall have been made within six months after the date of the injury; or in the case of death then within six months after such death, whether or not a claim had been made by the employee himself for compensation. Such notice and such claim may be given or made by any person claiming to be entitled to compensation or by some one on his behalf. If payments of compensation have been made voluntarily, the making of a claim within said period shall not be required.

Form.

Sec. 24. Such notice and such claim shall be in writing, and such notice shall contain the name and address of the employee, and shall state in ordinary language the time, place, nature, and cause of the injury, and shall be signed by him or by a person on his behalf, or in the event of his death by any one or more of his dependents or by a person on their behalf. The notice may include the claim.

To whom given.

Sec. 25. Any notice under this act shall be given to the employer, or if the employer be a partnership then to any one of the partners. If the employer be a corporation, then the notice may be given to any agent of the corporation upon whom process may be served, or to any officer of the corporation, or any agent in charge of the business at the place where the injury occurred. Such notice shall be given by delivering it or by sending it by mail by registered
letter addressed to the employer at his or its last-known residence or place of business. The foregoing provisions shall apply to the making of a claim.

Sect. 26. A notice given under the provisions of section 23 of this act shall not be held invalid or insufficient by reason of any inaccuracy in stating the time, place, nature, or cause of the injury, or otherwise, unless it is shown that the employer was in fact misled to his injury thereby. Want of notice or delay in giving notice shall not be a bar to proceedings under this act if it be shown that the employer, his agent, or representative had knowledge of the accident, or that the employer has not been prejudiced by such delay or want of notice.

Sect. 27. No limitation of time provided in this act shall run against any person who is mentally incompetent or a minor dependent so long as he has no guardian.

Sect. 28. A board is hereby created to be known as the industrial accident board, consisting of three members to be appointed by the governor, one of whom shall be designated by the governor as chairman. Each member of the board shall hold office for six years, except that when the board is first constituted the members shall be appointed for terms ending the thirty-first day of January, 1917, 1919, and 1921, respectively. Thereafter on or before the first day of January, biennially, one member shall be appointed for the full term of six years commencing on the first day of February next following.

Sect. 29. The salaries and expenses of the board shall be paid by the State. The salary of the chairman shall be two thousand dollars per year, and the salary of the other members shall be fifteen hundred dollars per year each. The board may appoint a secretary at a salary of not more than twelve hundred dollars per year and may remove him. The board shall be provided with offices in the capitol, or in some other suitable building in the city of Montpelier, in which its records shall be kept, and it shall also be provided with necessary office furniture, stationery, and other supplies. The board shall have a seal for the authentication of its orders, awards, and proceedings, upon which shall be inscribed the words, "Industrial Accident Board—Seal." The members of the board and its secretary shall be entitled to receive from the State their actual and necessary expenses while away from home on the exclusive business of the board, and salaries and expenses under this act shall be audited and paid in the manner prescribed for similar expenditures in other departments or branches of the State service.

Sect. 30. The board may make rules not inconsistent with this act for carrying out the provisions of this act. Process and procedure under this act shall be as summary and simple as reasonably may be. The board, or any member thereof, shall have the power to subpoena witnesses, administer oaths, and to examine such of the books and records of the parties to a proceeding as relate to the questions in dispute. The county court or a superior judge shall have power to enforce by proper proceedings the attendance and testimony of witnesses and the production and examination of books, papers, and records, and, in the case of a corporation, the provisions of sections 4252 to 4256, inclusive, shall apply. The board 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 this act.

Sect. 31. If the employer and the injured employee reach an agreement in regard to compensation under this act, a memorandum of the agreement shall be filed with the board, and, if approved by it, thereupon the memorandum shall for all purposes be enforceable under the provisions of section 38, unless modified as provided in section 34. Such agreements shall be approved by the board only when the terms conform to the provisions of this act.

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Hearings and
awards. Sec. 32. If the compensation is not settled by agreement, either party may apply to the industrial accident board for hearing and award in the premises, and said board shall set a time and place for hearing and give at least six days' notice thereof to the parties. Unless otherwise agreed by the parties, such hearing shall be held in the town where the injury occurred, if within this State; and if the injury occurred outside the State, the board shall, unless the parties agree, designate some place within this State for such hearing. Said board shall allow a full trial, shall within six months from date of hearing make an award stating its conclusions of fact and of law, and shall forthwith send to each of the parties a copy of its award.

Medical ex-
amination. Sec. 33. When application is made to said board under the provisions of the preceding section said board may appoint a duly qualified and impartial physician to examine the injured employee and to report to said board. The fee for such physician's services shall be five dollars and travelling and hotel expenses, but the board may allow additional reasonable amounts in extraordinary cases. Said fees and expenses shall be paid by the State on presentation of accounts approved by the board.

Review. Sec. 34. On the application of any party on the grounds of a change in conditions the board may at any time, but not oftener than once in six months, review any agreement or award, and on such review may make an award ending, diminishing, or increasing the compensation previously agreed upon or awarded subject to the maximum and minimum provided in this act, and shall state its conclusions of fact and rulings of law and immediately send to the parties a copy of the award, but this section shall not apply to a commutation of payments under section 20.

Award final. Sec. 35. An award of the board, in the absence of fraud, shall be final and conclusive between the parties, except as provided in section 34, unless an appeal be taken therefrom either to the county court or to the supreme court, as hereinafter provided.

Appeals to
county court. Sec. 36. Within ten days after a copy has been sent to each of the parties either party may appeal to the county court of a county where a civil action between the parties would be triable. The provisions of sections 1652 and 1653 of the Public Statutes, as to the time for entering and docketing such appeals and for the appellee's appearance, shall apply to such appeals. The superior judges shall by general rules provide for the procedure to be followed on such appeals, and either party shall be entitled to a trial by jury under such general rules as said judges may prescribe.

Appeals to
supreme court. Sec. 37. If no appeal is taken to the county court under the provisions of the preceding section within the time limited therefor, either party may within five days thereafter appeal to the supreme court, whose jurisdiction shall be limited to a review of questions of law certified to said court by said board. Said court may render final judgment on such appeal and award execution or may remand the cause to said board for further findings. Said court shall, by general rules, prescribe the procedure to be followed in case of such appeals.

Enforce-
ment of award. Sec. 38. Any party in interest may file in the county court for the county in which the injury occurred, or for the county of Washington, a certified copy of a decision of the board awarding compensation, from which no appeal has been taken within the time allowed therefor, or a certified copy of a memorandum of agreement approved by the board, whereupon said court shall render judgment in accordance therewith and notify the parties thereof. Such judgment shall have the same effect and all proceedings in relation thereto shall thereafter be the same as though said judgment had been rendered in a suit duly heard and determined by said court, except that there shall be no appeal therefrom.

Costs. Sec. 39. If the industrial accident board, or any court before whom any proceedings are pending under this act, determines that such proceedings have been brought, prosecuted, or defended
without reasonable ground, it may assess the whole cost of the proceedings upon the party who has so brought, prosecuted, or defended them.

Sec. 40. All questions arising under this act, if not settled by agreement of the parties interested therein with the approval of the board, shall, except as otherwise herein provided, be determined by the board. The decisions of the board shall be enforceable by the county court under the provisions of section 38. There shall be a right of appeal from decisions of the board as hereinbefore provided, but in no case shall such an appeal operate as a supersedeas or stay unless the board or the court to which the appeal is taken shall so order.

Sec. 41. The county court rendering judgment, upon the filing with it of a certified copy of a decision of the industrial accident board ending, diminishing, or increasing compensation previously awarded, shall revoke or modify its prior judgment so that it will conform to said decision.

Sec. 42. If a workman who has been hired in this State receives personal injury by accident arising out of and in the course of such employment, he shall be entitled to compensation according to the law of this State, even though such injury was received outside of this State.

If a workman who has been hired outside of this State is injured while engaged in his employer's business, and is entitled to compensation for such injury under the law of the State where he was hired, he shall be entitled to enforce against his employer his rights in this State, if his rights are such that they can reasonably be determined and dealt with by the board and the court in this State.

Sec. 43. All rights of compensation granted by this act shall have the same preference or priority against the assets of the employer as is allowed by section 2657 of the Public Statutes.

Sec. 44. No claims for compensation under this act shall be assignable, and all compensation and claims therefor shall be exempt from all claims of creditors. Claims of attorneys and of physicians for services under this act shall be subject to the approval of the board.

Sec. 45. Employers, but not including the State, county, or the municipal bodies mentioned in section 5, shall secure compensation to their employees in one of the following ways:

1. By insuring and keeping insured the payment of such compensation with any corporation authorized to transact the business of workmen's compensation insurance in this State; or

2. By obtaining and keeping in force guaranty insurance with any company authorized to do such guaranty business within the State; or

3. By depositing and maintaining with the State treasurer a surety bond or other security satisfactory to the industrial accident board, securing the payment by said employer of compensation according to the terms of this act; or

4. By satisfying the industrial board as to the financial responsibility of the employer to comply with the provisions of this act.

Sec. 46. The employer shall forthwith file with the industrial accident board in form prescribed by it a notice of his insurance, together with a copy of the contract or policy of insurance.

Sec. 47. Every employer who has complied with section 45 of this act 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 board, stating the fact that he has complied with the law as to securing the payment of compensation to his employees and their dependents in accordance with the provisions of this act.

Sec. 48. If any employer shall be in default under section 45 for a period of thirty days, he may be enjoined by a superior judge, on notice and hearing, from carrying on his business while such default continues. The superior judge shall, by general rules,
prescribe the procedure to be followed under the provisions of this section.

Sec. 49. Every policy of insurance and every guaranty contract covering the liability of the employer for compensation shall cover the entire liability of the employer to his employees covered by the policy or contract, and also shall contain a provision setting forth the right of the employees to enforce in their own names either by at any time filing a separate claim or by at any time making the insurance carrier a party to the original claim, 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.

Sec. 50. Every such policy and contract 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 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 for the payment of compensation under the provisions of this act.

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.

Sec. 51. Every such policy and contract shall contain a provision to the effect that the insolvency or bankruptcy of the employer and his discharge therein 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 or contract.

Sec. 52. No policy or contract of insurance or guaranty covering liability arising under this act shall be canceled 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 have been filed in the office of the industrial accident board, and also served on the employer. Such cancellation shall not affect the liability of an insurance carrier on account of an injury occurring prior to such cancellation.

Sec. 53. Each city, town, or incorporated village and fire district which is liable to its employees for compensation, may insure with any authorized insurance carrier.

Sec. 54. No agreement by an employee to pay any portion of the cost of mutual or other insurance maintained for or carried for the purpose of securing compensation as herein required shall be valid, except as provided in section 45 of this act; and any employer who makes a deduction for such purpose from the wages or salary of any employee entitled to the benefits of this act, except as provided in section 45 of this act, shall be fined not more than five hundred dollars.

Sec. 55. Every employer shall hereafter keep a record of all injuries, fatal or otherwise, received by his employees in the course of their employment. Within seventy-two hours, not counting Sundays and legal holidays, after the occurrence of an injury causing absence from work for one day or more, 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, the employer shall make a supplemental report upon blanks to be procured from the board for that purpose. If the disability extends beyond a period of sixty days, the employer shall report to the board at the end of such period that the injured employee is still disabled, and upon the termination of the disability shall file a final supplemental report as provided above.

The said reports shall contain the name and nature of the business of the employer, the situation of the establishment, the name, age, sex, wages, and occupation of the injured employee, and shall state the date and hour of the accident causing the injury, 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 fined not more than twenty-five dollars for each offense.

Within sixty days after the termination of the disability of the injured employee, the employer or other party liable to pay the compensation provided for by this act shall file with the board a statement showing the total payments made or to be made for compensation and for medical services for such injured employee.

Sec. 56. This act shall affect the liability of employers to employees engaged in interstate or foreign commerce or otherwise only so far as the same is permissible under the laws of the United States.

Sec. 57. The board shall biennially report to the general assembly, giving a properly classified statement of the expenses of the board, together with any other matters which the board deems proper to report, including any recommendations it may desire to make.

Sec. 58. In this act, unless the context otherwise requires:
(a) "Employer," unless otherwise stated, includes any body of persons, corporate or unincorporated, public or private, and the legal representative of a deceased employer. It includes the owner or lessee of premises, or other person who is virtually the proprietor or operator of the business there carried on, but who, by reason of there being an independent contractor, or for any other reason, is not the direct employer of the workmen there employed. If the employer is insured it includes his insurer so far as applicable.

(b) "Workman" is used as synonymous with "employee," and means any person who has entered into the employment of or works under contract of service or apprenticeship with an employer. It does not include a person whose employment is purely casual or not for the purpose of the employer's trade or business or whose remuneration exceeds fifteen hundred dollars a year. Any reference to a workman who has been injured shall, where the workman is dead, include a reference to his dependents as herein defined, if the context so requires, or where the employee is a minor or incompetent to his committee or guardian or next friend.

(c) "Injury" or "personal injury" includes death resulting from injury within two years.

(d) The words "personal injury by accident arising out of and in the course of such employment" shall include an injury caused by the willful act of a third person directed against an employee because of his employment. They shall not include a disease except as it shall result from the injury.

(e) "Employment," in the case of private employers, includes employment only in a trade or occupation which is carried on by the employer for the sake of pecuniary gain. Public employment means employment by any of the public corporations mentioned in section 5. It does not include the employment of public officials who are elected by popular vote or who receive salaries exceeding fifteen hundred dollars a year.

(f) The word "board," whenever used in this act, unless the context shows otherwise, shall be taken to mean the industrial accident board.

(g) "Partial disability." Diminishing ability to obtain employment owing to disfigurement resulting from an injury may be held to constitute partial disability.

(h) "Wages" shall include the market value of board, lodging, fuel, and other advantages which can be estimated in money which the employee receives from the employer as a part of his remuneration. "Wages" shall not include any sums which the employer has paid to the employee to cover any special expenses entailed on him by the nature of his employment.
(i) "Insurance carrier" shall include corporations from any of which employers have obtained workmen's compensation insurance or guaranty insurance in accordance with the provisions of this act.

Sec. 59. As used in this act the term "child" includes stepchildren, adopted children, posthumous children, and acknowledged illegitimate children, but does not include married children unless dependent. The terms "brother" and "sister" include stepbrothers and stepsisters, half brothers and half sisters, and brothers and sisters by adoption, but does not include married brothers nor married sisters unless dependent. The term "grandchild" includes children of adopted children and children of stepchildren, but does not include stepchildren of children, stepchildren of stepchildren, stepchildren of adopted children, nor married grandchildren unless dependent. The term "parent" includes step-parents and parents by adoption. The term "grandparent" includes parents of parents by adoption, but does not include parents of step-parents, step-parents of parents, nor step-parents of step-parents.

Sec. 60. If any part or section 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 which can be given effect without the part so decided to be unconstitutional or invalid.

Sec. 61. If for the purpose of obtaining any benefit or payment under the provisions of this act, either for himself or for any other person, a person willfully makes a false statement or representation he shall be guilty of misdemeanor and liable to a fine of not exceeding one hundred dollars, and he shall forfeit all right to compensation under this act after conviction for such offense.

Sec. 62. The provisions of this act shall not apply to injuries sustained or accidents which occurred prior to the taking effect hereof.

Sec. 63. (a) The rule that statutes in derogation of the common law are to be strictly construed shall have no application to this act.

(b) This act shall be so interpreted and construed as to effect its general purpose to make uniform the law of those States which enact it.

Sec. 64. This act may be cited as the Vermont workmen's compensation act.

Sec. 65. No. 97 of the Acts of 1910 is hereby repealed, and all other acts and parts of acts inconsistent with this act are hereby repealed.

Sec. 66. The term of office of the members of the industrial board, as provided for in this act, shall begin on the first day of May, 1915.

Sec. 67. This act shall take effect on the first day of July, 1915; but as to sections 28, 29, 30, 66, and 67 this act shall take effect from its passage.

Approved April 1, 1915.
WASHINGTON.

ACTS OF 1911.

CHAPTER 74.—Workmen's insurance—Industrial insurance department.

(This act as amended in 1918 was further amended in 1915, the amendments affecting but few sections of the law. The first section amended is section 4, in which the premium rate for construction work, "Iron or steel frame structures or parts of structures," is reduced from .080 to .065. (Chapter 188.) The paragraph of this section immediately following the schedule of rates is amended so as to read as follows:)

The application of this act as between employers and workmen shall date from and include the first day of October, 1911. The preliminary 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 or who shall resume operations in any work or plant after the final adjustment of his pay roll in connection therewith shall, before so commencing or resuming operations, as the case may be, notify the commission of such fact, accompanying such notification with an estimate of his pay roll for the initial year or portion thereof, and shall make payment of the premium on such estimated pay roll for the first three months of operations. An adjustment upon such pay roll shall be made as in other cases. Every employer who shall fail to furnish an estimated pay roll and make payment as above provided shall be liable to a penalty in three times the amount of the premium on such pay roll, to be collected in a civil action in the name of the State, and paid into the accident fund. The commission may waive the whole or any part of such penalty.

(The subsequent paragraph of the same section, defining the intent of the fund, is amended so as to read as follows:)

In that the intent is that the fund created under this section shall ultimately become neither more nor less than self-supporting, exclusive of the expense of administration, the rates named in this section are subject to future adjustment by the industrial insurance department, in accordance with any relative increase or decrease in hazard shown by experience; and if in the judgment of the industrial insurance department the moneys paid into the fund of any class or classes shall be insufficient to properly and safely distribute the burden of accidents occurring therein, the department may divide, rearrange, or consolidate such class or classes, making such adjustment or transfer of funds as it may deem proper.

[Other changes are amendments of sections 8, 13, and 14, the repeal of section 25, and the addition of new sections numbered 12a, 21a, and 24a. The amended and added sections follow:]

Sec. 8 (as amended by chapter 188, Acts of 1915). 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. In any suit brought by an employee it shall not be necessary to plead or prove that a demand for payment of any premium has been made by the commission.

Penalty.

All delinquent payments due the accident fund as herein required shall bear interest at the rate of twelve per cent per annum from the date of delinquency, and in all cases of insolvency, assignment for the benefit of creditors of bankruptcy, the claim of the State for premiums due herein shall be a claim prior to all other claims except taxes. All actions for the recovery of such premiums shall be brought in the superior court, and in any recovery by action instituted for the collection of such payments a reasonable attorney's fee shall be allowed as costs of suit.

Recovery.

In any action or proceeding brought for the recovery of premiums due upon the pay roll of any employee the certificate of the industrial insurance department that an audit has been made of the pay roll of such employer pursuant to the direction of the department and of the amount of such pay roll for the period stated in the certificate shall be prima facie evidence of such fact.

In any action or proceeding brought for the recovery of 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 case 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.

Succ. 12a (added by chapter 188, Acts of 1915). In all hearings, actions, or proceedings before the commission, or before any court on appeal from the commission, any physician having theretofore examined or treated the claimant may be required to testify fully regarding such examination or treatment, and shall not be exempt from so testifying by reason of the relation of physician to patient.

Physicians to testify.

Succ. 18 (as amended by chapter 188, Acts of 1915). 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; or, if any injured workman shall persist in unsanitary or injurious practices, which tend to imperil or retard his recovery, or shall refuse to submit to such medical or surgical

Medical examination.

Insanitary, etc., practices.
treatment as is reasonably essential to his recovery, the commis-
mission may reduce or suspend the compensation of such workman.

Sec. 14 (as amended by chapter 188, Acts of 1915). Whenever an accident occurs to any workman it shall be the duty of such workman or some one in his behalf to forthwith report such accident to his employer, superintendent, or foreman in charge of the work, and 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.

Sec. 21a (added by chapter 188, Acts of 1915). The superior court shall have power to enforce by proper proceedings the attendance and testimony of witnesses and the production and examination of books, papers, and records before the industrial insurance department.

Sec. 24a (added by chapter 188, Acts of 1915). Every person, firm, or corporation who shall violate or fail to obey, observe, or comply with any rule of the department promulgated under authority of this act shall be subject to a penalty of not to exceed two hundred and fifty dollars ($250). Such penalty may be recovered in a civil action in the name of the State and shall be paid into the accident fund.
WEST VIRGINIA.

ACTS OF 1913.

Chapter 10 (as amended by chapter 9, Acts of 1915, and chapter 1, Acts of 1915, first extra session).—Compensation of workmen for injuries—State insurance fund.

Section 1. The office of State compensation commissioner is hereby created. The governor, by and with the consent of the senate, shall, on or before the thirty-first day of May, one thousand nine hundred and fifteen, appoint as State workmen's compensation commissioner some citizen of this State entitled to vote, whose term of office shall begin at the date of appointment, and shall continue for six years and until the successor of such commissioner is appointed and qualified, unless he be sooner removed. 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. The person so appointed shall make the oath or affirmation prescribed by section five of article four of the constitution, and such oath shall be certified by the person who administers the same, and shall be filed in the office of the secretary of state. He shall give bond in the penalty of ten thousand dollars, conditioned for the faithful performance of the duties of his office, which bond shall be approved by the attorney general as to form and by the governor as to sufficiency, and when so approved shall be filed and recorded in the office of the secretary of state. The surety of said bond may be a bonding or surety company, in which case the premium shall be paid out of the appropriation made for the administration of this act.

(a) The 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.

(b) The attorney general shall perform all legal services required by the commissioner under the provisions of this act.

(c) The commissioner shall hold no position of trust or profit or engage in any occupation or business interfering or inconsistent with his duties as such commissioner.

(d) The said commissioner shall receive an annual salary of six thousand dollars, payable in the same manner as the salaries of other State officers are paid, and charged to the appropriations which shall be made from time to time hereafter by the State for the administration of this act.

(e) The commissioner shall have an official seal for the authentication of his orders and proceedings, upon which seal shall be engraved the words, “West Virginia Compensation Commissioner,” and such other design as the commissioner may prescribe; and the courts in this State shall take judicial notice of the seal of the said commissioner, and in all cases copies of orders, proceedings or records in the office of the West Virginia compensation commissioner certified by the secretary of the said commissioner under his seal, shall be equal to the original in evidence.

Until the appointment and qualification of said compensation commissioner the duties of said compensation commissioner shall be performed by the public service commission as is now prescribed by law.

Sec. 2. All expenses peculiar to the administration of this act, including the premiums to be paid for the bonds of the State treasurer and the compensation commissioner required under this act, and when on official business, the traveling and incidental ex-

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penses of the commissioner, and salaries or other compensation, traveling and other expenses of all officers or employees of the commissioner, and all expenses for furniture, books, maps, stationery, appliances and property of all kinds shall be paid out of the workmen's compensation fund, hereinafter created, and the sum of eighty thousand dollars per annum, or so much thereof as may be necessary, is hereby appropriated out of the said fund for the purpose of paying the salaries and expenses necessary in the administration of this act.

Charges against fund.

Sec. 3. All payments of salaries and expenses in the administration of this act shall be made by the State treasurer upon order or voucher signed by the secretary and approved by the commissioner, directed to the auditor of the State, who shall draw his warrant therefor, and any such payment shall be charged to the workmen's compensation fund: Provided, That the total charges against said fund under this section for any one fiscal year shall not exceed the amount appropriated under section two of this act.

Office to be open.

Sec. 4. The offices of the commissioner shall be open for the transaction of business between the hours of nine o'clock a. m. and five o'clock p. m. of each and every day, excepting Sundays and legal holidays, and be in charge of his secretary or some other competent person. All proceedings of the commissioner shall be shown on his 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 allowed to any employee of the commissioner or to any other person for services.

Duty of commissioner.

Sec. 5. Repealed by Acts of 1915.

Sec. 6. The commissioner shall keep and maintain his 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 commissioner may hold hearings anywhere within the State.

As soon as said commissioner shall have been appointed and qualified, all records, books, papers, documents, office supplies and furniture, and other effects, appertaining to the administration of the workmen's compensation fund, shall be turned over to said commissioner and placed in his custody and control, and the workmen's compensation fund heretofore created shall thereupon become subject to orders or vouchers approved by him as hereinafter provided, and from such time he shall have the same jurisdiction, rights, powers, and duties in respect to the payment of compensation out of the workmen's compensation fund upon awards heretofore made by the public service commission under said chapter ten of the acts of one thousand nine hundred and thirteen, and the same continuing jurisdiction in respect to awards theretofore made by said public service commission as was vested by said chapter ten in the public service commission and is vested by this act in the said commissioner; and said commissioner shall also have jurisdiction of all applications for compensation from said fund pending before said public service commission when said commissioner shall have been appointed and have qualified, and of all applications for compensation based upon accidents theretofore occurring as if they had occurred thereafter.

Powers.

Sec. 7. The commissioner may employ a secretary, actuary, accountants, inspectors, examiners, experts, clerks, stenographers, and other assistants, and fix their compensation, which shall be paid as provided in sections two and three of this act. The commissioner, secretary, actuaries, accountants, inspectors, examiners, experts, clerks, stenographers, and other assistants that may be employed shall be entitled to receive from the workmen's compensation fund their actual and necessary expense while traveling on business of the commissioner. Such expenses shall be itemized and sworn to by the person who incurred the expense, and allowed by the commissioner.

Employees.

Sec. 8. The commissioner shall adopt reasonable and proper rules of procedure, regulate and provide for the kind and charac-
ter 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, or directly from employers as hereinafter provided, as the case may require, the forms of application of those claiming to be entitled to benefits or compensation from the method of making investigations, physical examinations and inspections, and prescribe the time within which adjudication and awards shall be made.

Sec. 9. All persons, firms, associations, and corporations regularly employing other persons for profit, or for the purpose of carrying on any form of industry or business in this State (casual employment excepted), are employers within the meaning of this act, and 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 industry or business in which they are engaged (casual employment excepted), are employees within the meaning of this act, and subject to the provisions hereof: Provided, That this act shall not apply to employers of employees in domestic or agricultural service, persons prohibited by law from being employed, traveling salesmen, to employees of any employer who are employed wholly without this State; nor shall a member of a firm of employers, or any officer of an association, or of a corporation, including managers, superintendents, assistant managers, or assistant superintendents be deemed an employee within the meaning of this act.

Any employer whose employment in this State is to be for a definite or limited period, which could not be considered "regularly employing" within the meaning of this act, may elect to pay into the workmen's compensation fund the premiums herein provided for, and at the time of making application to the commissioner such employer shall furnish a statement under oath showing the probable length of time the employment will continue in this State, the character of the work, an estimate of the monthly pay roll, and any other information which may be required by the commissioner. At the time of making application such employer shall deposit with the State treasurer to the credit of the workmen's compensation fund the amount required by section twenty-four of this act, which amount shall be returned to such employer if his application be rejected by the commissioner. Upon notice to such employer of the acceptance of his application by the commissioner, he shall be an employer within the meaning of this act and subject to all of its provisions.

Any foreign corporation employer electing to comply with the provisions of this act and to receive the benefits hereunder shall at the time of making application to the commissioner, in addition to the other requirements of this act, furnish such commissioner with a certificate from the secretary of state showing that it has complied with all of the requirements necessary to enable it to legally do business in this State, and no application of such foreign corporation employer shall be accepted by the commissioner until such certificate is filed.

Sec. 10. Every employer shall furnish the commissioner, upon request, all information required by him to carry out the purposes of this act. The commissioner, or any person employed by the commissioner for that purpose, shall have the right to examine under oath any employer or officer, agent or employee of any employer.

Sec. 11. The commissioner shall prepare report blanks for the use of, and furnish the same to, employers subject to this act; and every employer receiving from the commissioner any blank or blanks with directions 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 commissioner within the period fixed by the commissioner.
Duty of employers.

Every employer subject to the provisions of this act, who may hereafter elect to pay the premiums as provided herein and to receive the benefits hereunder shall make application on the forms prescribed by the commissioner for such purpose; and all employers who desire to discontinue the payment of the premiums required under this act shall so notify the commissioner on forms to be furnished by the commissioner for the purpose.

Power to administer oaths, etc.

Sec. 12. The commissioner, secretary, and every inspector or examiner appointed by the commissioner shall, for the purposes contemplated by this act, have power to administer oaths, certify official acts, take depositions, issue subpoenas, and compel the attendance of witnesses and the production of pertinent books, accounts, papers, records, documents, and testimony.

Refusal of witnesses.

Sec. 13. In case of failure or refusal of any person to comply with the order of the commissioner or subpoena issued by him, the circuit judge of the county in which the person resides, on application of the commissioner or any inspector or examiner appointed by him, shall compel obedience by attachment proceedings as for contempt, as in the case of disobedience of the requirements of a subpoena issued from said court on a refusal to testify therein.

Fees.

Sec. 14. Each officer who serves such subpoena shall receive the same fee as a sheriff, and each witness who appears in obedience to a subpoena before the commissioner 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 out of the workmen's compensation fund in the same manner as other expenses are audited and paid, upon presentation of proper vouchers approved by the commissioner.

Sec. 15. In an investigation the commissioner 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.

Transcript as evidence.

Sec. 16. A transcribed copy of the evidence and proceeding or any specific part thereof, on any investigation, taken by a stenographer appointed by the commissioner, 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 commissioner 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.

Forms.

Sec. 17. The commissioner shall prepare and furnish free of cost blank forms (and provide in his rules for their distribution so that the same may be readily available) of applications for benefits for compensation from the workmen's compensation fund, or directly from employers, as the case may be, 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.

Classes of industries.

Sec. 18. For the purposes of this act the industries that now are or hereafter may be subject thereto are divided into schedules, as follows:
(a) 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.

(b) 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, generating power, light, or heat, or operating tramways, private tracks, and sidings.

(c) Iron and steel mills, including blast furnaces, smelters, tube works, rolling mills, and their accessory and auxiliary plants working in or with by-products, generating power, light, or heat, or operating tramways, private tracks, and sidings.

(d) Sheet and tin plate mills, including their accessory and auxiliary plants working in or with by-products, generating power, light, or heat, or operating tramways, private tracks, and sidings.

(e) Foundries, machine shops, firearms 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, or generating power, light, or heat, or operating tramways, private tracks, and sidings.

(f) 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, or generating power, light, or heat, or operating tramways, private tracks, and sidings.

(g) Logging, logging railroads and tramways, sawmills, including their accessory and auxiliary plants working in or with by-products, or generating power, light, or heat, or operating tramways, private tracks, and sidings.

(h) 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, or generating power, light, or heat, or operating tramways, private tracks, and sidings.

(i) Glass houses of all kinds, including manufactories of tableware, bar goods, bottles, tumblers, lamps, glass light fixture parts, window and plate glass, potteries of all kind, including tile, bricks, 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, or generating light or heat, or operating tramways, private tracks, and sidings.

(k) Printing plants of all kinds, electrotyping, photo-engraving, engraving, lithographing, embossing, bookbinding, and accessory and auxiliary lines of work and manufacture.

(l) Woolen mills, knitting mills, cotton mills, carpet and rug mills, clothing manufactories of every kind, and working in or with textiles not otherwise specified.

(m) 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, stogie, and cigarette manufactories, in which power-driven machinery is used.

(n) Slaughter and packing houses, stockyards, 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.

(o) Steam laundrys, dyeing and cleaning plants, stamping, embossing, and working with leather, shoe and harness manufactories, mattress and bedding manufactories, upholstering factories, manufacturers of rubber goods, and auxiliary and accessory lines of work and manufacture not otherwise specified.

(p) Steam and other railroads and transportation systems not otherwise specified.
(q) Street and interurban railways, whether propelled by electricity or other power.

(r) 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.

(s) 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.

(t) Such works, occupations, and manufactories specified in the foregoing schedules as are operated without power-driven machinery.

(u) Match factories, powder mills, fireworks factories, and works in which articles of an explosive nature are mixed or manufactured.

(v) 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, smokestacks, cupolas or chimneys more than fifty feet high, water works 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.

(w) Construction and installation of sewers, fire escapes, freight or passenger elevator, 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.

(x) Any industry or business not specified in the foregoing schedules for which any employer shall voluntarily apply to the commissioner to be brought under the provisions of the act. And the commissioner shall have the authority to classify and place in one of the schedules aforesaid, or any schedule created by him as hereafter mentioned, any industry or business subject to this act not hereinbefore specifically mentioned.

Reclassification. The commissioner shall have the power to classify into schedules at any time the industries subject to this act and to create additional schedules if deemed advisable by him.

In addition to classifying into schedules the industries subject to this act, as herebefore provided, it shall be the duty of said commissioner when in his opinion there is a sufficient number of employers with different degrees of hazard in any schedule to warrant the same to subdivide any schedule into classes based upon the respective degrees of hazard of such employer as shown upon the books of the commissioner for a period of twelve months previous to the time of such subdivision, and any such employer who shall not have been a subscriber for said period of twelve months shall be assigned to one of said classes as may be deemed proper by the commissioner until his record for one year can be obtained.

Premium rates. The risk of the different classes shall be determined from the record of the employers forming each class as shown upon the books of the commissioner. And the commissioner shall fix the rate of premium for each class according to the risk of the same.

(y) It shall be the duty of the commissioner in the exercise of the powers and discretion conferred upon him in the preceding subsection to fix and maintain the lowest possible rates of
premium consistent with the maintenance of a solvent workmen's compensation fund and the creation and maintenance of a reasonable surplus after providing for the payment of all liability incurred by reason of injury or death to employees entitled to benefits under the provisions of this act and the expenses of the administration of same, and in order that said object may be accomplished the commissioner shall observe the following requirements in classifying occupations and fixing the rates of premium for the risk of the same:

(1) He shall keep an accurate account of the money paid in premiums by each of the several schedules and the liability incurred and disbursements on account of injuries and death of employees thereof, and also keep an account of the money received from each individual employer and the liability incurred and disbursements on account of injuries and death of the employees of such employer.

(2) Ten per centum of all that may hereafter be paid into the workmen's compensation fund shall be set aside for the creation of a surplus fund until such surplus shall amount to the sum of one hundred thousand dollars, after which time the sum of five per centum of all the money paid into the said fund shall be credited to such surplus fund until such time as, in the judgment of the commissioner, such surplus shall be sufficiently large to cover the catastrophe hazard and all other unanticipated losses.

(3) On the first day of July, one thousand nine hundred and sixteen, and annually thereafter, a readjustment of the rates shall be made for each of the several classes in accordance with the experience of the commissioner in the administration of the law, as shown by the accounts kept as provided herein: Provided, That nothing contained in this subsection shall prevent the commissioner from adjusting at any time the premium rate for any class.

It shall be the duty of the commissioner whenever he changes any rate to notify every employer affected thereby of that fact and of the new rate and when the same takes effect. It shall also be his duty to furnish to each employer yearly, or oftener if requested by the employer, a statement giving the name of each of his employees who were paid for injury and the amount so paid during the period covered by the statement.

Sec. 19. The commissioner shall establish a workmen's compensation fund from premiums and other funds paid thereto by employers and employees as herein provided, for the benefit of employees of employers that have paid the premium applicable to the classes to which they belong and for the benefit of the dependents of such employees and for the payment of the expenses of the administration of this act, 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.

Employers electing as herein provided to individually and directly compensate their injured employees and their fatally injured employees' dependents, shall do so in the manner prescribed by the compensation commissioner and shall make all reports, execute all blanks, forms and papers as directed by said commissioner and as herein provided in this act.

Sec. 20. All payments into the workmen's compensation fund shall be made into the State treasury in the manner prescribed in chapter seventeen of the code of West Virginia, and such fund shall consist of such payments and all interest accruing thereto upon investments and deposits in State depositories, and any other moneys or funds which may be given, appropriated or otherwise designated or accruing thereto. Said fund shall be a separate and distinct fund and shall be so kept upon the books and records of the auditor and treasurer. Disbursements from such fund shall be made upon requisition signed by the secretary and approved by the compensation commissioner. The board of public

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works shall have authority to invest the surplus, reserve or other moneys belonging to the fund in the bonds of the United States, of this State, or of any county, city, town, village, or school district of the State. No such investment shall be made nor any investment sold or otherwise disposed of without the concurrence of a majority of all members of the board of public works. It shall be the duty of every county, school district, or municipality issuing any bonds, to offer the same in writing to the board of public works prior to advertising the same for sale, except such thereof as may have been taken by the trustees of the sinking fund of the county, district or municipality, and the board of public works shall, within fifteen days after receipt of such offer, accept the same and purchase such bonds or any portion thereof at par and accrued interest, or make an offer to purchase the same at such price as the board named in such offer or reject such offer. All bonds purchased by the board of public works for investment for the workmen's compensation fund shall be placed in the hands of the auditor as the custodian thereof, and it shall be his duty to keep and account for the same as he keeps and accounts for other securities of the State, and to collect the interest thereon as the same becomes payable, and the principal when the same is due. No bonds or other securities shall be purchased by the board of public works until and unless the attorney general shall investigate the issuance of such bonds or securities and shall give a written opinion to the board that the same have been regularly issued according to the constitution and the laws of this State, which opinion, if such bonds or securities be purchased, shall be filed with the auditor with such bonds or securities.

**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.

**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 and by the parents of any minor employee of the right of action as aforesaid, which the employee or his or her parents would otherwise have.

**Sec. 23.** Each employer electing to pay the premiums provided by this act into the workmen's compensation fund, or electing to make direct payments of compensation as hereinafter provided, shall post and keep posted 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 and to the parents of any minor employees of the fact that he has made such election.

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.

**Sec. 24.** 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 by the commissioner and be then in effect. The premiums provided for in this act shall be paid by the employers into the treasury of the State and be contributed in the proportion of ninety per centum by the employers and ten per centum by the employees. The premium shall be paid monthly on or
before the twenty-fifth of each month for the preceding month and shall be the prescribed percentage of the total earnings of all employees subject to this act for such preceding month. The minimum premium to be paid by any employer for any month shall be one dollar.

Each employer is authorized to deduct from the pay of his employees (excepting persons casually employed) for each month, ten per centum 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 in any one month for which settlement is made to be five cents.

Each employer shall give a receipt or statement to each employee of the amount which has been deducted for the workmen's compensation fund, and shall file with the commissioner on making his next payment to the fund a sworn statement showing what per centum of said payment herein provided to be paid by the employees (disregarding fractions of a cent) has been deducted and that no more than ten per centum (subject to the minimum requirement aforesaid) has 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, the duplicate to be filed with the commissioner.

If such premiums be not paid as herein provided, a penalty of ten per centum of the amount of such premium shall be collected and paid into the workmen's compensation fund, as aforesaid; and the failure to pay all premiums and penalties as herein provided for two succeeding months shall deprive the employer so delinquent of the benefits and protection afforded by this act and shall terminate the election of such delinquent employer to pay into the workmen's compensation fund as herein provided, and such employer shall be liable to employees as provided in section twenty-six of this act; and the commissioner shall not be required to notify the delinquent employer of such termination or suspension, but he shall notify the employees of such employer thereof in such manner as he may deem best and sufficient.

The employer so delinquent may be reinstated upon application under such terms as are prescribed by this act, and by the commissioner hereunder, after the payment into the workmen's compensation fund of all unpaid premiums, penalties, interest, and such employer shall be in force from and after the date that the new application is accepted by the commissioner, and said delinquent employer shall not receive any benefits hereunder during such suspension, nor shall his employees receive compensation for injuries received during the period of such suspension.

To insure the payment of the monthly premiums herein provided, all employers who have heretofore elected to accept the provisions of the workmen's compensation act shall pay into the workmen's compensation fund, in addition to the premiums provided for, an amount at least equal to the amount of premiums paid for the last two preceding months, and said employer shall be required to keep on deposit at all times in the said workmen's compensation fund an amount at least equal to the premiums for the last two preceding months. Such employer, upon the receipt of notice from the commissioner, that the amount which he is required to keep deposited in said fund is not equal to the premiums paid for the last two preceding two months, shall immediately deposit as herein provided a sum sufficient and necessary to comply with the requirements of this act.

Any employer hereafter electing to avail himself of the benefits of this act shall at the time of making application to the commissioner deposit in the workmen's compensation fund an amount estimated to be equal to the amount of the premiums which will be paid by him hereunder for the next succeeding two months.

The deposit in said workmen's compensation fund shall be held as an advance credit to the employer and used to pay or to apply
on the payment of the monthly premiums and any other sums due the said fund when said employer becomes delinquent in the payment of same. Upon the withdrawal of any employer from the fund, he shall be refunded the balance due him of this advanced deposit, after deducting all amounts owed by said employer to the workmen's compensation fund.

Sec. 25. The commissioner shall disburse the workmen's compensation fund to the employees of such employers as have paid into said fund the premiums for the month in which the injury occurs, or who have on deposit in said fund, as hereinbefore provided for, an amount sufficient to guarantee the payment of said premiums, and which employees 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, and also for the expenses of the administration of this act as provided in section two hereof.

Hernia.

In all claims for compensation for hernia resulting from injury received in the course of and resulting from the employee's employment, it must be definitely proven to the satisfaction of the commissioner:

First. That there was an injury resulting in hernia;
Second. That the hernia appeared suddenly;
Third. That it was accompanied by pain;
Fourth. That the hernia immediately followed an injury;
Fifth. That the hernia did not exist prior to the injury for which compensation is claimed.

All hernia inguinal, femoral or otherwise, so proven to be the result of an injury received in the course of and resulting from the employment, shall be treated in a surgical manner by radical operation. If death results from such operation, the death shall be considered as a result of the injury, and compensation paid in accordance with the provisions of section thirty-three. In non-fatal cases, time loss only shall be paid, unless it is shown by special examination that the injured employee has a permanent partial disability resulting after the operation. If so, compensation shall be paid in accordance with the provisions in section thirty-one with reference to permanent partial disability.

In case the injured employee refuses to undergo the radical operation for the cure of said hernia, no compensation will be allowed during the time such refusal continues. If, however, it is shown that the employee has some chronic disease or is otherwise in such physical condition that it is considered unsafe for him to undergo said operation, he shall be paid as provided in section thirty-one.

Employers not under law.

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:

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.

Medical, etc., benefits.

Sec. 27. The commissioner shall disburse and pay from the fund for such injuries to such employees as may be entitled thereto hereunder, as follows:

(a) Such sums for medical, surgical, and hospital treatment as in the opinion of the commissioner may reasonably be required,
not, however, in any case to exceed the sum of one hundred and fifty dollars: Provided, That in case an injured employee has sustained a permanent disability and it is the opinion of the commissioner that the per centum of said disability can be reduced or made negligible by surgical or medical treatment, the amount expended for medical, surgical, and hospital treatment may be, but shall not exceed, three hundred dollars in any case.

(b) Payment for such medical, surgical, and hospital treatment may be made to the injured employee, or to the persons who have furnished the service, or to the persons who have advanced payment for same, as the commissioner may deem proper.

(c) Notwithstanding anything hereinbefore contained, no payment shall be made out of the workmen's compensation fund for medical, surgical, or hospital treatment for an injured employee, if said employee be entitled under contract connected with his employment or otherwise, to medical, surgical, or hospital treatment without further charge to him.

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, or to direct compensation from any employer making the election and receiving the permission mentioned in section fifty-four hereof, or otherwise under the provisions of this act, on account of any injury to or death of an employee caused by a self-inflicted injury, the willful misconduct, or disobedience to such rules and regulations as may be adopted by the employer and approved by the commissioner, or the intoxication of such employee.

For the purpose of this act and to prevent accidents to employees, the commissioner may require all employers to adopt rules for the protection and safety of their employees and keep the same posted in conspicuous places in and about the work, which rules shall be submitted to the commissioner for his approval.

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.

Sec. 29. In case death ensues from the injury within the general period of twenty-six weeks, reasonable funeral expense, not to exceed seventy-five dollars, may be paid from the fund, payment to be made to the persons who have furnished the service and supplies, or to the persons who have advanced payment for same, as the commissioner may deem proper, in addition to such award as may be made to the employee's dependents.

Sec. 30. If the period of disability does not last longer than one week from the day the employee leaves work as the result of the injury, no award shall be allowed, except the disbursement provided for in sections twenty-seven and twenty-nine.

(a) If the period of disability lasts longer than one week from the day the employee leaves work as the result of the injury, no award shall be allowed for the first week of such disability, except the disbursement provided for in sections twenty-seven and twenty-nine.

Sec. 31. Where compensation is due an employee under the provisions of this act such compensation shall be as provided in the following schedule:

(a) If the injury causes temporary total disability, the employee shall receive during the continuance thereof fifty per centum of his average weekly earnings, not to exceed a maximum of ten dollars per week nor to be less than a minimum of five dollars per week.

(b) If the injury causes temporary partial disability, the employee shall receive during the continuance thereof fifty per
Limit of awards.

(c) Paragraphs (a) and (b) of this subdivision shall be limited as follows: Aggregate award for a single injury causing temporary disability shall be for a period not exceeding twenty-six weeks. Provided, That in case an injured employee, by reason of having an ununited fracture, or having undergone a surgical operation to correct a vicious union following a fracture, or for the repair of an ununited fracture, or having suffered an injury to the spine or pelvic bones which is of a temporary nature, is disabled for a longer period than twenty-six weeks the period for which compensation shall be paid may be, but shall not exceed fifty-two weeks.

(d) If the accident causes permanent disability, the percentage of disability to total disability shall be determined and the award computed and allowed as follows:

For a ten per centum disability, fifty per centum of the average weekly earnings for a period of thirty weeks;

For a twenty per centum disability, fifty per centum of the average weekly earnings for a period of sixty weeks;

For a thirty per centum disability, fifty per centum of the average weekly earnings for a period of ninety weeks;

For a forty per centum disability, fifty per centum of the average weekly earnings for a period of one hundred and twenty weeks;

For a fifty per centum disability, fifty per centum of the average weekly earnings for a period of one hundred and fifty weeks;

For a sixty per centum disability, fifty per centum of the average weekly earnings for a period of one hundred and eighty weeks;

For a seventy per centum disability, fifty per centum of the average weekly earnings for a period of two hundred and ten weeks;

For a disability exceeding seventy per centum and less than eighty-five per centum, forty per centum of the average weekly earnings during the remainder of life;

For a disability from eighty-five to one hundred per centum, fifty per centum of the average weekly earnings during the remainder of life.

(e) The award for permanent disabilities intermediate to those fixed by the foregoing schedule and from ten per centum to seventy per centum disabilities shall be in the same proportion and shall be computed and allowed by the commissioner.

(f) Paragraphs (d) and (e) of this subdivision shall be limited as follows: Not to exceed a maximum of eight dollars per week nor to be less than a minimum of four dollars per week.

(g) The loss of an arm at or above the elbow shall be considered a fifty per centum to sixty-five per centum disability and shall be used as a basis in determining the per centum of permanent disability. Account shall also be taken of the nature of the physical injury, the occupation of the injured employee, and his age at the time of such injury.

(h) Nothing contained in the foregoing schedule of permanent disability awards shall be held to limit the amount of compensation receivable for any such permanent injury during any period of total disability under paragraphs (a) and (b) of section thirty-one, but any sum so received shall be deducted from the compensation payable in accordance with the said schedule. Compensation under this section shall be payable only to the injured employee or to his dependents at the time of the injury, and the right thereto shall not vest in his estate nor in the estate of his dependents.

(i) 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 practically total paralysis.

In all other cases permanent total disability shall be determined in accordance with the fact.

Sec. 32. Repealed by Acts of 1915.

Sec. 33. In case the injury causes death within the period of twenty-six weeks from date of injury the benefits shall be in the amounts and to the persons as follows:

(a) If there be no dependents, the disbursements shall be limited to the expense provided for in section twenty-seven and section twenty-nine of this act and such award under section thirty-one of this act as may have accrued and been paid.

(b) 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 centum of the average weekly wages, not to exceed a maximum of six dollars a week, to continue until the employee would have been twenty-one years of age or until the death of said dependent, if same occurs before said employee would have been twenty-one years of age.

(c) 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: And provided further, If such widow or invalid widower shall remarry within two years from date of the death of such employee, such widow or widower shall be paid at the time of remarriage twenty per centum of the amount that would be due for the period remaining between the date of such remarriage and the end of ten years from date of death of said employee: Provided further, That if upon investigation it shall be ascertained that said widow or widower is living with a man or woman, as the case may be, as man and wife and not married, or the widow living a life of prostitution, the commissioner shall stop the payment of the benefits herein provided to said widow or widower.

If the deceased employee be a widow or widower and leave a child or children under the age of fifteen years, the payment shall be ten dollars per month to each such child until he or she reaches the age of fifteen years, the total payment in any case not to exceed thirty dollars per month.

The word "child" as used in this act shall include a posthumous child or a child legally adopted prior to the injury causing death.

(d) 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 be fifty per centum of the average monthly support actually received from the employee during the preceding twelve months, to continue for the remainder of the period between the date of death and six years after the date of injury, and shall not amount to more than a maximum of twenty dollars per month.

(e) If there be no widow, widower, or child under the age at which he or she may be lawfully employed in any industry, or wholly dependent persons, but there are partly dependent persons at the time of death, the payment shall be fifty per centum 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 death as the commissioner in the case may determine, and not amount to more than a maximum of twenty dollars per month.

Compensation under subsections (d) and (e) hereof shall cease upon the death of the dependent, and the right thereto shall not vest in his or her estate.
Dependents.  (f) Dependent as used in this act means a widow, invalid widower, child under fifteen years of age, invalid child over such age, or a posthumous child, 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; also the following persons who are and continue to be residents of the United States or its territorial possessions: Stepchild under fifteen years of age, child under fifteen years of age legally adopted prior to the injury causing death, 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 earnings of the employee.

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 persons, for the benefits of all of the dependents, as may be determined by the commissioner, who may apportion the benefits among the dependents in such manner as he may deem just and equitable. Payment to a dependent subsequent in right may be made if the commissioner deems proper, and shall operate to discharge all other claims therefor.

Duty of recipient.  Sec. 35. 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 commissioner.

Spouses living apart.  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.

Computation of wages.  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 commissioner to make a fair award, taking into consideration both the rate of wage and earnings of such person prior to his entering the service in which he was injured.

Installments.  Sec. 38. Payments may be made in such periodical installments as may seem best to the commissioner in each case. Notwithstanding anything herein contained, the commissioner may, in his discretion in payment of, direct use or repayment of any installment, any advances for necessaries that may have been made by any person pending the payment of such installment.

Claims.  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, and all proofs of dependency in fatal cases must be filed with the commissioner within nine months from and after the date of death. Nonresident aliens may be officially represented by the consular officers of the country of which such aliens may be citizens or subjects.

Review.  Sec. 40. The power and jurisdiction of the commissioner over each case shall be continuing, and he may from time to time make such modification or change with respect to former findings or orders with respect thereto as in his opinion may be justified.

Lump sums.  Sec. 41. The commissioner, under special circumstances and when the same is deemed advisable, may commute periodical benefits to one or more lump-sum payments.

Payments exempt.  Sec. 42. Benefits before payments 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.

Decisions of commissioner.  Sec. 43. The commissioner shall have full power and authority to hear and determine all questions within his jurisdiction, and

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to review the action of any employer taken under section fifty-four thereof, and the decision of the commissioner thereon shall be final: Provided, however, In case the final action of said commissioner denies the right of the claimant to receive compensation from the fund or directly from the employer, as the case may be, on the ground that the injury was self-inflicted, or on the ground that the injury was not received in the course of and resulting from his 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 commissioner, apply for an appeal to the supreme court of appeals. The appellant shall file a petition before said supreme court of appeals against such commissioner as defendant within said period of sixty days, and the commissioner shall be notified by the clerk of said court forthwith of the filing of such petition for appeal. And the commissioner shall within ten days after the receipt of such notice file with the clerk of said court the record of such proceedings before the commissioner, 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 commissioner 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 other cases on such docket. The attorney general, without extra compensation, or other counsel, if the commissioner sees fit to employ the same, shall represent the commissioner on such appeal. The supreme court on such appeal shall determine the right of the claimant and certify its decision to the commissioner, and, if it determines the right in his favor, the commissioner shall fix his compensation within the limits and under the rules prescribed in this act. The cost 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.

Sec. 44. Such commissioner 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 his judgment is best calculated to ascertain the substantial rights of the parties and to carry out justly and liberally the spirit of this act.

Sec. 45. The commissioner may make necessary expenditures to obtain statistical and other information to establish the classes provided for in section eighteen.

Sec. 46. Annually, on or about the fifteenth day of September in each year, the commissioner under oath, 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 him, and 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 the fund, together with any other matters which such commissioner deems it proper to call to the attention of the governor, including any recommendations he may have to make; and the commissioner whenever required by the governor shall report to him as to any designated subject or matter and furnish such information as may be required.

Sec. 47. Repealed by Acts of 1915.

Sec. 48. Whenever it shall appear that the commissioner will be absent or unable to act for one week or more, the secretary of the commissioner may be designated by the commissioner to act during his absence or inability to act, and during such period he shall have all the duties and powers of the commissioner.

Sec. 49. Any person, firm, or corporation knowingly failing to make any report or perform any duty required by the commis-
sioner 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 commissioner, or who shall knowingly testify falsely in any proceeding before the commissioner, shall be deemed guilty of perjury and upon conviction thereof shall be punished as provided by law.

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 workmen'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 imprisoned 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 there shall be in the State treasury any funds belonging to the workmen's compensation fund not likely, in the opinion of the commissioner, to be required for immediate use, it shall be the duty of the board of public works, when so requested by the commissioner, to invest the same as prescribed in section twenty hereof. Whenever it may become necessary or expedient to use any of the funds so invested, the board of public works shall, when requested by the commissioner, collect, sell, or otherwise realize upon any investment to the amount deemed necessary or expedient to use.

Sec. 52. In case any employer within the meaning of this act is also engaged in interstate or foreign commerce, this act shall apply to him only to the extent that his mutual connection with work in this State is clearly separable and distinguishable from his interstate work, and in such case such employer and any of his employees thus engaged in both intrastate and interstate work may with the approval of the commissioner elect to pay into the fund the premiums provided by this act on account of work done in this State only, by filing written acceptances, or a joint election with the commissioner, and such election when filed and approved by the commissioner 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 premiums shall be on the basis of the pay roll of the employees who accept as aforesaid for work done in this State only.

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 any part thereof.

Sec. 54. Notwithstanding anything contained in this act employers subject to this act who are of sufficient financial responsibility to insure the payment of compensation to injured employees and the dependents of fatally injured employees, whether in the form of pecuniary compensation or medical attention, funeral expenses, or otherwise as herein provided, of the value at least equal to the compensation provided in this act, or employers of such financial responsibility who maintain their own
benefit funds or systems of compensation, to which their employees are not required or permitted to contribute, or such employers as shall furnish bond or other security to insure such payments, may upon a finding of such facts by the compensation commissioner elect to pay individually and directly or from such benefit funds, department, or association the said compensation and expenses to injured employees or fatally injured employees' dependents; and the compensation commissioner shall require such security or bond from said employer to be approved by him and of such amount as by him considered adequate and sufficient to compel or secure to said employees or their dependents payment of the compensation and expenses herein provided for, which shall in no event be less than the compensation paid or furnished out of the State workmen's compensation fund in similar cases, to injured employees or the dependents of fatally injured employees whose employers contribute to said fund: Provided, That any employer electing under this section shall on or before the twenty-fifth day of each month for the preceding month file with the commissioner a sworn statement of the total earnings of all his employees subject to this act for such preceding month, and shall pay into the workmen's compensation fund a sum sufficient to pay his proper proportion of the expense of the administration of this act, as may be determined by the commissioner. The commissioner 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 the finding of facts by said commissioner, to consider and pass upon such election by employers subject to this act, which said rules and regulations shall be general in their application; and any employer subject to this act who shall elect to carry his own risk and who has complied with the requirements of this section and the rules of the compensation commissioner 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 the period that he is allowed to carry his own risk by said commissioner: Provided, The injured employee has remained in his service with notice given, as provided for in section twenty-three of this act, that his employer has elected to carry his own risk as herein provided. The continuation in the service of such employer with such notice shall be deemed a waiver by the employee and by the parents of any minor employee of the right of action as aforesaid which the employee or his or her parents would otherwise have: And provided further, That any employer whose record upon the books of the public service commission or compensation commissioner shows a liability against the workmen's compensation fund incurred on account of injury to or death of any of his employees in excess of premiums paid by said employer shall not be granted the right to individually and directly or from such benefit funds, department, or association to compensate his injured employees and the dependents of his fatally injured employees until he has paid into the workmen's compensation fund the amount of said excess of liability over premiums paid, including his proper proportion of the liability incurred on account of explosions or catastrophes occurring within the State and charged against said fund: And provided further, That in any case under the provisions of this section that shall require the payment of compensation or benefits by an employer in periodical payments and the nature of the case makes it possible to compute the present value of all future payments the compensation commissioner may, in his discretion, at any time compute and permit or require to be paid into the workmen's compensation fund an amount equal to the present value of all unpaid compensation for which liability exists in trust, and thereupon such employer shall be discharged from any further liability upon such award and payment of the same shall be assumed by the workmen's compensation fund.

WISCONSIN.

ACTS OF 1913.

CHAPTER 599.—LIABILITY OF EMPLOYERS FOR INJURIES—WORKMEN'S COMPENSATION.

[Section 2394–1 of the Wisconsin Statutes is amended by chapter 316, Acts of 1915, by adding a new subsection, as follows:]

3. Subdivisions (1), (2), and (3) of subsection 1 of section 2394–1 of the statutes [abolishing the defenses of fellow service and contributory negligence where there are four or more employees, and assumption of risk in all cases] shall not apply to farm labor.

[Section 2394–5 is amended so as to read as follows:]

SECTION 2394–5 (as amended by chapter 316, Acts of 1915). 1. Such election on the part of the employer shall be 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 until the first day of July following, and thereafter, without further act on his part, for successive terms of one year each, beginning July first of each year, unless such employer shall, at least thirty days prior to the first day of July of any 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.

2. On and after September 1, 1913, every employer of four or more 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. The provisions of this subsection shall not apply to farmers or to farm labor.

[Section 2394–9 is amended (chapter 369) by adding to subdivision (1) the following:]

Where the employer has knowledge of the injury and the necessity for treatment his failure to tender the same shall constitute such neglect or refusal.

[Also by adding to paragraph (c) of subdivision (4) the following:]

Where by reason of minority, sickness, or other causes during such year the foregoing basis is unfair or inadequate, the death benefit shall be such sum as the commission may determine to be fair and just, considering the death benefits allowed in other cases where such untoward causes do not exist.
[The same section is amended (chapter 378) in subdivision 5 by striking out the sentence, “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,” and substituting therefor the following:]

(e) For all other injuries to the members of the body or its faculties which are specified in the foregoing schedule resulting in permanent disability, though the member be not actually severed or the faculty totally lost, compensation shall bear such relation to that named in the schedule as the disabilities bear to those produced by the injuries named in the schedule. Indemnity in such cases shall be determined by allowing weekly indemnity during the healing period resulting from the injury and the percentage of permanent disability resulting thereafter as found by the commission.

[Section 2394-10 is amended (chapter 482) in subsection 3, subdivision (c), by inserting after the first sentence thereof the following:]

In case of a divorce the charging of the full support and maintenance of a child upon one of the divorced parents shall be held to constitute a living with the parent so charged.

[Subsection 4 is also amended so as to read as follows:]

No person shall be considered a dependent unless a member of the family of the deceased employee, or a divorced spouse who has not remarried, or one who bears to him the relation of husband or widow or lineal descendant or ancestor or brother or sister.

[Section 2394-15 is renumbered (chapter 241) as subsection 1 of section 2394-15, and a new subsection added, as follows:]

2. The industrial commission shall have jurisdiction to pass upon the reasonableness of medical and hospital bills in all cases of dispute where compensation is paid, in the same manner and to the same effect as it passes upon compensation.

[A new section is added (chapter 582) as follows:]

2394—18a. Whenever an award is made by the commission against any county, city, village or town, the person in whose favor it is made shall file a certified copy thereof with the county, city, village or town clerk, as the case may be. Within twenty days thereafter, unless an appeal is taken, such clerk shall draw an order on the county, city, village or town treasurer against which the award was made for the payment of the amount specified in the award. If upon appeal such award is affirmed in whole or in part the order for payment shall be drawn within ten days after a certified copy of such judgment is filed with the proper clerk. If more than one payment is provided for in the award or judgment, orders shall be drawn as the payments become due. The provisions of any statute relating to the filing of claims against, and the auditing, allowing and payment of claims by counties, cities, villages and towns shall not apply to the payment of an award or judgment under the provisions of this section.

[Section 2394-24 is amended (chapter 121) by adding after subsection 1 a new subsection, as follows:]

1a. In all cases where an employer shall become liable to an employee for compensation in weekly indemnity extending over a period of six months or more, he may be required by the industrial commission, in its discretion, to purchase an annuity therefor with a domestic corporation, duly authorized to issue annuities, or to furnish a bond, for the payment of such compensation as shall be required and approved by the industrial commission.
WYOMING.

CONSTITUTION.

Article 10.—Liability of employers for injuries to employees—Workmen's compensation.

Section 4 (as amended, 1914). No law shall be enacted limiting the amount of damages to be recovered for causing the injury or death of any person. Any contract or agreement with any employee waiving any right to recover damages for causing the death or injury of any employee shall be void.

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.

Amendment adopted November 3, 1914.


Chapter 124.—Compensation of workmen for injuries.

Section 1. This act shall be known as the "workmen's compensation law."

Sec. 2. Compensation herein provided for shall be payable to persons injured in extra-hazardous employments, as herein defined, or 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. Said compensation shall be payable from funds in the State treasury to be accumulated and maintained in the manner herein provided. The right of each employee to compensation from such funds 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 such person or persons by reason of any such injury or death. Sections 3526, 4291, and 4292, and all other laws or parts of laws relating to damages for injuries or death from injuries or in anywise in conflict with this act are hereby repealed, as to the employments, employers, and employees coming within the terms of this act.

Sec. 3. 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 or dependent family at common law or otherwise on account of such injury; and the terms, conditions, and provisions of this act for the payment of compensation and the amount thereof for injuries sustained or death resulting from such injuries shall be exclusive, compulsory, and obligatory upon both employers and employees coming within the provisions hereof.
Sec. 4. The extra-hazardous occupations to which this act is applicable are as follows: Factories, mills, and workshops where machinery is used; foundries, blast furnaces; mines, oil wells; gas works; natural-gas plants; waterworks; reduction works; brewherles; elevators; dredges; smelters; powder works; laundries operated by power; quarries; engineering works; logging; lumbering and sawmill operations; street and interurban railroads not engaged in interstate commerce; buildings being constructed, repaired, moved, or demolished; telephone, telegraph, electric light, or power plants or lines; steam heating or power plants; railroads not engaged in interstate commerce; bridge building 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 extra hazardous and in which from the nature, conditions, or means of prosecution of the work therein required risks to the life and limb of the workman engaged therein are inherent, necessary, or substantially unavoidable. This act shall not apply in any case where the injury occurred before this act takes effect, and all rights which have accrued by reason of any such injury prior to the taking effect of this act shall be saved the remedies now existing therefor. This act shall only apply to the employers by whom five or more workmen have been employed continuously for more than one month at the time of the accident: Provided, That the act shall apply to the employments wherein dangerous explosives are used or where the employment requires the performance of services upon derricks, scaffolding, poles, or other structures ten feet or more above the surface of the ground without regard to the number of workmen employed.

Sec. 5. 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.

Sec. 6. In this act, unless the context otherwise requires—

(a) "Factories" mean any premises wherein power is used in manufacturing, making, altering, adapting, ornamenting, finishing, repairing, or renovating any article for the purpose of trade or gain or the business carried on therein, including expressly any brickyard, meat-packing house, foundry, smelter, ore reduction works, lime-burning plant, stucco plant, steam-heating plant, electric-lighting or power plant, including all 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 electric current, and water-power plant, including towers and standpipes, powder plant, blast furnace, paper mill, printing plant, flour mill, glass factory, cement plant, artificial gas plant, machine or repair shop, salt plant, oil-refinery plant, and chemical manufacturing plant.

(b) "Workshop" means any yard, plant, premises, room, or place where power-driven machinery is employed and manual labor is exercised by way of trade or gain or otherwise incidental to the process of making, altering, repairing, printing, or ornamenting, finishing, or adapting for sale or otherwise any article or part of article, over which premises, room, or place the employer of the person working therein has the right of access or control.

(c) "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, sawmill, sash factory, or other work in the lumber industry.

(d) "Mine" means any opening in the earth for the purpose of extracting iron, oil, coal, or other minerals, and all underground workings, slopes, drifts, shafts, galleries, wells, 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 or machinery at or about the open­
ings of the mine, and any adjoining adjacent work place where the
material from a mine is prepared for use or shipment.

(e) "Quarry" means any place, not a mine, where stone, slate,
clay, sand, gravel, or other solid material is dug or otherwise ex­
tracted from the earth for the purpose of trade or bargain or of
the employer's trade or business.

(f) "Building work" means any work in the erection, construc­
tion, 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 here­
before defined) bridge, jetty, dike, dam, reservoir, underground
conduit, sewer, oil or gas well, oil tank, gas tank, water tank or
tower, any caisson work or work in artificially compressed air,
any work in dredging, work on log or lumber rafts or booms; pile
driving, moving buildings, moving safes, or in laying, repairing,
or removing underground pipes and connections, the erection, in­
stalling, 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 cor­
porate or incorporate, and the legal representatives of a deceased
employer or the receiver or trustee of a person, corporation, asso­
ciation, or partnership.

(i) "Workman" means any person who has entered into the
employment of or works under contract of service or apprentice­
ship with 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, and not subject to the
hazards of the business, or one holding an official position or stand­
ing in a representative capacity of the employer. The term
"workman" shall include "employee" and 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 "dependent family," as hereinafter defined,
or to his legal representative, or, where the workman is a minor or
incompetent, to his guardian or next friend.

(j) "Dependent families" as used in this act means such
members of the workman's family as were wholly or in part
dependent upon the workman for support at the time of the in­
jury, and shall include widow or husband, as the case may be,
and chil[...]

(k) "Child or children" means such that are under sixteen
(16) years of age (and over said age if physically or mentally
incapacitated from earning), and shall also include legitimate
children of the injured workman born after his death from injury.

In other cases, questions of family dependency, in whole or in part,
shall be determined in accordance with the fact, as the case may be
at the time of the injury; the foregoing definition of " dependent
families" shall not include any of the persons named who are
aliens residing beyond the jurisdiction of the United States of
America, except a surviving widow or children under sixteen (16)
years of age, and as to such nonresident aliens the rate of com­
pen[...]

No resident
aliens.
(1) The words "injuries sustained in extra-hazardous employment" as used in this act shall include death resulting from injury and injuries to employees as a result of their employment and while at work in or about the premises occupied, used, or controlled by the employer, and injuries occurring elsewhere while at work in places where the employer's business requires their presence and subjects them to extra-hazardous duties incident to the business, but shall not include injuries of the employees occurring while on their way to assume the duties of their employment or after leaving such duties, the proximate cause of which injury is not the employer's negligence.

(n) "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, nor a disease, except as it shall directly result from an injury incurred in the employment.

(m) "Invalid" means one who is physically or mentally incapacitated from earning wages.

Incompetent persons. Sec. 7. 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, be mentally incompetent or a minor at the time when any right or privilege accrues to him under this act, his guardian may in his behalf claim and exercise such right or privilege, and no limitation of time in this act provided for shall run so long as such incompetent or minor has no guardian.

Liability of third persons. Sec. 8. Where an employee coming under the provisions of this act received an injury under circumstances creating a legal liability in some person other than the employer to pay damages in respect thereof and no legal liability attaching to the employer, then and in such case such employee shall be left to his remedy at law against such other person and compensation shall not be payable under this act.

Waivers. Sec. 9. 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.

Blanks. Sec. 10. It shall be the duty of the State treasurer to prepare, cause to be printed, and supplied free for use in the administration of this law such blank forms as may be needed by employers for reporting and certifying pay rolls of persons employed by them in extra-hazardous employments and for reporting injuries, and forms for use of injured persons in making claims for compensation, also to provide himself with such other books, records, or forms as may be deemed necessary to expedite the transaction of business under the provisions of this act.

Accidents to be reported. Sec. 11. Whenever an accident occurs causing injury to any workman engaged in any of the extra-hazardous employments defined by this act it shall be the duty of the employer within 20 days thereafter to make a report of such accident and the injury resulting therefrom and to file said report in the office of the clerk of the district court of the county wherein such accident occurred, which report shall state:

(1) The name of the injured workman and the time, cause, and nature of the accident and injury, also whether the injury has disabled the workman from continuing the performance of his duties.

(2) Whether the accident occurred while the workman was engaged in the duties of his employment and grew out of the employment.

(3) The nature of the employment and duties and how long the workman had been engaged in the service of such employer.

(4) Whether the accident was or was not due solely to the culpable negligence of the injured employee; and, if so, a statement of the facts.

(5) Whether the injured workman is married or single; if married, whether he has a dependent family; and if so, the names of the persons comprising such dependent family and their place of residence.
(6) Whether the injured workman claims compensation under this act and whether his right to compensation or the amount of compensation is disputed by his employer.

Said report may be made upon a printed form prepared by the State treasurer for such purposes and shall be verified as pleadings in civil actions. Failure or neglect on the part of any employer whose business or occupation is one enumerated and defined herein as being extra hazardous to report accidents causing injury to any of his employees shall be a misdemeanor, and upon conviction such employer shall be punished by a fine of not exceeding five hundred ($500) dollars.

Sec. 12. Whenever an injury or death resulting from injury is reported to the clerk of the district court of the county wherein such injury occurred, in accordance with the preceding section, it shall be the duty of said clerk to at once notify the judge of said court that such injury report has been filed in his office. It shall thereupon be the duty of said judge to investigate the nature of said injury and claim for compensation at the earliest possible date in such a manner as he may deem necessary to ascertain whether the claim for compensation or the amount thereof is disputed by the employer, and if there be no dispute as to the right of the injured workman to receive compensation or as to the amount thereof and the claim appear to be free from collusion said judge shall thereupon make an order directing payment for such compensation from the State industrial accident fund in accordance with the facts by him ascertained and the terms of this law. If there be a dispute as to the right of said injured employee or his dependent family to receive compensation or as to the amount thereof, then it shall be the duty of said judge to set the case down for a hearing at the earliest possible date and to direct notice of such hearing to be issued by the clerk of said court for service upon the employer and the employee at least seven (7) days before the date fixed for said hearing, which said notice shall be served by the sheriff of said county without expense to either party, except that his actual traveling expenses shall be allowed and taxed as costs. The hearing shall be conducted upon the statement and report filed by the employer and such formal claims as may be presented and filed with the clerk of the district court by or on behalf of the injured workman. If the employer in his report of the injury alleges that the injury was due solely to the culpable negligence of the injured employee or that the claim for compensation is one not coming within the provisions of this law, then a jury may be demanded by either party to the case and shall be tried as a court proceeding. If a jury is demanded, it may be selected from names drawn from the five-mile limit jury box, as in civil cases at any time in term time or vacation, unless a regular jury panel be in attendance at court on the date any such hearing may occur. The taking of evidence shall be summary, giving a full opportunity to all parties to develop the facts fully. The official court reporter of the district shall attend the hearing and make a stenographic report of the evidence without cost to either party. The court or judge shall direct the county and prosecuting attorney or other competent attorney appointed by the court to conduct the examination of witnesses on behalf of the injured workman, and it shall be the duty of said attorney to appear and perform such service without expense to either party. The employer may appear in person or by counsel and introduce evidence at the same hearing. No costs shall be taxed by the clerk except fees for witnesses, who may be subpoenaed and who shall be allowed the same fees for attendance and mileage as is fixed by law in civil actions, and jury costs shall also be taxed to and paid from the accident fund if the verdict and judgment be in favor of the employer, but if against the employer then he shall pay the costs. At the conclusion of the hearing the court shall enter an order pursuant to the verdict of the jury, if a jury be called, and if no jury be called the court or judge shall render a decision upon the facts and law of the
case pursuant to the provisions of this act and make an order allowing or disallowing compensation as the law and the evidence may warrant. In any proceeding before a court or judge as aforesaid the court or judge shall have authority to appoint a duly qualified impartial physician to examine the injured employee and give testimony. The fee for such service shall be five ($5) dollars, unless otherwise ordered by the court, with mileage allowance, as is allowed to other witnesses, which shall be taxed as costs and paid as other witness fees are paid. The employer or employee may at his own expense also appoint a qualified physician, who may attend and be present at any such examination of an injured employee and give testimony at such hearing or investigation.

Appeals. Sec. 13. Any order given and made in any investigation or hearing by a court or judge pursuant to the provisions of this act shall be reviewable by the State supreme court on proceedings in error in the manner prescribed by the code of civil procedure: Provided, however, That the petition in error, bill of exceptions and record on appeal must be filed in the supreme court within thirty (30) days from the date of decision or order on motion for new trial by a court or a judge; unless the time be extended by order of court or judge, and thirty (30) days shall be allowed all parties thereafter for filing briefs and said appeal shall be advanced on the calendar and disposed of as promptly as possible. In case an appeal to the supreme court is prosecuted on behalf of the injured workman, the county and prosecuting attorney, or other attorney representing said workman shall order a transcript of the record of the hearing and proceeding to be prepared by the official court reporter of the district wherein said injury occurred and duly certified without cost to said injured workman, and said county and prosecuting attorney or other attorney shall order the papers on file in the office of the district court to be by said clerk prepared, transcripted, certified and forwarded to the clerk of the supreme court without cost to the injured workman, and the proceedings in the supreme court shall be conducted on behalf of the injured workman by the attorney general of the State as a part of his official duties, and by other attorney representing said workman. In case an appeal be prosecuted on behalf of the employer, the record of the proceedings at the original hearing shall be supplied without cost to such employer, but such employer may employ counsel to conduct such appeal on his behalf.

Records. Sec. 14. Every order given and made by a district court or judge awarding payment from the industrial accident fund to an injured employee or his dependent family, shall be entered of record by the clerk of the court where given and true copies thereof shall be immediately made and certified by said clerk and forwarded to the State auditor and State treasurer, respectively, of Wyoming, and shall be by each of said officers entered upon a record to be known as the compensation docket and shall be the authority and direction of the State auditor to issue warrants for compensation awards against the industrial accident fund and for the State treasurer to pay such compensation awards from said fund.

Industrial accident fund. Sec. 15. There is hereby created a fund to be known as the “industrial accident fund,” which shall be held by the State treasurer and by him deposited in such banks as are authorized to receive deposits of funds of the State. All moneys received by the State treasurer under the provisions of this act shall become a part of the industrial accident fund and there is hereby appropriated out of funds in the State treasury not otherwise appropriated the sum of thirty thousand dollars ($30,000), which shall be paid into and become a part of such fund. There is also appropriated annually, until otherwise provided by law, out of any moneys in the State treasury not otherwise appropriated a sum equal to one-fourth of the total sum, which shall be received by the State treasurer from employers under the provisions of section 16 hereof not, however, to exceed the sum of forty thousand dollars ($40,000), per annum, and the moneys so appropriated shall be
credited to and become a part of such fund. All fees or mileage of witnesses, jurors, and physicians adjudged to be paid from the accident fund in any court proceeding under this act, and all contingent expenses incurred in preparing for and in the administration of this act shall be paid from the industrial accident fund on proper vouchers and warrants.

Sec. 16. Every employer engaged in any of the occupations herein defined as extrahazardous is hereby required to pay into the State treasury for the benefit of the industrial accident fund a sum of money equal to two per cent (2%) of the moneys earned by each of his employees engaged in such extrahazardous employment during each calendar month of such employment from and after April 1st, 1915. Such payment shall be made on or before the 15th day of the month following the month for which such payments are computed and paid. The State treasurer shall keep a separate account for each employer so contributing to said fund. Each employer shall continue to make monthly contributions as above provided, unless the sum theretofore contributed by him, after deducting all payments made on account of injuries to his employees and all allowances made on account of such injuries, shall equal full two per cent (2%) of his annual pay roll computed by multiplying his current month's pay roll of workmen engaged in extrahazardous employment by twelve, and shall likewise be not less than five thousand ($5,000) dollars. Such employer shall not be compelled to contribute when his contributions in the fund, after making deductions as aforesaid, shall equal two per cent (2%) of his annual pay roll, and shall likewise be not less than five thousand ($5,000) dollars.

Sec. 17. It shall be the duty of each employer to forward to the State treasurer on a blank form provided by said State treasurer a true copy of his pay roll of persons in his employ engaged in extrahazardous employment during the current calendar month, on the tenth day of the next succeeding calendar month, sworn to either by himself or the person having knowledge of said pay roll, and any statement contained in such verified copy, which can be shown to have been made falsely and with a willful intention to evade the provisions of this act shall constitute a misdemeanor punishable by a fine of not more than five hundred ($500) dollars.

Sec. 18. It shall be the duty of the county assessors in each of the counties of the State to make a list of all employers within their respective counties who are engaged in extrahazardous industries, as defined by this act, and to forward such list of extrahazardous employments and industries to the State treasurer within thirty (30) days after the passage and approval of this act. It shall be the duty of county assessors of each of the counties of the State to make monthly reports to the State treasurer showing what, if any, extrahazardous industries have suspended business permanently, and what, if any, new extrahazardous industries have been established and commenced in their respective counties during the preceding month, and it shall be the duty of the State treasurer to immediately proceed in the collection of assessments from said extrahazardous industries, as is provided in section 16 of this act, and in case any employer engaged in an extrahazardous business or industry, as defined by this act, shall fail or refuse to pay the assessment upon his current monthly pay roll, as is required by this act, then it shall be the duty of the attorney general of the State to immediately bring suit in the name of the State for the benefit of the industrial accident fund against such employer for the collection of such assessment, and if a judgment for the recovery of said assessment be given in favor of the State for the use and benefit of the industrial accident fund, said judgment shall be for double the amount of the pay-roll assessment provided by section 16 hereof, together with costs.

Sec. 19. Each employee who shall be injured in any of the extrahazardous employments, as herein defined, or the dependent 

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family of any such injured workman, who may die as a result of such injuries, except in case of injuries due solely to the culpable negligence of such injured employee, shall receive out of the industrial accident fund compensation in accordance with the following schedule, and such payment shall be in lieu of and take the place of any and all rights of action against any employer contributing, as required by this act, to the industrial accident fund in favor of any person or persons by reason of any such injuries or death:

(a) "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 any injury the workman shall receive a lump sum, as hereinafter specified:

Partial dis-
(a) "Permanent partial disability" means the loss of either

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<td>For the loss of a thumb</td>
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<td>For the loss of a first finger</td>
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<td>For the loss of a second finger</td>
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<td>For the loss of a third finger</td>
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<td>For the loss of a fourth finger</td>
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<td>For the loss of hand</td>
<td>800</td>
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<tr>
<td>For the loss of an arm at or below elbow</td>
<td>900</td>
</tr>
<tr>
<td>For the loss of an arm above elbow</td>
<td>1,000</td>
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For ankylosis (total stiffness of) or contractures (due to scars or injuries) which makes the fingers more than useless, the same amounts apply to such finger or fingers (not thumb) as given above.

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 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 shall the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand.

Total dis-
(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. Where there has been a previous disability, as the loss of one eye, one hand, one foot, or any other previous permanent disability, the percentage of disability for a subsequent injury shall be determined by deducting therefrom the percentage of the previous disability, as it existed at the time of the subsequent injury. When permanent total disability results from the injury the workman shall receive:
(1) If unmarried at the time of injury a lump sum of $1,000.

(2) If the workman had a wife or invalid husband, but no child under the age of sixteen (16) years, a lump sum of $1,200.

(3) If the workman had a wife or husband and a child or children under the age of sixteen (16) years of age, or being a widow or widower, for any such child or children the lump sum provided in the preceding paragraph shall be increased by adding thereto a sum equal to sixty ($60) dollars per year for each child for each year until each child shall be of the age of sixteen (16) years, but the total amount of such increased sum allowed for children under sixteen (16) years of age shall not exceed in the aggregate a sum equal to one and one-half the sum allowed to the widow or widower in any such case.

(c) "Temporary total disability" means an injury which temporarily incapacitates the injured person from performing any work at any gainful occupation for the time, but from which injury such person may recover by medical or surgical treatment and be able to resume work. In such cases, if the workman be unmarried at the time of the injury, he shall receive the sum of fifteen ($15) dollars per month so long as the total disability shall continue. If he have a wife with whom he is living at the time of the injury, he shall receive twenty ($20) dollars per month, and if he have children under sixteen (16) years of age, he shall receive five ($5) dollars per month for each child under sixteen (16) years of age, but the total monthly payment shall not exceed thirty-five ($35) dollars per month. No compensation shall be allowed for the first ten days of disability, but if the incapacity extends beyond the period of ten days, compensation shall begin on the eleventh day after such injury. As soon as recovery is so complete that the earning power of the workman at any kind of work is restored, the payments shall cease; but in no case shall the total payments made in such cases exceed in the aggregate the lump-sum amount herein specified to be paid an injured workman for injuries causing permanent total disability.

(d) Where death results from an injury, the expense of burial shall be paid not to exceed fifty ($50) dollars in any case, unless other arrangements exist between employer and employee under agreement.

(1) But if the workman leaves a widow or invalid widower, such surviving spouse shall receive a lump-sum payment of $1,000, to which shall be added a lump sum aggregating the present worth of sixty ($60) dollars per year for each surviving child under sixteen (16) years of age until the time when each of said surviving children shall become sixteen (16) years of age: Provided, That the aggregate sum so added on account of children under sixteen (16) years of age shall in no case exceed an amount equal to the lump sum provided to be paid the surviving spouse; And provided further, That if it be shown that the surviving spouse willfully deserted deceased without fault upon the part of the deceased, such surviving spouse shall not be regarded as a dependent in any degree, but in such cases the right of children under sixteen (16) years of age to compensation shall not be defeated, but the aggregate sum allowed them shall not exceed in any case the amount which would have been payable to the surviving spouse if there had been no desertion of the deceased. In all cases where an order of compensation is made on account of children under sixteen (16) years of age or to persons incompetent, said fund shall be disbursed under a proper guardianship to be created by the court or judge making such an order.

(2) If the injured workman die during a period of temporary total disability and after receiving compensation therefor as herein provided, and his death be shown to have resulted from such injuries, the total amount of payments received by him during such disability and prior to his death will be deducted from the lump-sum amount herein provided to be paid to the surviving widow and children under sixteen (16) years of age in case of death resulting from injuries.
(3) If the workman leaves no widow, widower, or child under the age of sixteen (16) years, but leaves a parent or parents surviving, who were actually dependent upon him for support, such surviving parent or parents shall receive a lump sum which shall be computed at the rate of fifty per cent (50%) of the average monthly support actually received by such parent or parents from the workman during the twelve months next preceding the occurrence of the injury calculated as near as may be over the probable period such support would have continued, but in no case exceeding the sum of five hundred ($500) dollars.

Insanitary, etc., practices.

Sec. 20. If any injured employee shall persist in unsanitary or injurious practices, which tends to imperil or retard his recovery, or if he shall refuse to submit to such medical or surgical treatment, as is reasonably essential to promote his recovery, he shall forfeit all right to compensation under this act; and where an injured employee is under care and treatment of a physician he shall not be permitted to personally receive or use any compensation payments allowed him under this act, except upon the order of such physician, but such payments shall be withheld and delivered to such injured workman upon his recovery or discharge by such physician.

Exemptions.

Sec. 21. No money paid or payable under this act out of the industrial accident fund shall, prior to issuance and delivery of the warrant therefor, be capable of being assigned, charged, or ever be taken in execution or attached or garnished, or shall the same pass to any other person by operation of law, any such assignment or charge shall be void.

Minors.

Sec. 22. 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 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 same shall be within the probate jurisdiction of the courts, the same as any other properties of minors.

Public work.

Sec. 23. 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 industrial 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 subject to the provisions of this 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 industrial accident fund and the contractor, in turn, shall be entitled to collect from the subcontractor his proportionate amount of 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 industrial accident fund for the proper percentage of the total pay roll of the work and for the amounts due it, and the owner of the property affected by the contract shall be surety for such payments. Whenever and so long as the State law, city charter, or municipal ordinance provision is made for municipal employees injured in the course of employment, such employee 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.

Safety devices.

Sec. 24. 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 extra-hazardous work or for a penalty or punishment for failure to install or maintain any such protective device, means, or method.
Sec. 25. It shall be unlawful for any person or any number of persons acting together or separately or in any way, including attorneys, agents, interpreters, and all other persons, to receive or agree to receive, either directly or indirectly, from any beneficiary or beneficiaries under this act for services rendered or to be rendered, either jointly or separately, in relating to procuring any benefit or benefits under this act, any sum or sums aggregating more than fifty dollars or more than five per centum of the whole amount received or to be received by such beneficiary or beneficiaries on account of injuries to any employee. Every person violating or concerned in the violation of the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than fifty dollars nor more than five hundred dollars, to which may be added imprisonment in the county jail for a term not exceeding ninety days.

Sec. 26. Any physician having attended an employee in a professional capacity may be required to testify before any court or judge when so directed in cases coming within the provisions of this act, and the law of privileged communication between physician and patient as fixed by statute shall not apply in such cases.

Sec. 27. Any employee or workman who shall make or cause to be made on his behalf any misrepresentation or false statement for the purpose of receiving compensation under this act to which he is not lawfully entitled shall be guilty of a misdemeanor, and shall on conviction be fined not more than three hundred ($300) dollars or imprisoned for not more than ninety (90) days.

Sec. 28. It shall be the duty of the State treasurer to secure and compile statistical information concerning accidents occurring in the extra-hazardous employment defined by this act, showing the number of accidents or fatalities occurring in each of said employments, the amount paid in by each employer coming within the provisions of this act; the amount paid out on account of injuries or death resulting from injuries in such employments and any other information relating to the operation or administration of this law that may be of interest and to make a full report thereof, together with such recommendations as he may deem proper for changes or amendments herein, and to publish a full report thereof to the legislature on or before each succeeding session following the passage and approval of this act.

Sec. 29. The State treasurer may direct the State examiner to examine the books, accounts, or pay rolls of any employer at any time for the purpose of securing any information desired in the administration of this act, and it shall be the duty of the State examiner to perform such service when called upon by the State treasurer.

Sec. 30. Any workman awarded compensation for temporary total disability under this act, as defined by clause (c) of section 19 hereof, shall, if thereafter requested by his employer, submit himself for medical examination by a physician licensed to practice medicine in this State at a place designated by the employer and which shall be reasonably convenient for the workman, and said workman may have a licensed physician present of his own selection. The purpose of such examination shall be to determine whether the workman has recovered so that his earning power at any kind of work is restored. If it be agreed that the workman has recovered so that his earning power at any kind of work is restored, the fact shall be reported by the employer and said physician to the judge of the district court who made the award in the first instance, or if there be a dispute as to the recovery of the workman and his restoration to earning power, it shall be likewise reported to said judge by filing a statement in either case in the office of the clerk of the district court of the county where the award was made, and the matter shall be disposed of in such manner as said judge may deem proper under the facts. If said judge finds that said workman has recovered and has been restored to his earning power and that compensation should be dis-
continued, his decision and judgment in the premises shall be certified to the State auditor and State treasurer and shall be authority and direction to said officers to discontinue compensation payments. If the workman in such case refuses to submit to such examination or obstructs the same, his right 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 or refusal.

**Dependents.** Sec. 31. All employees or workmen coming within the provisions of this act shall be required upon entering service in any of the extra-hazardous employments herein defined to make and sign a written statement setting forth the names of the persons dependent upon them for support or constituting members of their dependent families, in each case giving the names and ages of their children under the age of sixteen (16) years.

**Payments to fund.** Sec. 32. All payments made into the accident fund by any and every employer under the provisions of this act shall be taken as paid and received in consideration of the indemnity to such employer by reason of his contributing to the industrial accident fund and in consideration of the payments made by the State to such fund, and no part of any moneys so paid in by any employer shall ever be refunded to him either during the time when he continues in business as such employer, or after he ceases such business: Provided, however, If this act shall be hereafter repealed or held invalid, all moneys which are in the industrial fund at the time of the repeal or final holding of invalidity 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.

**Prior causes.** Sec. 33. This act shall not affect any contract entered into and existing before its passage or any action pending or cause of action existing prior to April 1st, 1915.

**Act in effect.** Sec. 34. This act shall take effect and be in force from and after the 1st day of April, 1915.

Approved February 27, 1915.
UNITED STATES.

[The only act of Congress self-entitled a compensation act is that of May 30, 1908, reproduced with amendments in Bulletin 126, superseded in so far as concerns the Canal Zone by special act and order. (See under Canal Zone, p. 68.) The following laws are, however, in a broad sense, compensation acts, and are here presented in order that, together with Bulletin No. 126, there may be a complete list of the legislation of the United States on the subject.]

COMPiled STATUTES OF 1901.

Compensation for injuries of employees in the Life-Saving Service.

(page 2919. Act of May 4, 1882.)

-section 7. If any keeper or member of a crew of a life-saving or lifeboat station shall be so disabled by reason of any wound or injury received or disease contracted in the Life-Saving Service in the line of duty as to unfit him for the performance of duty, such disability to be determined in such manner as shall be prescribed in the regulations of the service, he shall be continued upon the rolls of the service and entitled to receive his full pay during the continuance of such disability, not to exceed the period of one year, unless the general superintendent shall recommend, upon a statement of facts, the extension of the period through a portion or the whole of another year, and said recommendation receive the approval of the Secretary of the Treasury as just and reasonable; but in no case shall said disabled keeper or member of a crew be continued upon the rolls or receive pay for a longer period than two years.

acts of 1911-12.

chapter 389.—Compensation for injuries to railway mail and sea-post clerks.

* * * * *

For acting [railway postal] clerks in place of clerks or substitutes injured while on duty, who shall be granted leave of absence with full pay during the period of disability, but not exceeding one year, then at the rate of fifty per centum of the clerk's annual salary for the period of disability exceeding one year, but not exceeding twelve months additional, and to enable the Postmaster General to pay the sum of two thousand dollars, which shall be exempt from payment of debts of the deceased, to the legal representatives of any railway postal clerk, substitute railway postal clerk, or post-office inspector, who shall be killed while on duty or who, being injured while on duty, shall die within one year thereafter as the result of such injury, one hundred and thirty thousand dollars [is appropriated].

* * * *
Acting [sea-post] clerks may be employed in place of clerks or substitutes injured while on duty who shall be granted leave of absence with full pay during the period of disability, but not exceeding one year, then at the rate of fifty per centum of the clerk's annual salary for the period of disability exceeding one year but not exceeding twelve months additional, and that the Postmaster General may pay the sum of two thousand dollars, which shall be exempt from payment of debts of the deceased, to the legal representative of any sea-post clerk or substitute sea-post clerk who shall be killed while on duty, or who, being injured while on duty, shall die within one year thereafter as the result of such injury.

**补偿法案1913-14。**

(Public No. 65.)

**补偿法案**

Compensation for injuries to certain employees in the Postal Service.

Hereafter the Postmaster General shall have authority to employ acting employees in place of all employees or substitutes hereinafter mentioned who are injured while on duty, who shall be granted leave of absence with full pay during the period of disability, but not exceeding one year, then at the rate of fifty per centum of the employee's salary for the period exceeding one year, but not exceeding twelve months additional, and the Postmaster General is authorized to pay the sum of $2,000, which shall be exempt from payment of debts of the deceased, to the legal representatives, for the benefit of wife, children, or dependent relatives of any railway postal clerk, substitute railway postal clerk, supervisory official of the Railway Mail Service, post-office inspector, letter carrier in the City Delivery Service, rural letter carrier, post-office clerk, or special delivery messenger who shall be killed while on duty, or who, being injured while on duty, shall die within one year thereafter as the result of such injury:

Provided, That no compensation shall be paid any such employee for any injury occasioned by his own negligence.

**补偿法案**

Compensation for Accidents in the Construction of Railroads in Alaska.

[The following order drawn up by the Secretary of the Interior and approved by the President is in the main an extension of the provisions of the act of May 30, 1908.]

Pursuant to the Executive order of the President, dated April 10, 1915, by which I am instructed to prepare and adopt a system of compensation for accidents which occur on the work of constructing Alaskan railways, I adopt the following system to go into effect at once and to continue in force until further orders: Employees of the Alaskan Engineering Commission shall have the right to receive compensation for injuries sustained in the course of their employment while actually in the Territory of Alaska at the rates and in the amounts and on the conditions provided in 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 30, 1908 (35 Stat., 556). Claims for compensation on account of injury resulting from an accident thus occurring hereafter shall be settled by the chairman of the Alaskan Engineering Commission, who shall as to all such claims, and under such regulations as he may prescribe, perform the duties which under said act are placed
upon the Secretary of Commerce and Labor: Provided, That when an injury results in death, claims for compensation on account thereof shall be filed with him within one year after such death.

And I further direct that the Alaskan Engineering Commission shall make no charge for the service of its medical or surgical officers or for medical or surgical aid furnished to any employee thus injured in Alaska, or to any person who while under contract with the Alaskan Engineering Commission is injured in Alaska: Provided, That at the time of such injury he be actually engaged in the work of construction of the Alaskan railways under contract with and under the supervision of the Alaskan Engineering Commission (although such person may not be an employee of the commission) and that his injury occurs in the course of and arises out of such work.

And I further direct that in case such injury of such person not an employee be such that the chairman of the commission shall deem it beneficial that he shall be conveyed to any other point in Alaska or to the city of Seattle for medical or surgical treatment not available at the place where such injury occurs, the Alaskan Engineering Commission shall pay the expense of such transportation for such purpose, when approved by the chairman of the commission.

Dated July 15, 1915.

Approved July 19, 1915.
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Accident boards. *(See Commissions, administrative.)*

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