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WORKMEN'S INSURANCE AND COMPENSATION SERIES

**WORKMEN'S COMPENSATION LEGISLATION
OF THE UNITED STATES AND CANADA
1920 TO 1922**

BY
LINDLEY D. CLARK



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CONTENTS.

	Page
Workmen's compensation laws of the United States and Canada.	
Introduction.....	1
Workmen's compensation laws of the United States—Review.....	1-18
Introduction.....	1, 2
Progress of legislation.....	2, 3
Analysis of principal features of the laws.....	4-13
Connecticut.....	4
Delaware.....	4
Georgia.....	4
Idaho.....	5
Illinois.....	5
Kentucky.....	5
Louisiana.....	5
Maine.....	6
Maryland.....	6
Massachusetts.....	7
Michigan.....	7
Minnesota.....	8
Montana.....	9
Nebraska.....	9
Nevada.....	9
New Jersey.....	9
New Mexico.....	9
New York.....	10
North Dakota.....	11
Ohio.....	11
Oregon.....	11
Pennsylvania.....	11
Porto Rico.....	11
Rhode Island.....	11
South Dakota.....	12
Texas.....	12
Utah.....	12
Vermont.....	12
Virginia.....	12
Washington.....	13
Wisconsin.....	13
Wyoming.....	13
Constitutionality and construction of statutes.....	14-18
Constitutionality.....	14-16
Aliens.....	15
Rehabilitation, etc.....	15, 16
Disease as compensable injury.....	16
Injury arising out of and in course of employment.....	16, 17
Employment status.....	17
Coverage.....	17, 18
Workmen's compensation laws of Canada—Review.....	19-22
Progress of legislation.....	19
Analysis of principal features of the laws.....	20-22
Alberta.....	20
British Columbia.....	20
Manitoba.....	21
New Brunswick.....	21
Nova Scotia.....	22
Ontario.....	22
Quebec.....	22

	Page.
Appendix.—Text of workmen's compensation laws.....	23-196

PART I.—UNITED STATES.

California.....	23
Colorado.....	23
Connecticut.....	24, 25
Delaware.....	26-28
Georgia.....	29-48
Idaho.....	49-52
Illinois.....	53-55
Kentucky.....	56-57
Louisiana.....	58-60
Maine.....	61, 62
Maryland.....	63-69
Massachusetts.....	70, 71
Michigan.....	72-75
Minnesota.....	76-104
Missouri.....	105
Montana.....	105
Nebraska.....	106
Nevada.....	107
New Hampshire.....	107
New Jersey.....	108-112
New Mexico.....	112
New York.....	113-141
North Dakota.....	142-144
Ohio.....	145-153
Oregon.....	154-159
Pennsylvania.....	160
Porto Rico.....	161-167
Rhode Island.....	168-170
South Dakota.....	171, 172
Texas.....	173
Utah.....	174-178
Vermont.....	179, 180
Virginia.....	181-183
Washington.....	184-188
Wisconsin.....	189-192
Wyoming.....	193-195
United States.....	196

PART II.—CANADA.

Alberta.....	197-201
British Columbia.....	202
Manitoba.....	203-223
New Brunswick.....	224, 225
Nova Scotia.....	226-229
Ontario.....	230, 231
Quebec.....	232
Dominion of Canada.....	233

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NO. 332

WASHINGTON

JUNE, 1923

WORKMEN'S COMPENSATION LEGISLATION OF THE UNITED STATES AND CANADA, 1920-1922.

INTRODUCTION.

The present bulletin is issued strictly as a supplement to an earlier bulletin of this series (No. 272) carrying a similar title and issued in 1921, covering the legislation in force at the end of the calendar year 1919. Numerous changes have been made, some legislatures never meeting without passing one or more amendatory acts affecting the compensation law of the State. One State of the Union (Georgia) is added to the list as it appeared in Bulletin 272, while Missouri must be stricken from the list on account of the rejection of the act by referendum.

While the present bulletin concerns itself only with the United States and Canada, note may be made of the increasing adoption of the principle of compensation in Latin America as well as its continued growth and development in the countries of Europe.

On account of the great length of many of the compensation laws and the slight change effected by many of the amendments, it has been thought sufficient in this supplemental bulletin to indicate such minor changes of phraseology and substance without a reproduction of the entire text of the lengthy section or sections amended. This facilitates a comparison between the prior and the amended law, the effect of the amendment being immediately evident. Where changes have been more extensive it has been, of course, necessary to reproduce the amended portion or portions.

WORKMEN'S COMPENSATION LAWS OF THE UNITED STATES.

INTRODUCTION.

Reference to Bulletin 272 (p. 9) will disclose the list of bulletins devoted to the subject of workmen's compensation issued by the Bureau of Labor Statistics. An analytic study appearing in Bulletin 275, there noted, is brought up to date in the Monthly Labor Review of January, 1923, carrying the same legislative output as is noted in the present bulletin.

The disappearance of the investigative commission adverted to in an earlier bulletin is practically complete, the only exception being the appointment of an unfruitful legislative committee by the North Carolina Legislature at its extra session of 1920.

PROGRESS OF LEGISLATION.

While the legislation of the three years covered by this supplement is in the main amendatory certain acts stand outside this classification, while some of the amendments are so extensive as to amount to new legislation or at least to an entire revision of the earlier laws. The Missouri act of 1919 was rejected by referendum in 1920, a like fate befalling another attempt of the legislature of 1921, a referendum secured against it resulting in its rejection in November, 1922.

Georgia is the only State to join the list of those having compensation laws, its act of 1920 having become effective March 1, 1921.

The Arizona constitution preserves to injured workers the option of a suit for damages, a condition that is recognized by the act of 1912, under which a choice of remedies may be made after the receipt of the injury. The legislature of 1921 undertook to enact a law of the prevalent type, making prior election binding, but this was held to be in contravention of express provisions of the constitution, and therefore void (*Industrial Commission v. Crisman* (1921), 199 Pac. 390). This leaves the prior statute in force.

The laws of Minnesota and New York have been so completely revised as to require their complete reproduction; while those of Maryland, New Jersey, Ohio, and Porto Rico were extensively amended, those of Virginia, Washington, and Wisconsin being subject also to important changes.

Other laws were changed in varying degrees, the main trend being an enlargement of the benefits allowed, though important administrative and procedural changes have also been made.

Of the States without a compensation law (Arkansas, Florida, Mississippi, Missouri, North Carolina, and South Carolina), the efforts of Missouri to secure a law have been noted above as well as in Bulletin No. 203 (pp. 22, 23, 36, 37); it is reported that efforts are being continued in this the most important industrial State without a law. The North Carolina Legislature at its extra session of 1920 provided by resolution for a legislative committee to investigate the subject of compensation legislation and report to the session of 1921. Various efforts have also been made in the other States named but without result. Congress legislates for the District of Columbia and has thus far failed to provide its private employees with the protection afforded the constituents of a vast majority of the Members of Congress, though various bills have been introduced from time to time.¹

In this connection may be noted an act of Congress amending the Judicial Code in regard to certain classes of maritime workers (act of June 10, 1922) proposing to give State compensation boards jurisdiction over such persons of this class as have a fixed domicile and are not seamen in the stricter sense of that term. An earlier attempt in this field is noted in Bulletin No. 272, pages 161-163.

¹ A bill for an act passed the House January 22, 1923, but failed to become a law.

Fundamental changes effected by amendments are those requiring employers in Louisiana and Minnesota to take out insurance covering their compensation liabilities. Minnesota has also changed from court administration to administration by an industrial commission, while in Rhode Island the commissioner of labor is given a large supervisory power over agreements between employers and employees in lieu of a reference to a justice of the superior court.

The changes that affect such substantive provisions as are noted in the "Analysis of the principal features of the laws," appearing at pages 21 to 68 of Bulletin No. 272, are indicated in the following:

ANALYSIS OF THE PRINCIPAL FEATURES OF THE LAWS.

CONNECTICUT.

Under "*Compensation for death*," item (d), strike out the last line, referring to aliens.

Under "*Compensation for disability*," in item (b), substitute \$18 for \$14.

DELAWARE.

Under "*Compensation for disability*," item (a) should read:

- (a) Medical and surgical aid as may be reasonably required during the first 30 days, unless refused by the employee, not to exceed \$100, unless the board directs an additional amount.

GEORGIA.

Date of enactment.—August 17, 1920; in effect March 1, 1921; amended August 16, 1922, August 19, 1922.

Injuries compensated.—Personal injuries by accident arising out of and in course of the employment, causing death or disability for more than 14 days, not due to the injured employee's willful misconduct, intoxication, violation of safety provisions, or the willful act of a third person not due to the employment.

Industries covered.—All where 10 or more persons are employed, excepting agriculture and domestic service, common carriers using steam power, and institutions operated as public charities, all in the absence of contrary election. Small establishments may make election to come under the act.

Persons compensated.—Private employment: All employees in establishments covered, except casual employees. Public employment: Employees of municipal corporations and political subdivisions of the State.

Burden of payment.—All on employer.

Compensation for death:

- (a) Burial expenses not to exceed \$100.
(b) To persons wholly dependent, 85 per cent of the benefits provided for total disability, for 300 weeks.
(c) To persons partly dependent, a payment proportionate to the decedent's contribution to their support.

Payments continue for not over 300 weeks from the date of injury, \$5 weekly minimum and \$10 maximum, the total not to exceed \$4,000. They cease on the remarriage of a widow or widower, or on a child reaching the age of 18 unless incapacitated for earning.

Compensation for disability:

- (a) Necessary medical attention for not more than 30 days, the cost not to exceed \$100.
(b) For total disability, one-half the weekly wages, not less than \$4 nor more than \$15, for not more than 350 weeks, the total not to exceed \$5,000.
(c) For partial disability, 50 per cent of the wage loss, not more than \$12 per week, for not more than 300 weeks; fixed periods for specified injuries, in lieu of all other compensation.

Any weekly payment may be commuted to a lump sum after 26 weeks if the parties agree and the commission approves.

Revision of benefits.—The commission may at any time review an award or agreement, either on its own motion or on application of either party.

Insurance.—Insurance in a licensed stock or mutual company, or a reciprocal association, is required unless satisfactory proof is given to act as a self-insurer.

Security of payments.—Evidence of insurance must be filed, policies must inure directly to beneficiaries, payments have same preference as wage debts, and are exempt from assignment, attachment, etc.

Settlement of disputes.—Disputes are settled by an industrial commission, subject to appeal to the courts.

IDAHO.

Under "*Industries covered*," add range laborers to the excepted groups.

Under "*Compensation for death*," item (a), substitute \$200 for \$100.

Under "*Compensation for disability*," items (b) and (c) should read:

- (b) For total disability, 55 per cent of the injured person's wages, not less than \$6 nor more than \$12 for 400 weeks, and \$6 per week thereafter; additional allowances for wife and children, total not to exceed \$16 per week.
- (c) For partial disability, 55 per cent of the wage loss for not more than 150 weeks, nor more than the amounts allowed for total disability; schedule for designated permanent partial disabilities, ranging from 3 to 200 weeks, in addition to other payments.

ILLINOIS.

Under "*Injuries compensated*," read "Accidental injuries, including certain occupational diseases, arising out of," etc.

Under "*Compensation for death*," item (a) should read:

- (a) To persons wholly dependent, a sum equal to four years' earnings, not less than \$1,650 (to a widow with one child under 16, \$1,750, and if two or more children, \$1,850), nor more than \$3,750 (to a widow with one child under 16, \$4,000, and if two or more children, \$4,250).

Under "*Compensation for disability*," in item (b), the minimum is changed to \$7.50 and the maximum to \$14.

Item (e) should read:

- (e) The basis of 50 per cent shall be increased 5 per cent for each child under 16 years of age, the maximum to be 65 per cent. The minimum sum of \$7.50 per week is to be increased \$1 for each such child, the total not to exceed \$10.50. The maximum weekly payment of \$14 is to be similarly increased, the total not to exceed \$17.

KENTUCKY.

Under "*Compensation for disability*," add to item (a) "The board may direct \$200."

In item (b) the weekly maximum is now \$15 and the total \$5,000.

In item (c) the weekly maximum is now \$15.

LOUISIANA.

Under "*Industries covered*," add after the word "list," in the second line, the words "including railroads in intrastate commerce,".

Under "*Compensation for death*," item (b) should read:

- (b) To widow or dependent widower alone, 30 per cent of weekly wages, 45 per cent if 1 child, and 60 per cent if 2 or more. If 1 child alone, 30 per cent, 45 per cent for two, and 60 per cent if 3 or more. For 1 dependent parent, 30 per cent; for 2, 60 per cent. If 1 brother or sister, 30 per cent, and 10 per cent additional for each other. The total in no case may exceed 60 per cent of the weekly wages, \$3 minimum payment, \$18 maximum, for not over 300 weeks. Payments to any beneficiary cease on death or remarriage, and to children on reaching the age of 18, unless mentally or physically incapacitated.

Under "*Compensation for disability*," substitute 60 per cent for 55 per cent.

Under "*Insurance*," substitute "Insurance required, or bond in case of self-insurers."

MAINE.

Under "*Injuries compensated*," substitute 7 for 10 as the number of days waiting time.

Under "*Compensation for death*," item (a) should read:

- (a) To persons wholly dependent, 66 $\frac{2}{3}$ per cent of weekly wages for 300 weeks, \$6 minimum, \$16 maximum, not over \$4,000 in all.

Add to this heading after item (c), "Nonresident aliens receive half benefits."

Under "*Compensation for disability*," substitute 66 $\frac{2}{3}$ for 60 per cent throughout; also \$16 for \$15 as the weekly maximum; also \$6,000 for \$4,200 in item (b).

MARYLAND.

Date of enactment.—April 16, 1914; in effect Nov. 1, 1914. Amended 1916, 1920, 1922.

Injuries compensated.—Accidental personal injury arising out of and in course of employment, not due to willful intention or intoxication, and causing disfigurement, disability for more than three days, or death within two years.

Industries covered.—Extra hazardous (enumerated list); others by joint election of employers and employees, including farm and domestic labor.

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 \$125.
 (b) To persons wholly dependent, 66 $\frac{2}{3}$ per cent of the weekly wages, not over \$18 nor less than \$8 per week unless the wages were less, for eight years; not more than \$5,000 nor less than \$1,000.
 (c) To persons partly dependent, 66 $\frac{2}{3}$ per cent of the weekly wages, not over \$18 per week, for such portion of eight years as the commission may fix, the amount not to exceed \$3,000.
 (d) If no dependents, funeral expenses only.
 (e) Widow on remarriage receives one year's benefits if outstanding; payments to children cease on reaching the age of 16 years, unless incapacitated.

Compensation for disability:

- (a) Medical, surgical, etc., expenses, not above \$150 in value.
 (b) For total disability, 66 $\frac{2}{3}$ per cent of weekly wages, \$8 minimum, \$18 maximum, during its continuance, total not to exceed \$5,000. If wages are less than \$8, full wages will be paid.
 (c) For temporary partial disability, 50 per cent of weekly wage loss, \$18 maximum, total not over \$3,500; for specified maimings, 66 $\frac{2}{3}$ per cent of the weekly wages, in addition to other payments, for specific periods, \$8 minimum, \$18 maximum, total not over \$3,750.

Where the injured employee is a learner, with prospect of increase in 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 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.

MASSACHUSETTS.

Under "*Compensation for death*," in item (a), substitute \$150 for \$100.
Item (b) should read:

(h) To a widow alone, \$10 per week; if one child, \$12; if two, \$14; if three or more, \$16. If the widow dies, \$10 to one child, \$12 to two, \$14 to three, and \$16 if more than three. If the widow remarries, payments to her cease, but \$3 weekly is to be paid to each child, not over \$16 in all. The term of these payments may not exceed 300 weeks. To other persons wholly dependent, a weekly payment equal to two-thirds the average weekly wages of the deceased employee, not less than \$4 nor more than \$10, for a period of 500 weeks, the total not to exceed \$4,000.

MICHIGAN.

Under "*Compensation for death*," item (c) should become item (a) and read:

(a) The reasonable expense of the last sickness and burial, not exceeding \$200, in addition to medical, hospital, etc., services.

Former items (a) and (b) become (b) and (c), respectively.

Under "*Compensation for disability*," item (b), substitute \$7,000 for \$6,000.

MINNESOTA.

Date of enactment.—April 24, 1913; revised March 15, 1921; in effect June 1, 1921.

Injuries compensated.—Occupational diseases (list), and accidents arising out of and in course of employment causing disability for more than one week or death, unless intentionally caused, or due to the intoxication of the injured person.

Industries covered.—All except common carriers by steam railroad and farm and domestic service, in the absence of contrary election by employers.

Persons compensated.—Private employment: All employees, in the absence of contrary election, except those whose work is casual and not in the usual course of the employer's business. Public employment: Included, except persons elected or appointed for regular terms.

Burden of payment.—On employer, but employee contributions involving additional benefits may be agreed upon.

Compensation for death:

(a) \$150 funeral expenses.

(b) To a widow alone, 40 per cent of monthly wages of deceased, increasing to 66 $\frac{2}{3}$ per cent if four or more children; to a dependent husband alone, 30 per cent; to a dependent orphan, 45 per cent, with 10 per cent additional for each additional orphan, with a maximum of 66 $\frac{2}{3}$ per cent; if none of the above, 35 per cent to one parent and 45 per cent if both survive; if none of the foregoing, to other relatives wholly dependent, if but one, 30 per cent, or if more than one, 35 per cent, divided equally.

Widows on remarriage receive lump sum equal to one-half unpaid balance, if no children under 18; otherwise sum goes to child or children.

(c) If only partial dependents survive, that proportion of benefits provided for actual dependents which contributions bore to wages.

(d) When no dependents survive, expenses of last sickness and burial. Maximum weekly payment \$18, minimum \$8, unless wages are less, then wages.

Payments continue not over 300 weeks except to widow or child; to child, cease at 18 unless incapacitated; to others, cease on death or marriage; maximum in any case, \$7,500.

Compensation for disability:

(a) Reasonable medical and surgical treatment, not exceeding 90 days or \$100 in value, unless ordered in exceptional cases.

(b) For temporary total disability, 66 $\frac{2}{3}$ per cent of wages for not over 300 weeks.

(c) For permanent total disability, 66 $\frac{2}{3}$ per cent of wages, not over \$10,000.

(d) For temporary partial disability, 66 $\frac{2}{3}$ per cent of wage loss, not over 300 weeks.

(e) For specified permanent partial disabilities, 66 $\frac{2}{3}$ per cent of wages for fixed periods, in addition to other payments, maximum of 400 weeks; for other permanent partial disabilities, not over 300 weeks. Payments for disability may not be more than \$18 nor less than \$8, unless wages were less, then full wages.

Lump sums may be substituted for periodical payments on consent of the industrial commission.

Revision of benefits.—No provision. Beneficiaries dissatisfied with the termination of payments may secure a hearing on the subject of continuance.

Insurance.—Required in some authorized company unless exempted on a showing of financial ability.

Security of payments.—Insured workmen have equitable lien on any policy coming due. Payments are made directly to claimants in case of employer's incapacity. Claims have same preference as unpaid wages.

Settlement of disputes.—By industrial commission, appeal to supreme court on questions of law.

MONTANA.

Under "*Compensation for death*," in item (a), substitute \$125 for \$75.

Under "*Compensation for disability*," in item (a), substitute \$100 for \$50.

NEBRASKA.

Under "*Persons compensated*," first sentence should read: "Private employment. All employees except those whose work is but casual and not in the usual course of the employer's business, and home workers."

Under "*Compensation for death*," in last sentence, substitute 18 years for 16 years.

Under "*Compensation for disability*," item (a) should read:

(a) Medical and hospital services as needed.

In item (d) substitute "in addition to" for "in lieu of."

NEVADA.

Under "*Compensation for disability*," add to item (c) the words "and \$30 additional if the services of a constant attendant are required."

NEW JERSEY.

Under "*Persons compensated*," strike out the words "Nonresident aliens receive no benefits."

Under "*Compensation for disability*," item (a) should read:

(a) Reasonable medical and hospital services not exceeding \$100 in value, which may be extended on application to the bureau.

NEW MEXICO.

Under "*Injuries compensated*," substitute 10 days for 14 days.

Under "*Compensation for disability*," substitute 10 days for 14 days and \$150 for \$50.

NEW YORK.

Date of enactment.—December 16, 1913; in effect July 1, 1914. Revised April 13, 1922; in effect July 1, 1922.

Injuries compensated.—Accidental injuries arising out of and in course of employment, causing disability for more than two weeks, or death, unless caused by the willful intention of the injured employee or by his intoxication while on duty; also disfigurements and specified occupational diseases.

Industries covered.—“Hazardous employments,” extensive list; all other employments in which four or more workmen or operatives are regularly employed, domestic and farm labor excepted. Employments not listed, including employments not for gain, may be brought under the act by voluntary action.

Persons compensated.—Private employment: All employees in industries covered. Public employment: Included. Nonresident beneficiaries limited to wife, children, and dependent parents.

Burden of payment.—On employer.

Compensation for death:

(a) \$100 for funeral expenses.

(b) To a widow or dependent widower alone, 30 per cent of wages, 10 per cent additional for each child under 18; orphans and dependent grandchildren, brothers or sisters under 18 receive 15 per cent each; dependent parents or grandparents, 25 per cent each. Aggregate payments in no case may exceed 66 $\frac{2}{3}$ per cent.

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

No wages in excess of \$125 per month are considered in computing benefits.

Compensation for disability:

(a) Medical and surgical treatment, apparatus, and hospital services as required, costs to be approved by the commission.

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

(c) For partial disability, 66 $\frac{2}{3}$ per cent of wage loss; for specified permanent partial disabilities, 66 $\frac{2}{3}$ per cent of wages for fixed periods, in lieu of other payments; separate provision for disfigurements.

Payments may not be more than \$20 nor less than \$8 per week unless wages are less, then full wages.

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

Insurance.—Required in State fund or approved company, or proof of financial ability to make payments (securities may be required).

Security of payments.—Insurance enforceable directly for benefit of claimants; insolvency of employer no release to insurer. Payments have same preference as unpaid wages, without limit as to amount.

Settlement of disputes.—Settled by State industrial board, limited appeal to courts.

NORTH DAKOTA.

Under "*Persons compensated*," add to first sentence "and executive officers whose salary exceeds \$2,400."

Under "*Compensation for death*," item (a), substitute \$150 for \$100.

OHIO.

Under "*Injuries compensated*," add "also disfigurements and specified occupational diseases."

Under "*Compensation for disability*," in item (d), substitute \$15 for \$12.

OREGON.

Under "*Compensation for death*," in items (b) and (c), strike out the words "the total monthly payments not to exceed \$50."

Under "*Compensation for disability*," item (c) should read:

(c) For temporary total disability, if unmarried, 40 per cent of wages, not less than \$30 nor more than \$55 per month; if married, 48 to 66½ per cent, not less than \$40 nor more than \$97 per month, according to the number of children.

In item (e) substitute \$30 to \$97 for \$25.

PENNSYLVANIA.

Under "*Injuries compensated*," add "disfigurement."

PORTO RICO.

Under "*Injuries compensated*," first line should read: "All personal injuries or disablements by accident or sickness occurring", etc.

Under "*Industries covered*," strike out the words "employing three or more persons" in the first line.

Under "*Compensation for death*," substitute "two" for "three" in the first line.

Under "*Compensation for disability*", item (b), substitute \$12 for \$7.

Item (c) should read:

(c) For permanent total disability from accident, not less than \$2,000 nor more than \$4,000; if from disease, not less than \$1,000 nor more than \$3,000; in each case in proportion to the rate of wages earned at the time of injury.

RHODE ISLAND.

Under "*Injuries compensated*," substitute "one week" for "two weeks" in the third line.

Under "*Persons compensated*," substitute \$3,000 for \$1,800 in the third line.

Under "*Compensation for disability*," item (a) should read:

(a) The necessary medical and hospital services for the first eight weeks, not over \$200.

In item (b) substitute \$16 for \$14.

SOUTH DAKOTA.

Under "*Persons compensated*," add to the first sentence the words "and nonresident aliens."

Under "*Compensation for disability*," in item (b) substitute \$15 for \$12 and \$7.50 for \$6.50.

In item (c), substitute \$15 for \$12.

TEXAS.

Under "*Industries covered*," insert after the word "domestic" in the second line the word "ranch."

UTAH.

Under "*Compensation for death*," add to item (a) the words "more if the commission orders."

Add to item (b), "Term may be extended out of special fund if dependency continues."

In item (c), second sentence, insert the words, "widow remarrying receives one-third the award remaining unpaid," in first line.

Item (d) should read:

(d) When there are no dependents the employer or his insurer must pay, in addition to medical and funeral expenses, 20 per cent of a death benefit into the State treasury for a special fund.

Nonresident aliens (except in Canada) receive half rates.

Under "*Compensation for disability*," item (a) should read:

(a) Such medical, nurse, and hospital services and medicines as the commission may deem proper, not over \$500 in value, unless the commission orders.

Add to items (b) and (c) the words, "unless wages are less, then full wages."

VERMONT.

Under "*Compensation for disability*," in item (b), substitute the words "\$6 minimum, \$15 maximum," for the words "\$3 minimum, \$12.50 maximum." (Next sentence unchanged.)

In item (d), substitute the words, "not more than \$15 nor less than \$6, unless the wages were less than \$3," for the words, "not more than \$12.50 nor less than \$3."

VIRGINIA.

Under "*Injuries compensated*," substitute 10 for 14 in last line.

Under "*Persons compensated*," "Public employment," read: "All employees except elective officials, governor's appointees, and municipal administrative officials appointed for definite terms."

Under "*Compensation for death*," in item (b), substitute \$12 for \$10.

In last line, under item (d), substitute \$4,500 for \$4,000.

Under "*Compensation for disability*," in item (a), substitute 60 days for 30 days.

In item (b), substitute \$12 for \$10, and \$4,500 for \$4,000.

In item (c), substitute \$12 for \$10.

WASHINGTON.

Under "*Compensation for death*," add as final clause:

Payments to alien nonresident beneficiaries, 50 per cent of the above, unless forbidden by treaty.

Under "*Compensation for disability*," in item (a), insert after the word "temporary" the words "also after return to work if necessary to more complete recovery."

WISCONSIN.

Under "*Injuries compensated*," add "also disfigurements."

Under "*Compensation for disability*," add to item (b) the words "amounts reduced for age."

Item (c) should read:

(c) For partial disability, proportionate amount of award for total disability.

Item (e) should read:

(e) For serious permanent disfigurement, a lump sum may be allowed not exceeding average annual earnings for one year.

Add as final clause:

Basic wage for all awards, \$525 minimum, \$1,300 maximum.

WYOMING.

Under "*Injuries compensated*," substitute 7 for 10.

Under "*Industries covered*," strike out the words "in which three or more workmen are employed."

Under "*Compensation for death*," in item (a), substitute \$100 for \$50.

In item (b), substitute \$120 for \$100, and \$3,600 for \$3,000.

Under "*Compensation for disability*," in item (a), substitute \$200 for \$100. Items (b) and (c) should read:

(b) For permanent total disability, lump sum of \$4,000 if single or with wife or invalid husband, and a sum equal to \$120 per year for each child under 16 until the age of 16 is reached, the total for children not to exceed \$4,000.

(c) For temporary total disability, \$50 per month if single, \$60 if married, and \$7.50 per month for each child under 16, total not to exceed \$90 per month or the aggregate for permanent disability.

CONSTITUTIONALITY AND CONSTRUCTION OF STATUTES.

While the purpose of compensation legislation to secure the adjustment of the questions arising out of industrial injuries without litigation has been successful in a high degree, the number of undisputed awards far exceeding those taken to the courts for determination, the fact remains that a considerable number of decisions is rendered each year on this subject. The bulletins of the Bureau of Labor Statistics in which annually are collected representative decisions of courts affecting labor contain a considerable number of decisions on some phase of the subject of workmen's compensation, something above one-third of the bulk of the bulletin for 1921 being devoted to that subject. There are also several bulky treatises on the subject of compensation law. No attempt is made, therefore, at this time to cover the various points as treated in Bulletin 272, pages 69-256, inclusive. However, some of the more important decisions may be noted.

CONSTITUTIONALITY.

Mention has already been made of the decision holding unconstitutional the Arizona law of 1921 on account of its violation of certain unusual provisions of the constitution of the State. One of these is to the effect that "no law shall be enacted in this State limiting the amount of damages to be recovered for causing the death or injury of any person"; while another provides that "the right of action to recover damages for injuries shall never be abrogated, and the amount recovered shall not be subject to any statutory limitation." In view of these restrictions, the supreme court of the State held that a compensation law establishing fixed awards, as well as the prior election to accept compensation in case of an injury, were both impossible of enactment (*Industrial Commission v. Crisman*, 22 Ariz. 579, 199 Pac. 390). One of the judges in a concurring opinion declared: "I can not refrain from saying that it seems regrettable that owing to its constitutional restrictions Arizona is barred from adopting a just and humane compensation law, such as exists in 43 or 44 States of the Union," suggesting as a remedy an amendment of the constitution, as had been done in California and New York.

The section of the later law repealing the earlier act was, of course, as ineffective as any other portion of the unconstitutional law, so that the act of 1912 continues in force.

Single provisions or supplemental acts have been found invalid for various reasons. Thus the Louisiana compensation law devolved upon the district courts of the parishes the duty of determining the propriety or otherwise of permitting applicants to carry self-insurance. This was held unconstitutional in view of the provision of the State constitution which forbids other than judicial

duties to be entrusted to the judges (*In re Southern Cotton Oil Co.*, 148 La. 69, 86 So. 656); but the approval of agreements by the courts was held proper (*Craft v. Gulf Lumber Co.*, 91 So. 736). In Tennessee specific fees were allowed judges passing on contested compensation cases, and this provision was held invalid in view of the limitation in the State constitution as to any change in a judge's salary during the term for which he was elected (*Scott v. Nashville Bridge Co.*, 143 Tenn. 86, 223 S. W. 844).

Aliens.—Some laws discriminate between nonresident alien beneficiaries and other beneficiaries. Such a provision of the Kansas statute was contested, and held invalid in view of the treaty between the United States and Italy, in which country the claimants resided, to the effect that citizens of respective nations were entitled to the full rights of recovery of nationals. The fourteenth amendment was also cited as forbidding discrimination between persons within the jurisdiction of any State (*Vietti v. Fuel Company*, 109 Kans. 179, 197 Pac. 881). The Italian treaty was also assigned by a Pennsylvania court of common pleas as ground for holding an exclusion provision of the State law unconstitutional (*Liberato case*, 1922).

Rehabilitation, etc.—A California law (ch. 183, Acts of 1919) sought to provide a rehabilitation fund for injured workmen by levying payments in cases of fatal injuries where no dependents were found. The supreme court of that State held this to be an effort to impose an unauthorized tax, as compensation charges were to be for benefits payable to one's own employees and their dependents and not for general use. The act was therefore declared unconstitutional (*Yosemite Lumber Co. v. Industrial Accident Commission*, 187 Cal. 774, 204 Pac. 226).

Over against this decision may be set one of the Court of Appeals of New York sustaining as constitutional a law (ch. 622, Acts of 1916) providing for the payment of the sum of \$100 into a special second injury fund where no dependents survived. This was said to be valid legislation, in harmony with other provisions of the compensation act and within the letter and spirit of the constitution (*Industrial Commission v. Newman*, 222 N. Y. 363, 118 N. E. 794). This decision, appearing in Bulletin No. 272, was adverted to in a recent case, in which it was said that payments to second injury funds were due even though a dependent survived, if such dependent failed to press his or her claim as provided by the statute. In the case in hand (*State Treasurer v. West Side Trucking Co.*, 233 N. Y. 202, 135 N. E. 244) it was stated to be the understanding that the deceased employee left surviving a dependent widowed mother. However, no more specific information was ever brought to the court or the commission, and the year within which claims must be filed expired without any submission. Upon that record no suggestion that insurer and employer might wish to waive the statute of limitations and pay compensation could be entertained as requiring the matter to be held open for a contingent award, which would cut off the payment into the State treasury. In regard to the matter of constitutionality, note may be made of the ruling by the Supreme Court of Utah upholding as constitutional a provision of the compensation law of that State similar to that of New York under consideration above (*Salt Lake City v. Industrial Commission*, 199 Pac. 152).

A New York law (ch. 760, Acts of 1920) also provides for a contribution of \$900 for a special rehabilitation fund where an injured workman dies leaving no dependents. This also was said to be constitutional (*Watkinson v. Hotel Pennsylvania*, 187 N. Y. Supp. 278).

DISEASE AS COMPENSABLE INJURY.

The subject of occupational diseases and other diseases classifiable as injuries arising out of and in the course of the employment has received legislative attention. Three States, Minnesota, New York, and Ohio, have made statutory provisions on this subject in the past three years. Diseases not strictly classifiable as occupational in the sense that they are causally connected by their characteristic nature to the occupation entitle the victim or his dependents to compensation according to rulings of the various commissions and boards. Thus a carpenter in Indiana was allowed compensation for disability from what is commonly known as "housemaid's knee," a recognized occupational disease under the British law. The court here held that even if the disability was due to occupational disease the injury was an accident under the State law (*Standard Cabinet Co. v. Landgrave*, 132 N. E. 661). In contrast with this somewhat liberal ruling may be placed a decision by the Supreme Court of Oregon against a claimant suffering from lead poisoning (*Iwanicki v. Industrial Accident Commission*, 205 Pac. 990).

Death from pneumonia was held by the Supreme Court of Utah to be compensable where a workman, apparently a strong and healthy man who had made no complaint of indisposition, was said by a physician to show the "beginning of pneumonia" two hours after an injury in a mine resulting from being jerked a distance of 6 or 8 feet down a stope. He immediately complained of great pain and became progressively worse until his death from lobar pneumonia 5 days later. Admitting that the rapid development was unusual, the fact that suffering and disease were apparently incident to the injury, with a sequel of death, was said to support the award of the commission in favor of the widow (*Milford Copper Co. v. Industrial Commission*, 210 Pac. 993). The Supreme Court of Illinois took a similar view where a healthy man was crushed between a car and a prop in a mine, sustaining a fracture of ribs to back and chest, dying shortly thereafter from pneumonia (*Lumaghi Coal Co. v. Industrial Commission*, 137 N. E. 439).

INJURY ARISING OUT OF AND IN COURSE OF EMPLOYMENT.

The same (Illinois) court affirmed an award where an epileptic fell into an ash pit and was fatally burned, the court saying that he died from the injury and not from epilepsy (*Rockford Hotel Co. v. Industrial Commission*, 132 N. E. 759).

Whether the injury arose out of the employment was the question involved in a rather unusual case before the Supreme Court of Maine. An operation was provided for a case of ventral hernia recognized as suffered in the course of employment. The injured man already had an inguinal hernia which was not affected at the time, but when the surgeon employed by the employer operated for ventral hernia the injured man requested that at the same time he perform the

proper separate operation for the inguinal hernia at his expense. Two days later the man died from "postoperative surgical shock." It could not be determined which operation was the direct cause of death, or whether the operation for ventral hernia could have been charged therewith. An award had been made, which the court reversed, on the ground that it was a mere matter of conjecture as to the causal connection (*Dulac v. Proctor & Bowie*, 114 Atl. 293). An occupational injury was held to exist in another case of an unusual nature in which an employee was induced to accept inoculation during an epidemic of influenza, on the invitation and recommendation of his employer, and at the hands of the company physician. The employee fainted on his return to his desk after the inoculation and fell, striking his head on the floor, and receiving fatal injuries. The case was carried to the supreme court of the State and again to the court of errors and appeals, the award being upheld throughout (*Freedman v. Spicer Mfg. Corp.*, 116 Atl. 427).

EMPLOYMENT STATUS.

The question of relationship of employer and employee was involved in a New York case (*Hines v. Henry I. Stetler (Inc.)*, 188 N. Y. Supp. 73), in which it was found that longshoremen engaged in loading trucks at a pier were in the employment of a labor organization which claimed control of the labor supply, none but members of the union being permitted to work. The owner of the trucks was said to have no contractual relation with the worker, exercising no control over him, dealing only with the "boss" appointed by the union.

COVERAGE.

A challenge to constitutionality was made by an Indiana coal company to the compensation law of that State on account of its provision making the law apply compulsorily to coal mines, while it was elective as to other hazardous employments. The constitutionality of this provision was upheld by the Supreme Court on the ground that there is a sufficient distinction between coal mining and other hazardous employments to warrant such a classification by the State legislature (*Lower Vein Coal Company v. Industrial Board*, 255 U. S. 144, 41 Sup. Ct. 252). It was also said that the fact that all employees of coal mine operators, and not only those exposed to the special mine hazards, were included within the terms of the law did not vitiate it. The foregoing attitude of legislature and court stand out in marked contrast with the provision of the Tennessee statute of 1919, which exempts coal mines from the operation of the act except by special positive election, other occupations being presumed to be covered by the law.

The New York law is applicable to hazardous operations, among which are classed those "employing four or more operatives or workmen" in the same locality. An isolated workman was held to be within the provisions of the law, the employer and all his force being brought within the terms of the act regardless of the contact or remoteness of an individual workman with the qualifying group of workmen (*Ward & Gow v. Krinsky*, 42 Sup. Ct. 529).

The same law exempts occupations not for pecuniary gain, unless by joint election or unless the parties come under the act. This provision led to a reversal by the appellate division of an award by the industrial commission in favor of the widow of a cook killed by accident while in the course of his employment by a social club which operated a restaurant for the convenience of its members, but at a financial loss (*Francisco v. Oakland Golf Club*, 185 N. Y. Supp. 97). However, it was held that where an occupation produces profit the application of that profit will not affect the right to compensation. Thus, where a country club had wood cut and sold, applying the proceeds to the maintenance of the club, a woodcutter injured while at work for the club was held entitled to compensation (*Uhl v. Hartwood Club*, 221 N. Y. 588, 116 N. E. 1000). Nothing could more forcibly illustrate the illogical conditions produced by such a provision of law, the economic needs of the widow of the cook being certainly presumptively as urgent as those of the worker who happened to be engaged in a profit-making branch of the social club's activities. To require employees of either eleemosynary or pleasure-seeking organizations to assume hazards for the consequences of which workers in identical employments may have compensation without question can not be regarded as other than absolutely lacking in justification. Another difficulty arising out of the effort to carry out such discriminations is illustrated by a case (*Dillon v. Trustees of St. Patrick's Cathedral*, 189 N. Y. Supp. 594). In this case a grave digger was employed by a religious society which made a profit on its cemetery, but applied this profit to charity, furnishing free graves for those unable to pay for them. The appellate division affirmed an award in Dillon's favor, construing the decision in the Uhl case as warranting such action, since Dillon was not interested in the use made of the pecuniary gain flowing from the sale of burial privileges in connection with which he was employed. However, when the case was taken to the court of appeals this decision was reversed (137 N. E. 311), the court holding that the single operation of a profit-making interment did not give quality to the employment, since revenues from the property of the corporation can be applied only to its maintenance or for some religious, charitable, etc., object, without possibility of division of profits, directly or indirectly. This case was distinguished from the Uhl case, where the proceeds of sales of the timber might have been distributed among the members as dividends or used to diminish assessments.

WORKMEN'S COMPENSATION LAWS OF CANADA.

PROGRESS OF LEGISLATION.

The number of Canadian Provinces having compensation laws is the same as in 1919, though the legislature of Manitoba enacted a new draft of a law in 1920. The law of Saskatchewan giving injured workmen a right to sue for damages for injuries, though called by the legislature enacting it a compensation law, lacks the characteristic features of such a law in that no specific recoveries or benefits are fixed and that an action at law is required to determine the rights of the injured worker or those claiming under him. However, the right of action exists without reference to any question of the negligence of the employer or his representatives, and the defenses of fellow service, contributory negligence, and assumption of risks are barred, so that the law occupies at least a middle ground between compensation and liability statutes. Recovery may not exceed three years' earnings, or \$2,000, whichever is greater, "but shall not exceed in any case the sum of \$2,500"—a provision the construction of which is not clear. Enforcement is devolved on the commissioner of the bureau of labor and industries of the Province.

Amending legislation has had the effect of a closer approximation to uniformity among the laws of the various Provinces, amounts of compensation being generally increased during the past three years. One provision embodied in several of the laws gives to an aunt or other foster mother, in cases where some one comes into a home for the purpose of caring for orphaned children of a workman coming under the act, a benefit allowance equivalent to that of the widow had she survived.

The same mode of presentation is followed as in the case of the laws of the United States, the following pages giving, first, the analyses of principal features as affected by amendments, etc., and then the text or amendments.

ANALYSIS OF THE PRINCIPAL FEATURES OF THE LAWS.

ALBERTA.

Under "*Persons compensated*," strike out from the second sentence the words "Traveling salesmen, clerks."

Under "*Compensation for death*," items (b), (c), and (d) should read:

- (b) To widow or invalid widower, \$35 monthly, \$7.50 additional for each child under 16 years of age, maximum \$65; to orphans, \$12.50 per month each, maximum \$50.
- (c) To other dependents, a sum proportionate to the pecuniary loss, not over \$30 monthly to parents nor over \$65 in all, during the period of reasonably expected assistance.
- (d) Payments to children cease at 16 unless invalid, and to a widow upon remarriage, but she shall receive a lump sum of \$480.

Under "*Compensation for disability*," read:

- (a) Medical aid to be furnished under a scheme approved by the board; special medical and surgical treatment and apparatus at cost of accident fund as board may approve as saving to fund.
- (b) For total disability, 55 per cent of average weekly wages during its continuance, not less than \$10 unless wages were less, then full wages.
- (c) For partial disability, 55 per cent of wage loss during its continuance; if wage loss is less than 10 per cent, commuted lump sum unless thought disadvantageous to workman.

Any award may be commuted in whole or in part to lump-sum payments.

BRITISH COLUMBIA.

Under "*Compensation for death*," items (b) and (c) should read:

- (b) To widow or invalid widower, \$35 monthly, \$7.50 additional for each child under 16 years of age, maximum \$65; to orphans, \$12.50 per month each, maximum \$50.
 - (c) To other dependents, a sum proportionate to the pecuniary loss, not over \$30 monthly to parents, nor over \$65 in all, during the period of reasonably expected assistance. Parents may share with beneficiaries in (b), within the limits of \$65.
- Add to item (d) "not over \$480."

MANITOBA.

Date of enactment.—March 16, 1910; new act, 1916; new act, March 27, 1920, amended, 1921.

Injuries compensated.—Injuries by accident arising out of and in course of employment causing disability for at least 3 days or death; those due solely to the serious and willful misconduct of the workman excepted unless death or serious permanent disability results; includes enumerated occupational diseases.

Industries covered.—Enumerated list, which the board may enlarge or take from. Other establishments may be included by election of the employer and approved by the board. Farm labor and domestic service are excluded.

Persons compensated.—Private employment: Workmen in the industries covered except casual employees for other purposes than the employer's trade or business; nonresidents only if reciprocal rights are given by country of residence. Public employment: Included if from the nature of their work they would be included if working for a private employer.

Burden of payment.—On employer.

Compensation for death:

(a) Burial expenses not exceeding \$150.

(b) To widow or invalid widower, \$30 monthly, and \$7.50 for each child under age of 16; orphans \$15 each. To others in proportion to the pecuniary loss, not over \$20 to each, nor over \$40 in all, during the period of reasonably expected assistance.

Payments to children cease at age of 16 unless invalid, and to a widow on remarriage, when she receives two years' payments in a lump sum.

Compensation for disability:

(a) Medical attendance, care, maintenance and apparatus, as the board may deem necessary.

(b) For total disability, 66⅔ per cent of the average weekly earnings during disability, not less than \$15.

(c) For partial disability, 66⅔ of the wage loss during such disability; disfigurements and slight impairments may be compensated by a lump sum.

Earnings in excess of \$2,000 are not considered as basis for awards.

Any periodic payment may be commuted to a lump sum.

Revision of compensation.—The board may at any time rescind, alter, or amend any decision or order made by it.

Insurance.—All employers covered by the act contribute to a provincial accident fund, by which all payments are made.

Security of payments.—Fund administered by provincial board; assessments of premiums have priority over other debts; if fund is deficient, advances may be made from the consolidated revenue fund of the Province. Benefits are exempt from assignment, attachment, etc.

Settlement of disputes.—Workmen's compensation board has full and final jurisdiction of all questions under the act.

NEW BRUNSWICK.

Under "*Compensation for death*," in item (b), insert in second line "to orphans, \$15 each per month."

In item (d), for first clause, substitute "Payments to boys cease at 16, to girls at 18."

Under "*Compensation for disability*," item (a) should read:

(a) Medical, surgical, and hospital aid, and transportation as may be necessary as the result of the injury.

NOVA SCOTIA.

Under "*Industries covered*," read:

Compulsory as to all industries listed in the act. Voluntary as to excluded industries, including farm labor and domestic service.

Under "*Compensation for death*," read:

(a) Burial expenses, maximum \$75.

(b) To widow or invalid widower, \$30 per month, \$7.50 additional for each child under 16 years; to orphans, \$15 each per month. Maximum \$60.

(c) To other dependents, a sum proportionate to the pecuniary loss, not over \$30 per month to parents, nor over \$45 in all, during the period of reasonably expected assistance.

(d) Payments to children cease at 18 unless invalid, and to a widow on remarriage, when she receives \$20 monthly for 25 months, or an equivalent lump sum or sums.

Aggregate payments may not exceed 55 per cent of workman's wages.

ONTARIO.

Under "*Compensation for death*," in item (a) substitute \$125 for \$75.

Items (b) and (c) should read:

(b) To a widow or invalid widower, \$40 per month, \$10 additional for each child under 16 years; orphans, \$15 per month each.

(c) To other dependents, an amount proportionate to the pecuniary loss, for such time as support might be reasonably expected.

In item (d), second clause, substitute 66 $\frac{2}{3}$ for 55.

Under "*Compensation for disability*," in item (a) insert after the word "aid" the words "including artificial members."

In item (b) substitute 66 $\frac{2}{3}$ for 55 and add at end "not less than \$12.50, unless wages were less, then full wages."

In item (c) substitute 66 $\frac{2}{3}$ for 55.

QUEBEC.

Under "*Persons compensated*," substitute \$1,500 for \$1,200.

Under "*Government employees*" read: Employees of a municipality itself undertaking public works are included if a contractor's employees would have come under the act.

Under "*Compensation for death*," in item (a) substitute \$50 for \$25 and strike out all following words.

In item (b) substitute \$1,500 for \$1,000 and \$3,000 for \$2,500.

Under "*Compensation for disability*," in item (d) substitute \$1,000 for \$800, \$1,500 for \$1,200, and \$3,000 for \$2,500.

APPENDIX—TEXT OF THE WORKMEN'S COMPENSATION LAWS.

PART I.—UNITED STATES.

CALIFORNIA.

ACTS OF 1921.

CHAPTER 155.—*State insurance fund—Transfer of funds.*

SECTION 1. The "State compensation insurance fund," created by an act approved May 26, 1913 (ch. 176, Laws of 1913), having become self-supporting as contemplated by section thirty-seven of said act, and the sum of one hundred thousand dollars appropriated for the use of said fund by an act approved May 26, 1913 (ch. 180, Laws of 1913), not having been expended and being no longer required for the support or use of said fund, and the industrial accident commission consenting to the surrender of the use of said sum of money, said sum of one hundred thousand dollars is hereby transferred from the said "State compensation insurance fund" to the general fund of the State.

Return of advance.

Approved, May 18, 1921.

COLORADO.

ACTS OF 1921.

CHAPTER 251.—*State insurance fund—Administrative costs.*

SECTION 1. From and after the passage of this act the interest earned during any fiscal year, on any and all investments of the State compensation insurance fund, or so much of said interest as shall be necessary, shall be used in paying the salaries of the manager and other employes of said fund and the traveling, contingent, and incidental expenses in administering said fund for such fiscal year in accordance with such appropriation therefor as shall be made by the General Assembly in the general appropriation bill, and said expenses shall be paid by the State treasurer as other expenses of the Industrial Commission of Colorado are paid: *Provided, however,* That no part of said fund shall be used except interest.

Salaries, etc.

Approved, April 7, 1921.

CONNECTICUT.

[The compensation law of this State was amended by chs. 148 and 306, Acts of 1921. The changes are indicated below.]

Section 5341 was amended by ch. 306 by striking out from the third sentence the words "Any disease which was caused by an injury arising out of and in the course of the employment shall be deemed to be a natural consequence of such injury, but," so that the sentence now begins with the words "In any case of aggravation, etc."

Section 5346 is amended by ch. 306 by adding thereto the following:]

"Compensation."

The word "compensation" as used in this section shall be construed to include not only incapacity payments to an injured employee and payments to the dependents of a deceased employee, but also sums paid out for surgical, medical, and hospital services to an injured employee and the one hundred dollars burial fee provided by law.

[Section 5347 is amended by ch. 306, Acts of 1921, by adding to the sixth sentence thereof, which defines "the pecuniary liability of the employer," the words "but the liability of the employer for hospital service shall be the amount it actually costs the hospital to render the service, said amount to be determined by the commissioner."

Section 5350 is amended by ch. 306, Acts of 1921, by striking out the last two sentences, relating to aliens, and substituting therefor the following:]

Nonresident aliens.

When the sole dependents as herein defined shall at the time of the injury be nonresident aliens and the deceased shall have in this State some person or persons who are dependent in fact, then the commissioner having jurisdiction may in his discretion equitably apportion the sums payable as compensation to the dependents.

[Section 5351 is amended by ch. 306, Acts of 1921, by changing the maximum weekly benefit for total disability from \$14 to \$18.]

Section 5352 is amended by ch. 306, Acts of 1921, by making the fourth sentence thereof, down to the colon, read as follows:]

Rate of compensation.

With respect to the following injuries the compensation, in addition to the usual compensation for total incapacity, but in lieu of all other payments for compensation, shall be half of the average weekly earnings of the injured employee, but in no case more than eighteen dollars or less than five dollars weekly.

[The following is also added at the end of the section:]

Proportionate awards.

In case of an injury to any portion of the body, referred to in subsections (a) to (k), inclusive, or to a phalanx or phalanges of the thumb, finger, or toe, the commissioner may in his discretion, in the manner hereinbefore provided, award compensation for the proportionate loss or loss of use of the member of the body affected by such injury.

[Section 5360 is amended by ch. 306, Acts of 1921, by adding to the first sentence thereof the words "Provided, For due cause shown, the commissioner may, by an order made at any time within two years from the date of such injury, extend the time for making such claim for a period not exceeding two years from the date of such injury."

Section 5363 is amended by ch. 306, Acts of 1921, by making the second sentence thereof read as follows:]

Hearings.

Upon such notice, or upon the knowledge that an agreement has not been reached in a case in which a right to compensation may

exist, 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: *Provided*, The commissioner may, on finding an emergency to exist, give such notice as he finds reasonable under the circumstances.

[Section 5380 is amended by ch. 306, Acts of 1921, by extending from 30 days to six months the time within which an employee may exercise his option to bring an action to recover damages.

Section 5387 is amended by ch. 148, Acts of 1921, by changing the words "at cost" in the final clause to read "at such prices as may from time to time be fixed by the comptroller."

Section 5388 is amended as follows:]

SEC. 5388 (as amended by ch. 306, Acts of 1921). Terms in said chapter are defined as follows: "Commissioner" shall mean that compensation commissioner who has jurisdiction in the matter referred to in the context. "Commission" shall mean the five commissioners, or a majority of them, acting as a board. "Dependents" shall mean members of the injured employee's family or next of kin who were wholly or partly dependent upon the earnings of the employee at the time of the injury. "Employee" shall mean any person who has entered into or works under any contract of service or apprenticeship with an employer, whether such contract contemplated the performance of duties within or without the State, and shall also include any salaried officer or paid member of any police department or fire department of any municipal corporation in the State, irrespective of the manner in which he is appointed or employed, which provision shall not be construed as affecting any existing rights as to pensions which such persons or their dependents may now have, or as preventing any existing custom of paying the full salary of any such person during disability due to injury arising in the course of and out of his employment; but said term shall not be construed to include either (a) an outworker, 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, provided, if in any contract of insurance the wages or salary of a member of the employer's family dwelling in his house is included in the pay roll on which the premium is based, then such person shall, in the event of his sustaining an injury arising out of and in the course of his employment, be deemed an employee and compensated accordingly. "Employer" shall mean any person, corporation, firm, partnership, voluntary association, 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 representatives of any such employer. "Outworker" shall mean any person to whom articles or material are given to be treated in any way on premises not under the control or management of the person who gave them out. The word "injury," as the same is used in said chapter, shall be construed to include any disease which is due to causes peculiar to the occupation and which is not of a contagious, communicable, or mental nature. Singular terms may be taken to include the plural and plural the singular, and masculine terms to include males, females, and legal persons, as the natural interpretation of the context may require.

Definitions.

DELAWARE.

[The compensation law of this State was amended by ch. 186, Acts of 1921. The changes are indicated below.

Section 3193h-101 was amended so as to read as follows:]

- Waiting time. SECTION 3193h-101 (as amended by ch. 186, Acts of 1921).
(a) No compensation shall be paid 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 such incapacity: *Provided, however,* That if such incapacity continues for four weeks or longer, such compensation shall be computed from the date of incapacity.
- Medical, etc., aid. (b) During the first thirty days after the injury the employer shall furnish reasonable surgical, medical, and hospital services, medicines, and supplies as and when needed, unless the employee refuse to allow them to be furnished by the employer. The cost of such services, medicines, and supplies shall not exceed one hundred dollars.
If the employer shall, upon application made to him, refuse to furnish reasonable surgical, medical, and hospital services, medicines, and supplies, the employee may procure the same and shall receive from the employer the reasonable cost thereof within the above limitations.
- Extension of term. (c) Upon application made to the industrial accident board by the injured employee or some one on his behalf the board may, in its discretion, require the employer to furnish additional surgical, medical, and hospital services, medicines, and supplies, as and when needed, for such further period as it shall deem right and proper. The charges for such additional surgical, medical, and hospital services, medicines, and supplies shall not exceed the rates regularly charged to other individuals for like services and supplies: *Provided, however,* The industrial accident board shall at all times have jurisdiction to determine, and shall determine, the character of service and supplies to be furnished.
- Disputes as to charges. (d) If any person, firm, or corporation charged with the payment of the above-mentioned surgical, medical, and hospital services, medicines, and supplies, and the person, firm, or corporation to whom the same are due and payable, fail to reach an agreement in regard to said charges, either party may notify the industrial accident board of the facts, and the said board shall thereupon, after notice of the time and place of hearing, sent by registered mail to all parties in interest, hear and determine the matter and notify such parties of its conclusions.
- Refusing aid. (e) 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 increase in his incapacity shown to have resulted from such refusal.
- Schedule. [Section 3193j-103 is amended by ch. 186, Acts of 1921, by striking out the word "exclusively" in the third line of subsection (c), and by adding to the schedule in that subsection the following:]
For the loss of a thumb, fifty per centum of wages during sixty weeks;
For the loss of a first finger, commonly called index finger, fifty per centum of wages during thirty-five weeks;
For the loss of a second finger, fifty per centum of wages during thirty weeks;

For the loss of a third finger, fifty per centum of wages during twenty weeks;

For the loss of a fourth finger, commonly called little finger, fifty per centum of wages during fifteen weeks.

The loss of the first phalange of the thumb or of any finger shall be considered to be equal to the loss of one-half of such thumb or finger, and compensation shall be for one-half of the period, and compensation for the loss of one-half of the first phalange shall be for one-fourth of the period.

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 wages during thirty weeks;

For the loss of one of the toes, other than a great toe, fifty per centum of wages during ten weeks;

The loss of the first phalange of any toe shall be considered to be equal to the loss of one-half of such toe, and compensation shall be for one-half of the period.

The loss of more than one phalange shall be considered as the loss of the entire toe.

For the loss of a fractional part of the vision of an eye the compensation shall be for such percentage of the total number of weeks allowed for the total loss of the use of an eye under this subsection (c) as the loss suffered bears to the total loss of an eye.

In all other cases in this class, or when the usefulness of a member or any physical function is permanently impaired, 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.

Other injuries.

Sec. 3193q-110 (as amended by ch. 186, Acts of 1921). In all hearings before the board it shall make such inquiries and investigations as it shall deem necessary. The hearings of the board shall be held at some reasonable location in the city or county where the injury occurred, and each award of the board shall be in writing and shall be filed among its records, and a copy thereof shall either be served personally on or sent by registered mail to each of the parties in interest within one week after making such award. The Superior Court of the State of Delaware shall, in accordance with the provisions of article 4, section 24 of the constitution of the State of Delaware, and in accordance with such rules as said court is hereby authorized to make, provide for the obtaining of evidence outside of the State of Delaware, to be used in hearings before the industrial accident board: *Provided, however,* That subject to the approval of the industrial accident board, the parties in interest in any particular cause may agree upon different methods of taking such evidence. The subpoenas provided for in this act shall be effective throughout the entire State. Whenever a cause shall be remanded to the industrial accident board for a rehearing, all evidence theretofore taken before the industrial accident board in a previous hearing or hearings shall become part of the evidence in the hearing upon the remand.

Procedure.

Sec. 3193t-139 (as amended by ch. 186, Acts of 1921). The term "dependent" shall include all persons other than the injured employee who are entitled to compensation under the provisions of the elective schedule set forth in this article, and wherever the context requires it shall be held to include the personal representatives, and the widow or widower of the deceased, and guardians of infants or trustees for incompetent persons.

Definitions and construction.

(a) The term "compensation" wherever used in this act and wherever the context requires it shall be held to include surgical, medical, and hospital services, medicines and supplies, and funeral benefits provided for in this act.

(b) The notice required to be served on all parties in interest under the provisions of 3193o, section 108, chapter 90, Revised Code, as amended by chapter 233, volume 29, Laws of Delaware, may be served personally or sent by registered mail.

(c) The provision in 3193p, section 109, chapter 90, Revised Code, as amended by chapter 233, volume 29, Laws of Delaware, that the industrial accident board shall "send to the parties a copy of the award" shall be construed to mean either personal delivery of such copy or the sending thereof by registered mail.

(d) Proceedings for compensation may be instituted by the surviving parent, guardian, or next friend in the case of minors claiming to be entitled to compensation, and all notices thereafter shall be given in the manner provided in this act to said parent, guardian, or next friend.

(e) Compensation agreed upon or awarded to an injured employee who shall have died and which shall not have been paid at the time of his death, shall be paid to his nearest dependent as indicated by 3193k, section 104, chapter 90, Revised Code of the State of Delaware, as amended by chapter 233, volume 29, Laws of Delaware, and chapter 203, volume 30, Laws of Delaware.

(f) In construing the words "earning power of the employee thereafter" as the same appears in subsection (b) of 3193 j, section 103, chapter 90, of the Revised Code of the State of Delaware, as amended by chapter 233, volume 29, Laws of Delaware, the industrial accident board shall take into consideration the value of gratuities, board, lodging, and similar advantages received by the employee in a subsequent employment.

GEORGIA.

ACTS OF 1920.

Compensation of workmen for injuries.

(Page 167.)

SECTION 1. This act shall be known as the Georgia workmen's compensation act.

Title.

SEC. 2 (as amended by act of August 16, 1922). In this act, unless the context otherwise requires:

(a) "Employers" shall include any municipal corporation within the State and any political division thereof, and any individual, firm, association, or corporation engaged in any business operated for gain or profit, except as hereinafter excepted, and the receiver or trustee of the same, and the legal representative of a deceased employer, using the service of another for pay. If the employer is insured, it shall include his insurer so far as applicable.

Employers.

(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 not in the usual course of the trade, business, occupation, or profession of the employer and, except as hereinafter set out. Minors are included even though working in violation of any child labor law or other similar statute: *Provided*, That nothing herein contained shall be construed as repealing or altering any such law or statute. Any reference to any employee who has been injured shall, when the employee is dead, include also his legal representatives, dependents, and other persons to whom compensation may be payable, pursuant to the provisions of this act.

Employees.

(c) The basis for computing the compensation provided for in this act shall be as follows:

Basis of compensation.

1. The compensation of an injured person shall be computed on the basis of the regular wage received by the employee on the date of the accident. The compensation of the injured person who has not been receiving regular wages and has been employed for such a short period of time that it is impracticable to accurately determine his wages, the wages of the employees of the same class, in the same employment, in the same locality, or, if that be impracticable, of neighboring employees of the same kind, shall be used as a basis for determining the wages of such injured employee.

(d) "Injury" and "personal injury" shall mean an injury by accident arising out of and in the course of employment and shall not include a disease in any form except that resulting naturally and unavoidably from the accident. Nor shall "injury" and "personal injury" include injury caused by the willful act of the third person directed against the employee for reasons personal to such employee.

Injury.

When an employee coming under provisions of this act receives an injury for which compensation is payable under this act and which injury was caused under circumstances creating a legal liability in some person other than the employer to pay damages in respect thereto the employee, or beneficiary, may take proceedings both against that person to recover damages and against the employer for compensation, but the amount of compensation to which he is entitled under this act shall be reduced by the amount of damages recovered. If the employee, or beneficiary of the em-

Third parties.

ployee, in such case recovers compensation under this act, the employer by whom the compensation was paid, or the party who was called upon to pay the compensation, shall be entitled to indemnity from the person so liable to pay damages as aforesaid, and shall be subrogated to the rights of the employee to recover therefrom, to the extent of the compensation.

Hernia.

(e) In all claims for compensation for hernia resulting from injury by accident arising out of and in the course of the employee's employment it must be definitely proven to the satisfaction of the industrial commission: 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 accident; fifth, that the hernia did not exist prior to the accident for which compensation is claimed. All hernia, inguinal, femoral, or otherwise, so proven to be the result of an injury by accident arising out of and in course of the employment shall be treated in a surgical manner by radical operation. If death result 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-eight. In non-fatal cases time loss only shall be paid, unless it is shown by special examination, as provided in section twenty-eight, that the injured employee has a permanent partial disability resulting after the operation. If so, compensation shall be paid in accordance with the provisions of section thirty-eight with reference to partial disability. In case the injured employee refuses to undergo the radical operation for the cure of said hernia, no compensation shall 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 the commission considers it unsafe for the employee to undergo said operation, the employee shall be paid as provided in section thirty-one.

Pending suits.

SEC. 3. The provisions of this act shall not affect pending litigation.

Election presumed.

SEC. 4. From and after the taking effect of this act every employer and 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 prior to any accident resulting in injury or death, notice to the contrary shall have been given in the manner herein provided and in substantially the following form, to wit:

EMPLOYER'S NOTICE TO REJECT.

Forms.

To the employees of the undersigned, and the Industrial Commission of Georgia:

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 that act of the General Assembly of Georgia, known as the Georgia workmen's compensation act, and elects to pay damages for personal injuries received by such employees under the common law and statutes of this State, as modified by provisions of said workmen's compensation law.

(Signed) -----

State of Georgia, County of _____:

The undersigned being first duly sworn deposes and says that a true, correct, and verbatim copy of the foregoing notice was, on the __ day of _____, 19___, posted at -----
(State fully place where posted.)

Sworn to and subscribed before me this __ day of _____, 19___

(Notary Public.)

EMPLOYEE'S NOTICE TO REJECT.

To -----, and Industrial Commission of Georgia:
(Name of employer.)

You and each of you are hereby notified that the undersigned hereby elects to reject the terms, conditions, and provisions of an act of the General Assembly of Georgia for the payment of compensation, known as the Georgia workmen's compensation act, and elects to rely upon the common law, as modified by the statutes of this State and by the provisions of said act, for the right to recover for any personal injury which I may receive growing out of and arising from said employment while in the line of duty for my employer above named.

Dated this -- day of ----, 19--
(Signed) -----

State of Georgia, County of ----:

The undersigned being first duly sworn deposes and says that the above and foregoing written notice was on the -- day of ----, 19--, served on the within named employer of the undersigned by delivering to ----- a true, correct, and verbatim copy thereof.
(State name of person served.)

Sworn to and subscribed before me, this -- day of ----, 19--
(Notary Public.)

SEC. 5. Either an employer or an employee, who has exempted 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, which notice of waiver of such exemption shall be substantially in the following form, to wit:

Waiver of exemption.

EMPLOYER'S NOTICE OF WAIVER OF EXEMPTION.

To the employees of the undersigned, and the Industrial Commission of Georgia:

You and each of you are hereby notified that the undersigned hereby waives exemption from the operation and effect of that act of the General Assembly of Georgia, known as the workmen's compensation act, which exemption was heretofore accomplished through notice to reject said act, given as provided by said act, on the -- day of ----, 19--, and accepts terms, conditions, and provisions to provide, secure, and pay compensation to employees of the undersigned for injuries received as provided in said act.

Forma.

(Signed) -----

State of Georgia, County of ----:

The undersigned being first duly sworn deposes and says that a true, correct, and verbatim copy of the foregoing notice was, on the -- day of ----, 19--, posted at -----
(State fully where posted.)

Sworn to and subscribed before me, this -- day of ----, 19--
(Notary Public.)

EMPLOYEE'S NOTICE TO WAIVE EXEMPTION.

To ----- and Industrial Commission of Georgia:
(Name of employer.)

You and each of you are hereby notified that the undersigned hereby waives his exemption from operation and effect of that act of the General Assembly of Georgia, known as the Georgia

workmen's compensation act, which exemption was accomplished through notice as provided in said act, given on the -- day of ----, 19--., and accepts the provisions of said act for the payment of compensation to employees for personal injury 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 Georgia, County of ---- :

The undersigned being first duly sworn deposes and says that the above and foregoing notice was on the -- day of ----, 19--., served on the within named employer of the undersigned by delivering to ----- a true, correct, and verbatim copy thereof. (Name person served.)

(Signed) -----

Sworn to and subscribed before me, this -- day of ----, 19--

(Notary Public.)

The notice to exempt from the operation and effect of said act and the notice of waiver of such exemption and of acceptance of said act, in section 4 and in this section respectively referred to, shall be given, in order to be effective with respect to a particular accident resulting in injury or death, thirty days prior to such accident: *Provided*, That if any such accident occurred less than thirty days after the date of employment, notice of such exemption or waiver thereof and acceptance given at the time of employment shall be sufficient notice thereof. Any such notice shall be in writing or printed and in substantially the appropriate form heretofore set out. Any such notice referred to in this or the preceding section of this act shall be given by the employer by posting the same in a conspicuous place in the shop, plant, 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 this State. A copy of any such notice, in prescribed form, whether given by the employer or employee, shall be filed with the industrial commission, and unless filed within ten days from the time when any such notice is served, due and proper notice shall be deemed not to have been given.

Presumption as to contracts.

SEC. 6. Every contract of service between any employer and employee covered by this act, written or implied, now in operation or made or implied prior to the taking effect of this act, shall, after the act has taken effect, be presumed to continue subject to the provisions of this act, 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 in the manner provided in section five hereof, to the other party to such contract that the provisions of this act, other than sections sixteen, seventeen, and eighteen, are not intended to apply. A like presumption shall exist equally in the case of all unions [minors], unless notice of the same character be given by or to the parent or guardian of the minor, or, in cases where such minor has no parent or guardian, then by or to the next [of] kin of said minor, sui juris.

Waivers forbidden.

SEC. 7. 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 hereinafter otherwise expressly provided.

SEC. 8. Neither any municipal corporation within the State, nor any political subdivision thereof, nor any employee of any such corporation or subdivision shall have the right to reject the pro-

visions of this act relative to payment and acceptance of compensation; and the provisions of sections five, six, sixteen, seventeen, and eighteen shall not apply to them.

SEC. 9. This act shall not apply to any common carrier by railroad engaging in commerce between any of the several States or Territories, or between the District of Columbia and any of the States or Territories and any foreign nation or nations, nor to any person suffering injury or death while he is employed by such carrier in such commerce, nor shall this act be construed to lessen the liability of such common carrier or to diminish or take away in any respect any right that any person so employed or the personal representative or kindred or relation or dependent of such person may have under the act of Congress relating to the liability of common carriers by railroads to their employees in certain cases, approved April 22, 1908. Interstate carriers.

SEC. 10. 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. Prior injuries.

SEC. 11. 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. Insurance required.

SEC. 12. The rights and remedies herein granted to an employee where he and his employer have accepted the provisions of this act respectively to pay and accept compensation on account of personal injury or death by accident shall exclude all other rights and remedies of such employee, his personal representative, parents, dependents, or next of kin, at common law or otherwise on account of such injury, loss of service, or death. Remedy exclusive.

SEC. 13. Nothing in this act shall be construed to relieve any employer or employee from penalty for failure or neglect to perform any statutory duty. Violation of statutes.

SEC. 14. No compensation shall be allowed for any injury or death due to the employee's willful misconduct, including intentional self-inflicted injury, or growing out of his attempt to injure another, or due to intoxication or willful failure or refusal to use a safety appliance or perform a duty required by statute, or the willful breach of any rule or regulation adopted by the employer and approved by the industrial commission, and brought prior to the accident to the knowledge of the employee. The burden of proof shall be upon him who claims an exemption or forfeiture under this section. Willful misconduct, etc.

SEC. 15. This act shall not apply to common carriers engaged in intrastate trade [or] commerce, the motive power of which is steam, nor shall this act be construed to lessen the liability of such common carriers or to take away or diminish any right that any employee, or in case of his death the personal representative of such employee, of such common carrier may have under the laws of this State; nor to casual employees, farm laborers, or domestic servants; nor to employees of institutions maintained and operated as public charities, nor to employers of such persons; nor to any persons, firm, or private corporations, including any public service corporation, that has regularly in service less than ten employees in the same business within this State; unless such employees and their employers voluntarily elect to be bound by this act. Common carriers using steam power.

SEC. 16. An employer who elects not to operate under this act shall not, in any suit at law instituted by an employee subject to this act to recover damages for personal injury or death by accident, be permitted to defend any such suit at law upon any or all of the following grounds: Exceptions.

- (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.

Defenses abrogated.

Available when. SEC. 17. An 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.

If both parties reject. SEC. 18. 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 rejected the terms of this act, and in any suit brought against him by such employee the employer shall not be permitted to avail himself of any of the common law defenses cited in section sixteen.

Direct settlements. SEC. 19. Nothing herein contained shall be construed so as to prevent settlements made by and between the employee and employer, but rather to encourage them, so long as the amount of compensation and the time and manner of payment are in accordance with the provisions of this act. A copy of such settlement agreement shall be filed by the employer with the commission, and no such settlement shall be binding until approved by the commission.

Liability of principals. SEC. 20. A principal, intermediate, or subcontractor shall be liable for compensation to any employee injured while in the employ of his subcontractors and engaged upon the subject matter of the contract to the same extent as the immediate employer.

Any principal, intermediate, or subcontractor, who shall pay compensation under the foregoing provisions, may recover the amount paid from any person who, independently of this section, would have been liable to pay compensation to the injured employee, or from any intermediate contractor.

Every claim for compensation under this section shall be in the first instance presented to and instituted against the immediate employer, but such proceedings 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.

Compensation preferred. SEC. 21. 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.

Assignments, etc. SEC. 22. No claim for compensation under this act shall be assignable, and all compensation and claims therefor shall be exempt from all claims of creditors.

Notice of injury. SEC. 23. Every injured employee or his representative shall immediately on the occurrence of any accident, or as soon thereafter as practicable, give or cause to be given to the employer a written notice of the accident, and the employee shall not be entitled to physician's fee 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 accident, or that the party required to give such notice had been prevented from doing so by reason of physical or mental incapacity or by fraud or deceit; but no compensation shall be payable unless such written notice is given within thirty days after the occurrence of the accident and if death results from the accident also within thirty days after death, unless reasonable excuse is made to the satisfaction of the industrial commission for not giving such notice, and it

Limitation.

is reasonably proved to the satisfaction of the commission that the employer has not been prejudiced thereby.

SEC. 24. 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 accident and of the resulting 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 such extent as the 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.

Form.

SEC. 25. The right to compensation under this act shall be forever barred, unless a claim be filed with the industrial commission within one year after the accident, and, if death results from the accident, unless a claim therefor is filed with the commission within one year thereafter.

Claim.

SEC. 26. For a period of not exceeding 30 days after an accident the employer shall furnish or cause to be furnished, free of charge to the injured employee, and the employee shall accept such necessary medical attention as the nature of the accident may require. The industrial commission may at any time, for good cause shown or in its discretion, order a change in such medical attention so furnished by the employer: *Provided*, That the total liability of the employer for necessary medical attention shall not exceed \$100. During the whole or any part of the remainder of 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, unless otherwise ordered by the industrial commission, and in addition such surgical and hospital service and supplies as may be deemed necessary by said attending physician or the industrial commission. The refusal of the employee to accept any medical, hospital, or surgical service when provided by the employer, or on order by the industrial commission, shall bar said employee from further compensation until such refusal ceases, and no compensation shall at any time be paid for the period of suspension unless in the opinion of the industrial commission the circumstances justified the refusal, in which case the industrial commission may order a change in the medical or hospital service. If in an emergency on account of the employer's failure to provide the medical care during the first thirty days, as herein specified, a physician other than provided by the employer is called to treat the injured employee during the first thirty days, the reasonable cost of such service, not to exceed \$100, as above set out, shall be paid by the employer if ordered to do so by the industrial commission.

Medical aid.

Refusal to accept.

SEC. 27. The pecuniary liability of the employer for medical, surgical, and hospital service herein required when ordered by the commission 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 shall not, in any event, exceed the aggregate of \$100 in amount. The employer shall not be liable in damages for malpractice by a physician or surgeon furnished by him pursuant to the provisions of this section, but the consequences of any such malpractice shall be deemed part of the injury resulting from the accident and shall be compensated for as such.

Cost.

SEC. 28. After an injury and so long as he claims compensation, the employee, if so requested by his employer, 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 commission. The employee shall have

Medical examinations.

- the right to have present at 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 such examination, shall be privileged, either in hearings provided for by this act, or in 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 requested and provided for by the employer, his right to compensation and his right to take or prosecute any proceedings under this act shall be suspended until such refusal or objection ceases, and no compensation shall at any time be payable for the period of suspension unless in the opinion of the industrial commission the circumstances justify the refusal or obstruction. The employer, or the industrial commission, shall have the right in any case of death to require an autopsy at the expense of the party requesting the same. No compensation shall be payable for the death or disability of an employee if his death be caused by or in so far as his disability may be aggravated, caused, or continued by an unreasonable refusal or neglect to submit to or follow any competent or reasonable surgical treatment.
- Refusing treatment.** SEC. 29 (as amended by act of August 16, 1922). No compensation shall be allowed for the first seven calendar days of incapacity resulting from an injury, including the day of the injury, except the benefits provided for in section 23.
- Total disability.** SEC. 30 (as amended by act of August 16, 1922). When the incapacity from work resulting from an injury is total, the employer shall pay, or cause to be paid, as hereinafter provided for, the employee during such total incapacity, a weekly compensation equal to one-half of his average wages, but not more than fifteen dollars per week or less than four dollars per week, except when the weekly wage is below four dollars, then the regular wages on the date of the accident shall be the weekly amount paid; and in no case shall the period covered by such compensation be greater than 350 weeks, nor shall the total amount of compensation exceed \$5,000.
- Partial disability.** SEC. 31. Except as otherwise provided in the next section hereafter, where the incapacity for work resulting from the injury is partial, the employer shall pay, or cause to be paid, as hereinafter provided, to the injured employee during such incapacity a weekly compensation equal to one-half the difference between his average weekly wages before the injury and the average weekly wages which he is able to earn thereafter, but not more than twelve dollars a week, and in no case shall the period covered by such compensation be greater than three hundred weeks from the date of the injury. In case the partial incapacity begins after a period of total incapacity, the latter period shall be deducted from the maximum period herein allowed for partial incapacity.
- Schedule.** SEC. 32. In cases included by the following schedule the incapacity in each case shall be deemed to continue for the period specified, and the compensation so paid for such injury shall be as specified therein and shall be in lieu of all other compensation, to wit:
- (a) For the loss of a thumb, fifty per centum of the average weekly wages during sixty weeks.
 - (b) For the loss of a first finger, commonly called the index finger, fifty per centum of the average weekly wages during thirty-five weeks.
 - (c) For the loss of a second finger, fifty per centum of average weekly wages during thirty weeks.
 - (d) For the loss of a third finger, fifty per centum of average weekly wages during twenty weeks.
 - (e) For the loss of a fourth finger, commonly called the little finger, fifty per centum of average weekly wages during fifteen weeks.

(f) The loss of the first phalange of the thumb, or any finger, shall be considered to be equal to the loss of one-half of such thumb or finger, and the compensation shall be for one-half of the periods of time above specified.

(g) The loss of more than one phalange shall be considered the loss of the entire finger or thumb: *Provided*, 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.

(h) For the loss of a great toe, fifty per centum of the average weekly wages during thirty weeks.

(i) For the loss of one of the toes, other than a great toe, fifty per centum of average weekly wages during ten weeks.

(j) The loss of the first phalange of any toe shall be considered to be equal to the loss of one-half of such toe, and the compensation shall be for one-half of the periods of time above specified.

(k) The loss of more than one phalange shall be considered as the loss of the entire toe.

(l) For the loss of a hand, fifty per centum of the average weekly wages during one hundred and fifty weeks.

(m) For the loss of an arm, fifty per centum of average weekly wages during two hundred weeks.

(n) For the loss of a foot, fifty per centum of average weekly wages during one hundred and twenty-five weeks.

(o) For the loss of a leg, fifty per centum of average weekly wages during one hundred and seventy-five weeks.

(p) For the loss of an eye, fifty per centum of the average weekly wages during one hundred weeks.

(q) For the complete loss of hearing in both ears, fifty per centum of the average weekly wages during one hundred and fifty weeks.

(r) Total loss of use of a member or loss of vision of an eye shall be considered as equivalent to the loss of such member or eye. The compensation for partial loss of or for partial loss of use of a member or for partial loss of vision of an eye shall be such proportion of the payments above provided for total loss as such partial loss bears to total loss. Loss of both arms, hands, legs, or feet, or of any two of these members, the permanent total loss of vision in both eyes, shall be deemed permanent total incapacity and shall be compensated under section 30.

The weekly compensation payments referred to in this section shall be subject to the same limitations as to maximum and minimum as set out in section thirty.

SEC. 33. If an injured employee refuses employment procured for him suitable to his capacity he shall not be entitled to any compensation at any time during the continuance of such refusal unless, in the opinion of the industrial commission, such refusal was justified. Refusing em-
ployment.

SEC. 34. If an employee who suffers an injury in his employment has a permanent disability or has sustained a permanent injury, such as specified in section thirty-two, suffered elsewhere, he shall be entitled to compensation only for the degree of incapacity which would have resulted from the later accident if the earlier disability or injury had not existed. Second inju-
ries.

SEC. 35. If an employee receives 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 the later injury be a permanent injury, such as specified in section thirty-two; 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. Same.

SEC. 36. If an employee receives a permanent injury as specified in section thirty-two 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 Same.

extending the period, and not by increasing the amount of weekly compensation, and in no case exceeding three hundred and fifty weeks. When the previous and subsequent permanent injuries received in the same employment result in total 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.

Injuries outside State. SEC. 37. (a) Where an accident happens while the employee is employed elsewhere than in this State, which would entitle him or his dependents to compensation if it happened in this State, the employee or his dependents shall be entitled to compensation, if the contract of employment was made in this State and if the employer's place of business is in this State or if the residence of the employee is in this State: *Provided*, His contract of employment was not expressly for service exclusively outside of the State. (b) *Provided, however*, If an employee shall receive compensation or damages under the laws of any other State, nothing herein contained shall be construed so as to permit a total compensation for the same injury greater than is provided for in this act.

Death during benefit period. SEC. 38 (as amended by act of August 16, 1922). When an employee is entitled to compensation under this act for an injury received and death ensues from any cause not resulting from the injury for which he was entitled to the compensation, payments of the unpaid balance for such injury shall cease and all liability therefor shall terminate.

Compensation for death. If during the period of disability caused by an accident arising out of and in the course of employment death results approximately therefrom, the compensation under this act shall be as follows:

Burial. (a) The employer shall, in addition to any other compensation, pay the reasonable expenses of the employee's last sickness and burial expenses not to exceed \$100. If the employee leaves no dependents, this shall be the only compensation.

Total dependents. (b) The employer shall pay the dependents of the deceased employee wholly dependent on his earnings for support at the time of the injury a weekly compensation equal to 85 per cent of the compensation which is provided for in section 30 for total disability for a period not exceeding 300 weeks from date of injury.

Partial dependents. (c) If the employee leaves dependents only partially dependent on his earnings for support at the time of his injury, the weekly compensation for those dependent shall be in the same proportion to the compensation for persons wholly dependent as the average amount contributed weekly by the deceased to the partial dependents bears to his average weekly wages at the time of his injury.

Benefit term. (d) When weekly payments have been made to an injured employee before his death the compensation to dependents shall begin on the date of the last of such payments, but shall not continue more than three hundred weeks from the date of the injury nor except during dependency. The total compensation to be paid to all dependents of a deceased employee shall not exceed in the aggregate \$12.75 per week.

Aliens. (e) If the employee does not leave dependents, citizens of or residing at the time of the accident in the United States or Dominion of Canada, the amount of compensation shall not in any case exceed \$1,000.

Dependents. SEC. 39. The compensation provided for in section thirty-eight shall be payable only to dependents and only during dependency. The following kin persons shall be conclusively presumed to be the next of kin wholly dependent for support upon the deceased employee:

(a) A wife upon a husband whom she had not voluntarily deserted or abandoned at time of the accident.

(b) A husband upon a wife with whom he lived at the time of her accident if he is then incapable of self-support and actually dependent upon her.

(c) A boy under the age of eighteen, or a girl under the age of eighteen, upon a parent. If a child is over the ages specified above, but physically or mentally incapacitated from earning a livelihood, he or she shall be presumed to be totally dependent.

As used in this section, the term "boy," "girl," or "child" shall include stepchild, 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.

If the deceased employee leaves dependent surviving spouse, as above described and no dependent child or children, the full compensation shall be paid to such spouse; if the deceased employee leaves dependent surviving spouse, as above described, and also a dependent child or children, then the full compensation shall be paid to such spouse for his or her use and that of such child or children, the commission, however, to have the power in proper cases, in its discretion, to apportion the compensation; if the dependent surviving spouse dies before payment is made in full, the balance remaining shall be paid to the person or persons wholly dependent, if any, share and share alike. If there be no person or persons wholly dependent, then payment shall be made to partial dependents.

In all other cases questions of dependency, in whole or in part, shall be determined in accordance with the facts as the facts may be at the time of the accident, but no allowance shall be made for any payment made in lieu of board and lodging or services, and no compensation shall be allowed, unless the dependency existed for a period of three months or more prior to the accident; and in such other cases if there is more than one person wholly dependent, the death benefit shall be divided among them, and persons partially dependent, if any, shall receive no part thereof; if there is no one wholly dependent and more than one person partially dependent, the death benefit shall be divided among them according to the relative extent of their dependency.

For the purpose of this act the dependence of a widow or widower of a deceased employee shall terminate with remarriage. The dependence of a child, except a child physically or mentally incapacitated from earning a livelihood, shall terminate with the attainment of eighteen years of age. In all cases, except such as are hereinbefore specifically provided for, where there are both total and partial dependents, and the total dependents die, remarry, or cease to be dependents the partial dependents shall be entitled to the balance of compensation, if any.

SEC. 40.¹ The total compensation payable under this act shall in no case exceed four thousand dollars. Total maximum.

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 commission, be deducted from the amount to be paid as compensation: *Provided*, That in the case of disability such deductions shall be made by shortening the period during which compensation must be paid and not by reducing the amount of the weekly payments. Advance payments.

SEC. 42. The industrial commission, upon 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. Times of payment.

SEC. 43. Whenever any weekly payment has been continued for not less than twenty-six weeks the liability therefor may, where the parties agree and the industrial commission deems it to be to the best interests of the employee or his dependents, or where it will prevent undue hardships on the employer, or his insurance carrier, without prejudicing the interests of the employee or his Lump sums.

¹ Held by Attorney General to be repealed by act of Aug. 16, 1922. See sec. 30, as amended.

dependents, be redeemed, in whole or in part, by the payment, by the employer, of a lump sum which shall be fixed by the commission, but in no case to exceed the commutable value of the future installments which may be due under this act: *Provided*, That the lump sum to be paid shall be fixed 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.

Payment to trustees. SEC. 44. Whenever the industrial commission deems it expedient, any lump sum, subject to the provisions of the foregoing section, shall be paid by the employer to some suitable person or corporation appointed by the superior court of the county wherein the accident occurred or the original hearing was held, as trustee, to administer the same for the benefit of the person or persons entitled thereto in the manner provided by the commission. The receipt of such trustee for the amount as paid shall discharge the employer or anyone else who is liable therefor.

Review of awards. SEC. 45. Upon its own motion before judicial determination or upon the application of any party in interest on the ground of a change in condition, the industrial commission may at any time review any award or any settlement made between the parties and filed with the commission and, on such review, may make an award ending, diminishing, or increasing the compensation previously awarded or agreed upon, subject to the maximum or minimum 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 monies paid.

Acquittances. SEC. 46. (a) Whenever payment of compensation, in accordance with the terms of this act, is made to a widow or widower for her or his use or for her or his use and the use of the child or children, the written receipt thereof of such widow or widower shall acquit the employer; (b) whenever payment in accordance with the terms of this act is made to any minor employee eighteen years of age or over, the written receipt of such person shall acquit the employer. In cases where an infant or minor under the age of eighteen years shall be entitled to receive a sum or sums amounting in the aggregate to not more than three hundred dollars as compensation for injuries, or as a distributive share by virtue of this act, the father, mother, natural guardian, or legally appointed guardian of such infant or minor shall be authorized and empowered to receive such monies for the use and benefit of said minor and to receipt therefor; and the release or discharge of such father, mother, natural guardian, or legally appointed guardian shall be in full and complete discharge of all claims or demands of such infant or minor thereunder; (c) whenever payment of over three hundred dollars, in accordance with the terms of this act, is made to a minor under eighteen years of age, or to a minor child over eighteen physically or mentally incapable of earning, the same shall be made to his duly and legally appointed guardian or to some suitable person or corporation appointed by the superior court as hereinbefore provided, as a trustee, and the receipt of such guardian or such trustee shall acquit the employer; (d) 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 such dependent or dependents prior in right shall have given 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 commission to decide between them.

Incompetents. SEC. 47. If an injured employee is mentally incompetent or is under eighteen years of age at the time when any right or privilege accrues to him under this act, his guardian or trustee may, in his behalf, claim and exercise such right or privilege.

Same. SEC. 48. No limitation of time provided in this act for the giving of notice or making claim under this act shall run against any person who is mentally incompetent, or a minor dependent, so long as he has no guardian or trustee.

SEC. 49. Whenever any employee for whose injury or death compensation is payable under this act shall at the time of the injury 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 employee: *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. Joint employ-
ment.

SEC. 50. There is hereby created a commission to be known as the industrial commission, consisting of the commissioner of commerce and labor, who shall be ex officio chairman, of the attorney general, and two members to be appointed by the governor. One of the members of this commission to be appointed by the governor shall serve for two years and another for the term of four years, and thereafter each member shall be appointed for a term of four years; no more than one member of said commission appointed by the governor shall be a person who on account of his previous vocation, employment, or affiliation, shall be classified 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 affiliation, shall be classed as a representative of employees. Each of the appointees by the governor on said commission shall devote his entire time to the duties of his office and shall not hold any position of trust or profit or be engaged in any occupation or business interfering or inconsistent with his duties as such member. Industrial com-
mission.

SEC. 51 (as amended by act of August 19, 1922). (a) The commissioner of commerce and labor, as ex officio chairman of said industrial commission, shall receive the sum of twelve hundred (\$1,200) dollars per annum; and the salary of each member of the commission appointed by the governor shall be four thousand (\$4,000) dollars per annum; the commission may appoint a secretary-treasurer and shall fix his salary, who shall give bond in the sum prescribed by the commission and who may be removed by the commission; (b) the commission may also, subject to the approval of the governor, employ such clerical or other assistance that may be deemed necessary and fix the salaries of all persons so employed; (c) members of this commission and its assistants shall be entitled to receive the actual necessary expenses while traveling on the business of the commission, but the expenses shall be sworn to by such persons incurring the same and shall be approved by the chairman before payment is made; (d) all of the salaries of the commission, including the commissioner of commerce and labor as ex officio chairman, and expenses, shall be audited and paid out of the funds in the hands of the secretary-treasurer, according to rules and regulations prescribed by the commission. Salaries.

SEC. 52. (a) The commission shall be provided with adequate offices in the capitol or some other suitable building in the city of Atlanta in which the records shall be kept and its official business transacted during regular business hours; it shall also be provided with necessary office furniture, stationery, and other supplies. (b) The commission may appoint deputies from time to time, as required, to serve only as and when needed, without permanent positions, who shall have the power to subpoena witnesses and administer oaths, and who may take testimony in such cases as the commission may deem proper. Such testimony shall be transmitted in writing to the commission, and the commission shall fix the compensation of such deputies. (c) The commission or any member thereof may hold sessions at any place within the State as may be deemed necessary by the commission, subject to the other provisions of this act. Offices.

Deputies.

SEC. 53. (a) The commission 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 Rules.

- Powers.** simple as reasonably may be. The commission or any member thereof or any person deputized by it 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 be examined such parts of the books and records of the parties to a proceeding as relate to questions in dispute. (b) The sheriffs of this State within their respective jurisdictions, and their respective deputies, shall serve all subpoenas of the commission or its deputies and shall receive the same fees as are now provided by law for like civil actions; each witness who appears in obedience to such subpoena of the commission shall receive for attendance the fees prescribed by law for witnesses in civil cases in courts. The superior courts shall, on application of the commission or any member or deputy thereof, enforce by proper proceedings the attendance and testimony of witnesses and the production and examination of books, papers, and records.
- Enforcement of process.**
- Quorum.** (c) Any three members of the commission shall constitute a quorum for the transaction of any business or the rendition of any decision herein provided to be made by the full commission.
- Blanks, etc.** SEC. 54. The commission shall prepare and cause to be printed, and upon request furnish free of charge to any employee or employer such blank forms and literature as it shall deem requisite to facilitate or promote the efficient administration of this act. The commission shall tabulate the accident reports received from employers in accordance with section sixty-five, and shall publish the same in the annual report of the commission 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 commission, and shall not be open for public inspection except for the inspection of the parties directly involved, and only to the extent of such interest. 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, or in any proceeding under this act.
- Agreements to be filed.** SEC. 55. 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 commission shall be filed with the commission for approval as herein provided; otherwise such agreement shall be voidable by the employee or his dependents. If approved by the commission, thereupon the memorandum shall for all purposes be enforced by decree or judgment of the superior court, as herein specified.
- Disagreements.** SEC. 56. 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 commission 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 application to the commission for a hearing in regard to the matters at issue and for a ruling thereon. Immediately after such application has been received the commission shall set a 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, if the same occurred in this State, unless otherwise agreed to between the parties and authorized by the commission. If the injury occurred without the State of Georgia, and is one for which compensation is payable under this act, then the hearing above referred to may be held in the county of the employer's residence or place of business, or in any other county of the State which will, in the discretion of the commission, be the most convenient for a hearing.
- Hearings.**

SEC. 57. The commission 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 and other matters pertinent to the questions at issue shall be filed with the record of the proceedings, and a copy of the award shall immediately be sent to the parties at dispute. The parties may be heard by a deputy, in which event he shall swear or cause the witnesses to be sworn and shall transmit all testimony to the commission for its determination and award.

Procedure.

SEC. 58. If an application for review is made to the commission within seven days from the date of notice of the award, the full commission 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 the same in like manner as specified in the foregoing section, together with its rulings of law in the premises. A copy of the award so made on review shall immediately be sent to the parties at dispute.

Review.

SEC. 59. Any award of the commission, provided for in section fifty-seven, with respect to which no application for a review thereof be filed in due time, or an award of the commission upon such review as provided in section fifty-eight shall, in either event, as the case may be, and subject to the other provisions of this act, be a final award and 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 any such final award, or within thirty days from the date of any other final order or judgment of said commission, but not thereafter, appeal from the decision in such final award or from any other final decision of said commission to the superior court of the county in which the injury occurred, or if the injury occurred without the State, then to the superior court of the county in which the original hearing was had, in the manner hereinafter outlined, and upon the following grounds, viz: The party conceiving himself to be aggrieved may file an application in writing with the commission asking for an appeal from any such order or decree, stating generally the grounds upon which such appeal is sought. In the event such appeal is filed as hereinbefore provided, the commission shall, within thirty days from the filing of the same, cause certified copies of all documents and papers then on file in its office in the matter, and a transcript of all testimony taken therein, to be transmitted with its findings and order or decree to the clerk of the superior court to which the case is appealable, as hereinbefore set out. The cause so appealed may thereupon be brought on for a hearing in either term time or vacation before said superior court upon such record by either party on ten days' written notice to the other; subject, however, to an assignment of the same for hearing by the court. The findings of fact made by the commission within its power shall, in the absence of fraud, be conclusive, but upon such hearing the court shall set aside said order or decree of the industrial commission, if it be found:

Final awards.

Appeal to court.

- (1) That the industrial commission acted without or in excess of its powers;
- (2) That the order or decree was procured by fraud;
- (3) That the facts found by the industrial commission do not support the order or decree;
- (4) That there is not sufficient competent evidence in the record to warrant the industrial commission in making the order or decree complained of; or
- (5) That the decree is contrary to law.

Grounds for reversal.

No order or decree of the industrial commission shall be set aside by the court upon any ground other than one or more of the grounds above stated. If not set aside upon one or more of such stated grounds, the court shall affirm the order, judgment, decree, or decision of the commission so appealed from. Upon the setting aside of any such order, decree, or decision of the com-

mission, the court may recommit the controversy to the commission for further hearing or proceedings in conformity with the judgment and opinion of the court, or such court may enter the proper judgment upon the findings, as the nature of the case may demand. Such decree of the court shall have the same effect, and all proceedings in relation thereto shall, subject to the other provisions of this act, thereafter be the same as though rendered in a suit heard and determined by said court. The Court of Appeals of Georgia shall, within thirty days after this act takes effect, prescribe such rules of procedure not inconsistent with the above and foregoing, as may be necessary or proper to fix the details of the form and manner of such appeal.

Appeals to
court of appeals.

The commission of its own motion may certify questions of law to the Court of Appeals of Georgia for decision and determination by the said court. Any party in interest who is aggrieved by a judgment entered by the superior court upon an appeal from an order or decree of the commission to the superior court may appeal therefrom to the Court of Appeals of Georgia by writ of error and bill of exceptions within the time and in the manner provided by law for appeals by fast bills of exceptions from other orders, judgments, and decrees of the superior court made by law reviewable upon fast bills of exceptions. In case of an appeal from the decision of the commission, or of a certification by said commission of questions of law to the court of appeals, said appeal or certification shall operate as a supersedeas if the employer has complied with the provisions of this act respecting insurance, and no such employer shall be required to make payment of the award involved in the questions made in the case so appealed or certified until such questions at issue therein shall have been fully determined in accordance with the provisions of this act.

Judgment
award. on

SEC. 60. Any party in interest may file in the superior court of the county in which the injury occurred, or if the injury occurred without the State of Georgia, then in the county in which the original hearing was had, a certified copy of a memorandum of agreement approved by the commission, or of a final order or decision of the commission, or of an award of the commission unappealed from, or of an award of the commission affirmed upon 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: *Provided, however*, That where the payment of compensation is insured or provided for in accordance with the provisions of this act, no such judgment shall be entered nor execution thereon issued, except upon application to the court and for good cause shown. Upon presentation to the court of a certified copy of a decision of the commission ending, diminishing, or increasing a weekly payment under the provisions of this act, particularly of section forty-five thereof, the court shall revoke or modify the order or decree to conform to such decision of the commission.

Costs.

SEC. 61. If the commission 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 brought or defended them.

Medical exami-
nations.

SEC. 62. The commission 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 commission, not exceeding ten dollars for each examination and report, but the commission may allow additional reasonable amounts in extraordinary cases. The fees and expenses of such physician or surgeon shall be paid by the State.

SEC. 63. Fees of attorneys and physicians and charges of hospitals for services under this act shall be reasonable and measured according to the employee's station and shall be subject to the approval of the commission.

Fees.

SEC. 64. All questions arising under this act, if not settled by agreements of the parties interested therein, with the approval of the commission, shall be determined by the commission, except as otherwise herein provided.

Power of commission.

SEC. 65. (a) Every employer who accepts the provisions of this act relative to the payment of compensation, shall hereafter keep a record of all injuries, fatal or otherwise, received by his employees in the course of their employment, on blanks approved by the commission. Within ten days after the occurrence and knowledge thereof, as provided in section twenty-three, of an injury to an employee requiring medical or surgical treatment, or causing his absence from work for more than fourteen days, a report thereof shall be made in writing and mailed to the commission on blanks to be procured from the commission for this purpose. (b) The records of the commission, in so far as they refer to accidents, injuries, and settlements, shall not be open to the public, but only to the parties satisfying the commission of their interest in such records and the right to inspect them. (c) Upon the termination of the disability of the injured employee, the employer shall make a supplementary report to the commission on blanks to be procured from the commission for the purpose. (d) The said report shall contain the name, nature, and location of the business of the employer, and name, age, sex, and 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 commission. (e) Any such employer who refuses or willfully 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 willful neglect, to be recoverable in any court of competent jurisdiction in a suit by the commission.

Injuries to be reported.

SEC. 66. Every employer who accepts the provisions of this act relative to the payment of compensation shall fully insure and keep fully insured, unless otherwise ordered or permitted by the commission, his liability thereunder in some corporation, association, or organization licensed as provided by law to transact the business of workmen's compensation insurance in this State, or in some mutual insurance association formed by a group of employers so licensed, or shall furnish to the commission 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 commission 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: *Provided*, That it shall be satisfactory proof of the employer's financial ability to pay direct the compensation in the amount and manner when due, as provided for in this act, and acceptable security, indemnity, or bond to secure the payment of compensation liabilities as they are incurred, if the employer shall show to the commission that he is a member of a mutual insurance company duly licensed to do business in this State by the insurance commissioner, as provided by the laws of this State, or of an association or group of employers, so licensed, and as such is exchanging contracts of insurance with the employers of this and other States, through a medium as specified and located in their agreements between each other, but this proviso shall in no wise restrict or qualify the right of self-insurance as hereinbefore authorized. Nothing herein shall be construed to require an employer to place his entire insurance in a single insurance carrier.

Insurance required.

Evidence of insurance. SEC. 67. (a) Every employer accepting the compensation provisions of this act shall within thirty days after this act takes effect file with the commission in form prescribed by it, and thereafter annually, or as often as the commission, in its discretion, may deem necessary, evidence satisfactory to the commission of his compliance with the provisions of section sixty-six and all others relating thereto. (b) If such employer refuses or willfully neglects to comply with these provisions he shall be punished by a fine of not less than \$10 nor more than \$100, and after such conviction shall be subject to a fine of not less than one dollar nor more than ten dollars for each day of such refusal or neglect, and until he shall comply with such provision, and also such employer shall be liable during continuance of such refusal or neglect to an employee, at the option of the employee, either for compensation under this act or at law in the same manner as provided in section sixteen.

Self-insurers. SEC. 68. Whenever an employer has complied with the provisions of section sixty-six, relating to self-insurance, the commission shall issue to such employer a certificate which shall remain in force for a period fixed by the commission; but the commission may, upon at least sixty days' notice and hearing to the employer, revoke the certificate upon satisfactory evidence for such revocation having been presented. At any time after such revocation the commission may grant a new certificate to the employer upon his petition.

Substitute systems. SEC. 69. (a) Subject to the approval of the commission, any employer may enter into or continue any agreement with his employees to provide a system of compensation, benefit, or 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 if it requires contribution from the employees, unless it confers benefits in addition to those provided under this act at least commensurate with such contribution. (b) 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 defects threatening its solvency, or if for any substantial reason it fails to accomplish the purpose of this act; and in this case the commission shall determine upon the proper distribution of all remaining assets, if any, subject to the right of any party at interest to take an appeal to the superior court of the county wherein the principal office or chief place of business of the employer is located.

Provisions of policies. SEC. 70. All policies insuring the payment of compensation under this act, including all contracts of mutual, reciprocal, or interinsurance, must contain a clause to the effect that as between the employer and the insurer or insurers the notice to or knowledge of the occurrence of the injury on the part of the insured employer shall be deemed notice or knowledge, as the case may be, on the part of the insurer or insurers; that jurisdiction of the insured for the purpose of this act shall be jurisdiction of the insurer or insurers; and that the insurer or insurers shall in all things be bound by and subject to the awards, judgments, or decrees rendered against such insured employer.

Same. SEC. 71. No policy or contract of insurance against liability arising under this act shall be issued unless it contains the agreement of the insurer or insurers 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 giving notice required by such policy, or otherwise. Such agreement shall be construed to be a direct promise by the insurer or insurers to the person entitled to compensation enforceable in his name.

SEC. 72. (a) Every policy for the insurance of the compensation herein provided, or against liability therefor, including all contracts of mutual, reciprocal interinsurance, shall be deemed to be made subject to the provisions of this act. No corporation, association, or organization and no mutual, reciprocal, or interinsurers shall enter into or make any such policy or contract of insurance unless its form shall have been approved by the commission. (b) This act shall not apply to policies of insurance against loss from explosion of boilers or flywheels or other similar catastrophe hazards.

Policies sub-
ject to act.

SEC. 73. (a) The rates charged by all carriers of insurance, including the parties to any mutual, reciprocal, or other plan or scheme, writing insurance against the liability for compensation under this act, shall be fair, reasonable, and adequate, with due allowance for merit rating, and all risks of the same kind and degree of hazard shall be written at the same rate by the same carrier. The basic rates for policies or contracts of insurance against liability for compensation under this act shall be filed with the insurance commissioner for his approval, and no policy of insurance against such liability shall be valid until the basic rate thereof has been filed with, approved, and not subsequently disapproved, by the insurance commissioner. Any plan or scheme for modification of such basic rates by physical inspection or experience or merit rating shall likewise be filed with the insurance commissioner and by him approved, and no carrier of insurance shall write any such policy or contract until after filing and approval of a basic rate therefor and a schedule or plan to be employed in producing individual rates for risks. (b) Each such insurance carrier, including the parties to any mutual, reciprocal, or other plan or scheme writing insurance against the liability for compensation under this act, shall report to the insurance commissioner as provided by law, and in accordance with such reasonable rules as the insurance commissioner may at any time prescribe for the purpose of determining the solvency of the carrier and the adequacy or reasonableness of its rates and reserves; for such purpose the insurance commissioner may inspect all the books and records of such insurance carrier and of its agent or agents and examine its agents, officers, and directors under oath.

Premium rates.

Reports.

SEC. 74. If any section of the provisions 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.

Provisions sev-
erable.

SEC. 75. This act, except as prescribed in section fifty, shall become effective March 1, 1921, and section fifty shall become effective October 1, 1920.

Act in effect.

SEC. 76 (as amended by act of August 19, 1922). The total expenses of the commission shall be prorated among the insurance companies writing compensation insurance in this State and the employers permitted by the commission to pay compensation direct, hereinafter referred to as self-insurers; on the basis, in the case of the insurance companies, of the gross earned premium; in the case of self-insurers, on the basis of the amount of premiums which such self-insurer would have to pay in the event the self-insurer had insured his liability in a casualty company writing this class of business in Georgia. Prorated advances, based on the experience of the previous year, shall be made on each January first and July first by the insurance carriers, and self-insurers on a budget furnished by the commission, the said advances for the preceding year to be adjusted as soon after January first of each year as complete reports have been received by the commission. Sworn reports of the compensation premium writings of the insurance carriers and sworn pay-roll statements of the self-insurers for the preceding year, ending December 31st, must be filed with the industrial commission not later than March 1st of each year. The books of the commission shall be audited annually and copy of such audit shall be

How expenses
to be met.

furnished all parties among whom the expenses of the commission are prorated. All monies assessed against and that may be payable under this act by the insurance companies writing compensation insurance in this State and the employers permitted by the commission to pay compensation direct, shall be by the same paid into the State treasury of Georgia, and by it held as a special fund subject to the charge of salaries, expenses, etc., as provided in this act, to be paid out by the State treasury only upon warrant signed by the governor and countersigned by the comptroller general.

Approved August 17, 1920.

IDAHO.

[The compensation law of the State, ch. 81, Acts of 1917, since codified, was amended by chs. 217 and 220, Acts of 1921. The section numbers of the original act are given in brackets following the code section. The changes are indicated below.]

Section 6216 [3] was amended by ch. 220, Acts of 1921, so as to specifically include the caretaking and handling of live stock on inclosed lands and public ranges under the head of agricultural pursuits.

Sec. 6223 [10] was amended by ch. 217, Acts of 1921. The only substantial change is the fixing of burial expenses at a maximum of \$200 instead of \$100. Formal changes are the substitution of figures for letters to designate subsections and the uniting of subsections (f) and (g) as subsection 6.

A new section and amendments are as follows:]

Sec. 6230A (added by ch. 217, Acts of 1921). Before approving any hospital contract or agreement, the individual corporation or association agreeing to furnish to the employees of any employer of the State of Idaho medical, hospital, and surgical attendance provided for in section 6230 of this chapter, the board may, in its discretion, require such individual, corporation, or association to file with the board a surety bond in the penal sum of \$5,000 conditioned that such individual, corporation, or association will faithfully furnish to such employees the medical, hospital, and surgical attendance agreed to be furnished in such contract and agreement and required to be furnished by section 6230 of this chapter.

Bonds.

Sec. 6231 [18] (as amended by ch. 217, Acts of 1921). Where the injury causes total disability for work, the employer during such disability, but not including the first seven days thereof, shall pay the injured employee weekly compensation equal to 55 per cent of his average weekly wages, but not more than \$12 nor less than \$6 per week for a period not exceeding 400 weeks, and thereafter a weekly compensation of \$6 a week.

Total disability.

If such employee have a wife but no dependent minor child, the employer shall pay to such injured employee weekly compensation equal to 60 per cent of his average weekly wages, but not more than \$13.10 nor less than \$6.55 per week, for a period not exceeding 400 weeks.

If the injured employee have a wife and a dependent minor child or children, or, being a widower, having any such dependent minor child or children, the weekly payments in the preceding paragraph shall be increased by five per cent of the average weekly wage for each such child, but the total weekly compensation shall not exceed \$16 per week. If such total disability shall exceed a period of four weeks, then he shall receive compensation for 3 weeks and 4 days and for one day additional for each week after the expiration of 4 weeks up to and including the seventh week. In no case shall the weekly payments continue after the disability ends. 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 400 weeks.

Sec. 6233 [20] (as amended by ch. 217, Acts of 1921). Where the injury causes partial disability for work, the employer during such disability and for a period not exceeding 150 weeks, shall pay the injured workman a weekly compensation equal to 55 per centum of the difference between his average weekly wages before the accident and the weekly wages he is able to earn there-

Partial disability.

after, but not more than the weekly compensation provided in section 6231. 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 150 weeks.

[Section 6234 [21] was amended by ch. 217, Acts of 1921, making the provisions of section 6231 the limit of weekly payments, instead of \$12 maximum. Specific awards are to be "in addition to all other compensation."

Schedule. The following is added to the schedule:]

	Weeks.
Total deafness of one ear.....	35
Total deafness of second ear.....	115

[The following sections were more extensively amended:]

Disputes. SEC. 6263 [50] (as amended by ch. 217, Acts of 1921). If the compensation is not settled by agreement, the board may, upon its own motion, or upon application by either party, assign the case for hearing by a member of the board.

SEC. 6264 [51]. Repealed by ch. 217, Acts of 1921.

Hearings and awards. SEC. 6265 [52] (as amended by ch. 217, Acts of 1921). The member of the board shall make such inquiries and investigations as shall be deemed necessary. The hearing shall be held in the city or town, or in such other convenient place within the county where such accident occurred, as the board may designate, and the decision of the member, together with a transcript of the evidence, findings of facts, rulings of law, and any other matters pertinent to the questions arising before him, shall be filed with the industrial accident board. A copy of the award shall be immediately sent to the parties. Unless a claim for a review is filed by either party within 30 days, the decision shall be enforceable under the provisions of section 6271.

Medical examination. SEC. 6266 [53] (as amended by ch. 217, Acts of 1921). 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 \$10 and traveling expenses, but the board may allow additional reasonable amounts in extraordinary cases.

The fees and expenses herein shall be paid by the State, as other expenses of the board are paid: *Provided, however,* that the party injured and his employer may each at his own cost have a physician present at such examination.

SEC. 6267 [54]. Repealed by chapter 217, Acts of 1921.

Review. SEC. 6268 [55] (as amended by ch. 217, Acts of 1921). If a claim for a review is filed, as provided in section 6265, the board shall hear the parties and may hear the evidence in regard to any, or all matters pertinent thereto, and may revise the decision of the member in whole or in part, or may refer the matter back to the member for further findings of fact, and shall file its decision with the records of the proceedings and notify the parties thereof. Neither party shall, as a matter of right, be entitled to a second hearing upon any question of fact.

Procedure on appeal. SEC. 6270A (added by ch. 217, Acts of 1921). Any party aggrieved may appeal from the award of the board to the district court of the county in which the injury occurred, if within the State, otherwise in the county in which the defendant resides, by filing with the board and the clerk of the district court a notice of appeal and serving a similar notice on the adverse party or his attorney. Such notice shall be filed within 30 days after such award has been rendered and shall briefly describe such award and state the intention of the party to appeal therefrom. Within ten days after the receipt of such notice the board shall file with the clerk of said court the record of the proceedings before the board, including a transcript of the evidence, and the case thereafter shall be tried by the court.

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

The record in any case shall be transmitted to the board within 20 days after the order or judgment of the court, unless appeal shall be taken from such order or judgment.

SEC. 6271 [58] (as amended by ch. 217, Acts of 1921). Any party in interest may file in the district court for the county in which the injury occurred, if such injury occurred within the State, otherwise in the district court for the county where the employer resides, 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, without notice, 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, and shall with like effect be entered and docketed, except that there shall be no appeal therefrom, and the same shall not constitute a lien upon the real property of the employer unless execution be levied thereon.

Enforcement.

[Sec. 6272 [59] was amended by ch. 217, Acts of 1921, by omitting the words "committee of arbitration" from the first line of the section.]

SEC. 6272A (added by ch. 217, Acts of 1921). Whenever any question involving compensation of an injured employee or his dependents is appealed to the district or supreme court by the employer and the appellate court finds in favor of the employee in an amount equal to or greater than the award of the board, then the employer shall pay interest on the whole amount of the judgment of the court at seven per cent per annum from the date of award by the board to date of payment, but if the award of the board be reduced then the employer shall not be required to pay interest on any amount for any time prior to the date of final judgment of the court.

Interest on deferred payments.

If the employee or his dependents appeal from an award by the board and the final judgment of the court should be in excess of award of the board, then the employer shall pay interest at the rate of seven per cent per annum from date of award by the board on the amount of final judgment of the court until paid, but if the award of the board be sustained or decreased then the employer shall not be required to pay interest prior to the final judgment of the court.

SEC. 6281 [68] (as amended by ch. 217, Acts of 1921). If an employer subject to the provisions of this act fails to comply with the provisions of section 6278, he shall be guilty of a misdemeanor and upon conviction be punishable by a fine of not more than five hundred dollars or by imprisonment in the county jail for a period of not more than six months, or by both such fine and imprisonment. Prosecution under this section shall be brought in the name of the chairman of the industrial accident board.

Failure to secure compensation.

SEC. 6281A (added by ch. 217, Acts of 1921). The industrial accident board may, however, in its discretion, if it deems proper, issue an order to show cause directing an uninsured employer to appear before the board, or one of its members, to show cause why he should not be prosecuted.

Order to show cause.

A summons and complaint shall be served in form similar to a summons in a justice court with necessary changes and shall direct the defendant to appear on a day certain not less than two nor more than twenty days from its date.

The summons may be served by a sheriff or constable of any of the counties of the State.

SEC. 6281B (added by ch. 217, Acts of 1921). If upon the hearing it is shown that the defendant has complied with the provisions of section 6278, the action shall be dismissed with costs to the defendant to be assessed by the court. Otherwise the board shall be free to file a criminal complaint if the facts so justify.

Findings.

Contractors, etc. Sec. 6287A (added by ch. 217, Acts of 1921). An employer subject to the provisions of this act shall be liable for compensation to an employee of a contractor or subcontractor under him or who has not complied with the provisions of section 6278 in any case where such employer would have been liable for compensation if such employee had been working directly for such employer. The contractor or subcontractor shall also be liable for such compensation, but the employee shall not recover compensation for the same injury from more than one party. The employer who shall become liable for and pay such compensation may recover the same from the contractor or subcontractor for whom the employee was working at the time of the accident. Section 6287A shall be in force as to all contracts made subsequent to March 15, 1921.

[Ch. 104, Acts of 1921, transfers the administration of the State insurance fund from a specially appointed State insurance manager to the department of finance. This automatically abrogates section 76 of the original compensation act and calls for a change in terminology throughout sections 75 to 106 (secs. 6288-6316 of the Code). Other changes made are indicated below.]

Withdrawal from fund. Sec. 6300[89]. Repealed by chapter 240, Acts of 1921.
 Sec. 6308[97] (as amended by ch. 217, Acts of 1921). Any employer may, upon complying with subdivision 2 of section 6278, withdraw from the fund by turning in his insurance contract or policy for cancellation: *Provided*, He is not in arrears for premiums due to the fund and has given to the department of finance 30 days' written notice of his intention to withdraw: *And also provided*, That in case an employer so withdraws, his liability to assessments shall continue after the date of such withdrawal as against all liabilities for such compensation accruing prior to such withdrawal.

Any employer so withdrawing may, however, terminate his entire liability by paying to the department such sum as said department may deem sufficient to cover such liabilities.

Names to be filed. Sec. 6317A [follows sec. 108 of original act] (added by ch. 217, Acts of 1921). The department of finance shall forthwith file with the board the names of all employers insured in the State fund, and shall on the first of each month file a list of other employers insured in the State fund during the calendar month then last past.

Employers' reports. Sec. 6317B (added by ch. 217, Acts of 1921). Every employer subject to the provisions of this act shall hereafter report semi-annually on January 1 and July 1 to the board the average number of employees on the pay roll during the preceding six months period.

[Section 6321 [110-b] was amended by ch. 217, Acts of 1921, by striking out from the second sentence of this section the words "nor does it include a person whose remuneration exceeds twenty-four hundred dollars a year."]

ACTS OF 1921.

CHAPTER 83.—*State insurance fund—Cost of administration.*

[The repeal of section 89 leaves the insurance fund without provision for costs of administration. The legislature provides in the above chapter for an appropriation from the fund itself of specific sums, \$65,540 in amount, to meet such costs.]

ILLINOIS.

[The compensation law of this State, act of June 10, 1911 (p. 335), previously amended, was further amended in 1921 (p. 446). The changes are indicated below:

Section 1 is amended by striking out in the first sentence of paragraph (b) the words "covered by this act."

Section 3 is amended by making its general clause read as follows:]

SEC. 3. The provisions of this act hereinafter following shall apply automatically and without election to the State, county, city, town, township, incorporated village or school district, body politic or municipal corporation, and to all employers and all their employees engaged in any department of the following enterprises or businesses which are declared to be extra hazardous, namely:

[Section 7 is amended by increasing the standard maximum death benefit from \$3,500 to \$3,750; the special maximums in subsection 2 are likewise increased \$250 in each instance.

Section 8 is amended by fixing the weekly minimum and maximum benefits at \$7.50 and \$14, respectively, instead of \$7 and \$12, in paragraphs (b), (f), and (h). Subsections 2 and 3 are amended to read as follows:]

2. Wherever in this section a weekly minimum of \$7.50 is provided, such minimum shall be increased in the following cases to the following amounts:

\$8.50 in case of any employee having one child under the age of 16 years at the time of the injury to the employee;

\$9.50 in a case of an employee having two children under the age of 16 years at the time of the injury to the employee;

\$10.50 in a case of an employee having three or more children under the age of 16 years at the time of the injury to the employee.

SEC. 3. Wherever in this section a weekly maximum of \$14 is provided, such maximum shall be increased in the following cases to the following amounts:

\$15 dollars [sic] in case of an employee with one child under the age of 16 years at the time of the injury to the employee.

\$16 in case of an employee with two children under the age of 16 years at the time of the injury to the employee.

\$17 in case of an employee with three or more children under the age of 16 years at the time of the injury to the employee.

[Subsection 4 is omitted.

Section 12 is amended by inserting a second proviso at the end of the first sentence, which provides "that such examination shall not be made on the day of the hearing."

Section 14 is amended so as to give members of the State industrial commission \$6,000 per year instead of \$5,000, the chairman's salary to be \$7,500. The secretary's salary is fixed at \$5,000, and that of the arbitrators is advanced from \$3,000 to \$4,200.

Section 19 is amended in paragraph (d) by requiring injured workers to accept hospital treatment, as well as medical and surgical treatment for the improvement of their condition. Review is limited to matter presented by the record, no additional evidence being allowed, nor shall findings of fact be set aside "unless contrary to the manifest weight of the evidence."¹ The

¹ This provision as to setting aside findings is held to be a void attempt to prescribe a rule governing judicial action and is unconstitutional. *Ofis Elevator Co. v. Industrial Commission*, 134 N. E. 19.

party seeking a review must pay in advance to the secretary of the industrial commission the estimated probable costs of the same.

Section 24 is amended by striking out the proviso at the end of the fourth sentence, to the effect that failure to give notice is no bar to a claim when the facts of the accident are known to the employer or his agent or vice principal.

Section 25 is amended so as to read as follows:]

Employers' options.

SEC. 25 (as amended by act, p. 446, Acts of 1921). Any employer against whom liability may exist for compensation under this act shall upon the order and direction of the industrial commission:

(a) Deposit the commuted value of the total unpaid compensation for which such liability exists, computed at three per centum per annum in the same manner as provided in section 9, with the State treasurer, or county treasurer in the county where the accident happened, or with any State or National bank or trust company doing business in this State, or in some other suitable depository approved by the industrial commission: *Provided*, That any such depository to which such compensation may be paid, shall pay the same out in installments as in this act provided, unless such sum is ordered paid in, and is commuted to a lump-sum payment in accordance with the provisions of this act; or

(b) Purchase an annuity, in an amount of compensation due or computed, under this act within the limitation provided by law in any insurance company granting annuities and licensed or permitted to do business in this State which may be designated by the employer or the industrial commission.

[The following act, though formally an amendment to a statute on a distinctly separate subject, directly affects compensation for injuries, and for that reason it is reproduced.]

ACTS OF 1921.

Occupational diseases—Status as accidents.

(Page 444.)

SECTION 1. Section 15 of "An act to promote the public health by protecting certain employees in this State from the dangers of occupational diseases * * *" (page 330, Acts of 1911) is hereby amended as follows:

Disease compensable.

SEC. 15. (a) The disablement of an employee engaged in occupations covered by section two (2)² of this act resulting from an occupational disease arising as a result of the work, labor, manufacture, or process referred to in said section two (2) shall be treated as the happening of an accidental injury within the terms and meaning of the workmen's compensation act.

(b) The term disablement means the state of being disabled from earning full wages at the work at which the employee was last employed by the employer from whom he claims compensation.

(c) If any employee employed in occupations covered by section two (2) of this act is disabled or dies and his disability or death is caused by a disease arising out of the occupations referred to in section two (2) of this act, which disease arises out of and in the course of his employment, he or his dependents shall be entitled to compensation for his death or for the duration of his disability in accordance with the provisions of the workmen's compensation act.

²Section 2, referred to above, relates to "Every employer in this State engaged in the carrying on of any process of manufacture or labor in which sugar of lead, white lead, lead chromate, litharge, red lead, arsenate of lead, or Paris green are employed, used, or handled, or the manufacture of brass or the smelting of lead or zinc"; also to "any process of manufacture or labor in which poisonous chemicals, minerals, or other substances are used or handled by the employees therein in harmful quantities or under harmful conditions."

(d) No common law or statutory right to recover damages for injury or death sustained by an employee from an occupational disease other than the compensation provided in the workmen's compensation act shall be available to any employees engaged in any work, manufacture, or process referred to in section two (2) of this act to anyone wholly or partially dependent upon him, the legal representatives of his estate, or to anyone otherwise entitled to recover damages for such injury. **Recovery.**

(e) Except as amended herein said section fifteen (15) shall be and remain in full force and effect as heretofore.

Filed July 13, 1921.

[The above act was declared unconstitutional by the supreme court of the State because of the failure of the legislature to comply with the technical procedure prescribed for amending statutes. *Kelley v. St. Louis Smelting & Refining Co.* (1923), 138 N. E. 618.]

KENTUCKY.

[The workmen's compensation act of this State (ch. 33, Acts of 1916) was amended in 1920 and 1922. The changes made are as follows:

Section 1 was amended by ch. 50, Acts of 1922, making the privilege of voluntary election specifically include "employers having less than three employees."

Medical, etc.,
aid.

Section 4 was amended by ch. 37, Acts of 1920, by making the limitation on medical, etc., treatment "not exceeding 90 days nor exceeding a total expense to the employer of more than one hundred dollars on account of the benefits provided by this section, unless the board shall, by order made within that time, direct an extension of said period of treatment or direct an extension of said limit of expense to not exceeding two hundred dollars."

Sections 9 and 10 are amended by ch. 50, Acts of 1922, by putting the insurance carrier on the same footing as the employer in regard to rights against third parties and against subordinate contractors, respectively, where the insurance carrier has, under his contract, met the obligation fixed by the statute.

Benefits.

Section 16 is amended by ch. 37, Acts of 1920, by advancing the weekly maximum benefit for total disability from \$12 to \$15 and the maximum total from \$5,000 to \$6,000.

Section 17 is amended by ch. 37, Acts of 1920, by increasing the maximum weekly benefit for temporary partial disability from \$12 to \$15.

Section 35 is amended by ch. 50, Acts of 1922, by adding the words "or claim" after the word "notice" in the second sentence of the section.

Section 42 is amended by ch. 37, Acts of 1920, by advancing the maximum salary for stenographers from \$75 per month to \$100, for clerical employees from \$100 to \$125, and for other employees from \$150 to \$175. Section 42b is amended by the same act by increasing the maximum allowance for meals and lodging from \$3 to \$5 per day.

Section 65 is amended by ch. 50, Acts of 1922, by adding the following proviso at the end of the second paragraph:]

Mutual insurance
companies.

Provided, however, That any mutual insurance association or reciprocal or interinsurance exchange possessing a surplus of at least one hundred thousand (\$100,000) dollars and not less in amount than the capital required of a domestic stock insurance company transacting the same kind of insurance shall not be required to purchase an annuity or effect reinsurance with a company authorized to transact insurance in this State or to make such a deposit with a bank or trust company of this State for the purpose of fully securing the payment of all deferred installments upon any claim for compensation.

[The third paragraph of this section is not formally stricken out, but is omitted in what purports to be the present form of the section.

Section 73 is amended by ch. 50, Acts of 1922, by adding thereto the following:]

Notice of elec-
tion.

"And said notice so filed, or a copy thereof certified by the secretary of said board, may be used as evidence in any action by or against said employer in any court of this Commonwealth of the facts therein shown and that said employer has elected to operate under this act."

[Section 74 is amended by ch. 50, Acts of 1922, by inserting after the first paragraph the following:]

“The employer shall provide and keep a compensation register, or registers, so that the employees may at all times have opportunity to sign same in acceptance of this act.”

Register.

[Section 83 is amended by ch. 37, Acts of 1920, by reducing the tax on insurance carriers, set forth in subsection 1, from 4 to 2 per cent, and in subsection 2, from \$4 per \$100 premium to \$2. In subsection 8 the tax on self-insurers is likewise reduced from 4 per cent to 2 per cent of their estimated premium rate.

Subsection 9 is amended so as to read as follows:]

SUBSECTION 9. The board shall not be authorized to incur expenses or indebtedness during any period chargeable against the maintenance fund in excess of the premium tax payable to such fund for the same period. If it be ascertained that the total net surplus to the credit of the maintenance fund of June thirtieth of any year exceeds the sum of sixty thousand dollars, no tax provided for under any part of this section shall be assessed or collected that year for the benefit or maintenance of said fund, and the tax upon premiums under this act which would otherwise have been payable for the maintenance of said fund shall be payable into the State treasury to be credited to the general fund.

Limit on expenses.

LOUISIANA.

[The compensation law of Louisiana was amended by Nos. 234, 244, and 247, Acts of 1920, and by No. 43, Acts of 1922. The changes are indicated below.

Section 7 is amended so as to read as follows:]

Liability of third persons.

SEC. 7 (as amended by No. 247, Acts of 1920). When an injury for which compensation is payable under this act shall have been sustained under circumstances creating in some other person (in this section referred to as third person) than the employer a legal liability to pay damages in respect thereto, the injured employee or his dependent may claim compensation under this act; and the payment or award of compensation hereunder shall not affect the claim or right of action of such injured employee or his dependent against such third person, nor be regarded as establishing a measure of damages for such injury; and such injured employee or his dependent may obtain damages from or proceed at law against such third person to recover damages for such injury.

Subrogation.

2. Any employer having paid or having become obligated to pay compensation under the provisions of this act may bring suit against such third person to recover any amount which he has paid or become obligated to pay as compensation to any injured employee or his dependent: *Provided*, That if either such employee or his dependent, or such employer, shall bring suit against such third person, he shall forthwith notify the other in writing of such fact and of the name of the court in which such suit is filed, and such other may intervene as party plaintiff in such suit.

Apportionment of judgment.

3. In the event that such employer or such employee or his dependent shall become party plaintiff in such suit and any damages are recovered, such damages shall be so apportioned in the judgment that the claim of the employer for the compensation actually paid shall take precedence over that of the injured employee or his dependent; and if the damage shall not be sufficient or shall only be sufficient to reimburse the employer for the compensation which he has actually paid, with a reasonable attorney's fee, to be fixed by the court rendering the judgment, and his costs, such damages shall be assessed solely in his favor; but if the damages shall be more than sufficient to so reimburse the employer, the excess shall be assessed in favor of the injured employee or his dependent; and upon payment thereof to the employee or his dependent the liability of the employer for compensation shall cease for such part of the compensation due hereunder, computed at six per centum per annum, as shall be satisfied by such payment.

Compromises.

4. No compromise with such third person by either the employer or the injured employee or his dependent shall be binding upon or affect the rights of the other unless assented to by him.

Wage percentage.

[Section 8 is amended by act No. 247, Acts of 1920, by changing the basic percentage of compensation from 55 to 60 throughout; also by increasing the allowances to all dependents or groups of dependents five per cent in each case. The following is added to subsection 2, paragraph (g), and amended by No. 43, Acts of 1922:]

Dependent brother or sister.

But if only one parent be actually dependent on the deceased employee to any extent for support at the time of the injury and death, and there be brothers and sisters and other members of the family of the deceased employee not hereinabove specifically provided for, then, if any such brother or sister or other member of the family not otherwise specifically provided for was actually dependent on the deceased employee for support to any extent at the time of the injury and death, ten per centum additional for each such brother or sister or other dependent member of

the family not otherwise specifically provided for, subject to a maximum of sixty per centum of wages for all.

[The maximum weekly benefit (subsection 3) is advanced from \$16 to \$18 per week; and the words "nor in any case unless the employer is notified thereof within the period specified in section 11" are stricken out of subsection 4.

Medical, etc., aid (subsection 5) was increased from \$150 to \$250 per case as a maximum, and to the funeral expenses of \$100 \$50 is added, to be available for contingent expenses.

The provision as to lump-sum settlements (subsection 8) was amended by No. 247, Acts of 1920, and No. 43, Acts of 1922. It now reads as follows:]

The amounts payable as compensation may be commuted to a lump settlement at any time by agreement of the parties if approved by the court as solely and clearly in the interest of the employee or his dependent: *Provided*, That in making such lump-sum settlement the payments due to the employee or his dependent under this act shall not be discounted at a rate greater than eight per centum per annum. If such lump settlement be made without the approval of the court, or at a discount greater than eight per centum per annum, even if approved by the court, the employer shall be liable for compensation at twice the rates fixed in this act, and the employee or his dependent shall at all times within five years after the date of the payment of the lump-sum settlement, and notwithstanding any other provisions of this act, be entitled to demand and receive in a lump sum from the employer such additional payment as together with the amount already paid will aggregate twice the compensation which would have been due under this act but for such lump-sum settlement. But upon the payment of lump-sum settlement commuted on a term agreed upon by the parties, discounted at not more than eight per centum per annum and with the approval of the court, the liability under this act of the employer making such payment shall be fully satisfied: *Provided*, That for the injuries scheduled in paragraphs 1 (d) and 2 of this section no shorter term than therein set forth shall have been agreed upon.

Benefits.

Lump-sum settlements.

[Section 11 is amended so as to read as follows:]

SEC. 11 (as amended by No. 247, Acts of 1920). 1. No proceeding under this act for compensation shall be maintained unless notice of the injury shall be given to the employer within six months after the date of injury or death. No such notice shall 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. Such notice may be given or made by any person claiming to be entitled to compensation, or by anyone in his behalf.

Notice.

2. 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.

[Section 18, subsection 1, is amended by act No. 234, Acts of 1920, so as to read as follows:]

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 district court of the parish in which the injury was done or the accident occurred, or, where there is more than one judge of said court, then to either or any of said judges of such court, or when the amount in dispute is below the jurisdiction of the district court, then said verified complaint may be presented to any justice of the peace of the ward in which said injury was done or accident occurred, or to any court at the domicile of the defendant having jurisdiction of amount in dispute, at the option of the plaintiff, setting forth the names and residence of the parties and the facts relating to employment at the time of injury, the character and extent of the injury, the amount of

Reference to court.

wages being received at the time of the injury, the knowledge of the employer or notice of the occurrences 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, including all facts which are in this act or in any amendment thereof made conditions under which compensation may be granted.

[Sections 21 and 22 are amended so as to read as follows:]

Preference of awards. SEC. 21 (as amended by act No. 247, Acts of 1920). Claims or payments due under 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 of the laborer, and 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 ascendant or descendant.

Fees. 2. Fees of attorneys and physicians for services under this act shall be reasonable and shall be measured according to the workman's station and shall be approved by the court.

Insurance required. SEC. 22 (as amended by No. 247, Acts of 1920). 1. On or before November 1st, 1920, any employer who may come under the provisions of this act, and any employer who may come under the provisions of this act on or before October 1st, 1920, and within thirty days after coming under the provisions of this act, any employer who may come under its provisions subsequent to October 1st, 1920, shall file with the clerk of the district court of the employer's domicile, proof that, in accordance with the provisions of this act, such employer has taken out insurance against all liability that might arise under this act, or shall furnish a bond, with good and solvent surety, conditioned for the faithful payment of all liability that might arise under this act, unless excused by the court from taking out such insurance or furnishing such bond upon proof of financial solvency. Any employer failing to comply with the provisions of this section shall, if liable for compensation under this act, be so liable at twice the rate fixed by this act, and shall be liable to pay, in a lump sum, to any injured employee entitled to compensation under this act, or to the dependent of any such injured employee, such payment as, together with the amount already paid, if any, will aggregate twice the compensation due under this act for such injury.

Bond. 2. If it should be made to appear to the satisfaction of the court that there is reasonable room for uncertainty as to the financial responsibility of an employer against whom liability for compensation has accrued, and that such employer has not taken out insurance against his liability under this act, or has not furnished a bond as in this section provided, the court may order such employer to forthwith furnish a bond, with good and solvent surety, conditioned for the faithful payment of all liability that has arisen or might arise under this act.

[Section 30 is amended so as to read as follows:]

Interstate carriers. SEC. 30 (as amended by No. 244, Acts of 1920). 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, provided that the employee of such common carrier was injured or killed while so employed; but if the injury or killing of an employee of a railroad occurs while the employer and employee are both engaged and employed at the time in an intrastate operation or movement, and said movement or operation is not controlled or governed by the laws, rule of liability, or method of compensation which has been or may be established by the Congress of the United States, then this act shall govern and compensation shall be recovered hereunder; and nothing in this act shall be construed to apply to any work done, nor shall any compensation be payable under this act to the master, officers, or any members 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.

MAINE.

[The compensation law of this State was amended by ch 222, Acts of 1921. The changes are indicated below:

Section 1 is amended in the last paragraph of subsection VIII, so as to read as follows:]

"In all other cases questions of entire or partial dependency shall be determined in accordance with the fact, as the fact may have been at the time of the accident. If there is more than one person wholly dependent, the compensation shall be divided equally among them, and persons partly dependent, if any, shall receive no part thereof during the period in which compensation is paid to persons wholly dependent. If there is no one wholly dependent and more than one person partly dependent, the compensation shall be divided among them according to the relative extent of their dependency. 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."

Dependents.

Aliens.

[Section 7 is amended by changing the word "illegally" in the first line of the second sentence to "legally," so as to read: "a minor working at an age legally permitted, etc."]

Section 9 is changed by reducing the waiting time from 10 days to 7 days, making compensation begin on the 8th day.

Waiting time.

Section 12 is amended so that the first sentence now reads as follows:]

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 two-thirds his average weekly wages, earnings, or salary, but not more than sixteen dollars nor less than six dollars a week, for a period of three hundred weeks from the date of the injury, and in no case to exceed four thousand dollars: *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 or remarriage the compensation thereafter payable under this act shall be paid to the child or children of the deceased employee, including adopted and step-children, under the age of eighteen years, or over said age, but physically or mentally incapacitated from earning, who are dependent upon the widow at the time of her death or remarriage.

Compensation for death.

[Section 14 is amended by making two-thirds instead of three-fifths of the workman's wages the basis of compensation for total disability; also by increasing the weekly maximum to \$16 and the total to \$6,000.

Wage percentage.

Section 15 is amended by changing three-fifths to two-thirds, in the first sentence; also by making the weekly maximum for partial disability \$16 instead of \$15.

Section 16 is amended by substituting two-thirds for three-fifths throughout; also by changing the first sentence so as to read as follows:]

Sec. 16. In cases included in the following schedule the disability in each such case shall be deemed to be total for the period specified, and after such specified period, if there be a total or partial incapacity for work resulting from the injury specified, the employee shall receive compensation while such total or partial incapacity continues under the provisions of sec-

Period of total disability.

tions fourteen and fifteen, respectively, but in no case shall compensation continue more than three hundred weeks after the injury.

Settlements to be approved. [Section 26 is amended by adding thereto the following:]
Settlement of such claims and the distribution of the proceeds therefrom must have the approval of the court wherein litigation is pending, or if not in suit, of the chairman of the commission. The beneficiary shall be entitled to reasonable notice and opportunity to be present in person or by counsel at the approval proceedings.

Action in ninety days. The failure of the employer or compensation insurer in interest to pursue his remedy against the third party within ninety days after written demand by a compensation beneficiary shall entitle such beneficiary or his representatives to enforce liability in his own name, accounting for the proceeds to be made on the basis above provided.

Chairman. [Section 29 is amended by adding to the fourth paragraph thereof the following:]

In case the office of chairman becomes vacant through death, resignation, or removal the associate legal member shall act as chairman until the governor makes an appointment to fill such vacancy.

[Section 30 is amended by striking out from the second sentence the words: "and the clerk of the commission shall record it in a book kept for that purpose."

Hearings. Section 33 is amended so as to read as follows:]
SEC. 33. The whole matter shall then be referred to the chairman or associate legal member 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, but the commission may, with the consent of said claimant, hold said hearing in some other place, in which case the commission may reimburse the claimant for the actual traveling expenses incurred in attending the hearing; any sum of money paid for such expenses to be charged to the appropriation of the industrial accident commission under the heading "Expenses of administration."

MARYLAND.

[The compensation law of this State was amended in 1920 (ch. 456), and 1922 (chs. 303, 321, and 359). The changes are noted below.

Section 15 was amended by ch. 456, Acts of 1920, by adding thereto the following:]

Any such 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 an 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 or for the diminishing and prevention of accidents. Any action of the commission for the purpose of diminishing or preventing accidents shall not apply to public service corporations under the jurisdiction of the public service commission. 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.

Security of
payments.

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 authorized to be established, the premium or taxes levied and published by the commission for the group of employments, industries, or works to which said employer belongs. And any such employer who falls 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 premium 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 provided 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 association, 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 insurance 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.

[Section 17 was amended by ch. 321, Acts of 1922, by striking out the third sentence thereof.]

Section 19 is amended by ch. 456, Acts of 1920, by making classifications applicable throughout the year in which made, "unless a reclassification should, in the opinion of the commission, necessitate a change of rate within such year;" also by adding thereto the following:]

Dividends.

"The commission, in its administration of the State accident fund, shall have the power to declare dividends to the subscribers or policy holders in the fund, either in the form of cash refunders or credits, when the financial condition of the fund is such, in the judgment of the commission, as to make such dividend declaration warranted and advisable."

[Section 27 is amended by ch. 456, Acts of 1920, by increasing the amount that may be assessed against insurance carriers and self-insurers for an expense fund for the commission from \$60,000 to \$80,000 per year.]

Section 29 is amended by ch. 456, Acts of 1920, so as to read as follows:]

Insurance poli-
cies.

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 insurance company or employer carrying his own insurance, desiring to do compensation insurance in this State, shall be required to keep and maintain a local office in charge of a competent person, who shall handle all the compensation work for said insurance company or self-insurer. Any person, firm, corporation, insurance company, association, and self-insurer violating the provisions of this section shall be subject to a fine of not less than \$500 nor more than \$1,000 for each offense, and upon conviction thereof the insurance commissioner may revoke the license of authority for doing business in this State of such person, corporation, firm, insurance company, and association and the State industrial accident commission may prohibit such self-insurer from carrying its own insurance.

[Section 32 is amended by ch. 456, Acts of 1920, by adding to paragraph (43) thereof the words "and to all work of an extra-hazardous nature."]

Section 35 is amended so as to read as follows:]

State and mu-
nicipal employ-
ees.

SEC. 35 (as amended by ch. 303, Acts of 1922). Whenever the State, county, city, or any municipality shall engage in any extra-hazardous work, within the meaning of this article, whether for pecuniary gain or otherwise, in which workmen are employed for wages, this article 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 article is made for municipal employees injured in the course of employment, such employees shall not be entitled to the benefits of this article.

[Section 36 is amended so as to read as follows:]

SEC. 36 (as amended by ch. 456, Acts of 1920). Each employee (or in case of death his family or dependents) entitled to receive compensation under this article shall receive the same in accordance with the following schedule and except as in this article otherwise provided, such payment shall be in lieu of any and all rights of action whatsoever against any person whomsoever. Scale of compensation.

1. In case of total disability adjudged to be permanent sixty-six and two-thirds per centum of the average weekly wages shall be paid to the employee during the continuance of such total disability, not to exceed a maximum of eighteen dollars per week and not less than a minimum of eight dollars per week, unless the employee's established weekly wages are less than eight 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, or loss of use 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. Permanent total disability.

2. In case of temporary total disability sixty-six and two-thirds per centum of the average weekly wages shall be paid to the employee during the continuance thereof, but not to exceed a maximum of eighteen dollars per week and not less than a minimum of eight dollars per week, unless the employee's established weekly wages are less than eight 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. Temporary total disability.

3. In case of disability partial in character but permanent in quality the compensation shall be sixty-six and two-thirds per centum of the average weekly wages, in no case to exceed eighteen dollars per week and not less than a minimum of eight dollars per week, unless the employee's established weekly wages are less than eight 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 exceed more than thirty-seven hundred and fifty dollars in the aggregate, and shall be paid to the employees for the period named in the schedule, as follows: Permanent partial disability.

Thumb—For the loss of a thumb, fifty weeks.

First finger—For the loss of a first finger, commonly called the index finger, thirty weeks.

Second finger—For the loss of a second finger, twenty-five 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.

The loss of the second or distal phalange of the thumb shall be considered to be equal to the loss of one-half of such thumb; the loss of more than one-half of such thumb shall be considered to be equal to the loss of the whole thumb; the loss of the third or distal phalange of any finger shall be considered to be equal to the loss of one-third of such finger. The loss of the middle or second phalange of any finger shall be considered to be equal to the loss of two-thirds of such finger. The loss of more than the middle and distal phalange of any finger shall be considered to be equal to the loss of the whole of such 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, twenty-five weeks.

Other toes—For the loss of one of the toes, other than the great toe, ten weeks.

Hand—For the loss of a hand, one hundred and fifty weeks.

Arm—For the loss of an arm, two hundred weeks.

Foot—For the loss of a foot, one hundred and fifty weeks.

Leg—For the loss of a leg, one hundred and seventy-five weeks.

Eye—For the loss of an eye, one hundred weeks.

Hearing—For the total loss of hearing of one ear, fifty weeks; for the total loss of hearing of both ears, one hundred weeks.

Loss of use—Permanent loss of 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, and for the loss of the fractional part of the vision of either one or both eyes, the injured employee shall be compensated in like proportion to the compensation for total loss of vision, and in arriving at the fractional part of vision lost regard shall not be had for the effect that correcting lens or lenses may have upon the eye or eyes.

Amputations—Amputation between the elbow and the wrist shall be considered as the equivalent of the loss of a hand. Amputation between the knee and the ankle shall be considered as the equivalent of the loss of a foot. Amputation at or above the elbow shall be considered as the loss of an arm. Amputation at or above the knee shall be considered as the loss of the leg.

The compensation for the foregoing specific injuries shall be paid in addition to, and consecutively with, the compensation hereinbefore provided in subsection 2 of this section.

If an employee dies, the right to any compensation payable under this subsection, unpaid at the date of his death, shall survive to and vest in his personal representatives.

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 eighteen dollars per week), payable during the continuance of such partial disability, but not to exceed three thousand dollars, 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.

In all cases where there has been an amputation of a part of any member of the body herein specified, or the loss of the use of any part thereof, for which compensation is not specifically provided herein, the commission shall allow compensation for such proportion of the total number of weeks allowed for the amputation or the loss of the use of the entire member as the affected or amputated portion thereof bears to the whole.

Disfigurements—For other mutilations and disfigurements, not hereinbefore provided for, compensation shall be allowed in the discretion of the commission, for not less than ten weeks nor more than one hundred weeks, as the commission may fix, in each case having due regard to the character of the mutilation and disfigurement as compared with mutilation and injury hereinbefore specifically provided for.

Temporary partial disability.

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 accident, but not to exceed eighteen (\$18) dollars per week, during the continuance of such partial disability, but not in excess of three thousand five hundred dollars, except as otherwise provided in this article.

In case the injury causes death within the period of three 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 expense provided for in section thirty-seven hereof.

Dependents.

If there are wholly dependent persons at the time of death, the payment shall be sixty-six and two-thirds per cent of the average weekly wages, not to exceed, however, a maximum of eighteen dollars per week, and not less than a minimum of eight (\$8) dollars per week, unless the deceased employee's established weekly wages were less than eight dollars per week at the

time of injury, in which event the compensation shall be an amount equal to the average weekly wages, and to continue for the remainder of the period between the date of death and four hundred and sixteen weeks after the date of injury, and not to amount to more than a maximum of five thousand dollars, nor less than a minimum of one thousand dollars.

If there are no wholly dependent persons at the time of the death, but are partly dependent persons, those partly dependent shall receive compensation as follows: The weekly payments to such dependents shall be in an amount not exceeding sixty-six and two-thirds per centum of the average weekly wages or eighteen (\$18) dollars per week, but may, in the discretion of the commission, be for a less amount per week and to continue for all or such portion of the period of four hundred and sixteen weeks after the date of the injury, as the commission in each case 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.

The right to any compensation payable to any dependent and unpaid at the date of death of any such dependent shall survive to and be vested in the surviving dependents, as the commission may determine, if there be such surviving dependents, and if there be none such, then the compensation shall cease.

Compensation under this article to alien dependent widows, children, and parents, not residents of the United States, shall be the same in amount as is provided in each case for residents, except that at any time within one year after an accident resulting in death the commission may in its discretion convert any payments thereafter to become due to such beneficiaries 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.

Aliens.

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.

[Section 37 is amended by ch. 456, Acts of 1920, by adding artificial hands, arms, feet, and legs to the specific articles to be furnished if required by the commission, the cost of all such medical, etc., treatment not to exceed \$300. The allowance for funeral costs is advanced from \$75 to \$125, and "any bill for funeral expenses contracted for an amount in excess of one hundred and twenty-five dollars shall be null and void and uncollectible, either out of the compensation allowed or out of the personal assets of those obligating themselves to pay, unless and until said bill is approved by the commission."

Medical aid,
etc.

Section 39 is amended so as to read as follows:]

SEC. 39 (as amended by ch. 456, Acts of 1920). When an employee is entitled to compensation under this act he shall file with the commission his application and the report of the physician,

Application.

provided he was attended by a physician of his own selection, within thirty days after the beginning of his disability, for which compensation is claimed, and failure to do so unless excused by the commission, either on the ground that the insurance carrier or the employer has not been prejudiced thereby, or for some other sufficient reason, shall be a bar to any claim under this act.

When 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 within one year from the date of death, 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.

[Section 43 is amended by ch. 456, Acts of 1920, by giving a widow, on remarriage, compensation for one year thereafter, if so much remains outstanding. The last paragraph, which was a mere repetition of part of the first, is stricken out.

Section 44 is amended by substituting the words "United States" for the word "State" where it occurs.

Sections 49 and 51 are amended so as to read as follows:]

Waiting time. SEC. 49 (as amended by ch. 456, Acts of 1920). No compensation shall be allowed for three days after the beginning of disability except disbursements herein authorized for medical, nurse, and hospital services and medicines and for funeral expenses.

Lump sums. SEC. 51 (as amended by ch. 456, Acts of 1920). In every case providing for compensation to an employee or his dependent, excepting temporary disability, the commission may, if in its opinion the facts and circumstances of the case warrant it, convert the compensation to be paid in a partial or total lump sum.

[Section 58 is amended so as to read as follows:]

Liability of third parties. SEC. 58 (as amended by ch. 303, Acts of 1922). Where the injury or death for which compensation is payable under this article 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 the case of death, his personal representatives 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 article, or in case of joint tort feors against both; and if compensation is claimed and awarded or paid under this article, any employer, if he is self-insured, insurance company, association, or the State accident fund may enforce for their benefit, as the case may be, the liability of such other person: *Provided, however,* If damages are recovered in excess of the compensation already paid or awarded to be paid under this article, and also any payments made for medical or surgical services, funeral expenses, or for any of the other purposes enumerated in section 37 of this article, then any such excess shall be paid to the injured employee, or in case of death to his dependents, less the expenses and costs of action incurred by the employer, insurance company, association, or State accident fund, as the case may be. If any such employer, insurance company, association, or State accident fund shall not, within two months from the passage of the award of this commission, start proceedings to enforce the liability of such other person, the injured employee, or in case of death his dependents, may enforce the liability of such other person: *Provided, however,* That if damages are recovered the injured employee, or in case of death, his dependents, may first retain therefrom the expenses and costs of action for [after?] which the employer, insurance company, association, or the State accident fund, as the case may be, shall be reimbursed for the compensation already paid or awarded, and any amount or amounts paid for medical or surgical services, funeral expenses, or for any of the other purposes enumerated in section 37 of this article, and the balance in excess of these items shall inure to the injured employee, or in case of death, to his

dependents, and the amount thus received by the injured employee, or in case of death by his dependents, shall be in lieu of any award that might otherwise have been made thereafter in the same case under the provisions of this article, and said case shall thereupon be deemed to have been finally settled and closed.

[Section 62 is amended by ch. 456, Acts of 1920, by adding a new paragraph, as follows:

“(e) That there has been no prejudice caused by failure to file claims within thirty (30) days.”

Presumptions.

Section 63 is last amended by ch. 529, Acts of 1922. Subsections 3 and 10 now read as follows:]

SUBSEC. 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 article, shall mean any employees who, at the time of the accident, are engaged in rendering any agricultural service, including the threshing or 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 article shall not apply to farm laborers, domestic servants, nor to country blacksmiths, wheelwrights, or similar rural employments, unless these employments elect to come under this article as provided in section 33, nor in any case where the accident occurred before this article 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. But for all purposes of this article casual, occasional, or incidental employment outside of this State by the Maryland employer of an employee or employees regularly employed by said employer within this State shall be construed to be employment within this State: *Provided, however,* If an employee or the dependents of an employee shall receive compensation or damages under the laws of any other State, nothing herein contained shall be construed so as to permit a total compensation for the same injury greater than is provided for in this article.

“Employee.”

10. The term “child” and “children” shall include posthumous children and adopted children, whether members of the deceased employee’s household at the time of his accident or death or not, and shall also include stepchildren, illegitimate children, and other children, if such stepchildren, illegitimate children, and other children were members of the household of the decedent at the time of the accident or death and had received contributions toward their support from such deceased employee during any part of the six months immediately preceding the accident or death.

“Child.”

MASSACHUSETTS.

[The compensation law of this State was amended by Acts of 1920, 1921, and 1922. The changes made are as follows:

Part II, section 5, is amended by ch. 324, Acts of 1920, by adding the following sentence:]

Artificial mem- "In any case where the board is of opinion that the fitting of
bers. the employee with an artificial eye or limb or other mechanical
appliance will promote his restoration to industry, it may order
that he be provided with such an artificial eye, limb, or appliance
at the expense of the insurer."

[Part II, section 6, is amended so as to read as follows:]

Death benefits. SEC. 6 (as amended by ch. 402, Acts of 1922). If death results
from the injury, the insurer shall pay the following dependents
of the employee, wholly dependent upon his earnings for support
at the time of his injury, compensation as follows: To the widow,
so long as she remains unmarried, sixteen dollars a week if and
so long as there are more than two children of the employee who
are under the age of eighteen or over said age and physically or
mentally incapacitated from earning, fourteen dollars a week if
and so long as there are two such children, twelve dollars a week
if and so long as there is one such child, and ten dollars a week
if and so long as there is no such child; and, if the widow dies,
to such children in equal shares, sixteen dollars a week if and
so long as there are more than three such children, fourteen
dollars a week if and so long as there are three such children,
twelve dollars a week if and so long as there are two such chil-
dren, and ten dollars a week if and so long as there is one such
child; but, if such widow remarries, the aforesaid payments to
her shall terminate, and the insurer shall pay each week to each
of such children, if and so long as there are more than five, his
or her proportionate part of sixteen dollars, and shall pay to
each of such children, if and so long as there are five or less,
three dollars a week. The period covered by the payments pro-
vided for by the foregoing provisions of this section shall not be
longer than four hundred weeks. When weekly payments have
been made to an injured employee before his death, the com-
pensation under the foregoing provisions of this section shall
begin from the date of the last of such payments but shall not
continue more than four hundred weeks from the date of the
injury.

In all other cases of total dependency the insurer shall pay the
dependents of the employee wholly dependent upon his earnings
for support at the time of injury a weekly payment equal to two-
thirds 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 partially dependent upon his earnings for
support at the time of his injury, the insurer shall pay such
dependents a weekly compensation equal to the same proportion
of the weekly payments for the benefit of persons wholly de-
pendent as the amount contributed by the employee to such par-
tial 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 under
this paragraph 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.

[Part II, section 8, is amended by ch. 368, Acts of 1922, by making the allowance for burial expenses \$150 instead of \$100.

Part II, section 18, is amended by ch. 223, Acts of 1920, by adding at the end the words "or if it is found that the insurer was not prejudiced by such want of notice." Section 23 is amended by the same act by adding the words "or if it is found that the insurer was not prejudiced by the delay."

Part II, section 19, is amended so as to read as follows:]

SEC. 19 (as amended by ch. 310, Acts of 1921). After an employee has received an injury, and from time to time thereafter during the continuance of his disability, he shall, if requested by the insurer or insured, submit to an examination by a registered physician furnished and paid for by the insurer or the insured. The employee may have a physician provided and paid for by himself present at the examination. If a physician provided by the employee is not present at the examination, it shall be the duty of the insurer to file with the department a copy of the report of its examining physician or physicians if and when such report is to be used as the basis of any order by the department. If the employee refuses to submit to the examination or in any way obstructs it, his right to compensation shall be suspended and his compensation during the period of suspension may be forfeited.

Medical exami-
nations.

[Part III, section 1, is amended by ch. 537, Acts of 1922, by making the industrial accident board consist of "seven members, one of whom shall be a woman."]

MICHIGAN.

[The compensation law of this State was amended by three acts of 1921. Another act (No. 43) transfers the administration of the law from the industrial accident board to a newly created department of labor and industry, administered by a commission of three members, appointed by the governor, each to "hold office until the appointment and qualification of his successor."

Part I, section 7, is amended and a new section 10 added, as follows:]

Who are em-
ployees.

SEC. 7 (as amended by No. 173, Acts of 1921). The term "employee" as used in this act shall be construed to mean:

1. Every person in the service of the State, or of any county, city, township, incorporated village, or school district therein, under any appointment, or contract of hire, express or implied, oral or written, except any official of the State, or of any county, city, township, incorporated village, or school district therein, elected at the polls: *Provided*, That one employed by a contractor who has contracted with a county, city, township, incorporated village, school district, or the State, through its representatives, shall not be considered an employee of the State, county, city, township, incorporated village, or school district which made the contract, when such contractor is subject to this act: *Provided, however*, That policemen or firemen or employees of the police or fire departments, or their dependents, in municipalities or villages of this State having charter provisions prescribing like benefits, may waive the provisions of this act and accept in lieu thereof such like benefits as are prescribed in such charter, but shall not be entitled to like benefits from both: *And provided further*, That nothing contained in this act shall be construed as limiting, changing, or repealing any of the provisions of any charter of any municipality or village of this State relating to any benefits, compensation, pensions, or retirement, independent of this act, provided for employees as hereinbefore defined.

2. Every person in the service of another, under any contract of hire, express or implied, including aliens (including working members of partnerships, receiving wages irrespective of profits from such), and also including minors who are legally permitted to work under the laws of the State, who, for the purpose of this act, shall be considered the same and have the same power to contract as adult employees.

Contractors
and subcontractors.

SEC. 10 (added by No. 173, Acts of 1921). (a) Where any employer subject to the provisions of this act (in this section referred to as the principal) contracts with any other person (in this section referred to as the contractor) who is not subject to this act and who does not become subject to this act prior to the date of the accidental injury or death for which claim is made for the execution by or under the contractor of the whole or any part of any 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: *Provided*, That the term "contractor" shall be deemed to include subcontractors

In all cases where the principal gives permission that the work or any part thereof be performed under subcontract;

(b) Where the principal is liable to pay compensation under this section he shall be entitled to be indemnified by the contractor or subcontractor as the case may be, but the employee shall not be entitled to recover at common law against the contractor or any other person for any damages arising from such injury if he takes compensation from such principal. The principal, in case he pays compensation to the employee of such contractor, may recover the amount so paid in an action against such contractor.

[Part II, section 8, is amended so as to read as follows:]

SEC. 8 (as amended by No. 173, Acts of 1921). If death results from the injury, the employer shall pay, or cause to be paid as hereinafter provided, in addition to the indemnity paid to dependents, the reasonable expense of his last sickness and burying, which shall not exceed two hundred dollars, in addition to any sum the employer may be required to pay under the provisions of section four of part two of this act.

Death benefits.

[Part II, section 9, is amended by No. 173, Acts of 1921, by making the maximum compensation in cases of total disability \$7,000 instead of \$6,000.

Disability.

Part II, section 13, is amended by No. 173, Acts of 1921, by adding thereto the words, "except as provided in subsection one of section seven, part one."

Part II, section 20, is amended so as to read as follows:]

SEC. 20 (as amended by No. 173, Acts of 1921). No agreement by an employee to waive his rights to compensation under this act shall be valid except that employees or their dependents as defined in subsection one of section seven, part one, may, after injury only, elect as provided in subsection one of section seven, part one.

Waiver.

[Part III, sections 3, 6, 7, 10, 11, 14, and 20 are amended by Act No. 60, and a new section 19 is added by Act No. 173, Acts of 1921, so as to read as follows:]

SEC. 3 (as amended by No. 60, Acts of 1921). The board may make rules not inconsistent with this act for carrying out the provisions of the act. Process and procedure under this act shall be as summary as reasonably may be. The board or any member thereof shall have the power to administer oaths, subpoena witnesses, and to examine such parts of the books and records of the parties to a proceeding as relate to questions in dispute. Any witness who refuses to obey a subpoena of a member or deputy member of the board, or who refuses to be sworn or testify, or who fails to produce any papers, books, or documents touching any matter under investigation, or any witness, party, or attorney who is guilty of any contempt while in attendance at any hearing held under this act may be punished as for contempt of court; and for this purpose an application may be made to any circuit court within whose territorial jurisdiction the offense is committed, and for which purpose the court is hereby given jurisdiction.

Power of board.

SEC. 6 (as amended by No. 60, Acts of 1921). If the employer, or insurance company carrying such risk, or the commissioner of insurance, as the case may be, and the employee fail to reach an agreement in regard to compensation under this act, either party may notify the industrial accident board, who shall thereupon set the case for hearing. The hearing shall be conducted by a member or deputy member of the industrial accident board.

Hearings.

SEC. 7 (as amended by No. 60, Acts of 1921). It shall be the duty of the industrial accident board, upon notification that the parties have failed to reach an agreement, to designate one of its members or deputy members to hear the case. The member or deputy member so designated shall be known as a committee of arbitration wherever the phrase "committee of arbitration" is used in the act.

Disputes.

- Fees, etc.** SEC. 10 (as amended by No. 60, Acts of 1921). The cost of such arbitration, including the cost of taking stenographic notes of the testimony presented at such hearing, not exceeding, however, the taxable costs allowed in suits at law in the circuit courts of this State, shall be fixed by the board and paid by the State as the other expenses of the State are paid. The fees and payment thereof of all attorneys and physicians for services under this act shall be subject to the approval of the industrial accident board. In the event of disagreement between the parties as to the fees for services of attorneys and physicians, either party may apply to the board for a hearing in accordance with the terms of section fourteen, part three, of the act.
- Review of decisions.** SEC. 11 (as amended by No. 60, Acts of 1921). If a claim for review is filed, as provided in part three, section eight, the industrial accident board shall promptly review the decision of the committee of arbitration, and such records as may have been kept of its hearing, and shall also, if desired, hear the parties, together with such additional evidence as the board in its discretion may allow them to submit, and file its decision therein with the records of such proceedings. Such review and hearing may be held in its offices at Lansing, or elsewhere, as the board shall deem advisable.
- Review of payments.** SEC. 14 (as amended by No. 60, Acts of 1921). Any weekly payment under this act may be reviewed by the industrial accident board, or by any member or deputy member thereof, at the request of the employer, or insurance company carrying such risk, or the commissioner of insurance, as the case may be, or the employee, and on such review it may be ended, diminished, or increased, subject to the maximum and minimum amounts above provided, if the board or member or deputy member finds that the facts warrant such action: *Provided, however,* That when such review is made by a member or deputy member it shall be conducted in accordance with the procedure covering arbitration hearings, set forth in sections six, seven, and eight of part three, and either party may appeal from the decision of the member or deputy member to the full board within ten days from the filing of the decision with the industrial accident board. The costs of such proceedings, when heard before a member or deputy member, shall be paid in accordance with section ten, part three, hereof.
- Injuries outside State.** SEC. 19 (added by No. 173, Acts of 1921). The industrial accident board 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.
- Deputies.** SEC. 20 (as amended by No. 60, Acts of 1921). The board may, subject to the approval of the State administrative board, appoint sufficient deputy members to enable it efficiently to administer the law, who shall hold office during its pleasure. Such deputy members 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 member 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 each such deputy member shall be fixed by the board, subject to the approval of the State administrative board.
- [Part V is amended by adding a new section thereto, as follows:]
- Transfer of accident fund.** SEC. 14 (added by No. 180, Acts of 1921). The duties and powers of the commissioner of insurance in respect of the administration of the accident fund created in this part are hereby transferred to and vested in the State administrative board, and whenever reference is made in this part to the commissioner of insurance such reference shall hereafter be taken to mean the State admin-

istrative board. The securities belonging to such fund and all investments or reinvestments thereof, shall be under the control and management of such board; and the provisions in section two hereof with respect to the giving of a bond are hereby repealed. The State administrative board, subject to the approval of the advisory board created by section twelve, shall appoint and employ a manager for the accident fund, who shall give a bond to the State in the sum of ten thousand dollars, conditioned upon the faithful performance of his duties, and the accounting for all collections and disbursements made by him. Such manager shall perform such duties under this part as the State administrative board shall direct.

MINNESOTA.

ACTS OF 1921.

CHAPTER 82.—*Compensation of workmen for injuries.*

[This act supersedes and repeals the former compensation statute of this State, ch. 467, Acts of 1913, from which, however, it borrows many provisions. The new act was amended by ch. 423, Acts of 1921. It is here printed in its amended form:]

PART 1.

COMPENSATION BY ACTION AT LAW.

Liability of employer for damages. SECTION 1. When personal injury or death is caused to an employee by accident arising out of and in the course of his employment, of which injury the actual or lawfully imputed negligence of the employer is the natural and proximate cause, he, or, in the 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.

Certain defenses excluded. 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 has 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.

When defenses excluded. 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: *Provided*, That this section shall not be held to apply to any employer of farm labor, whether or not he has elected to accept part 2 of this act.

When defenses available. 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.

Death claims. SEC. 5. The provisions of sections 1, 2, 3, and 4 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.

Burden of proof. 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.

Legal services, when lien. SEC. 7. No claim for legal services or disbursements pertaining to any demand made or suit or proceeding 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, or in cases arising under part 2 of this act by the industrial commission: *Provided*, That if notice in writing be given the defendant of such claims 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 arising under part 2 of this act, shall be reported by the employee to the industrial commission in writing within ten days after such payment.

Medical services, when lien.

PART 2.

ELECTIVE COMPENSATION.

SECTION 8. 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: *Provided*, That part 2 of this act shall apply to farm labor if the employer shall have elected to accept the provisions of such part 2 by posting a written or printed statement of his election and filing a duplicate thereof with the industrial commission as provided by section 11 of this act, not less than thirty (30) days before the accident occurs to an employee, for which damages or compensation may be claimed, unless the employee shall signify his election, as provided by section 11 of this act, not to accept or be bound by the provisions of this act, in which case said part 2 shall not apply: *And provided further*, That either party may terminate his acceptance or election not to accept the provisions of part 2 of this act as provided by section 12 hereof.

Employments excluded.

Farmer may elect.

SEC. 9. If both employer and employee shall, by agreement expressed 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. It is hereby made the duty of all such employers to commence payment of compensation at the time and in the manner prescribed by part 2 of this act without the necessity of any agreement or order of the commission, payments to be made at the intervals when the wage was payable as nearly as may be. No agreement by any employee or dependent to take as compensation an amount less than that prescribed by law shall be valid.

Agreement to be subject to part 2.

Injuries excluded.

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 the 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.

Surrender of other rights.

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

Presumption as to acceptance.

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:

Election not to accept. 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 industrial commission.

Notices. 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 affidavit of service attached thereto with the industrial commission.

Termination of election. SEC. 12. Either party may terminate his acceptance or his election not to accept 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 affidavit of service attached thereto shall be filed with the industrial commission and the time shall not begin to run until the notice is so filed.

Minors. SEC. 13. Minors who are permitted to work by the laws of this State shall, for the purpose 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 industrial commission 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.

Temporary total disability. SEC. 14. Following is the schedule of compensation: (a) For injury producing temporary total disability, sixty-six and two-thirds per centum of the daily wage at the time of injury, subject to a maximum compensation of eighteen (\$18) dollars per week and a minimum of eight (\$8) dollars per week: *Provided*, That if at the time of injury the employee receives wages of eight (\$8) dollars or less 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 (300) weeks, payment to be made at the intervals when the wage was payable, as nearly as may be.

Temporary partial disability. (b) In all cases of temporary partial disability the compensation shall be sixty-six and two-thirds per centum of the difference between the daily wage of the workman at the time of 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 (300) 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).

Permanent partial disability. (c) For the permanent partial disability from the loss of a member, the compensation during the healing period to be determined by the commission, but not exceeding fifteen weeks, shall be sixty-six and two-thirds per centum of the difference between the daily wage of the workman at the time of injury and the wages he shall be able to earn, if any, in his partially disabled condition, unless on application to the industrial commission, made in the same manner as provided in section 19 for additional medical service, the period is extended by the commission for not to exceed an additional ten weeks; and thereafter, and in addition thereto, compensation shall be that named in the following schedule:

Specific schedule. For the loss of a thumb, sixty-six and two-thirds per centum of the daily wage at the time of injury during sixty (60) weeks.

For the loss of a first finger, commonly called index finger, sixty-six and two-thirds per centum of the daily wage at the time of injury during thirty-five (35) weeks.

For the loss of a second finger, sixty-six and two-thirds per centum of the daily wage at the time of injury during thirty (30) weeks.

For the loss of a third finger, sixty-six and two-thirds per centum of the daily wage at the time of injury during twenty (20) weeks.

For the loss of a fourth finger, commonly called the little finger, sixty-six and two-thirds per centum of the daily wage at the time of injury during fifteen (15) 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 one and one-half or more phalanges 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, sixty-six and two-thirds per centum of daily wage at time of injury during thirty (30) weeks.

For the loss of one of the toes other than a great toe, sixty-six and two-thirds per centum of the daily wage at the time of injury 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 one and one-half or more phalanges shall be considered as the loss of the entire toe.

For the loss of a hand, not including the wrist movement, sixty-six and two-thirds per centum of the daily wage at the time of injury during one hundred and fifty (150) weeks.

For the loss of a hand, including the wrist movement, sixty-six and two-thirds per centum of the daily wage at the time of injury during one hundred and seventy-five (175) weeks.

For the loss of an arm, sixty-six and two-thirds per centum of the daily wage at the time of injury during two hundred (200) weeks.

Amputation of the arm below the elbow shall be considered as the loss of a hand, including wrist movement, if enough of the forearm remains to permit the use of an effective artificial member; otherwise it shall be considered as the loss of an arm.

For the loss of a foot, not including the ankle movement, sixty-six and two-thirds per centum of the daily wage at the time of injury during one hundred and twenty-five (125) weeks.

For the loss of a foot, including ankle movement, sixty-six and two-thirds per centum of the daily wage at the time of injury during one hundred and fifty (150) weeks.

For the loss of a leg, if enough of the leg remains to permit the use of an effective artificial member, sixty-six and two-thirds per centum of the daily wage at the time of injury during one hundred and seventy-five (175) weeks.

For the loss of a leg so close to the hip that no effective artificial member can be used, sixty-six and two-thirds per centum of the daily wage at the time of injury during two hundred (200) weeks.

Amputation of the leg below the knee shall be considered as loss of foot, including ankle movement, if enough of the lower leg remains to permit the use of an effective artificial member; otherwise it shall be considered as loss of leg.

For the loss of an eye, sixty-six and two-thirds per centum of the daily wage at the time of injury during one hundred (100) weeks.

For complete permanent loss of hearing in one ear, sixty-six and two-thirds per centum of the daily wage at the time of injury during fifty-two (52) weeks.

For the complete permanent loss of hearing in both ears, sixty-six and two-thirds per centum of the daily wage at the time of injury during one hundred and fifty-six (156) weeks.

For serious disfigurement other than the loss of a member, materially affecting the employability of the injured person, sixty-six and two-thirds per centum of the daily wage at the time of injury during fifty (50) weeks.

For the loss of an eye and a leg, sixty-six and two-thirds per centum of the daily wage at the time of injury during three hundred and fifty (350) weeks.

For the loss of an eye and arm, sixty-six and two-thirds per centum of the daily wage at the time of injury during three hundred and fifty (350) weeks.

For the loss of an eye and a hand, sixty-six and two-thirds per centum of the daily wage at the time of injury during three hundred and twenty-five (325) weeks.

For the loss of an eye and a foot, sixty-six and two-thirds per centum of the daily wage at the time of injury during three hundred (300) weeks.

For the loss of two arms other than at the shoulder, sixty-six and two-thirds per centum of the daily wage at the time of injury during four hundred (400) weeks.

For the loss of two hands, sixty-six and two-thirds per centum of the daily wage at the time of injury during four hundred (400) weeks.

For the loss of two legs, other than so close to the hips that no effective artificial members can be used, sixty-six and two-thirds per centum of the daily wage at the time of injury during four hundred (400) weeks.

For the loss of two feet, sixty-six and two-thirds per centum of the daily wage at the time of injury during four hundred (400) weeks.

For the loss of one arm and the other hand, sixty-six and two-thirds per centum of the daily wage at the time of injury during four hundred (400) weeks.

For the loss of one hand and one foot, sixty-six and two-thirds per centum of the daily wage at the time of injury during four hundred (400) weeks.

For the loss of one leg and the other foot, sixty-six and two-thirds per centum of the daily wage at the time of injury during four hundred (400) weeks.

For the loss of one leg and one hand, sixty-six and two-thirds per centum of the daily wage at the time of injury during four hundred (400) weeks.

For the loss of one arm and one foot, sixty-six and two-thirds per centum of the daily wage at the time of injury during four hundred (400) weeks.

For the loss of one arm and one leg, sixty-six and two-thirds per centum of the daily wage at the time of injury during four hundred (400) weeks. ●

Concurrent injuries.

Where an employee sustains concurrent injuries resulting in concurrent disabilities he shall receive compensation only for the injury which entitles him to the largest amount of compensation; but this section shall not effect liability for serious disfigurement materially affecting the employability of the injured person or 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 except as otherwise provided by this section.

Partial loss of member.

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 the compensations provided in clause (c) of this section for loss of members or loss of the use of members are subject to the same limitations as to maximum and minimum as are stated in clause (a).

In addition to the compensation provided in the foregoing schedule for loss or loss of the use of a member, the compensation during the period of retraining for a new occupation, as certified by the division of reeducation, operating under chapter 365, Laws of Minnesota, 1919, shall be sixty-six and two-thirds per centum of the daily wage at the time of the injury, not exceeding twenty-five (25) weeks, provided the injury is such as to entitle the workmen to compensation for at least seventy-five (75) weeks in the schedule of indemnities for permanent impairments, and provided the industrial commission on application thereto shall find that such retraining is necessary and make an order for such compensation.

Rehabilitation.

In all other cases of permanent partial disability not above enumerated the compensation shall be sixty-six and two-thirds 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 eighteen (\$18) dollars per week. Compensation shall continue during disability, not, however, beyond three hundred (300) weeks.

Injuries not scheduled.

(d) For permanent total disability as defined in subsection (e) below, sixty-six and two-thirds per centum of the daily wage at the time of the injury, subject to a maximum compensation of eighteen (\$18) dollars per week and a minimum compensation of eight (\$8) dollars per week: *Provided*, That if at the time of the injury the employee was receiving wages of eight (\$8) dollars or less per week then he shall receive the full amount of his wages per week. This compensation shall be paid during the permanent total disability of the injured person, but the total amount payable under this subsection shall not exceed ten thousand (\$10,000) dollars in any case; payments to be made at the intervals when the wage was payable as nearly as may be: *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 payable during the period of his confinement in such institution, unless he has wholly dependent on him for support a person or persons named in subsection (1), (2), and (3) of section 15 (whose dependency shall be determined as if the employee were deceased), in which case the compensation provided for in this subsection shall during the period of such employee's confinement, as aforesaid, be paid for the benefit of said persons so dependent during dependency.

Permanent total disability.

(e) The total and permanent loss of the sight of both eyes or the loss of both arms at the shoulder, or the loss of both legs so close to the hips that no effective artificial members can be used, or complete and permanent paralysis, or total and permanent loss of mental faculties, or any other injury which totally incapacitates the employee from working at an occupation which brings him an income, shall constitute total disability.

Definition.

(f) In case a workman sustains an injury due to accident arising 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 the death.

Death following disability.

SEC. 15. (1) For the purpose of this act the following described persons shall be conclusively 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.

Dependents.

(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, grandchild, sister, brother, mother-in-law, 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.
- Partial dependents.** (4) Any member of a class named in subdivision (3), who regularly derived part of his support from the wages of the deceased workman at the time of his death and for a reasonable period of time immediately prior thereto, shall be considered his partial dependent, and payment of compensation shall be made to such dependents in the order named.
- Benefits.** (5) 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.
- (6) If the deceased employee leave a widow and no dependent child, there shall be paid to the widow forty per centum of the daily wage at the time of the injury of the deceased.
- (7) If the deceased employee leave a widow or widower and one dependent child, there shall be paid to the widow or widower for the benefit of herself or himself and such child, fifty per centum of the daily wage at the time of injury of the deceased.
- (8) If the deceased employee leave a widow or widower and either two or three dependent children, there shall be paid to the widow or widower for the benefit of herself or himself and such children, sixty per centum of the daily wage at the time of injury of the deceased.
- (9) If the deceased employee leave a widow or widower and four or more dependent children, there shall be paid to the widow or widower for the benefit of herself or himself and such children, sixty-six and two-thirds per centum of the daily wage at the time of injury of the deceased.
- Apportionment.** (10) In all cases where compensation is payable to the widow or widower for the benefit of herself or himself and dependent child or children, the industrial commission 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.
- Remarriage of widow.** (11) In the 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.
- Orphans.** (12) If the deceased employee leave a dependent orphan, there shall be paid forty-five per centum of the daily wage at the time of injury of the deceased, with ten per centum additional for each additional orphan, with a maximum of sixty-six and two-thirds per centum of such wages.
- Husband.** (13) If the deceased employee leave a dependent husband and no dependent child, there shall be paid to the husband thirty per centum of the daily wage at the time of injury of the deceased.
- Parents.** (14) If the deceased employee should 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-five per centum of the daily wage at the time of injury of the deceased, and if both parents, forty-five per centum of the daily wage at the time of injury of the deceased to such parent or parents.
- Other dependents.** (15) If the deceased should leave no widow or child or husband or parent entitled to any payment hereunder, but should leave a grandparent, grandchild, 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, thirty per centum of the daily wage

at the time of injury of the deceased, or if more than one, thirty-five per centum of the daily wage at the time of injury of the deceased, divided between or among them share and share alike.

(16) If compensation is being paid under part 2 of this act to any dependent, such compensation shall cease upon the death or marriage of such dependent, unless otherwise provided herein. Rights not vested.

(17) Partial dependents shall be entitled to receive only that proportion of the benefits provided for actual dependents which the average amount of 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. Share of partial dependents.

(18) 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 expenses provided for in section 19 the expense of burial, not exceeding in amount one hundred and fifty (\$150) 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 a benefit association. In case any dispute arises as to the reasonable value of the services rendered in connection with the burial, the same shall be determined and approved by the industrial commission before payment, after such reasonable notice to interested parties as the industrial commission shall require. If the deceased leave no dependents, no compensation shall be payable except as provided by this subsection or section 16 hereof. Burial expenses.

(19) The compensation payable in case of death to persons wholly dependent shall be subject to a maximum compensation of eighteen (\$18) dollars per week and a minimum of eight (\$8) dollars per week: *Provided*, That if at the time of injury the employee receives wages of eight (\$8) dollars or less 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 eighteen (\$18) dollars per week and a minimum of eight (\$8) dollars per week: *Provided*, That if the income loss of the said partial dependents by such death is eight (\$8) dollars or less per week, then the dependents shall receive the full amount of their income loss. This compensation shall be paid during dependency, but shall not exceed seventy-five hundred (\$7,500) dollars in case of a dependent wife, child, children, or orphan, and shall not exceed three hundred (300) weeks in case of any other dependent, payments to be made at the intervals when the wage was payable as nearly as may be. Maximum and minimum payments.

(20) Actual dependents shall be entitled to take compensation in the order named in subsection (3) above, during dependency, until sixty-six and two-thirds per centum of the daily wage of the deceased at the time of injury shall have been exhausted: *Provided*, That such compensation shall not exceed seventy-five hundred (\$7,500) dollars in case of a dependent wife, child, children, or orphan, or continue beyond three hundred (300) weeks in case of any other dependent; but the total compensation to be paid to all actual dependents of a deceased employe shall not exceed in the aggregate eighteen (\$18) dollars per week. Rank of actual dependents.

SEC. 16. 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: *Provided, however*, That in addition to compensation for such permanent partial disability and after the cessation of the payments for the prescribed period of weeks, the employe shall be paid by the State the remainder of the compensation that would be due for permanent total disability. Second injury.

ability, out of a special fund created for such purpose in the following manner :

- Special fund.** Every employer shall pay to the State treasurer for every case of injury occurring in his employ and causing death in which there are no persons entitled to compensation the sum of one hundred (\$100) dollars. The State treasurer shall be the custodian of this special fund and the industrial commission shall direct the distribution thereof, the same to be paid as other payments of compensation are paid. In case deposit is or has been made under the provisions of this section and dependency later is shown, the State treasurer is hereby authorized to refund such deposit.
- Joint employers.** **Sec. 17.** 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.
- Waiting period.** **SEC. 18.** In cases of temporary total or temporary partial disability no compensation shall be allowed for the first week after the disability commenced, except as provided by section 19, nor in any case unless the employer has actual knowledge of the injury or is notified thereof within the period specified in section 20: *Provided, however,* That if such disability continues for four weeks or longer such compensation shall be computed from the commencement of such disability.
- Medical, etc., treatment.** **SEC. 19.** Such medical, surgical, and hospital treatment, including nursing, medicines, medical and surgical supplies, crutches and apparatus, including artificial members, as may reasonably be required at the time of the injury and during the disability for not exceeding ninety (90) days and not exceeding one hundred (\$100) dollars in value, to cure and relieve from the effects of the injury, shall be provided by the employer[;] and in case of his inability or refusal seasonably to do so, the employer shall be liable for the reasonable expense incurred by or on behalf of the employee in providing the same: *Provided, however,* That upon request by the employee made during or after said period of ninety (90) days and necessity being shown therefor the industrial commission may require the above treatment, articles, and supplies for the cure and relief from the effects of such injury for such further time and amount as is just under the facts shown.
- The commission may, upon the petition of an employee and a proper showing of cause therefor, order a change of physicians and designate a physician suggested by the injured employee or by the commission itself, and in such case the expense thereof shall be borne by the employer upon the same terms and conditions as hereinbefore provided in this section for medical and surgical treatment and attendance.
- The pecuniary liability of the employer for the treatment, articles, and supplies herein required shall be limited to such charges therefor as prevail in the same community for similar treatment, articles, and supplies furnished to injured persons of a like standard of living, when the same are paid for by the injured persons; and in all cases of dispute as to the value of the treatment, articles of supplies furnished to or for an injured employee, either party may require that the same, before payment, shall be determined and approved by the industrial commission upon such

reasonable notice to interested parties as the industrial commission shall require.

SEC. 20. 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 the knowledge obtained within thirty (30) days after 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. 21. The notice referred to in section 20 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 employment at (place) _____ while engaged as (kind of work) _____ on or about the ____ day of _____, 19__, and who is now located at (give town, street, and number) _____ that so far as now known, the nature of the injury was _____, and that compensation may be claimed therefor.

(Signed) _____
(giving address)

Dated _____, 19__

But no variation from this form shall be material if the notice is sufficient to advise the employer that a certain employee, by name, received a specified injury in the course of his employment on or about the specified time, at or near a certain place specified.

SEC. 22. 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; two years after the employer has made written report of the injury to the industrial commission.

(2) Actions or proceedings by dependents to determine or recover compensation two years after the receipt by the industrial commission of notice in writing of death given by the employer: *Provided*, That in any such case, if a dependent of the deceased or anyone in his behalf, shall give notice of such death to the industrial commission, said commission shall forthwith notify in writing the employer of the time and place of such death. In case the deceased was a native of a foreign country, and leaves no known dependent or dependents within the United States, it shall be the duty of the industrial commission to give written notice of said death to the consul or other representative of said foreign country forthwith.

(3) 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 by this section specified, the period of limitation in any such case shall be extended for two years from the date when such incapacity ceases.

Medical examination.

SEC. 23. (1) The injured employee must submit himself to examination by the employer's physician, if requested by the employer, and at reasonable times thereafter upon the 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 industrial commission, or the commissioner or referee conducting the hearing, may of its or his own motion, or upon request of any interested party provide a neutral physician of good standing and ability to make an examination of the injured person and report his findings to the industrial commission, a commissioner, or referee as the case may be. The expense of such examination shall be borne by the said parties, or as ordered by the commission, or commissioner or referee.

Refusal of examination.

(3) If the injured employee refuses to comply with any reasonable request for examination, his right to compensation may be suspended by order of the commissioner and, in such case, no compensation shall be paid while he continues in such refusal.

Autopsy.

(4) In all death claims where the cause of death is obscure or disputed any interested party may request an autopsy, and if denied the commission may upon petition order the same; the cost of such autopsy shall be borne by the party demanding the same.

Physician to testify.

(5) Any physician designated by the commission, commissioner, or referee, or 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.

Alien dependents.

SEC. 24. 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 industrial commission 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 resides 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 settlement and distribution of said funds shall be made only on order of the commission, such consular officer or his representative shall furnish, if required by the commission, a good and sufficient bond, satisfactory to the commission, 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 commission 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 thereafter, when ordered to do so by the commission, furnish to the commission 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.

Lump-sum payments.

SEC. 25. The amounts of compensation payable periodically hereunder may be commuted to one or more lump-sum payments only by order of the commission and on such terms and conditions as the commission may prescribe.

In making such commutations 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. At any time after the amount of any award or commutation has been finally determined by the commission, a sum equal to the present value of all future installments of the 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 the commission, be paid by the employer to any savings bank or trust company of this State to be approved and designated by the commission, 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 receipt of the trustee, filed with the industrial commission, shall operate as a satisfaction of the compensation liability 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, excepting as the commission shall otherwise order. In the appointment of the trustee preference shall be given, in the discretion of the industrial commission, to the choice of the injured employee or the dependents of the deceased employee, as the case may be.

SEC. 27. 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, except as otherwise provided herein.

SEC. 28. An employer except the State and the municipal subdivision thereof liable under this act to pay compensation shall insure payment of such compensation in some insurance carrier authorized to insure such liability in this State unless such employer shall be exempted in whole or in part from such insurance by the industrial commission. An employer desiring to be exempted in whole or in part from insuring his liability for compensation shall make application to the industrial commission, showing his financial ability to pay such compensation, whereupon the commission, by written order, may make such exemption as it deems proper. The commission may from time to time require further statement of financial ability of such employer to pay compensation and may, upon ten days' notice in writing, revoke its order granting such exemption, in which case such employer shall immediately insure his liability. As a condition for the granting of an exemption the commission shall have authority to require the employer to furnish such security as it may consider sufficient to insure payment of all claims under compensation. Where the security is in the form of a bond or other personal guaranty the commission may at any time, either before or after the entry of an award, upon at least ten days' notice and opportunity to be heard, require the surety to pay the amount of the award, the same to be enforced in like manner as the award itself may be enforced.

An employer who shall fail to comply with any provisions of this section shall be liable to the State of Minnesota for a penalty of fifty (\$50) dollars for each such failure, and each such penalty shall be recovered in a civil action brought in the name of the State by the attorney general in any court having jurisdiction thereof, and it shall be the duty of the industrial commission, whenever any such failure occurs, to immediately certify the fact thereof to the attorney general and upon receipt of any such

certification the attorney general shall forthwith commence and prosecute such action. All penalties recovered by the State hereunder shall be paid into the State treasury.

Insurance poli-
cies, etc.

SEC. 29. 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 of this section hereinafter named.

If the risk of the employer is carried by any insurer doing business for profit, or by an 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. Nothing herein contained shall prevent any employer, with the approval of the commission, 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 any purpose shall be jurisdiction of the insurer, and that the insurer will in all things be bound by and subject to the awards rendered against such employer upon the risks so insured.

Such policies must provide that the workman shall have an equitable lien upon any amount which shall become owing on account of such policy to the employer from the insurer, and in case of the legal incapacity or inability of the employer to receive the said amount and pay it over to the workman or dependents, the said insurer will pay the same direct to said workman or dependents, thereby discharging all obligations under the policy to the employer, and all of the obligations of the employer and insurer to the workman; but such policies shall contain no provisions relieving the insurance company from payment when the employer becomes insolvent or discharged in bankruptcy or otherwise, during the period the policy is in force, if the compensation remains owing.

The insurer must be one authorized by law to conduct such business in the State of Minnesota and authority is hereby granted to all insurance companies writing such insurance to include in their policies in addition to the requirements now provided by law, the additional requirements, terms, and conditions in this section provided. 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 risk 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 industrial commission. Any employer who shall make any charge or deduction prohibited by this section shall be guilty of a misdemeanor.

Employees' con-
tributions.

Notice of in-
surance.

If the employer shall insure to his employees the payment of the compensation 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 a copy of such notice with the industrial commission, then, and in such case, any proceedings 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 proceedings against any insurance company, the employer may be joined at any time after such adjudication. Insolvent companies.

SEC. 30. (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 the employer 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 directions; 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. Evading liability.

(2) Where compensation is claimed from, or proceedings taken against a person under subdivision (1) 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 31, or under the conditions set forth in section 66j. Acts of third persons.

SEC. 31. (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. Liability of third party.

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 and recover the aggregate amount of compensation payable by him to such employee or his dependents hereunder, together with the costs and disbursements of such action and reasonable attorney's fees expended by him therein.

(2) 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 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 after deducting costs, reasonable attorney's fees, and reasonable expenses incurred by such employee or dependents in making such collection or enforcing such liability: *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 his 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 or parties by judgment or otherwise in excess of such compensation payable by the employer under part 2 of this act, and costs, reasonable attorney's fees, and reasonable expenses incurred by such employer in making such collection and 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.

FRIVOLOUS CON-
TROVERSIES.

SEC. 32. In any case where any proceeding has been instituted or carried on any defense interposed by any employer or insurer liable to pay compensation hereunder which does not present a real controversy but is merely frivolous or for delay, or where there has been any unreasonable or vexatious delay of payment, or neglect or refusal to pay, or intentional underpayment of any compensation due to any employee or dependent under part 2 of this act, the industrial commission or the supreme court may, after reasonable notice and hearing or opportunity to be heard, as in cases of dispute arising under part 2 of this act, award, in addition to the compensation payable or to become payable, an amount equal to not more than twenty-five per centum of the compensation payable or to become payable as aforesaid. To secure information as to any act or omission specified in this section the industrial commission by itself or employees may examine from time to time the books and records of any employer or insurance carrier relative to the payment of compensation hereunder, or require any such employer or insurance carrier to furnish any other information relating to the payment of compensation hereunder. In case of an insurer persisting in any act or omission hereinbefore specified in this section or refusing or failing to allow the industrial commission to examine its books and records or to furnish such information, the industrial commission shall make complaint in writing to the insurance commissioner setting forth the facts and recommending the revocation of the license of such insurer to do business in this State, whereupon the commissioner of insurance shall hear and determine the matter as provided in chapter 508 of the General Laws of Minnesota for 1919; and if any such charge is found true the commissioner of insurance shall revoke the license of such insurer and thereafter it shall be unlawful for such insurer to write or effect insurance in this State.

SEC. 33. It is hereby made the duty of every employer subject to the provisions of part 2 of this act to make or cause to be made a report to the industrial commission of any accident to any employee which occurs in the course of his employment, and which causes death or serious injury within forty-eight (48) hours of the occurrence of such accident, and of all other accidents which occur to any employee in the course of his employment, and of which the employer or his foreman has knowledge within seven days after the occurrence of such accident: *Provided*, That such injuries are sufficient wholly or partially to incapacitate the person injured from labor or service for more than the remainder of the day, shift, or turn on which the injury was sustained, which reports shall be made upon a form to be prescribed by the industrial commission.

Accidents to be reported.

The industrial commission shall include in the form of report prepared by it a statement that the employer will pay the compensation as required by law to be signed by the employer or his representative where a liability to pay compensation is admitted.

Accidents required by this section to be reported within 48 hours may be reported by telephone, telegraph, or personal notice and a written report of such accident shall then be made within seven days or at such time as the industrial commission shall designate, and the commission may require such supplementary reports of any accident as it may deem necessary for the securing of the information required by law: *Provided*, That when an accident has been reported which subsequently terminates fatally, a supplemental report shall be filed with the industrial commission within forty-eight (48) hours after receipt of knowledge of such death, stating that the injury had proved fatal and any other facts in connection with such death or as to the dependents of such deceased employee which the industrial commission may require.

Time limit.

Every physician or surgeon who shall examine, treat, or have special knowledge of any injury to any employee compensable under part 2 of this act shall within ten days after receipt of any request therefor, in writing, made by the industrial commission, report to the commission all facts within his knowledge relative to the nature and extent of any such injury and the extent of any disability resulting therefrom upon a form to be prescribed by the commission.

Reports by physicians.

It is hereby made the duty of the industrial commission from time to time and as often as may be necessary to keep itself fully informed as to the nature and extent of any injury to any employee compensable under part 2 of this act and the extent of any disability resulting therefrom and the rights of such employee to compensation, to request in writing and procure from any physician or surgeon examining, treating, or having special knowledge of such injury, a report of the facts within his knowledge relative thereto.

Any employer or physician or surgeon who shall fail to make any report required by this section, in the manner and within the time herein specified, shall be liable to the State of Minnesota for a penalty of fifty (\$50) dollars for each such failure, and such penalty shall be recovered in a civil action brought in the name of the State by the attorney general in any court having jurisdiction thereof, and it shall be the duty of the industrial commission whenever any such failure to report occurs to immediately certify the fact thereof to the attorney general, and upon receipt of any such certification the attorney general shall forthwith commence and prosecute such action. All penalties recovered by the State hereunder shall be paid into the State treasury.

No such report nor part thereof, nor any copy of the same or part thereof, shall be open to the public, nor shall any of the contents thereof be disclosed in any manner by any official or clerk or other employee or person having access thereto, but the same may be used upon the hearings under this act or for State investi-

gations and for statistics only, and any such disclosure is hereby declared to be a misdemeanor and punishable as such.

Commission to
notify injured
employees.

SEC. 34. On receipt of notice or information that an employee governed by part 2 of this act has sustained an injury which may be compensable, the industrial commission shall forthwith mail to such employee, if his post-office address be known or ascertainable, a written or printed notice in the form of a letter giving a brief statement in simple language of such employee's general rights and duties under this act. In addition such other matters as in the discretion of the commission may be incorporated in this notice, it shall summarize the employer's duty to furnish medical and hospital treatment and to pay compensation, and shall also invite such employee to ask advice of the commission in case any doubt or dispute arises concerning his rights under this act on account of such injury. The notice shall be accompanied by an envelope addressed to the industrial commission, for use by the employee in making any reply.

Notice of stop-
ping compensa-
tion, when.

SEC. 35. Before discontinuing the payment of compensation in any case coming under part 2 of this act, the employer shall, if it is claimed by or on behalf of the injured person or his dependents that his right to compensation still continues, or if such employee or his dependents shall refuse to sign or object to signing a final receipt, notify the industrial commission in writing of such proposed discontinuance of payment, with the date of the discontinuance and the reason therefor, and that the employee or dependent, as the case may be, objects thereto, and until such notice is given as aforesaid the liability for and the making of such payments shall continue unless otherwise ordered by the commission:

Insurers may
act.

Provided, That the receipt of any such notice of discontinuance by the commission, as herein provided, shall operate as a suspension of payment of compensation until the right thereto can be investigated, heard, and determined, as herein provided. It is hereby made the duty of the industrial commission, forthwith upon receipt of any such notices of discontinuance, to notify the employee of the receipt thereof and mail him a copy of the same at his last known place of residence, and to make such investigations and inquiries as may be necessary to ascertain and determine whether the right to compensation in any such case has terminated in accordance with law, and if upon investigation it shall appear that the right to compensation in any such case has not terminated, or will not terminate upon the date specified in any such notice of discontinuance, the industrial commission shall set down for hearing before the commission, or some commissioner or referee, the question of the right of the employee or dependent, as the case may be, to further compensation, such hearing to be held within twenty-five (25) days of the receipt by the commission of any such notice of discontinuance, and eight (8) days' notice of such hearing shall be given by the commission to the interested parties.

Hearing.

After the hearing by the commission, commissioner, or referee and due consideration of all the evidence submitted, the commission, commissioner, or referee shall promptly enter an order or award for such further amount of compensation to be paid by the employer, if any, as may be due and payable. If upon investigation it shall appear that the right to compensation in any such case has terminated, the commission shall forthwith notify the employer in writing of such fact, and the receipt of such notice by the employer shall operate to relieve him and the insurance carrier, as of the date when payment of compensation became suspended as provided by this section, from any further liability for payment of compensation in such case, subject to the right of review provided by this act.

Decision.

In addition to the filing of the reports required by law, all employers subject to part 2 of this act shall promptly file or cause to be filed with the industrial commission all current interim and final receipts for the payments of compensation made, and it is hereby made the duty of the industrial commission periodically to

Receipts to be
filed.

check the records of such commission in each case and require such employers to file or cause to be filed all such receipts for compensation payments as and when due, it being the intention of this section that the industrial commission shall definitely supervise and require prompt and full compliance with all provisions for the payment of compensation as required by law. Any insurance carrier insuring any employer in this State against liability imposed by this act shall be and hereby is authorized and empowered, for and on behalf of said employer, to perform any and all acts required of the employer under the provisions of this act: *Provided*, That the employer shall be responsible for all authorized acts of an insurer in his behalf and for any omission or delay or any failure, refusal, or neglect of any such insurer to perform any such act, and nothing herein contained shall be construed to relieve the employer from any penalty or forfeiture provided by this act.

SEC. 36. The industrial commission may, upon demand of an employer or an employee or his dependent, designate one or more of its employees who shall advise such party or parties of his or their rights under this act, and shall assist so far as possible in adjusting the differences between the employee or his dependents and the employer under part 2 hereof and the employee or employees of the commission so designated are hereby empowered to appear in person before the commission, commissioner, or referee in any proceeding under part 2 of this act, as the representative or advisor of any such party; and in any such case, such party shall not be required to be also represented by an attorney at law.

Assistance to employers and employees.

The industrial commission 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 it may deem necessary or advisable for the improvement thereof.

Operation of act.

SEC. 37. All proceedings before the industrial commission shall be by petition addressed to the commission. All petitions shall be in writing and in such form as may be prescribed by the commission, except as otherwise provided by this act.

Procedure.

SEC. 38. All papers to be filed or acted upon by the industrial commission shall be delivered to it at its principal office, except as the commission may otherwise order.

Filing papers.

SEC. 39. All papers delivered to the industrial commission for filing under the provisions of this act or the rules and regulations of the commission shall be immediately filed.

Time for filing.

SEC. 40. Every order, decision, or award made by any commissioner or referee shall be forthwith filed with the industrial commission, and the commission shall immediately serve or cause to be served upon every party in interest a copy of every order, decision, or award made by it or him, together with a notification of the time when the same was filed.

Decisions to be filed.

SEC. 41. All papers and notices to which any party shall be entitled under part 2 of this act shall be served by mail or in such other manner as the industrial commission may direct. Any such paper or notice 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 paper or notice was not received or that there was an unusual or unreasonable delay in its transmission through the mails. In 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 industrial commission, its secretary, and any commissioner or referee serving or causing to be served any such paper or notice shall keep a careful record of such service.

Service of papers and notices.

SEC. 42. In cases of dispute as to any question of law or fact in connection with any claim for compensation, either party, in case of default for a period of at least ten (10) days in pay-

Procedure in cases of dispute.

ment of compensation due and payable, the person or persons entitled thereto may present a verified petition to the industrial commission setting forth in addition to such other facts as the rules of the commission may require, the names and residences of the parties and the facts relating to employment at the time of injury, the injury, its extent and character, the amount of wages being received, the knowledge of the employer or notice of the occurrence of said injury, and such other facts as may be necessary for the information of the commission, and shall state the matter or matters in dispute and the contention of the petitioner with reference thereto.

Claims.

SEC. 43. When a claim-petition or other petition is presented to the industrial commission the commission shall, by general rules or special order, either direct it to be heard by the commission or assign it to a commissioner or a referee for hearing: *Provided*, That petitions to commute further compensation payments shall be heard by the commission.

Notice upon adverse parties.

The secretary of the commission shall within ten days after the same is presented serve upon each adverse party a copy of the petition, together with a notice that the petition will be heard by the commission or the commissioner or referee to whom it has been assigned (giving his name and address) as the case may be, and if the petition shall be assigned to a commissioner or a referee, shall deliver the original petition to him with copies of the notices served on the adverse parties.

Reassignment of petition.

SEC. 44. Any time before an award or disallowance of compensation or order has been made by a commissioner or referee to whom a petition has been assigned, the commission may order such petition heard before it or may reassign it to another commissioner or referee. Unless the commission shall otherwise order, the testimony taken before the original commissioner or referee shall be considered as though taken before the commission or substituted commissioner or referee.

Procedure.

SEC. 45. Within ten days after a copy of any petition has been served on the adverse party, he may file with the industrial commission and serve upon the petitioner or his attorney, a verified answer, to the petition, which shall admit or deny the substantial averments of the petition and shall state the contention of such adverse party with reference to the matter in dispute as disclosed by the petition. Within five days after the service of the answer, the petitioner may file with the commission and serve on the adverse party or his attorney a verified reply, admitting or denying the matter set forth in the answer. Every fact alleged in a petition not specifically denied by an answer so filed by an adverse party shall be deemed to be admitted by him. But the failure of any adverse party or of all of them to deny a fact so alleged shall not preclude the commission, commissioner, or referee before whom the petition is heard from requiring of its or his own motion proof of such fact.

Hearings.

SEC. 46. As soon as may be after the twelfth day after notice that a petition has been directed to be heard by the industrial commission has been served upon the adverse parties thereto the commission shall fix a time not less than five days nor more than twenty days thereafter and a place for hearing the petition. If a petition be assigned to a commissioner or referee, he shall, as soon as may be after the twelfth day after notice that such petition has been assigned to him has been served upon the adverse parties, fix a time, not less than five days nor more than twenty days thereafter, and a place for hearing the petition. All hearings shall be held in the county where the injury occurred unless otherwise ordered by the commission or the commissioner or referee conducting the hearing. The secretary, if the petition has been directed to be heard by the commission, or the commissioner or referee to whom the petition has been assigned, shall serve upon all parties in interest a notice of the time and place of hearing, at least five days prior to such hearing.

SEC. 47. Upon failure of an adverse party in any case to serve and file an answer as provided by this act, the commission, upon proof of service of the petition and failure to answer being made and filed with the commission, shall forthwith make an award based upon the petition, if the facts stated therein are sufficient to support the same, of such compensation as the claimant is shown thereby to be entitled to: *Provided*, That the commission may require proof of any fact alleged in the petition and, in such case, the commission shall promptly and summarily hear and determine the matter and promptly make its award. If the petition does not state facts sufficient to support an award, the commission shall promptly notify the petitioner or his attorney of such fact in writing, and another petition may be filed as in the case of an original petition.

Default cases.

SEC. 48. The industrial commission by a member, or the commissioner or referee to whom a cause may be assigned by the commission for hearing, shall administer oaths to all witnesses, and upon its or his own motion or the written request of any interested party may issue subpoenas for the attendance of witnesses and the production of such books, papers, records, and documents, material in the cause as shall be designated in such request or required by the commission, commissioner, or referee: *Provided*, That the applicants for subpoenas shall advance necessary service and witness fees, which shall be the same as the service and witness fees provided by law for civil causes in the district court. The industrial commission shall pay for the attendance of all witnesses subpoenaed by it on its own motion. If any person refuses to comply with any order or subpoena issued by the commission, or by any commissioner or referee in a cause assigned to him by the commission, or if any person refuses to permit an inspection of any place or premises or to produce any books, papers, records, or documents, material in the cause, or if any witness refuses to appear or testify regarding that which he may be lawfully interrogated, any judge of the district court in the county in which the cause is pending, on application of the commission, or the commissioner or referee hearing the cause, shall compel obedience by attachment proceedings as for contempt as in the case of disobedience of a similar order or subpoena issued by such court.

Powers of commissioners and referees.

SEC. 49. The industrial commission, if a petition is directed to be heard by it, or the commissioner or referee to whom a petition is assigned for hearing, shall hear all competent evidence produced and shall make, in writing, and as soon as may be after the conclusion of the hearing, such findings of facts, conclusions of law, and award or disallowance of compensation or other order as the pleadings and the evidence produced before it or him and the provisions of this act shall, in its or his judgment, require. Any person having such an interest in any matter before the commission, a commissioner, or referee that he may either gain or lose by any order or decision relating thereto, shall, upon written application to the commission, commissioner, or referee setting forth the facts which show such interest, be permitted to intervene under such rules and regulations as the commission may prescribe.

Findings.

SEC. 50. The industrial commission may refer any question of fact arising under petition, including a petition for commutation of compensation heard by it, to a commissioner or referee to hear evidence and report to the commission the testimony taken before him or such testimony and findings of fact thereon as the commission may order. The commission may refer any question of fact arising under any petition assigned to a commissioner or referee to another commissioner or referee to hear evidence, and report the testimony so taken thereon to the original commissioner or referee.

Reference of case.

SEC. 51. The industrial commission, commissioner, or referee, if it or he deem it necessary, may, of its or his own motion, either before, during, or after any hearing, make an investigation of the facts set forth in the petition or answer. The commission, or a

Investigation by commission.

commissioner or referee with the consent of the commission, may appoint one or more impartial physicians or surgeons to examine the injuries of the claimant and report thereon, and may employ the services of such other experts as shall appear necessary to ascertain the facts. The report of any physician, surgeon, or expert appointed by the commission or by a commissioner or referee shall be filed with the commission and shall be a part of the record and open to inspection as such.

The commission shall fix the compensation of such physicians, surgeons, and experts, which, when so fixed, shall be paid out of the funds appropriated to the department of labor and industries for the maintenance of the department, and shall be taxed as a part of the costs of the proceedings to be repaid to such department by either party or both, or otherwise, as the commission may direct. If any sum so taxed shall not be paid by the party directed to repay, the same may be collected as costs are now collectible.

Hearings to be public. SEC. 52. All hearings before the commission, a commissioner or a referee shall be public.

Evidence. SEC. 53. The commission, or a commissioner, or a referee in making an investigation or conducting a hearing under this act shall not be bound by common law or statutory rules of evidence or by technical or formal rules of pleading or procedure, except as provided by this act; and shall make such investigation or inquiry or conduct such hearing in such manner as to ascertain the substantial rights of the parties. But all findings of fact shall be based only upon competent evidence.

Depositions. SEC. 54. Depositions may be taken as now provided by law for civil cases, except as otherwise ordered by the commission, commissioner, or referee. The records kept by a hospital of the medical or surgical treatment given to an employee in such hospital shall be admissible as evidence of the medical and surgical matters stated therein, but shall not be conclusive proof of such matters.

Hospital records. SEC. 54. Depositions may be taken as now provided by law for civil cases, except as otherwise ordered by the commission, commissioner, or referee. The records kept by a hospital of the medical or surgical treatment given to an employee in such hospital shall be admissible as evidence of the medical and surgical matters stated therein, but shall not be conclusive proof of such matters.

Appeals. SEC. 55. Any party in interest may, within ten days after notice of a commissioner's or a referee's award or disallowance of compensation, or other order involving the merits of the case, shall have been served on him, take an appeal to the industrial commission on the ground: (1) That the award or disallowance of compensation, or other order appealed from is not in conformity with the terms of this act, or that the commissioner or referee committed any other error of law; (2) that the findings of fact and award or disallowance of compensation, or other order appealed from was unwarranted by the evidence, or was procured by fraud, coercion, or other improper conduct of any party in interest. The commission may, upon cause shown, extend the time for taking such appeal or for the filing of an answer or other pleading. Whenever a commissioner or referee shall receive notice from the commission that an appeal has been filed with the commission from his decision in any case he shall immediately cause the testimony in that case, to be typewritten and forward to the commission a copy with the certificate of the official stenographer that it is complete and correct. The expense of making any such transcript shall be borne by the appealing party, unless otherwise ordered by the commission.

On any such appeal the commission may disregard the findings of fact of the commissioner or referee, and may examine the testimony taken before such commissioner or referee, and if it deem proper, may hear other evidence, and may substitute for the findings of the commissioner or referee such findings of fact as the evidence taken before the commissioner or referee and the commission, as hereinbefore provided, may, in the judgment of the commission, require, and may make such disallowance or award of compensation or other order as the facts so found by it may require. The commission, at its expense, shall cause a complete record of its proceedings to be made and shall provide a stenographer to take the testimony and record of proceedings at

the hearings before a referee, commissioner, or the commission, and said stenographer shall furnish a transcript of such testimony or proceedings to any person requesting it upon payment to him of a reasonable charge therefor to be fixed by the commission.

SEC. 56. Whenever an appeal to the commission shall be based upon an alleged error of law, it shall be its duty to grant a hearing thereon. The commission shall fix a time and place for such hearing and shall give at least five days' notice thereof in writing to all parties in interest. As soon as may be after any such hearing, the commission shall either sustain or reverse the commissioner or referee's award or disallowance of compensation, or other order appealed from or make such modification thereof as it shall deem proper. Appeals on error of law.

SEC. 57. Whenever an appeal shall be taken to the commission on the ground that the commissioner or referee's award or disallowance of compensation was unwarranted by the evidence, or because of fraud, coercion, or other improper conduct by any party in interest, the commission may, in its discretion, grant a hearing de novo before the commission or assign the petition for rehearing to any commissioner or referee designated by it or sustain the commissioner or referee's award or disallowance of compensation. If the commission shall grant a hearing de novo, it shall fix a time and place for same, and shall give at least five days' notice in writing to all parties in interest. As soon as may be after any hearing de novo by the commission, it shall in writing state its findings of fact, and award or disallow compensation in accordance with the provisions of this act. Appeals for fraud, etc.

SEC. 58. On at least thirty days' default in the payment of compensation due under any award made under part 2 of this act, the employee or dependents entitled to such compensation may file a certified copy of such award with the clerk of the district court of any county in the State, and may, on five days' notice in writing to the adverse parties, apply to such court for judgment. Thereupon the court shall cause judgment to be entered for the amount of the award in accordance with the terms and conditions thereof; and such judgment shall have the same force and effect, and may be vacated, set aside, or satisfied as other judgments of the same court: *Provided*, That no judgment shall be entered on an award while an appeal is pending. There shall be but one fee of 25c charged by said clerk for services in each case under this section and said fee shall cover all services performed by him. Enforcement of awards.

SEC. 59 (as amended by ch. 423, Acts of 1921). At any time after an award has been made and before the same has been reduced to judgment or writ of certiorari issued by the supreme court, the commission may for cause, upon application of either party and not less than five days' notice in writing to all interested parties, set the award aside and grant a new hearing, and thereon determine the matter on its merits and make such findings of fact, conclusions of law, and award or disallowance of compensation or other order, as the pleadings and the evidence produced before it and the provisions of this act shall in its judgment require. New hearings.

SEC. 60 (as amended by ch. 423, Acts of 1921). Any party in interest may within thirty days after the service of notice on him of any award or disallowance of compensation or order involving the merits of the case or any part thereof made by the commission, have the same reviewed on certiorari by the supreme court on any of the following grounds: (1) That the award or disallowance of compensation or other order sought to be reviewed is not in conformity with the terms of the act, or that the commission committed any other error of law; (2) that the findings of fact and award or disallowance of compensation or other order sought to be reviewed was unwarranted by the evidence. The supreme court may, upon cause shown, extend the time provided in this section for review on certiorari or for filing any paper required to be filed in such court. To render certiorari effective the petitioner or relator shall, within thirty days after notice of such final award or disallowance or other order, serve Court review.

upon the industrial commission a writ of certiorari showing that a review is to be had in the supreme court of the proceedings of the commission, on which such final award or disallowance of compensation is based, together with a bond with such surety or sureties and in such amount as the commission or a commissioner shall direct and approve, conditioned to pay the cost of such review. The petitioner or relator shall also pay to the secretary of the industrial commission \$10, to be paid in turn by such secretary to the clerk of the supreme court as the filing fee provided by chapter 177, of Laws 1915. On the serving of such writ of certiorari and filing bond and the payment of the amount aforesaid, the secretary of the commission shall immediately transmit to such clerk the filing fee aforesaid, together with the return to such writ of certiorari and bond. The receipt by the clerk of such fee and the filing of such return shall vest the supreme court with jurisdiction of the matter. Within thirty days from receipt of the amount aforesaid and filing with the commission of the return to writ of certiorari and bond, the secretary shall transmit to the clerk of the supreme court a true and complete return of the proceedings of the commission in the cause sought to be reviewed, or such parts thereof as may be necessary to enable the supreme court properly to review the questions presented to it. Such return shall be certified to by the secretary under the seal of the commission, and the petitioner or relator shall pay to the secretary the reasonable expense of preparing the return. On the filing of the return in the supreme court, the matter shall be heard and disposed of in accordance with the laws and rules of the court governing civil appeals. The supreme court may adopt such rules not inconsistent with the provisions of this act as may be deemed necessary or convenient for the impartial and speedy disposition of such matters.

Procedure.

SEC. 61 (as amended by ch. 423, Acts of 1921). The supreme court, on review taken under the preceding section shall have and take original jurisdiction and may reverse, affirm, or modify the award or order of disallowance reviewed and enter such judgment as may be just and proper; and where necessary may remand the cause to the industrial commission for a new hearing or for further proceedings, with such directions as the court may deem proper.

Stay.

SEC. 62 (as amended by ch. 423, Acts of 1921). A writ perfected under the provisions of this act shall stay all proceedings for the enforcement of collection of the award sought to be reviewed, or any part thereof, until the final disposition of the cause in the supreme court or before the industrial commission when the cause is remanded for a new hearing or further proceedings.

**Attorney for
commission.**

SEC. 63 (as amended by ch. 423, Acts of 1921). On all such reviews the attorney general shall, unless otherwise directed by the commission, appear as attorney for the industrial commission, and he shall prepare and present to the supreme court such papers, briefs, and arguments as he shall deem proper and necessary to a fair presentation of the questions involved in support of the award or order of disallowance sought to be reviewed.

Costs.

SEC. 64 (as amended by ch. 423, Acts of 1921). No costs shall be awarded against either party in hearings before the commission, commissioner or referee, except as specially provided by this act, but in the discretion of the industrial commission, commissioner, or referee conducting a hearing, or in the discretion of the commission in an appeal to it, the prevailing party may be awarded reimbursement for actual necessary disbursements, to be taxed and allowed by the commission, commissioner, or referee on five days' notice in writing to the adverse party. The commission in affirming or modifying and affirming or reversing a disallowance and allowing an award may include in such award reasonable attorney's fees incident to review on certiorari. On writs of certiorari the supreme court costs and disbursements shall be taxed the same as on civil appeals: *Provided*, That if upon such review by the supreme court any award in favor of the

injured employee or his dependents is affirmed or modified and affirmed or if the disallowance is reversed, the court may allow reasonable attorney's fees incident to such review, which shall be included as a part of the judgment order of the supreme court. Attorneys' fees.

SEC. 65. "Daily wage," as used in this act, shall mean the daily wage of the employee in the employment in which he was engaged at the time of the injury, and if at the time of the injury the employee is working on part time for the day, his daily wage shall be arrived at by dividing the amount received or to be received by him for such part-time service for the day by the number of hours of such part-time service and multiplying the result by the number of hours of the normal working day for the employment involved. Computation of wages.

SEC. 66. Throughout this act the following words and phrases as used therein shall be considered to have the following meaning respectively, unless the context shall clearly indicate a different meaning in the connection used: Definitions.

(a) The word "compensation" has been used both in parts 1 and 2 of this act to indicate the money benefits 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 this 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) The terms "husband" and "widower" are used interchangeably and have the same meaning in this act.

(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 State, county, village, borough, town, city, school district, and other public employers.

(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 the State, or any county, city, town, village, borough, or school district therein, under any appointment or contract of hire, expressed or implied, oral or written, but shall not include any official of the State or of any county, city, town, village, borough, 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: *Provided, however,* That sheriffs, deputy sheriffs, constables, marshals, policemen, and firemen shall be deemed employees within the meaning of this section: *Provided further,* That where in any city operating under a home rule charter a mode and manner of compensation is provided by said charter which is different from that provided by this act, and the amount of compensation provided by said charter would, if taken thereunder, exceed the amount the employee is entitled to under this act for the same period, he shall, in addition to his compensation under this act, receive under said charter an amount equal to the excess in Public employ-
ees.

compensation provided by said charter over what he is entitled to by this act; if the amount of compensation provided by said charter would, if taken thereunder, be equal to or less than the amount of compensation the employee is entitled to under this act for the same period, he shall take only under this act: *Provided further*, That any peace officer, other than a sheriff, deputy sheriff, marshal, or policeman, shall be considered an employee while engaged in the enforcement of peace or in and about the pursuit and capture of any person charged with or suspected of crime.

Aliens and minors.

(2) Every person not excluded by section 8 in service of another under any contract of hire, expressed or implied, oral or written, including aliens, and also including minors who are legally permitted to work under laws of the State, who, for the purpose of making election of remedy under this act, shall be construed the same and have the same power of contracting and electing as adult employees.

Accident.

(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 physical structure of the body.

(i) "Member" as an anatomy term in this act shall include eye and ear as well as leg, foot, toe, hand, finger, thumb, and arm.

"Injury."

(j) 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.

(k) 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.

(l) "Industrial commission" and "commission" as used in this act means the Industrial Commission of Minnesota; and "commissioner" means a member of that commission.

Occupational disease.

Sec. 67. (1) The disablement of an employee resulting from an occupational disease described in subsection (9) of this section, except where specifically otherwise provided, shall be treated as the happening of an accident within the meaning of part 2 of this act, and the procedure and practice provided in such part 2 shall apply to all proceedings under this section, except where specifically otherwise provided herein. Whenever used in this section, "disability" means the state of being disabled from earning full wages at the work at which the employee was last employed, and "disablement" means the act of becoming so disabled.

(2) If an employee is disabled or dies in his disability, or death is caused by one of the diseases mentioned in subsection (9) of this section, and the disease is due to the nature of the corresponding employment, as described in such subsection, in which such employee was engaged and was contracted therein, he or his dependents shall be entitled to compensation for his death or for the duration of his disability according to the provisions of part 2 of this act, except as otherwise provided in this section: *Provided, however*, That if it shall be determined that such em-

ployee is able to earn wages at another occupation which shall be neither unhealthful nor injurious, and such wages do not equal his full wages prior to the date of his disablement, the compensation payable shall be a percentage of full compensation proportionate to the reduction in his earning capacity.

(3) Neither the employee nor his dependents shall be entitled to compensation for disability or death resulting from disease unless the disease is due to the nature of his employment and contracted therein within the twelve months previous to the date of disablement whether under one or more employers.

(4) If an employee at the time of his employment, willfully and falsely represents in writing that he has not previously suffered from the disease which is the cause of disability or death, no compensation shall be payable.

(5) The total compensation due shall be recoverable from the employer who last employed the employee in the employment to the nature of which the disease was due and in which it was contracted. If, however, such disease was contracted while such employee was in the employment of a prior employer, the employer who is made liable for the total compensation as provided by this subsection may appeal to the commission for an apportionment of such compensation among the several employers who since the contraction of such disease shall have employed such employee in the employment to the nature of which the disease was due. Such apportionment shall be proportioned to the time such employee was employed in the service of such employers, and shall be determined only after a hearing, notice of the time and place of which shall have been given to every employer alleged to be liable for any portion of such compensation. If the commission find that any portion of such compensation is payable by an employer prior to the employer who is made liable to the total compensation as provided by this subsection it shall make an award accordingly in favor of the last employer, and such award may be enforced in the same manner as an award for compensation.

(6) The employer to whom notice of death or disability is to be given or against whom claim is to be made by the employer shall be the employer who last employed the employee during the said twelve months in the employment to the nature of which the disease was due and in which it was contracted, and such notice and claim shall be deemed reasonable as against prior employers.

(7) The employee or his dependents, if so requested, shall furnish the last employer or the commission with such information as to the names and addresses of all his other employers during the said twelve months, as he or they may possess, and if such information is not furnished or is not sufficient to enable such employer to take proceedings against a prior employer under subsection (5) of this section, unless it be established that the disease actually was contracted while the employee was in his employment such last employer shall not be liable to pay compensation, or if such information is not furnished or is not sufficient to enable such last employer to take proceedings against other employers under subsection (5) such last employer shall be liable only for such part of the total compensation as under the particular circumstances the commission may deem just; but a false statement in the information furnished as aforesaid shall not impair the employee's rights unless the last employer is prejudiced thereby.

(8) If the employee at or immediately before the date of disablement was employed in any process mentioned in the second column of the schedule of diseases in subsection (9) of this section, and his disease is the disease in the first column of such schedule set opposite the description of the process, the disease presumptively shall be deemed to have been due to the nature of that employment.

Occupational
diseases enumer-
ated.

(9) For the purpose of this act only the diseases enumerated in column one, following, shall be deemed to be occupational diseases:

COLUMN 1.

DESCRIPTION OF DISEASE.	DESCRIPTION OF PROCESS.
1. Anthrax.	1. Handling of wool, hair, bristles, hides or skins.
2. Lead poisoning or its sequelæ.	2. Any process involving the use of lead or its preparations or compounds.
3. Mercury poisoning or its sequelæ.	3. Any process involving the use of mercury or its preparations or compounds.
4. Phosphorous poisoning or its sequelæ.	4. Any process involving the use of phosphorus or its preparations or compounds.
5. Arsenic poisoning or its sequelæ.	5. Any process involving the use of arsenic or its preparations or compounds.
6. Poisoning by wood alcohol.	6. Any process involving the use of wood alcohol or any preparation containing wood alcohol.
7. Poisoning by nitro and amido-derivatives of benzine (dinitrobenzol, anilin, and others) or its sequelæ.	7. Any process involving the use of a nitro or amido-derivative of benzine or its preparations or compounds.
8. Poisoning by carbon bisulphide or its sequelæ.	8. Any process involving the use of carbon bisulphide or its preparations or compounds.
9. Poisoning by nitrous fumes or its sequelæ.	9. Any process in which nitrous fumes are evolved.
10. Poisoning by nickel carbonyl or its sequelæ.	10. Any process in which nickel carbonyl gas is evolved.
11. Dope poisoning (poisoning by tetrachlor-methane or any substance used as or in conjunction with a solvent for acetate of cellulose[]) or its sequelæ.	11. Any process involving the use of any substance as or in conjunction with a solvent for acetate of cellulose.
12. Poisoning by gonioma kamassi (African boxwood) or its sequelæ.	12. Any process in the manufacture of articles from gonioma kamassi (African boxwood).
13. Chrome ulceration or its sequelæ.	13. Any process involving the use of chromic acid or bichromate of ammonium potassium, or sodium or their preparations.
14. Epitheliomatous cancer or ulceration of the skin or of the corneal surface of the eye, due to tar, pitch, bitumen, mineral oil or paraffin, or any compound, product, or residue of any of these substances.	14. Handling or use of tar, pitch, bitumen, mineral oil, or paraffin, or any compound, product, or residue of any of these substances.
15. Glanders.	15. Care or handling of any equine animal or the carcass of any such animal.
16. Compressed air illness or its sequelæ.	16. Any process carried on in compressed air.
17. Ankylostomiasis.	17. Mining.

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|---|---|
| <p>18. Miner's nystagmus.</p> <p>19. Subcutaneous cellulitis of the hand (beat hand).</p> <p>20. Subcutaneous cellulitis over the patella (miner's beat knee).</p> <p>21. Acute bursitis over the elbow (miner's beat elbow).</p> <p>22. Inflammation of the synovial lining of the wrist joint and tendon sheaths.</p> <p>23. Cataract in glass workers.</p> | <p>18. Mining.</p> <p>19. Mining.</p> <p>20. Mining.</p> <p>21. Mining.</p> <p>22. Mining.</p> <p>23. Processes in the manufacture of glass, involving exposure, glare to molten glass.</p> |
|---|---|

(10) Nothing in this section shall affect the rights of an employee to recover compensation in respect to a disease to which this section does not apply if the disease is an accidental personal injury within the meaning of the other provisions of part 2 of this act. Diseases not covered in the enumeration.

(11) The provisions of this section shall not apply to disability or death resulting from a disease contracted prior to the date on which this act takes effect.

SEC. 68. All rights and liabilities arising on account of accidents or injuries occurring prior to the taking effect of this act shall be governed by the then existing law. Accrued claims.

SEC. 69. 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. Except as otherwise expressly provided, 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. Provisions severable.

SEC. 70. Chapter 467, General Laws Minnesota for 1913, and all acts amendatory thereof, and all acts and parts of acts inconsistent with this act are hereby repealed: *Provided, however*, That this act shall not be deemed to repeal chapter 359, Laws of Minnesota for 1919, in so far as the same applies to employers not under part 2 of this act. Repealer.

SEC. 71. This act shall take effect and be in force from and after the first day of June, 1921. Act in effect.

[The following statute, though of prior enactment to the foregoing, is presumably applicable to awards thereunder and is reproduced accordingly.]

CHAPTER 26.—*Payment of compensation awards by municipalities.*

SECTION 1. Whenever compensation has heretofore been awarded or shall hereafter be awarded against any county, city, town, village, or school district by any court or commission having jurisdiction, to any injured employee, or to the dependents of any deceased employee, under the provisions of any workmen's compensation law of this State, such compensation shall be a preferred claim against such county, city, town, village, or school district, and it shall be the duty of the proper officers of any such county, city, town, village, or school district to pay any such claim for workmen's compensation at such times and in such amounts as shall be ordered by the court or commission, out of the general fund of such county, city, town, village, or school district and Preference of awards.

from the current tax apportionment received by any such employer for the credit of said fund.

Warrants. SEC. 2. In any and all cases where the orders or warrants of such county, city, town, village, or school district have heretofore been issued, or shall hereafter be issued, in payment of any such compensation, and shall remain unpaid, all such orders or warrants shall be a preferred claim and shall be paid out of said fund, from current tax apportionments received for the credit of said fund, in preference to any other claims for compensation arising under said law subsequent to the issuing of any such orders or warrants by said employer.

Construction. SEC. 3. This act shall be liberally construed in order to effect the prompt payment of claims for workmen's compensation against any county, city, town, village, or school district by any injured employee, or the dependents of any deceased employee of such county, city, town, village, or school district.

Approved, February 11, 1921.

MISSOURI.

[The Legislature of Missouri enacted a compensation law at its session in 1921 (p. 425, Acts of 1921), but like a previous effort it was held up by a petition for referendum. It was voted on at the regular election, November 7, 1922, the result being adverse by a majority of 67,617.]

MONTANA.

[The compensation law of this State is amended by Acts of 1921 as follows:

Section 2 (a) is amended by ch. 254, Acts of 1921, by changing the title of the commissioner first named to "commissioner of agriculture, labor, and industry."

Section 3 (e) is amended by ch. 196, Acts of 1921, by adding thereto the following:]

Whenever any public corporation neglects or refuses to file with the industrial accident board monthly pay roll report of its employees, the board is hereby authorized and empowered to levy an arbitrary assessment upon such public corporation in an amount of twenty-five dollars (\$25) for each such assessment, which assessments shall be collected in the manner provided in this act for the collection of assessments.

Failure to file
pay roll.

[Section 16 is amended by ch. 196, Acts of 1921, in various subsections. Subsection (e) is amended by increasing the burial allowance from \$75 to \$125; subsection (f) by increasing the allowance for medical, etc., services from \$50 to \$100; subsection (g) by adding thereto the words, "but if disability continues six weeks, compensation shall be paid from date of injury"; and subsection (i) by adding to the schedule, "Total loss of hearing of both ears, 120 weeks."

Benefits.

Section 40(b) is amended by the same act by adding the words: "*Provided*, That in no case shall any assessment levied under the provisions of this act be for a less amount than two and one-half dollars (\$2.50)."

Section 40 (k) is amended so as to read as follows:]

SEC. 40 (k) (as amended by ch. 196, Acts of 1921). 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 Montana, or any other security which may be approved by said board, and out of the same and its earnings shall be paid the monthly installments, and any lump sum, then or thereafter arranged for: *Provided, however*, That when there is sufficient money in the industrial accident fund to meet such compensation payments, any surplus remaining may be placed in the industrial reserve fund and invested by the board in the securities specified in this section.

Investments.

NEBRASKA.

[The compensation law of this State was amended by ch. 122, Acts of 1921. Section 106, subsection (3), was amended so as to read as follows:]

"Casual" work- (3) It shall not be construed to include any person whose em-
ers. ployment is casual and which is not in the usual course of the trade, business, profession, or occupation of his employer. The term "casual" shall be construed to mean "occasional; coming at certain times without regularity, in distinction from stated or regular."

Medical, etc., [Section 111 is amended by striking out the limitation of \$200
aid. for medical and hospital services, and substituting therefor the words, "subject to the approval of the compensation commissioner, not, however, to exceed the regular charge made for such service in similar cases."

Section 112 is amended by making the opening paragraph of subsection (3) read as follows:]

Schedule bene- (3) For disability resulting from permanent injury of the fol-
fits additional. lowing classes, the compensation shall be in addition to amount paid for temporary disability: *Provided, however,* The compensation for temporary disability shall cease as soon as the extent of the permanent disability is ascertained, viz:

[Section 115 is amended by making 18 instead of 16 the age limit for the dependency of children.

Section 131 is amended by changing the sentence in the third paragraph which read "If, after such inquiry, the court finds said settlement fair, just," etc., so as to read: "If, after such inquiry, the court finds said settlement is made in conformity with the compensation schedule," etc.

Section 132 is amended by adding thereto the following:]

Final settle- *Provided, however,* No settlement shall be final unless it be in
ments. conformity with the provisions of this article, a finding by the compensation commissioner, the district court, or any appellant [appellate] court.

[Section 133 is amended by striking out the words "to the court," in paragraph (b).

Section 137 is amended by inserting as its opening words "except governmental agencies."

Section 143 is amended by striking out paragraph (b), defining the State insurance commissioner. Former paragraphs (g) and (h) are given the letters (f) and (g), respectively.

The amendatory act of 1921 (ch. 221) contains as its second section a reproduction without change of sec. 27 of ch. 85, Acts of 1917.]

NEVADA.

[The compensation law of this State is amended by chs. 161 and 218, Acts of 1921. The changes are noted below.

Section 7½ is amended by ch. 218, by adding to paragraph (b) the following:]

And provided further, That volunteer fireman, while engaged in their duties as such, belonging to a regularly organized and recognized volunteer fire department, shall be deemed, for the purpose of this act, employees of the city or town so recognizing them at the wage of one hundred and fifty dollars per month, and shall be entitled to the benefits of this act upon such city or town complying therewith. Volunteer firemen.

[Section 25 is amended by ch. 161 by adding to the first sentence of paragraph 2 subsection (B), the following:]

Provided, In cases of permanent total disability, if the character of the injury is such as to render the workman so physically helpless as to require the services of a constant attendant, an additional allowance of thirty (\$30) dollars per month may be made so long as such requirements shall continue, but such increase shall not obtain or be operative while the workman is receiving hospital care under or pursuant to the provisions of section 23 of this act. If attendant required.

[An error in printing is also corrected in this section, second sentence of item (w), paragraph 2, subsection (C). It now reads:]

For the purpose of computing compensation for a disability that is partial in character but permanent in quality, fifty (50%) per cent of the average monthly wage, not to exceed the sum of sixty (\$60) dollars per month for the period of one (1) month shall represent a one (1%) per cent disability. Computing compensation.

NEW HAMPSHIRE.

[The law of this State was not directly amended by any act of the legislature of 1921, but a supplemental law (ch. 44) was enacted providing for the supervision and regulation of rates for workmen's compensation insurance. Proposed rates and classifications must be filed with the insurance commissioner of the State and must be approved by him before being used. Approved rates must be observed, though provision may be made for schedule or merit rating.

Another act (ch. 179) provides for an investigative commission, as follows:]

CHAPTER 179.—*Commission to investigate workmen's compensation, etc.*

The governor, with the advice and consent of the council, on or before July 1, 1921, shall appoint a commission of five members who shall serve without compensation and who after proper investigation shall report to the next legislature their findings and recommendations in regard to a revision of laws relating to employers' liability and workmen's compensation. Commission created.

In addition to the findings and recommendations of said commission, their report shall include a draft of such bill or bills as said commission may recommend for enactment by the legislature.

Approved, April 8, 1921.

NEW JERSEY.

[The compensation law of this State was amended by Acts of 1921 and 1922, as noted below.

Section 12 was amended by ch. 85, Acts of 1921, by striking out paragraph (1), which excluded alien nonresidents as beneficiaries.

Section 14 is amended so as to read as follows:]

Medical and
hospital service.

14 (as amended by ch. 245, Acts of 1922). The employer shall furnish to the injured workman such medical, surgical, and other treatment, and hospital service as shall be necessary to cure and relieve the workman of the effects of the injury and to restore the functions of the injured member or organ where such restoration is possible: *Provided, however,* That the employer shall not be liable to furnish or pay for physicians' or surgeons' services in excess of fifty dollars, and in addition to furnish hospital services when necessary in excess of fifty dollars, unless the injured workman or the physician who treats him, or any other person on his behalf, shall file a petition with the workmen's compensation bureau stating the need for such physician's or surgeon's services in excess of fifty dollars, as aforesaid, and such hospital service or appliances in excess of fifty dollars, as aforesaid, and the workmen's compensation bureau after investigating the need of the same and giving the employer an opportunity to be heard, shall determine that such physician's and surgeon's treatment and hospital services are or were necessary, and that the fees for the same are reasonable and shall make an order requiring the employer to pay for or furnish the same. If the employer shall refuse or neglect to comply with the foregoing provisions of this paragraph, the employee may secure such treatment and services as may be necessary and as may come within the terms of this paragraph, and the employer shall be liable to pay therefor: *Provided, however,* That the employer shall not be liable for any amount expended by the employee or by any third person on his behalf for any such physician's treatment and hospital services, unless such employee or any person on his behalf shall have requested the employer to furnish the same and the employer shall have refused or neglected so to do, or unless the nature of the injury required such services, and the employer or his superintendent or foreman, having knowledge of such injury shall have neglected to provide the same, or unless the injury occurred under such conditions as make impossible the notification of the employer, or unless the circumstances are so peculiar as shall justify, in the opinion of the workmen's compensation bureau, the expenditure assumed by the employee for such physician's treatment and hospital services, apparatus, and appliances. All fees and other charges for such physician's and surgeon's treatment and hospital services shall be reasonable and based upon the usual fees and charges as prevail in the same community for similar physicians', surgeons', and hospital services.

[Section 14 (a) is amended by ch. 245, Acts of 1922, by striking out the words "four weeks" in the first sentence.

Section 18 is amended so as to read as follows:]

Disputes.

18 (as amended by ch. 230, Acts of 1921). 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 the questions of fact, the nature and effect of the injuries, and the amount of compensation

therefor according to the schedule herein provided, to the workmen's compensation bureau, as prescribed in paragraph five of the supplement to this act, approved February twenty-eighth, one thousand nine hundred and eighteen, as chapter 149.

[Section 20 is amended so as to read as follows:]

20 (as amended by ch. 230, Acts of 1921). (a) Procedure in case of dispute shall be in accordance with the provisions of a supplement to this act, approved February twenty-eighth, one thousand nine hundred and eighteen, as chapter 149.

Procedura.

(b) No agreement between the parties for a sum other than that which may be determined to be due by the commissioner, deputy commissioner, or referee, or the judge of the court of common pleas upon appeal shall operate as a bar to the determination of a controversy upon its merits, or to the award of a different sum, if it shall be determined by the said commissioner, deputy commissioner, referee, or judge that the amount agreed upon is less or more than the injured employee or his dependents are properly entitled to receive.

[Section 23 is amended by ch. 230, Acts of 1921, by adding a new paragraph (i), as follows:]

(i) To calculate the number of weeks and fraction thereof that compensation is payable for temporary disability; determine the number of calendar days of disability from and including as a full day the day that the employee is first unable to continue at work by reason of the accident, including also Saturdays, Sundays, and holidays, up to the first working day that the employee is able to resume work and continue permanently thereat. Subtract from this number the waiting period and any days and fraction thereof the injured was able to work during this time, and divide the remainder by seven. The resulting whole number and sevenths will be the required period for which compensation is payable on account of temporary disability.

Computation of term of disability.

INSURANCE OF COMPENSATION.

[The workmen's compensation insurance act (ch. 178, Acts of 1917) is amended by ch. 272, Acts of 1921.

Section 2 of article 1 is amended by striking out the last two sentences and amending the last clause of the preceding sentence, so as to read as follows:]

"And he shall, upon demand by the commissioner of banking and insurance, personally or in writing, mailed to the post-office address of the employer by registered mail, file with the commissioner of banking and insurance proof on such forms as he may prescribe."

Filing proof.

[Section 5 is amended so as to read as follows:]

Sec. 5 (as amended by ch. 272, Acts of 1921). Any employer who shall fail to provide the protection prescribed in this act shall be liable to a penalty for each violation thereof in the sum of two hundred dollars, and all costs of suit. The penalties provided by this act shall be sued for and collected by the commissioner of banking and insurance, in an action upon contract, in the nature of an action for debt, in the name of the State; the first process against any person may be *caus ad respondendum*, and any person against whom any judgment shall be obtained shall be committed to the county jail until such penalty and costs are paid.

Failure to insure.

WORKMEN'S COMPENSATION BUREAU.

[The act creating a workmen's compensation bureau (ch. 149, Acts of 1918) is amended by ch. 229, Acts of 1921. Sections 5, 6, 10, 11, 12, 13, and 19 are amended and a new section 23 added, so as to read as follows:]

SEC. 5 (as amended by ch. 229, Acts of 1921). Every claimant for compensation under the act to which this act is a supplement,

Claim within one year.

or its supplements or amendments, shall, unless a settlement is effected or a petition filed under the provisions of section four, file a petition in duplicate with the secretary of said bureau in his office at the statehouse in Trenton, within one year after the date on which the accident occurred, or in case an agreement for compensation has been made between such employer and such claimant, then within one year after the failure of the employer to make payment pursuant to the terms of such agreement; or in case a part of the compensation has been paid by such employer, then within one year after the last payment of compensation. A payment or agreement to pay by the insurance carrier, shall for the purpose of this section be deemed a payment or agreement by the employer. The petition shall state the respective addresses of the petitioner and of the defendant, the facts relating to employment at the time of the injury, the injury in its extent and character, the amount of wages received at the time of injury, the knowledge of the employer or notice of the occurrence of said accident, and such other facts as may be necessary and proper for the information of the said bureau, and shall state the matter or matters in dispute and the contention of the petitioner with reference thereto. This petition shall be verified by the oath or affirmation of the petitioner. Proceedings on behalf of an infant shall be instituted and executed by a guardian, guardian ad litem, or next friend, and payment, if any, shall be made to such guardian, guardian ad litem, or next friend. Said bureau shall prepare and print forms of petitions and shall furnish assistance to claimants in the preparation of such petitions when requested so to do.

Service of petition.

SEC. 6 (as amended by ch. 229, Acts of 1921). Within five days after the filing of such petition or as soon thereafter as is practicable, the secretary shall cause a copy of such petition to be served upon such employer by a process server of said bureau in the manner now provided by law for the service of summons. Annexed to said copy so served shall be a notice directing the employer to file his answer thereto with the secretary of said bureau within ten days after the service of such notice, unless the bureau for good cause shall grant further time, which answer shall give the address of the respondent and admit or deny the substantial averments of the petition and shall state the contention of the defendant with reference to the matters in dispute as disclosed by the petition. The answer shall be verified by the oath or affirmation of the respondent and shall be filed in duplicate.

Procedure.

SEC. 10 (as amended by ch. 229, Acts of 1921). The procedure for the determination of claims by said bureau, except as herein otherwise provided, shall be conducted in the manner provided by this act and the act to which this act is a supplement and its supplements and amendments. The commissioner of labor, each deputy commissioner, and each referee is hereby authorized to hear and determine the matter in dispute in a summary manner, and each shall have power under the act to which this act is a supplement to modify any award of compensation and to provide for the commutation of any such award.

Statement.

SEC. 11 (as amended by ch. 229, Acts of 1921). A statement containing the date and place of hearing, together with the judgment of the commissioner, deputy commissioner, or referee, shall be legibly written in ink or typewritten and filed in the office of the secretary at Trenton by the officer hearing such cause, which statement, together with the petition and answer, shall constitute the record of the cause. A copy of the judgment of the commissioner, deputy commissioner, or referee, if such judgment results in an award to the petitioner, shall, as soon as practicable after the same is rendered, be filed in the office of the clerk of the county in which the hearing was held, and when so filed shall have the same effect and may be collected and docketed in the same manner as judgments rendered in causes tried in the court of common pleas. The employer may once every month file receipt of payment, verified by affidavit that the receipts are accurate and

true, with the clerk of the court, which shall be entered in satisfaction of the judgment to the extent of such payments. The official conducting the hearing shall, within fifteen days after the rendering of the judgment, mail to each of the parties a statement of the substance of such judgment. The judgment of the said bureau shall be final and conclusive between the parties and shall bar any subsequent action or proceeding, unless reopened by the said bureau or appealed as hereinafter provided.

SEC. 12 (as amended by ch. 229, Acts of 1921). The secretary of said bureau shall keep a docket in which shall be entered the title of each cause, the date of the determination thereof, the date of appeal, if any, and the date on which the record in case of appeal was transmitted to the appellant. The secretary shall also file the record of each case left with him by the official conducting the hearing, and shall keep a card index of such record in such manner as to afford ready reference thereto. Such records shall be open to the inspection of the public.

Docket.

SEC. 13 (as amended by ch. 229, Acts of 1921). The commissioner of labor, each deputy commissioner and each of the referees shall have the same power as the court of common pleas to issue subpoenas to compel the attendance of witnesses and the production of books and papers. The fees for the attendance of witnesses shall be such as are now provided for the attendance of witnesses in other civil cases, and shall be paid by the party arranging for the attendance of such witnesses. Such subpoenas shall be authenticated by the seal of the department of labor, and either party to any such proceeding may, without charge, secure subpoenas from the commissioner of labor, a deputy commissioner, or any referee. Misconduct on the part of any person attending a hearing, or the failure of any witness, when duly subpoenaed, to attend or give testimony shall be punishable by the court of common pleas in the same manner as such failure is punishable by such court in a case therein pending.

Power of commissioner, etc.

SEC. 19 (as amended by ch. 229, Acts of 1921). Either party may appeal from the judgment of said commissioner, deputy commissioner, or referee to the court of common pleas of the county in which hearing was held, by filing with the secretary of said bureau, and with the clerk of the county where such hearing was held, a notice of appeal. Such notice shall be filed within thirty days after such judgment has been rendered and shall briefly describe such judgment and state the intention of the party to appeal therefrom. The filing of such notice shall stay the execution of the judgment until the determination or dismissal of said appeal. The appellant shall, within fifteen days after the filing of a notice of appeal, send to the clerk of the court of common pleas of the county in which such hearing was held, a transcript of the record and testimony in said cause, which transcript shall be prepared by said appellant and submitted to the secretary of the bureau for certification. Within five days after the filing of said transcript, the judge of the court of common pleas, upon the application of the appellant, shall fix a time and place for the hearing of said appeal, at least ten days' notice of which shall be served upon the respondent by the appellant. The trial of such appeal shall be based exclusively on the transcript of the record and testimony, and at the time fixed for the hearing, argument may be presented by each side to the said judge, who shall in a summary manner decide the merits of the controversy, and the judgment of the court of common pleas on any such appeal shall be conclusive and binding. This determination shall be filed in writing with the clerk of the common pleas court, and judgment shall be entered thereon in the same manner as in causes tried in the court of common pleas. Subsequent proceedings thereon shall only be for the recovery of moneys thereby determined to be due: *Provided*, That nothing herein contained shall be construed as limiting the jurisdiction of the supreme court to review questions of law and fact by certiorari. Costs may be awarded by said

Appeals.

judge in his discretion, and when so awarded the same costs shall be allowed, taxed, and collected as are allowed, taxed, and collected for like services in the common pleas courts. In case the respondent in said appeal is unable to pay counsel the judge of the court of common pleas shall assign counsel to represent such respondent. Any such appeal may be dismissed by the judge of the court of common pleas if the transcript of the record and testimony is not transmitted, or if the appeal is not prosecuted in accordance with the provisions of this act.

Who may be
deputies.

SEC. 23 (added by ch. 229, Acts of 1921). Any referee who is a counselor at law duly admitted to practice by the Supreme Court of the State of New Jersey, and who has served as a referee in said bureau for not less than two years, may at the discretion of the commissioner of labor, as chairman of the bureau, be certified to the civil service commission as eligible for examination for the position of deputy commissioner of compensation, and upon successfully passing such examination, he may be advanced to said office as a member of the workmen's compensation board, which shall be composed of the commissioner of labor, the deputy commissioners of compensation now holding office under the provisions of paragraphs one and two of this act, and any additional deputy commissioner appointed under this paragraph.

DEATH WITHOUT DEPENDENTS.

[The act providing for a contribution to the administrative fund in cases of death without dependents (ch. 203, Acts of 1918, amended by ch. 101, Acts of 1919) having been held unconstitutional (Bryant v. Lindsay, 110 Atl. 823) the legislature of 1922 (ch. 32) provided for the return of the money collected and held under this act, which was approximately \$25,000.]

PHYSICAL EXAMINATIONS.

[The following supplemental law was also enacted in 1922:]

CHAPTER 39.—*Physical examination of female claimants.*

Female physi-
cians.

In all cases under this act where it shall be necessary to make a physical examination of a female employee in an inquiry to award compensation, such examination shall be made by a female physician if the same is requested by such female employee.

Approved March 2, 1922.

NEW MEXICO.

[The compensation law of this State is amended by ch. 184, Acts of 1921.

Schedule.

Section 17 is amended by increasing the schedule benefit for loss of a second finger at the distal joint to 8 weeks instead of 5; of a third finger at the distal joint to 8 weeks instead of 4; of a fourth finger at the proximal joint to 12 weeks instead of 9; of a fourth finger at the second joint to 8 weeks instead of 6; of a fourth finger at the distal joint to 6 weeks instead of 3; of a toe (other than great toe) at the proximal joint to 8 weeks instead of 6; and of a toe (other than great toe) at second or distal joint 6 weeks instead of 3.

Waiting time.

Section 18 is amended by reducing the waiting period from 14 days to 10 days. The period of medical treatment is similarly reduced, but the maximum amount is increased from \$50 to \$150.]

NEW YORK.

[The compensation law of this State was the subject of various amendments in 1920 and 1921. In 1922 the law was revised in arrangement and amended in various details, the changes being so numerous as to make an entire reprint desirable.]

ACTS OF 1922.

CHAPTER 615.—*Compensation of workmen for injuries.*

SECTION 1. This chapter shall be known as the "workmen's compensation law." Short title.

SEC. 2. AS used in this chapter, 1. "Hazardous employment" means a work or occupation described in section three of this chapter. Definitions.

2. "Department" means the department of labor of the State of New York;

"Commissioner" means the industrial commissioner of the State of New York;

"Board" means the industrial board of the State of New York.

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, including the State and a municipal corporation or other political subdivision thereof.

4. "Employee" means a person engaged in one of the occupations enumerated in section three or who is in the service of an employer whose principal business is that of carrying on or conducting a hazardous employment upon the premises or at the plant, or in the course of his employment away from the plant of his employer; and shall not include farm laborers or domestic servants.

5. "Employment" includes employment only in a trade, business, or occupation carried on by the employer for pecuniary gain, or in connection therewith, except where the employer and his employees have by their joint election elected to become subject to the provisions of this chapter as provided in section three.

6. "Compensation" means the money allowance payable to an employee or to his dependents as provided for in this chapter, and includes funeral benefits provided therein.

7. "Injury" and "personal injury" mean only accidental injuries arising out of and in the course of employment and such disease or infection as may naturally and unavoidably result therefrom.

8. "Death" when mentioned as a basis for the right to compensation means only death resulting from such injury.

9. "Wages" means the money rate at which the service rendered is recompensed under the contract of hiring in force at the time of the accident, including the reasonable value of board, rent, housing, lodging, or similar advantage received from the employer.

10. "State fund" means the State insurance fund provided for in article five of this chapter.

11. "Child" shall include a posthumous child, a child legally adopted prior to the injury of the employee, and a stepchild or acknowledged illegitimate child dependent upon the deceased.

12. "Insurance carrier" shall include the State fund, stock corporations, or mutual associations with which employers have insured, and employers permitted to pay compensation directly under the provisions of subdivisions three or four of section fifty.

13. "Manufacture," "construction," "operation," and "installation" shall include "repair," "demolition," "fabrication," and "alteration," and shall include all work done in connection with the repair of plants, buildings, grounds, and approaches of all places where any of the hazardous employments are being carried on, operated, or conducted.

Employments covered. Sec. 3. 1. Hazardous employments. Compensation shall be payable for injuries or death incurred by employees in the following employments:

Group 1. Canning of. Fish; Foodstuffs; Fruit; Vegetables.

Group 2. Care of. Buildings; Grounds; Trees.

Group 3. Construction of. Bridges; Buildings; Car shops; Conduits; Curbs; Dams; Dynamos; Electric light and power lines or appliances; Electric railways; Highways; Incline railways; Machine shops; Manufacturing plants; Power plants; Railways; Sewers; Sidewalks; Steam plants; Steam railways; Steel bridges and buildings; Street railways; Structures of all kinds; Subaqueous works; Subways; Telegraph lines; Telephone lines.

Group 4. Installation of. Boilers; Dynamos; Electric light and power lines or appliances; Elevators; Engines, stationary; Fire escapes; Heating apparatus; Lighting apparatus; Machinery, heavy; Pipes; Telephones.

Group 5. Laying of. Cables; Pipes; Tiles; Wires.

Group 6. Manufacture of. Acids; Adding machines; Aeroplanes; Agricultural implements; Aircraft; Alcohol; Ammonia; Ammunition; Anchors; Artificial ice or stone; Asbestos; Asphalt; Asphalted paper; Automobiles; Baby carriages, toy; Bags, cloth and paper; Barrels; Baskets; Beds; Bedsprings; Belting; Bicycles; Biscuits; Blacking or polish for shoes; Blankets; Boats, small; Boilers; Bolts; Bone articles; Boots; Boxes; Brick; Brooms; Brushes; Butter; Buttons; Cables; Calcium carbide; Cameras and supplies; Candles; Candy; Canoes; Canvas; Caps; Cardboard boxes; Carpets; Carpet sweepers; Carriage mountings; Carriages; Cash registers; Castings; Cattle foods; Celluloid; Cement; Cereals; Charcoal; Cheese; Cheese boxes; Chemical preparations, noncorrosive; Chemicals; Cigarettes; Cigars; Cloth; Clothing; Coffins; Collars; Color; Concrete blocks; Condiments; Confectionery; Cordage; Corrosive acids or salts; Corrugated paper boxes; Corsets; Crackers; Cutlery; Dairy products; Door screens; Doors; Drugs; Dyes; Electric fixtures; Elevators; Engines, heavy and traction; Excelsior; Explosives; Extracts; Fabrics; Fabrics, articles from; Felt; Fertilizers; Fibre; Films for pictures; Firearms; Fireproofing; Fixtures, water, gas or electric; Foodstuffs; Forgings; Furnaces; Furniture; Furs; Gas fixtures; Gases; Gasoline; Gelatine; Glass; Glass products and wares; Gloves; Glue; Gold ware; Gunpowder; Hardware; Harness; Hats; Headings; Hemp or manila products; Hose, rubber; Hosiery; Ice, artificial; Ice cream; Ink; Implements, agricultural; Instruments; Interior woodwork; Iron, structural; Ivory articles; Japans; Jewelry; Kegs; Leather goods and products; Light machines; Liquors; Locomotives; Machinery; Machines, adding, light and threshing; Malt liquors; Manila or hemp products; Maltesses; Mattresses; Meat products; Meats; Medicines; Men's clothing; Metal articles, beds, instruments, toys, utensils, and wares; Metal products, sheet; Metal, structural; Milk products; Mineral water; Motor vehicles; Mouldings; Moving-picture films and machines; Nails; Oil; Organs; Paint; Paper; Paper boxes; Paper, tarred, pitched, or asphalted; Paste; Paving blocks and material; Perfumes; Petroleum and products thereof; Pharmaceutical preparations; Photographic cameras and supplies; Pianos; Pipes; Pitched paper; Plaster, compounds of; Plated ware; Polish

for shoes; Porcelain; Pottery; Printers' rollers; Printing ink; Pyroxylin and its compounds and plastics; Rails; Rattan ware; Registers, cash; Robes; Ropes; Rubber goods; Saddlery; Safes; Salts, or acids, corrosive; Sanitary fixtures; Screens, window and door; Screws; Shades, window; Shafting; Sheet metal and products thereof; Shell articles; Shirts; Shoddy; Shoe blacking or polish; Shoes; Silverware; Sleighs; Soaps; Socks; Soda water; Spices; Spirituous liquors; Spokes; Stationery; Staves; Steel, structural; Stockings; Stone, artificial; Stoves; Structural steel, iron or metal; Sweepers, carpet; Tar; Tarred paper; Terra-cotta; Textiles; Textiles, articles from; Thread; Threshing machines; Tile; Tires, rubber; Tobacco, and products thereof; Toilet preparations; Tools; Toys, metal and wooden; Traction engines; Trunks; Tubing, metal and rubber; Tubs; Turpentine; Typewriters; Umbrellas; Utensils; Vallses; Varnish; Vats; Vehicles; Veneer; Wagons; Wallpaper; Water fixtures; Waters, mineral or soda; Wax; White ware; Wicker ware; Window screens and shades; Wine; Wire and wire goods; Women's clothing; Wooden articles; Woodwork, interior; Yarn.

Group 7. Operation of. Aeroplanes; Air craft; Barges; Boats; Boilers, stationary; Cables, telegraph; Car shops; Cars; Dynamos; Electric light and power lines or appliances; Electric railways; Electric vehicles, rollers and engines; Elevators, freight, passenger, and grain; Engines, stationary and traction; Gas vehicles, rollers and engines; Gas wells; Gasoline vehicles, rollers and engines; Grain elevators; Hand trucks; Horse-drawn vehicles, rollers and engines; Incline railways; Lighters; Machine shops; Oil wells; Plants, power and other; Railways; Rollers; Ships; Stationary engines and boilers; Steam plants; Steam railways; Street railways; Telegraph lines; Telephone lines; Threshing machines; Traction engines; Transports; Trucks; Tug boats; Vehicles; Vessels; Wagons; Waterworks.

Group 8. Preparation of. Fish; Foodstuffs; Fruit; Gelatine; Meat Stuffs; Meats; Metals; Minerals; Paste; Vegetables; Wax.

Group 9. Removal of. Ashes; Awnings; Garbage; Snow.

Group 10. Sinking of. Drilled wells; Gas wells; Oil wells; Salt wells.

Group 11. Storage or handling of. Ammunition; Cargoes; Corrosive acids or salts; Chemicals; Explosives; Gasoline; Gunpowder; Ice; Petroleum.

Group 12. Work as. Barbers; Blacksmiths; Carpenters; Chauffeurs; Drivers; Furriers; Garbage sorters; Horseshoers; Janitors; Life guards; Longshoremen; Marble workers; Masons; Movers; Sheet-metal workers; Teamsters; Theatrical electricians, flymen, lamp operators, moving-picture machiners, property men, stage carpenters, and stage hands.

Group 13. Work at. Awning erection; Blasting; Bleaching; Boiler covering; Bookbinding; Booming timber or logs; Bottling; Bricklaying; Building, care, maintenance and salvage; Cable laying or repair, underground; Canning; Carpentry; Clam cultivating, harvesting, opening, or planting; Cleaning clothes, streets, windows, or buildings; Concreting; Cork cutting; Decorating; Disinfecting; Dredging; Dyeing; Electrotyping; Embossing; Engraving; Excavation; Glazing; Grave digging; Heating; Ice distribution, harvesting, or storage; Landscape gardening; Lighting; Lithographing; Logging; Lumbering, except operations solely for the production of firewood on farm lands, in which not more than four persons are engaged by a single employer; Marble cutting; Marine wrecking; Milling; Mining; Multigraphing; Oyster cultivation, planting, harvesting, or opening; Ore reduction; Painting; Papering; Paving; Photo-engraving; Picture hanging; Pile driving; Pipe covering; Plastering; Plumbing; Printing; Rafting; Renovating; River driving; Road building; Roofing; Salvaging of buildings or contents; Sea food cultivation, harvesting, or planting; Shaft sinking; Ship building; Smelting; Stereotyping; Stone

crushing, cutting, dressing, grinding, or setting; Storage of all kinds and storage for hire; Street cleaning or construction; Structural carpentry; Subaqueous construction; Subway construction; Tree moving, planting, trimming, and surgery; Tunneling; Undertaking; Upholstering; Warehousing; Well digging or drilling; Window cleaning; Wrecking, marine.

Group 14. Work in: Abattoirs; Bakeries; Bark mills; Boarding stables; Breweries; Caissons; Clay pits; Coal yards; Compressed-air compartments; Dining cars; Distilleries; Express cars; Fish markets; Flax mills; Foundries; Garages; Garbage plants; Gravel pits; Groceries, wholesale; Hotels having four or more workmen or operatives; Junk dealers' places; Knitting factories; Laboratories; Lath mills; Laundries, power; Life-saving stations; Lime kilns; Livery stables; Lumber yards; Machine shops; Markets, fish, meat, poultry; Meat markets; Packing houses; Paper mills; Parlor cars; Pickle factories; Planing mills; Poultry markets; Printing plants; Pulp mills; Quarries; Rolling mills; Sales stables; Sand pits; Sash and door factories; Sawmills; Sewage-disposal plants; Shale pits; Shingle mills; Sleeping cars; Spinning manufactories; Stables, livery, boarding, or sales; Storage warehouses; Sugar refineries; Tanneries; Weaving manufactories; Wholesale groceries.

Group 15. Employment as a keeper, guard, nurse, or orderly in a prison, reformatory, insane asylum, or hospital maintained or operated by the State or a municipal corporation or other subdivision thereof, notwithstanding the definitions of the terms "employment," "employer," or "employee" in subdivisions three, four, and five of section two of this chapter.

Group 16. Employment as a district forest ranger, forest ranger, observer, chief railroad inspector, game protector, inspector, forester, land appraiser, surveyor, assistant on survey, engineer, or assistant on construction work, by the State, notwithstanding the definitions of the terms "employment," "employer," or "employee" in subdivisions three, four, and five of section two of this chapter.

Group 17. An employment enumerated in the foregoing groups and carried on by the State or a municipal corporation or other subdivision thereof, notwithstanding the definition of the term "employment" in subdivision five of section two of this chapter.

Group 18. All other employments not hereinbefore enumerated carried on by any person, firm, or corporation in which there are engaged or employed four or more workmen or operatives regularly, in the same business or in or about the same establishment, either upon the premises or at the plant or away from the plant of the employer, under any contract of hire, express or implied, oral or written, except farm laborers and domestic servants.

Group 19. An employer may bring an employment that is not listed in this section within the coverage of this chapter by securing compensation to his employee or employees engaged in such employment in accordance with section fifty of this chapter.

Any employee in the service of such employer shall be deemed to have accepted and shall be subject to the provisions of this chapter, and any act amendatory thereof, if at the time of the accident for which liability is claimed the employee shall not at the time of entering into his contract of hire have given to his employer notice in writing that he elects not to be subject to the provisions of this chapter and filed a copy thereof with the commissioner; or in the event that such contract of hire was made in advance of election of the employer, such employee shall not have given to his employer and filed with the commissioner, within twenty days after such election, notice in writing that he elects not to be subject to such provisions. A minor employee shall be deemed *sui juris* for the purpose of making such an election.

2. Compensation shall be payable for disabilities sustained or death incurred by an employee resulting from the following occupational diseases:

Occupational diseases.

COLUMN 1.	COLUMN 2.
DESCRIPTION OF DISEASES.	DESCRIPTION OF PROCESS.
1. Anthrax.	1. Handling of wool, hair, bristles, hides, or skins.
2. Lead poisoning or its sequelæ.	2. Any process involving the use of lead or its preparations or compounds.
3. Zinc poisoning or its sequelæ.	3. Any process involving the use of zinc or its preparations or compounds or alloys.
4. Mercury poisoning or its sequelæ.	4. Any process involving the use of mercury or its preparations or compounds.
5. Phosphorus poisoning or its sequelæ.	5. Any process involving the use of phosphorus or its preparations or compounds.
6. Arsenic poisoning or its sequelæ.	6. Any process involving the use of arsenic or its preparations or compounds.
7. Poisoning by wood alcohol.	7. Any process involving the use of wood alcohol or any preparation containing wood alcohol.
8. Poisoning by nitro, hydro- and amido-derivatives of benzene (dinitro-benzol, anilin, and others), or its sequelæ.	8. Any process involving the use of a nitro-, hydro-, or amido-derivative of benzene or its preparations or compounds.
9. Poisoning by carbon bisulphide or its sequelæ.	9. Any process involving the use of carbon bisulphide or its preparations or compounds.
10. Poisoning by nitrous fumes or its sequelæ.	10. Any process in which nitrous fumes are evolved.
11. Poisoning by nickel carbonyl or its sequelæ.	11. Any process in which nickel carbonyl gas is evolved.
12. Dope poisoning (poisoning by tetrachlor-methane or any substance used as or in conjunction with a solvent for acetate of cellulose) or its sequelæ.	12. Any process involving the use of any substance used as or in conjunction with a solvent for acetate of cellulose.
13. Poisoning by formaldehyde and its preparations.	13. Any process involving the use of formaldehyde and its preparations.
14. Chrome ulceration or its sequelæ.	14. Any process involving the use of chromic acid or bichromate of ammonium, potassium, or sodium, or their preparations.
15. Epitheliomatous cancer or ulceration of the skin or of the corneal surface of the eye, due to tar, pitch, bitumen, mineral oil, or paraffin, or any compound, product or residue of any of these substances.	15. Handling or use of tar, pitch, bitumen, mineral oil, or paraffin, or any compound, product, or residue of any of these substances.
16. Glanders.	16. Care or handling of any equine animal or the carcass of any such animal.

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| 17. Compressed air illness or its sequelæ.
18. Miners' diseases, including only cellulitis, bursitis, ankylostomiasis, tenosynovitis, and nystagmus.
19. Cataract in glassworkers. | 17. Any process carried on in compressed air.
18. Any process involving mining.
19. Processes in the manufacture of glass involving exposure to the glare of molten glass. |
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ARTICLE 2.

Compensation payable, when.	SECTION 10. Every employer subject to this chapter shall in accordance with this chapter secure compensation to his employees and pay or provide compensation for their disability or death from injury arising out of and in the course of the employment, without regard to fault as a cause of the injury, except that there shall be no liability for compensation under this chapter when the injury has been solely occasioned by intoxication of the injured employee while on duty or by willful intention of the injured employee to bring about the injury or death of himself or another.
Remedy exclusive.	SEC. 11. The liability of an employer prescribed by the last preceding section shall be exclusive and in place of any other liability whatsoever, to such employee, his personal representatives, husband, parents, dependents, or next of kin, or anyone otherwise entitled to recover damages, at common law or otherwise on account of such injury or death, 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.
Exception.	SEC. 12. No compensation shall be allowed for the first fourteen days of disability, except the benefits provided for in section thirteen of this chapter: <i>Provided, however,</i> That in case the injury results in disability of more than forty-nine days the compensation shall be allowed from the date of the disability.
Waiting time.	SEC. 13. The employer shall promptly provide for an injured employee such medical, surgical, or other attendance or treatment, nurse and hospital service, medicine, crutches, and apparatus for such period as the nature of the injury or the process of recovery may require. If the employer fail to provide the same, after request by the injured employee such 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, or unless the nature of the injury required such treatment and services and the employer or his superintendent or foreman having knowledge of such injury shall have neglected to provide the same; nor shall any claim for medical or surgical treatment be valid and enforceable, as against such employer, unless within twenty days following the first treatment, the physician giving such treatment, furnish to the employer and the industrial commissioner a report of such injury and treatment on a form prescribed by the industrial commissioner. All fees and other charges for such treatment and services shall be subject to regulation by the commissioner as provided in section twenty-four of
Medical, etc., treatment.	SEC. 13. 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 for such period as the nature of the injury or the process of recovery may require. If the employer fail to provide the same, after request by the injured employee such 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, or unless the nature of the injury required such treatment and services and the employer or his superintendent or foreman having knowledge of such injury shall have neglected to provide the same; nor shall any claim for medical or surgical treatment be valid and enforceable, as against such employer, unless within twenty days following the first treatment, the physician giving such treatment, furnish to the employer and the industrial commissioner a report of such injury and treatment on a form prescribed by the industrial commissioner. All fees and other charges for such treatment and services shall be subject to regulation by the commissioner as provided in section twenty-four of

this chapter, and shall be limited to such charges as prevail in the same community for similar treatment of injured persons of a like standard of living.

SEC. 14. Except as otherwise provided in this chapter, the average weekly wages of the injured employee at the time of the injury shall be taken as the basis upon which to compute compensation or death benefits, and shall be determined as follows: Wages computed, how.

1. If the injured employee shall have worked in the employment in which he was working at the time of the accident, whether for the same employer or not, during substantially the whole of the year immediately preceding his injury, his average annual earnings shall consist of three hundred times the average daily wage or salary which he shall have earned in such employment during the days when so employed;

2. If the injured employee shall not have worked in such employment during substantially the whole of such year, his average annual earnings shall consist of three hundred times the average daily wage or salary which an employee of the same class working substantially the whole of such immediately preceding year in the same or in a similar employment in the same or a neighboring place shall have earned in such employment during the days when so employed;

3. If either of the foregoing methods of arriving at the annual average earnings of an injured employee 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. 15. The following schedule of compensation is hereby established: Schedule.

1. Permanent total disability. In case of total disability adjudged to be permanent sixty-six and two-thirds per centum of the average weekly wages shall be paid to the employee during the continuance of such total disability. Loss of both hands, or both arms, or both feet, or both legs, or both eyes, or of any two thereof shall, in the absence of conclusive proof to the contrary, constitute permanent total disability. In all other cases permanent total disability shall be determined in accordance with the facts.

2. Temporary total disability. In case of temporary total disability, sixty-six and two-thirds per centum of the average weekly wages shall be paid to the employee during the continuance thereof, but not in excess of three thousand five hundred dollars, except as otherwise provided in this chapter.

3. Permanent partial disability. In case of disability partial in character but permanent in quality, the compensation shall be sixty-six and two-thirds per centum of the average weekly wages and shall be paid to the employee for the period named in this subdivision, as follows:

Member lost.	Number of weeks' compensation.	Member lost.	Number of weeks' compensation.
a. Arm.....	312	g. First finger.....	46
b. Leg.....	288	h. Great toe.....	38
c. Hand.....	244	i. Second finger.....	30
d. Foot.....	205	j. Third finger.....	25
e. Eye.....	128	k. Toe other than great toe..	16
f. Thumb.....	60	l. Fourth finger.....	15

m. Loss of hearing. Compensation for loss of the hearing of both ears, for one hundred and fifty weeks.

n. Phalanges. Compensation for the loss of more than one phalange of a digit shall be the same as for loss of the entire digit. Compensation for loss of the first phalange shall be one-half of the compensation for loss of the entire digit.

o. Amputated arm or leg. Compensation for an arm or a leg, if amputated at or above the elbow or the knee, shall be the same as for loss of the arm or leg; but if amputated between the elbow and the wrist or the knee and the ankle, shall be the same as for loss of a hand or foot.

p. Binocular vision or per centum of vision. Compensation for loss of binocular vision or for eighty per centum or more of the vision of an eye shall be the same as for loss of the eye.

q. Two or more digits. Compensation for loss of two or more digits, or one or more phalanges of two or more digits, of a hand or foot may be proportioned to the loss of use of the hand or foot occasioned thereby but shall not exceed the compensation for loss of a hand or foot.

r. Total loss of use. Compensation for permanent total loss of use of a member shall be the same as for loss of the member.

s. Partial loss or partial loss of use. Compensation for permanent partial loss or loss of use of a member may be for proportionate loss or loss of use of the member.

t. Disfigurement. The board may award proper and equitable compensation for serious facial or head disfigurement, not to exceed three thousand five hundred dollars.

u. Other cases. In all other cases in this class of disability, the compensation shall be sixty-six and two-thirds per centum of the difference between his average weekly wages and his wage-earning capacity thereafter in the same employment or otherwise, payable during the continuance of such partial disability, but subject to reconsideration of the degree of such impairment by the board on its own motion or upon application of any party in interest.

Beneficiaries. 4. Effect of award. An award made to a claimant under subdivision three shall in case of death arising from causes other than the injury be payable to and for the benefit of the persons following:

a. If there be a surviving wife (or dependent husband) and no child of the deceased under the age of eighteen years, to such wife (or dependent husband).

b. If there be a surviving wife (or dependent husband) and surviving child or children of the deceased under the age of eighteen years, one-half shall be payable to the surviving wife (or dependent husband) and the other half to the surviving child or children.

The board may in its discretion require the appointment of a guardian for the purpose of receiving the compensation of the minor child. In the absence of such a requirement by the board the appointment for such a purpose shall not be necessary.

c. If there be a surviving child or children of the deceased under the age of eighteen years, but no surviving wife (or dependent husband) then to such child or children.

An award for disability may be made after the death of the injured employee.

Temporary partial disability. 5. Temporary partial disability. In case of temporary partial disability resulting in decrease of earning capacity, the compensation shall be two-thirds of the difference between the injured employee's average weekly wages before the accident and his wage earning capacity after the accident in the same or another employment but shall not exceed in total three thousand five hundred dollars.

Range of benefits. 6. Maximum and minimum compensation for disability. Compensation for disability shall not exceed twenty dollars per week nor be less than eight dollars per week: *Provided, however, That*

if the employee's wages at the time of injury are less than eight dollars per week, he shall receive his full weekly wages.

7. 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. Second injuries.

8. Permanent total disability after permanent partial disability. If an employee who has previously incurred permanent partial disability through the loss of one hand, one arm, one foot, one leg, or one eye, incurs permanent total disability through the loss of another member or organ, he shall be paid, in addition to the compensation for permanent partial disability provided in this section and after the cessation of the payments for the prescribed period of weeks special additional compensation for the remainder of his life to the amount of sixty-six and two-thirds per centum of the average weekly wage earned by him at the time the total permanent disability was incurred. Such additional compensation shall be paid out of a special fund created for such purpose in the following manner: The insurance carrier shall pay to the State treasurer for every case of injury causing death in which there are no persons entitled to compensation the sum of five hundred dollars. The State treasurer shall be the custodian of this special fund, and the commissioner shall direct the distribution thereof. Same.

9. Maintenance for employees undergoing vocational rehabilitation. An employee, who as a result of injury is or may be expected to be totally or partially incapacitated for a remunerative occupation and who, under the direction of the state board of vocational education is being rendered fit to engage in a remunerative occupation, shall receive additional compensation necessary for his maintenance; but such additional compensation shall not exceed ten dollars a week. The expense shall be paid out of a special fund created in the following manner: The insurance carrier shall pay to the State treasurer for every case of injury causing death, in which there are no persons entitled to compensation, the sum of five hundred dollars. The State treasurer shall be the custodian of this special fund and the industrial commissioner shall direct the distribution thereof. Rehabilitation.

SEC. 16. If the injury causes death, the compensation shall be known as a death benefit and shall be payable in the amount and to or for the benefit of the persons following: Death.

1. Reasonable funeral expenses not exceeding one hundred dollars;

2. If there be a surviving wife (or dependent husband) and no child of the deceased under the age of eighteen years, to such wife (or dependent husband) thirty per centum of the average wages of the deceased during widowhood (or dependent widowerhood) with two years' compensation in one sum, upon remarriage; and if there be a surviving child or children of the deceased under the age of eighteen years, the additional amount of ten per centum of such wages for each such child until of the age of eighteen years; in case of the subsequent death or remarriage of such surviving wife (or dependent husband) any surviving child of the deceased employee, at the time under eighteen years of age, shall have his compensation increased to fifteen per centum of such wages, and the same shall be payable until he shall reach the age of eighteen years: *Provided,* That the total amount payable shall in no case exceed sixty-six and two-thirds per centum of such wages. The board may in its discretion require the appointment of a guardian for the purpose of receiving the com-

pensation of a minor child. In the absence of such a requirement by the board the appointment of a guardian for such purposes shall not be necessary.

3. If there be a surviving child or children of the deceased under the age of eighteen years, but no surviving wife (or dependent husband), then for the support of each such child until the age of eighteen years, fifteen per centum of the wages of the deceased: *Provided*, That the aggregate shall in no case exceed sixty-six and two-thirds per centum of such wages.

4. If there be no surviving wife (or dependent husband) or child under the age of eighteen years or if the amount payable to surviving wife (or dependent husband) and to children under the age of eighteen years shall be less in the aggregate than sixty-six and two-thirds per centum of the average wages of the deceased, then for the support of grandchildren or brothers and sisters under the age of eighteen years, if dependent upon the deceased at the time of the accident, fifteen per centum of such wages for the support of each such person until the age of eighteen years; and for the support of each parent, or grandparent, of the deceased if dependent upon him at the time of the accident, twenty-five per centum of such wages during such dependency. But in no case shall the aggregate amount payable under this subdivision exceed the difference between sixty-six and two-thirds per centum of such wages, and the amount payable as hereinbefore provided to surviving wife (or dependent husband) or for the support of surviving child or children.

5. Any excess of wages over one hundred and twenty-five dollars a month shall not be taken into account in computing compensation under this section. All questions of dependency shall be determined as of the time of the accident.

Aliens.

SEC. 17. Compensation under this chapter to aliens not residents (or about to become nonresidents) of the United States or Canada, shall be the same in amount as provided for residents, except that dependents in any foreign country shall be limited to surviving wife and child or children, or, if there be no surviving wife or child or children, to surviving father or mother whom the employee has supported, either wholly or in part, for the period of one year prior to the date of the accident, and except that the commission may, at its option, or upon the application of the insurance carrier, shall, commute all future installments of compensation to be paid to such aliens, by paying or causing to be paid to them one-half of the commuted amount of such future installments of compensation as determined by the commission.

Notice of injury.

SEC. 18. Notice of an injury for which compensation is payable under this chapter shall be given to the commissioner and to the employer within thirty days after the accident causing such injury, and also in case of the death of the employee resulting from such injury, within thirty days after such death. Such notice may be given by any person claiming to be entitled to compensation, or by some one in his behalf. The notice shall be in writing, and contain the name and address of the employee, and state in ordinary language the time, place, nature, and cause of the injury, and be signed by him or by a person on his behalf or, in case of death, by any one or more of his dependents, or by a person on their behalf. It shall be given to the commissioner by sending it by mail, by registered letter, addressed to the commissioner at his 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 business: *Provided*, That if the employer be a partnership then such notice may be so given to any one of the partners, and if the employer be a corporation, then such notice may be given to any agent or officer thereof upon whom legal process may be served, or any agent in charge of the business in the place where the injury occurred. The failure to give notice of injury or

notice of death unless excused by the board either on the ground that notice for some sufficient reason could not have been given, or on the ground that the employer, or his or its agents in charge of the business in the place where the accident occurred or having immediate supervision of the employee to whom the accident happened, had knowledge of the accident, or on the ground that the employer has not been prejudiced thereby, shall be a bar to any claim under this chapter, but the employer and the insurance carrier shall be deemed to have waived such notice unless the objection to the failure to give such notice or the insufficiency thereof, is raised before the board on the hearing of the claim filed by such injured employee, or his or her dependents.

SEC. 19. An injured employee claiming or entitled to compensation shall submit to such physical examination as the commissioner or the board may require. The place or places shall be reasonably convenient for him. Such physician or physicians as the employee or carrier may select and pay for may participate in an examination if the employee or carrier so requests. Proceedings shall be suspended and no compensation be payable for any period during which he may refuse to submit to examination. Physical examination.

SEC. 20. At any time after the expiration of the first fourteen days of disability on the part of an injured employee, or at any time after his death, a claim for compensation may be presented to the employer or to the commissioner. The board 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 commissioner or board 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 department. Immediately after such filing the commissioner 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 board shall be final as to all questions of fact, and, except as provided in section twenty-three, as to all questions of law. Determination of claims.

SEC. 21. In any proceeding for the enforcement of a claim for compensation under this chapter, it shall be presumed in the absence of substantial evidence to the contrary— Presumptions.

1. That the claim comes within the provision of this chapter; .
2. That sufficient notice thereof was given;
3. That the injury was not occasioned by the willful intention of the injured employee to bring about the injury or death of himself or of another;
4. That the injury did not result solely from the intoxication of the injured employee while on duty.

SEC. 22. Upon its own motion or upon the application of any party in interest, on the ground of a change in conditions, the board may at any time review any award, decision, or order and, on such review, may make an award ending, diminishing, or increasing the compensation previously awarded, subject to the maximum or minimum provided in this chapter, and shall state its conclusions of fact and rulings of law, and shall immediately send to the parties a copy of the award. No such review shall affect such award as regards any moneys already paid, except that an award for increased wages under subdivision five of section fourteen may be made effective from date of injury. Modification of award.

SEC. 23. An award or decision of the board shall be final and conclusive upon all questions within its jurisdiction, as against the State fund or between the parties, unless reversed or modified on appeal therefrom as hereinafter provided. Within thirty days Appeals.

after notice of the filing of the award or the decision of the board has been sent to the parties an appeal may be taken to the appellate division of the supreme court, third department, from such award or decision by any party in interest including an employer insured in the State fund. If notice of such appeal is served upon the board, the board shall within thirty days thereafter serve upon the parties in interest and file its findings of fact and rulings of law in such case. The board may also, in its discretion certify to such appellate division of the supreme court, questions of law involved in its decision. Such appeals and the questions so certified shall be heard in a summary manner and shall have precedence over all other civil cases in such court. The board shall be deemed a party to every such appeal, and the attorney general, without extra compensation, shall represent the board thereon. An appeal may also be taken to the court of appeals in all cases where the decision of the appellate division is not unanimous and by the consent of the appellate division or the court of appeals where the decision of the appellate division is unanimous in the same manner and subject to the same limitations not inconsistent herewith as is now provided in civil actions. It shall not be necessary to file exceptions to the rulings of the board. Neither the commissioner, the board, nor the claimant shall be required to file a bond upon an appeal to the court of appeals. Otherwise such appeals shall be subject to the law and practice applicable to appeals in civil actions. Upon final determination of such an appeal, the board shall enter an order in accordance therewith.

Costs and fees.

SEC. 24. If the board or the court before which any proceedings for compensation or concerning an award of compensation have been brought, under this chapter, determine that such proceedings have not been so brought upon reasonable ground, it shall assess the whole cost of the proceedings upon the party who has so brought them. Claims of attorneys and counselors at law for legal services in connection with any claim arising under this chapter, and claims for services or treatment rendered or supplies furnished pursuant to section thirteen of this chapter, shall not be enforceable unless approved by the board. 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 board. Any other person, firm, or corporation who shall exact or receive fee or gratuity for any services rendered on behalf of a claimant except in an amount determined by the board, shall be guilty of a misdemeanor. Any person, firm, or corporation who shall solicit the business of appearing before the board on behalf of a claimant, or who shall make it a business to solicit employment for a lawyer in connection with any claim for compensation under this chapter shall be guilty of a misdemeanor. In case an award is affirmed upon an appeal to the appellate division, the same shall be payable with interest thereon from the date when said award was made by the board.

Payment of awards.

SEC. 25. The compensation herein provided for shall be paid periodically and promptly in like manner as wages, and as it accrues, and directly to the person entitled thereto without waiting for an award by the industrial board, except in those cases in which the right to compensation is controverted by the employer. The first payment of compensation shall become due on the twenty-first day of disability, on which date or within four days thereafter all compensation then due shall be paid, and the compensation payable biweekly thereafter; but the industrial board may determine that any payments may be made monthly or at any other period, as it may deem advisable. If the employer or insurance carrier does not controvert the injured workman's right to compensation such employer or insurance carrier shall, either on or before the twenty-fifth day after disability, or within fifteen days after the employer first has knowledge of the alleged accident, begin paying compensation and shall immediately notify the commissioner in accordance with a form to be prescribed by

him, that the payment of compensation has begun, accompanied by the further statement that the employer or insurance carrier, as the case may be, will notify the commissioner when the payment of compensation has been stopped. Immediately upon the stoppage or suspension of payments of compensation the employer or insurance carrier shall notify the commissioner of such act on a form to be prescribed by him. In case the employer decides to controvert the right to compensation he shall, either on or before the twenty-fifth day of disability or within ten days after he has knowledge of the alleged accident, file a notice with the commissioner, on a form prescribed by him, that compensation is not being paid, giving the name of the claimant, name of the employer, date of the alleged accident, and the reason why compensation is not being paid. The commissioner may in the interest of justice at any time refer a case in which payments are being made as above to the industrial board for a hearing, and shall immediately upon receipt of notice from the injured workman, from the employer, or from the insurance carrier that the employee's right to compensation is controverted, or that payments of compensation have stopped or been suspended, make such investigations, or cause such medical examinations to be made, or refer the case for such hearings, as will properly protect the rights of both parties, either as to any compensation then due or as to any compensation that may become due in the future for temporary or permanent disability, and promptly cause the resumption of payments in case the injured person is entitled thereto. If the employer or insurance carrier shall fail to pay any installment of compensation within twenty-five days after the same becomes due, there shall be paid by the employer or, if insured, his insurance carrier, an additional amount of ten per centum of the compensation then due which shall accrue for the benefit of the injured workman or his dependents and shall be paid to him or them with the compensation, unless such delay or default is excused by the industrial board upon the application of the employer or insurance carrier upon the ground that owing to conditions over which the employer or insurance carrier had no control, such payment could not be made. Nothing herein shall limit the right of the industrial board in a particular case to hold a hearing and make an award in accordance with other provisions of this chapter. No case shall be closed without notice to all parties interested and without giving to all such parties an opportunity to be heard. If the employer has made advance payments of compensation he shall be entitled to be reimbursed out of an unpaid installment or installments of compensation due, provided his claim for reimbursement is filed before compensation is paid. An injured employee, or in case of death his dependents or personal representative, shall give receipts for payment of compensation to the employer paying the same and such employer shall produce the same for inspection by the commissioner, whenever required. If the employer or his insurance carrier shall fail to make payments of compensation according to the terms of the award, within ten days thereafter, except in case of an appeal, there shall be imposed a penalty equal to twenty per centum of the unpaid compensation which shall accrue to the benefit of the injured workman or his dependents and shall be paid to him or them. When the final payment is made or due the employer or his insurance carrier shall within sixteen days send to the commissioner a notice on a form prescribed by the commissioner that such final payment is due or has been made fulfilling completely the terms of the award, which notice shall contain the name of the injured employee or his principal dependent, the date of accident, the date to which compensation has been paid and the whole amount of compensation paid, and in case the employer or his insurance carrier fail so to notify the commissioner of the cessation of payments within sixteen days after the date to which compensation is due or has been paid, the commissioner shall assess

Hearings.

Defaults.

Advance pay-
ments.Final pay-
ments.

against such employer or his insurance carrier the sum of one hundred dollars, one-half of which shall be paid into the special fund created under favor of numbered paragraph eight of section fifteen herein and one-half of which shall be paid into the State treasury and be applicable to the expenses of the department. Whenever the commissioner may deem it advisable he may require any employer or insurance carrier to make a deposit with the commissioner to secure the prompt and convenient payment of such compensation, and the commissioner shall have power to make payments therefrom upon any awards. The industrial board, 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. Such commutation shall be made according to the method prescribed in section twenty-seven of this chapter.

Delinquent payments.

SEC. 26. In case of default by the employer in the payment of any compensation due under an award for the period of thirty days after payment is due and payable, or, where the employer has failed to secure the payment of compensation to his employees as required by section fifty hereof, where there is such default in payment for a period of ten days after same is due, any party in interest may file with the county clerk for the county in which the injury occurred, or the county in which the employer has his principal place of business, a certified copy of a decision of the State industrial board awarding compensation, or ending, diminishing, or increasing compensation previously awarded, from which no appeal has been taken within the time allowed therefor, or, if an appeal has been taken by an employer who has not complied with the provisions of section fifty hereof, where he fails to deposit with the commissioner the amount of the award as security for its payment within ten days after same is due and payable, and thereupon judgment must be entered in the supreme court by the clerk of such county in conformity therewith immediately upon the filing of such decision. If the payment in default be an installment, the commissioner may declare the entire award due and judgment may be entered in accordance with the provisions of this section. Such judgment shall be entered in the same manner, have the same effect, and be subject to the same proceedings as though rendered in a suit duly heard and determined by the supreme court, except that no appeal may be taken therefrom. The court shall vacate or modify such judgment to conform to any later award or decision of the board upon presentation of a certified copy of such award or decision. The award may be so compromised by the board as in the discretion of the board may best serve the interest of the persons entitled to receive the compensation or benefits. Neither the commissioner nor any party in interest shall be required to pay any fee to any public officer for filing or recording any paper or instrument executed in pursuance of this section.

Deposits.

SEC. 27. If an award under this chapter requires payment of death benefits or other compensation by an insurance carrier or employer in periodical payments, the board may, in its discretion at any time, any provision of this chapter to the contrary notwithstanding, compute and permit or require to be paid into the State fund an amount equal to the present value of all unpaid death benefits or other compensation in cases in which awards are made for total permanent or permanent partial disability for a period of one hundred and four weeks or more, for which liability exists, together with such additional sum as the board may deem necessary for a proportionate payment of expenses of administering the fund so created. The moneys so paid in for all death benefits or other compensation to constitute one aggregate and indivisible fund; and thereupon such employer or insurance carrier shall be discharged from any further liability under such award and payment of the same as provided by this chapter shall be assumed by the special fund so created. All computations made by the

board shall be upon the basis of the survivorship annuitants' table of mortality, the remarriage tables of the Dutch Royal Insurance Institution, and interest at three and one-half per centum per annum.

Such special fund shall be kept separate and apart from all other moneys of the State fund and shall not be liable for any losses or expenses of administration of the State fund other than the expenses involved in the administration of such special fund. Nor shall the State fund be charged with the losses or expenses of the aggregate special fund beyond the amount of such special fund.

Any portion of such special fund may be invested by the commissioner, with the approval of the superintendent of insurance, in the same securities as provided in this chapter for the investment of the State insurance fund.

Sec. 28. The right to claim compensation under this chapter shall be barred unless within one year after the accident, or if death results therefrom within one year after such death, a claim for compensation shall be filed with the commissioner, but the employer and insurance carrier shall be deemed to have waived the bar of the statute unless the objection to the failure to file the claim within one year is raised on the hearing on such claim. No case in which an advance payment is made shall be barred by the failure of the employee to file a claim, and the board may at any time order a hearing on any such case in the same manner as though a claim for compensation had been filed.

Limitation.

Sec. 29. If an employee entitled to compensation under this chapter be injured or killed by the negligence or wrong of another not in the same employ, such injured employee, or in case of death his dependents, shall, before any suit or any award under this chapter, elect whether to take compensation under this chapter or to pursue his remedy against such other. Such election shall be evidenced in such manner as the commissioner may by regulation prescribe. If such injured employee, or in case of death his dependents, elect to take compensation under this chapter, the awarding of compensation shall operate as an assignment of the cause of action against such other to the State for the benefit of the State insurance fund, if compensation be payable therefrom, and otherwise to the person, association, corporation, or insurance carrier liable for the payment of such compensation, and if he elect to proceed against such other, the State insurance fund, person, association, corporation, or insurance carrier, as the case may be, shall contribute only the deficiency, if any, between the amount of the recovery against such other person actually collected and the compensation provided or estimated by this chapter for such case. In case of the payment of an award to the State treasurer in accordance with subdivisions nine and ten of section fifteen, such payment shall operate to give to the employer or insurance carrier liable for the award a cause of action for the amount of such payment together with the reasonable funeral expenses and the expense of medical treatment which shall be in addition to any cause of action by the legal representatives of the deceased. Such a cause of action assigned to the State may be prosecuted or compromised by the commissioner. A compromise of any such cause of action by the employee or his dependents at an amount less than the compensation provided for by this chapter shall be made only with the written approval of the commissioner, if the deficiency of compensation would be payable from the State insurance fund, and otherwise with the written approval of the person, association, corporation, or insurance carrier liable to pay the same. Wherever an employee is killed by the negligence or wrong of another not in the same employ, and the dependents of such employee entitled to compensation under this chapter are minors, such election to take compensation and the assignment of the cause of action against such other and such notice of election to pursue a remedy against such other shall be made by such minor, or shall be made on behalf of such minor by

Injuries by third parties.

Subrogation of employer.

- a parent of such minor, or by his or her duly appointed guardian, as the board may determine in each case.
- Independent benefits.** SEC. 30. No benefits, savings, or insurance of the injured employee, independent of the provisions of this chapter, shall be considered in determining the compensation or benefits to be paid under this chapter, 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.
- Contributions by employees.** SEC. 31. No agreement by an employee to pay any portion of the premium paid by his employer to the State insurance fund or to contribute to a benefit fund or department maintained by such employer or to the cost of mutual insurance or other insurance maintained for or carried for the purpose of providing compensation as herein required, shall be valid, and any employer who makes a deduction for such purpose from the wages or salary of any employee entitled to the benefits of this chapter shall be guilty of a misdemeanor.
- Waivers.** SEC. 32. No agreement by an employee to waive his right to compensation under this chapter shall be valid.
- Assignments, etc., of claims.** SEC. 33. Compensation or benefits due under this chapter shall not be assigned, released, or commuted except as provided by this chapter, and shall be exempt from all claims of creditors and from levy, execution, and attachment, or other remedy for recovery or collection of a debt, which exemption may not be waived. Compensation and benefits shall be paid only to employees or their dependents. In case of the death of an injured employee to whom there was due at the time of his or her death any compensation under the provisions of this chapter, the amount of such compensation shall be payable to the surviving wife or husband, if there be one, or, if none, to the surviving child or children of the deceased under the age of eighteen years, and if there be no surviving wife or children, then to the dependents of such deceased employee or to any of them as the commission may direct. An award for disability may be made after the death of the injured employee.
- Preferences.** SEC. 34. Compensation shall have the same preference or lien against the assets of the carrier or employer without limit of amount as is now or may hereafter be allowed by law to the claimant for unpaid wages or otherwise.

ARTICLE 3.

- Definitions.** SECTION 37. Whenever used in this article: 1. "Disability" means the state of being disabled from earning full wages at the work at which the employee was last employed.
2. "Disablement" means the act of becoming so disabled, as defined in subdivision one.
- Occupational disease.** SEC. 38. The disablement of an employee resulting from an occupational disease described in subdivision two of section three shall be treated as the happening of an accident within the meaning of this chapter and the procedure and practice provided in this chapter shall apply to all proceedings under this article, except where specifically otherwise provided herein.
- Right to compensation.** SEC. 39. If an employee is disabled or dies and his disability or death is caused by one of the diseases mentioned in subdivision two of section three, and the disease is due to the nature of the corresponding employment as described in such subdivision in which such employee was engaged and was contracted therein, he or his dependents shall be entitled to compensation for his death or for the duration of his disablement in accordance with the provisions of article two, except as hereinafter stated: *Provided, however,* That if it shall be determined that such employee is able to earn wages at another occupation which shall be neither

unhealthful nor injurious, and such wages do not equal his full wages prior to the date of his disablement, the compensation payable shall be a percentage of full compensation proportionate to the reduction in his earning capacity.

SEC. 40. Neither the employee nor his dependents shall be entitled to compensation for disability or death resulting from disease unless the disease is due to the nature of his employment and contracted therein within the twelve months previous to the date of disablement, whether under one or more employers.

Time limit.

SEC. 41. The industrial commissioner shall appoint one or more physicians whose duty it shall be to examine any claimant under this article and to make report in such form as the commissioner may require.

Examining physicians.

SEC. 42. For the purposes of this article the date of disablement shall be such date as the board may determine on the hearing on the claim.

Date of disablement.

SEC. 43. If an employee, at the time of his employment, willfully and falsely represents in writing that he has not previously suffered from the disease which is the cause of disability or death, no compensation shall be payable.

Fraud.

SEC. 44. The total compensation due shall be recoverable from the employer who last employed the employee in the employment to the nature of which the disease was due and in which it was contracted. If, however, such disease was contracted while such employee was in the employment of a prior employer, the employer who is made liable for the total compensation as provided by this section, may appeal to the board for an apportionment of such compensation among the several employers who since the contraction of such disease shall have employed such employee in the employment to the nature of which the disease was due. Such apportionment shall be proportioned to the time such employee was employed in the service of such employers, and shall be determined only after a hearing, notice of the time, and place of which shall have been given to every employer alleged to be liable for any portion of such compensation. If the board find that any portion of such compensation is payable by an employer prior to the employer who is made liable to the total compensation as provided by this section, it shall make an award accordingly in favor of the last employer, and such award may be enforced in the same manner as an award for compensation.

Liability of employer.

SEC. 45. The employer to whom notice of death or disability is to be given, or against whom claim is to be made by the employee, shall be the employer who last employed the employee during the said twelve months in the employment to the nature of which the disease was due and in which it was contracted, and such notice and claim shall be deemed seasonable as against prior employers.

Notice to employers.

SEC. 46. Information; penalty. The employee or his dependents, if so requested, shall furnish the last employer or the board with such information as to the names and addresses of all his other employers during the said twelve months as he or they may possess; and if such information is not furnished, or is not sufficient to enable such last employer to take proceedings against a prior employer under section forty-four, unless it be established that the disease actually was contracted while the employee was in his employment, such last employer shall not be liable to pay compensation, or if such information is not furnished or is not sufficient to enable such last employer to take proceedings against other employers under section forty-four, such last employer shall be liable only for such part of the total compensation as under the particular circumstances the board may deem just; but a false statement in the information furnished as aforesaid shall not impair the workmen's rights unless the last employer is prejudiced thereby.

Employee to furnish information.

SEC. 47. If the employee, at or immediately before the date of disablement, was employed in any process mentioned in the second column of the schedule of diseases in subdivision two of section three, and his disease is the disease in the first column

Presumption as to cause.

of such schedule set opposite the description of the process, the disease presumptively shall be deemed to have been due to the nature of that employment.

Where disease
is accident.

SEC. 48. Nothing in this article shall affect the rights of an employee to recover compensation in respect to a disease to which this article does not apply if the disease is an accidental personal injury within the meaning of subdivision seven of section two of this chapter.

ARTICLE 4.

Security for
payment.

SECTION 50. An employer 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 fund; or

2. By insuring and keeping insured the payment of such compensation with any stock corporation or mutual association authorized to transact the business of workmen's compensation insurance in this State.

3. By furnishing satisfactory proof to the commissioner of his financial ability to pay such compensation for himself, in which case the commissioner may, in his discretion, require the deposit with the commissioner of securities of the kind prescribed in subdivisions one, two, three, four, and five, and paragraph a of subdivision seven of section two hundred thirty-nine of the banking law, in an amount to be determined by the commissioner, to secure his liability to pay the compensation provided in this chapter. The commissioner may also require an agreement on the part of an employer to pay any awards commuted under section twenty-seven of this chapter, into the special fund of the State fund, as a condition of his being allowed to remain uninsured pursuant to this section. The commissioner shall have the authority to revoke his consent furnished under this section at any time for good cause shown. The employer so electing shall be known as a self-insurer.

Public employ-
ees.

4. a. A county, city, village, town, or other political subdivision of the State may secure compensation to its employees in accordance with subdivision one or subdivision two of this section. If it does not do so, such county, city, town, village, or other political subdivision shall be deemed to have elected to secure compensation pursuant to subdivision three of this section. Such a county, city, town, village, or other political subdivision shall not be required to furnish proof of financial ability or to make deposit of securities in compliance with such subdivision, but shall be obliged to meet all other requirements prescribed by this chapter for employers so electing. Such county, city, town, village, or other political subdivision shall file with the commissioner notice of such election.

b. Whenever compensation is awarded to a claimant for injury to an employee of a self-insuring county, town, or political subdivision, other than a city or a village, the treasurer of the county employing such employee, or containing the town or other political subdivision that employs him, shall, upon presentation of the award, forthwith begin payment of it in accordance with this chapter, using any money of the county available therefor. If none is available, he shall by temporary loan upon the credit of the county immediately borrow sufficient money to meet compensation payments that will fall due prior to collection of the next tax levy. The board of supervisors shall thereupon levy upon the taxable property of the county, if for injury to a county employee, and of the particular town or other political subdivision, if for injury to an employee of such town or other political subdivision, a sum sufficient to enable the treasurer to repay such loan and to continue compensation payments according to the requirements of the case.

c. Whenever compensation is awarded to a claimant for injury to an employee of a self-insuring city or village, the treasurer of

the city or village shall, upon presentation of the award forthwith begin payment of it in accordance with this chapter, using any money of the city or village available therefor. If none is available, he shall by temporary loan upon the credit of the city or village immediately borrow sufficient money to meet compensation payments that will fall due prior to such time as the city or village may appropriate for the purpose. The city or village shall thereupon appropriate a sum sufficient to enable the treasurer to repay such loan and to continue compensation payments according to the requirements of the case.

SEC. 51. Every employer who has complied with section fifty of this chapter shall post and maintain in a conspicuous place or places in and about his place or places of business typewritten or printed notices in form prescribed by the commissioner, stating the fact that he has complied with all the rules and regulations of the department and that he has secured the payment of compensation to his employees and their dependents in accordance with the provisions of this chapter. The commissioner may require any employer to furnish a written statement at any time showing the stock corporation or mutual association in which such employer is insured or the manner in which such employer has complied with any provision of this chapter. Failure for a period of ten days to furnish such written statement shall constitute presumptive evidence that such employer has neglected or failed in respect of any of the matters so required.

Notice to be posted.

SEC. 52. Failure to secure the payment of compensation shall constitute a misdemeanor, punishable by a fine of not more than five hundred dollars or imprisonment for not more than one year, or both.

Failure to secure compensation.

All fines imposed under this chapter, except as herein otherwise provided, shall be paid by the officer collecting the same to the State treasurer as custodian of the special fund created under subdivision eight of section fifteen of this chapter.

SEC. 53. An employer securing the payment of compensation by contributing premiums to the State fund shall thereby become relieved from all liability for personal injuries or death sustained by his employees, and the persons entitled to compensation under this chapter shall have recourse therefor only to the State fund and not to the employer. An employer shall not otherwise be relieved from the liability for compensation prescribed by this chapter except by the payment thereof by himself or his insurance carrier.

Payments to State fund a release.

SEC. 54. 1. Every policy of insurance covering the liability of the employer for compensation issued by a stock company or by a mutual association authorized to transact workmen's compensation insurance in this State shall contain a provision setting forth the right of the commissioner to enforce in the name of the people of the State of New York for the benefit of the person entitled to the compensation insured by the policy either by filing a separate application or by making the insurance carrier a party to the original application, the liability of the insurance carrier in whole or in part for the payment of such compensation: *Provided, however,* That payment in whole or in part of such compensation by either the employer or the insurance carrier shall to the extent thereof be a bar to the recovery against the other of the amount so paid.

Provisions of insurance policies.

Insurers directly liable.

2. Every such policy shall contain a provision that, as between the employee and the insurance carrier, the notice to or knowledge of the occurrence of the injury on the part of the employer shall be deemed notice or knowledge, as the case may be, on the part of the insurance carrier; that jurisdiction of the employer shall, for the purpose of this chapter, be jurisdiction of the insurance carrier, and that the insurance carrier shall in all things be bound by and subject to the orders, findings, decisions, or awards rendered against the employer for the payment of compensation under the provisions of this chapter.

Community of knowledge.

132 WORKMEN'S COMPENSATION LAWS OF THE UNITED STATES.

Insolvency of employer. 3. Every such policy shall contain a provision to the effect that the insolvency or bankruptcy of the employer shall not relieve the insurance carrier from the payment of compensation for injuries or death sustained by an employee during the life of such policy.

Agreements to limit indemnity. 4. Every contract or agreement of an employer the purpose of which is to indemnify him from loss or damage on account of the injury of an employee by accidental means, or on account of the negligence of such employer or his officer, agent, or servant, shall be absolutely void unless it shall also cover liability for the payment of the compensation provided for by this chapter.

Cancellation of contracts. 5. No contract of insurance issued by an insurance carrier against liability arising under this chapter shall be cancelled within the time limited in such contract for its expiration until at least ten days after a notice of cancellation of such contract, on a date specified in such notice, shall be filed in the office of the commissioner 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: *Provided, however*, The right to cancellation of a policy of insurance in the State fund shall be exercised only for nonpayment of premiums.

Working employers. 6. Any insurance carrier may issue policies, including with employees, employers, or executive officers of corporations who perform labor incidental to their occupations, such policies insuring to such employers or officers the same compensations provided for their employees, and at the same rates: *Provided, however*, That the estimation of their wage values, respectively, shall be reasonable and separately stated in and added to the valuation of their pay rolls upon which their premium is computed. The employer or officer so insured shall have the same rights and remedies given an employee by this chapter.

Acceptance of premium. SEC. 55. Acceptance of a premium on a policy securing to an employee compensation, either alone or in connection with other insurance, shall estop the carrier so accepting from pleading that the employment of such employee is not a hazardous employment or the employment is not carried on for pecuniary gain.

Subcontractors. SEC. 56. A contractor, the subject of whose contract is, involves, or includes a hazardous employment, who subcontracts all or any part of such contract shall be liable for and shall pay compensation to any employee injured whose injury arises out of and in the course of such hazardous employment, unless the subcontractor primarily liable therefor has secured compensation for such employee so injured as provided in this chapter.

An owner of timber other than farm lands who contracts with another to carry on or perform work or service in connection therewith, which work or service is, involves, or includes a hazardous employment, shall be liable for and shall pay compensation to any employee of such contractor, or his subcontractor, if any, injured in the course of and arising out of such hazardous employment, unless the contractor, or the subcontractor, if any, primarily liable therefor has secured compensation for such employee so injured as provided in this chapter.

Issue of permits. SEC. 57. The head of a State or municipal department, board, commission, or office authorized are required by law to issue any permit for or in connection with any work involving the employment of employees in a hazardous employment defined by this chapter, and notwithstanding any general or special statute requiring or authorizing the issue of such permits, shall not issue such permit to the employer unless such employer shall produce satisfactory proof that compensation has been secured as provided by this chapter. Nothing herein, however, shall be construed as

creating any liability on the part of such State or municipal department, board, commission, or office to pay any compensation to any such employee if so employed.

ARTICLE 5.

SECTION 90. There is hereby created a fund to be known as "the State insurance fund," for the purpose of insuring employers against liability under this chapter and of assuring to the persons entitled thereto the compensation provided by this chapter. Such fund shall consist of all premiums received and paid into the fund, of property and securities acquired by and through the use of moneys belonging to the fund, and of interest earned upon moneys belonging to the fund and deposited or invested as herein provided. Such fund shall be applicable to the payment of losses sustained on account of insurance and to the payment of expenses in the manner provided in this chapter. Such fund shall be administered by the industrial commissioner. State insurance fund.

SEC. 91. The State treasurer shall be the custodian of the State insurance fund; and all disbursements therefrom shall be paid by him upon vouchers signed by the commissioner or deputy commissioner. The State treasurer shall give a separate and additional bond in an amount to be fixed by the governor and with sureties approved by the State comptroller conditioned for the faithful performance of his duty as custodian of the State fund. The State treasurer may deposit any portion of the State fund not needed for immediate use, in the manner and subject to all the provisions of law respecting the deposit of other State funds by him. Interest earned by such portion of the State insurance fund deposited by the State treasurer shall be collected by him and placed to the credit of the fund. Custodian.

SEC. 92. Ten per centum of the premiums collected from employers insured in the fund shall be set aside for the creation of a surplus until such surplus shall amount to the sum of one hundred thousand dollars, and thereafter five per centum of such premiums, until such time as in the judgment of the commissioner such surplus shall be sufficiently large to cover the catastrophe hazard. Thereafter the contribution to such surplus may be reduced or discontinued conditional upon constant maintenance of a sufficient surplus to cover the catastrophe hazard. Reserves shall be set up and maintained adequate to meet anticipated losses and carry all claims and policies to maturity, which reserves shall be computed in accordance with such rules as shall be approved by the superintendent of insurance. Catastrophe fund.

SEC. 93. Any of the surplus or reserve funds belonging to the State insurance fund may, by order of the commissioner, approved by the superintendent of insurance, be invested in or loaned on the pledge of any of the securities in which a savings bank may invest the moneys deposited therein as provided in subdivisions one, two, three, four, and five of section two hundred and thirty-nine of the banking law. All such securities or evidences of indebtedness shall be placed in the hands of the State treasurer, who shall be the custodian thereof. He shall collect the principal and interest thereof, when due, and pay the same into the State insurance fund. The State treasurer shall pay all vouchers drawn on the State insurance fund for the making of such investments when signed by the commissioner or deputy commissioner upon delivery of such securities or evidences of indebtedness to him, when there is attached to such vouchers the approval of the State superintendent of insurance. The commissioner may, upon like approval of the superintendent of insurance, sell any of such securities. Investments.

SEC. 94. The entire expense of administering the State insurance fund shall be paid out of such fund. Prior to the first days of January, April, July, and October there shall be submitted to the State board of estimate and control for its approval an estimated budget of expenditures for the succeeding three months. There may not be expended for the State insurance fund for pur- Administration expenses.

poses of administration more than the amounts specified in such budget for each item of expenditure, except as authorized by the board of estimate and control. In no case shall the amount of expenditures so authorized for an entire year exceed fifteen per centum of the earned premiums for that year. If there be officers or employees of the department whose duties relate partly to the general work of the department and partly to the work of the State insurance fund, and in case there is other expense which is incurred jointly on behalf of the general work of the department and the State insurance fund, an equitable apportionment of the expense shall be made and the part thereof which is applicable to the State insurance fund shall be chargeable thereto. The industrial commissioner shall include in his annual report to the legislature a statement of the expense of administering the State fund for the preceding year. All appointments to positions in the State insurance fund shall be made subject to civil service requirements.

Rates.

Sec. 95. Employments and employers in the State fund shall be divided into such groups and classes as shall be equitable based upon differences of industry or hazard for the purpose of establishing premium rates, and for such purpose a system of merit rating may be employed which shall take account of the peculiar hazard of each individual risk. Premiums in the State fund shall be fixed at the lowest possible rates consistent with the maintenance of a solvent fund and of reasonable reserves and surplus.

Dividends.

Sec. 96. Employments and employers insured in the State insurance fund may be divided into such groups as shall be equitable for the purpose of accounting and declaration of dividends but for the purpose of paying compensation the State fund shall be deemed one and indivisible. Separate accounts shall be kept of income and of losses and expenses incurred, including contributions to catastrophe surplus and reserves adequate to meet anticipated losses and carry all claims to maturity, for each such group. If such accounting shows a balance remaining to the credit of the group at the close of any policy period, which shall be deemed to be safely and properly so applied, there may be credited or paid to each individual member of such group such proportion of such balance as the amount of his earned premium sustains to the total earned premium of the group for the period for which the accounting is made. If any member who has withdrawn from the group would otherwise have been entitled to such a dividend, the same may be credited or paid to him.

Associations for accident prevention.

Sec. 97. For any group established under the provisions of section ninety-six, membership in the group of any employer otherwise entitled to be admitted thereto may be conditioned upon acceptance and maintenance of special rules as to accident prevention or medical care of employees. Such limitation of membership in the group may be established only upon proper evidence that a majority of the members of the group have approved such rules and only when such rules have been approved by the commissioner as sufficient to constitute a proper basis of differentiation as to membership in the group.

Payment of premiums.

Sec. 98. Premiums for any policy period shall be paid into the State insurance fund at the beginning of the period according to the estimated expenditure of wages for the period. At the end of the period an adjustment of the premium shall be made according to the actual expenditure of wages. If such adjusted premium is more than the premium paid at the beginning of the period, the employer shall pay the difference immediately upon notification of the amount of the true premium and the difference due. If such adjusted premium is less than the premium paid in advance, the employer shall, at his option, receive either a refund of the difference or a credit of the amount thereof on his account with the State fund.

SEC. 99. If an employer shall default in any payment required to be made by him to the State insurance fund, after due notice his insurance in the State fund may be cancelled and the amount due from him shall be collected by civil action against him in the name of the industrial commissioner, and the same when collected, shall be paid into the State insurance fund, and such employer's compliance with the provisions of this chapter requiring payments to be made to the State insurance fund shall date from the time of the payment of said money so collected as aforesaid to the State treasurer for credit to the State insurance fund. Collection of premium.

SEC. 100. Any employer may, upon complying with subdivision two or three of section fifty of this chapter, withdraw from the fund by turning in his insurance contract for cancellation: *Provided*, He is not in arrears for premiums due the fund and has given written notice of his intention to withdraw not less than thirty days before the expiration of the period for which he has elected to insure in the fund. Withdrawal from fund.

SEC. 101. Every employer who is insured in the State insurance fund shall keep a true and accurate record of the number of his employees and the wages paid by him, and shall furnish, upon demand, a sworn statement of the same. Such record shall be open to inspection at any time and as often as may be necessary to verify the number of employees and the amount of the pay roll. Any employer who shall fail to keep such record, or who shall willfully falsify any such record, shall be guilty of a misdemeanor. Record and audit of pay rolls.

SEC. 102. Any person who willfully misrepresents any fact in order to obtain insurance in the State insurance fund at less than the proper rate for such insurance, or in order to obtain payment out of such fund, shall be guilty of a misdemeanor. Willful misrepresentation.

SEC. 103. The commissioner shall have the right to inspect the plants and establishments of employers insured in the State insurance fund; and the inspectors designated by the commissioner shall have free access to such premises during regular working hours. Inspections.

SEC. 104. Information acquired by the State fund, or its officers or employees, from employers or employees pursuant to this chapter shall not be opened to public inspection, and any officer or employee who, without authority of the commissioner or pursuant to his regulations, or as otherwise required by law, shall disclose the same shall be guilty of a misdemeanor. Information confidential.

SEC. 105. The commissioner shall make reports to the superintendent of insurance concerning the State insurance fund at the same times and in the same manner as is required from mutual employers' liability and workmen's compensation corporations by section one hundred and ninety-two of the insurance law, and the superintendent of insurance may examine into the condition of such State insurance fund at any time, either personally or by any duly authorized examiner appointed by him, for the purpose of determining the condition of the investments and the adequacy of the reserves of such fund. Reports.

SEC. 106. There shall be an advisory committee of the State insurance fund of nine members. The members of such advisory committee shall be employers or officers of employers insured in the State fund. They shall be appointed by the governor for terms of three years, except that of the members first appointed, the terms of three shall expire on June thirtieth, nineteen hundred and twenty-three, three on June thirtieth, nineteen hundred and twenty-four, and three on June thirtieth, nineteen hundred and twenty-five. Vacancies shall be filled for the unexpired term. Members shall continue in office until their successors are appointed. In the event that no appointment is made for three months after the expiration of the term of a member or the occurring of a vacancy, the remaining members may fill the vacancy by a majority vote. Advisory committee.

The commissioner shall be an additional member of such committee and act as chairman thereof. The members of such com-

mittee shall serve without pay, but shall be entitled to their reasonable traveling and other expenses incurred in connection with their duties, which shall be paid out of the State fund on the warrant of the commissioner.

Meetings.

The advisory committee shall meet at least four times in each year. It may adopt rules of procedure. It shall be the duty of such committee to consider the condition of the State fund, and to examine into the condition of its reserves, investments, and other matters relating to the administration of such fund. It shall have access to all records and books of account and shall have power to require the presence before it, or of any subcommittee, of any officer or employee of the fund. Information obtained by members of the committee shall be deemed confidential unless disclosed by order of the committee. The quarterly estimates of administrative expenditures out of the fund shall be submitted to the advisory committee for their information and advice. The commissioner shall detail to such committee such stenographic or other assistance as he may deem necessary.

ARTICLE 6.

Injuries to be reported.

SECTION 110. Every employer shall keep a record of all injuries, fatal or otherwise, received by his employees in the course of their employment. Within ten days after the occurrence of an accident resulting in personal injury a report thereof shall be made in writing by the employer to the commissioner upon blanks to be procured from the commissioner for that purpose. Such report shall state the name and nature of the business of the employer, the location of his establishment or place of work, the name, address, and occupation of the injured employe, the time, nature, and cause of the injury, and such other information as may be required by the commissioner. An employer who refuses or neglects to make a report as required by this section shall be guilty of a misdemeanor, punishable by a fine of not more than five hundred dollars.

Employers to furnish information.

SEC. 111. Every employer shall furnish the commissioner, upon request, any information required by him to carry out the provisions of this chapter. A member of the board, the commissioner, deputy commissioner, or any person deputed by the commissioner or board for that purpose, may examine under oath any employer, officer, agent, or employee. An employer or an employee receiving from the commissioner a blank with directions to file the same shall cause the same to be properly filled out so as to answer fully and correctly all questions therein, or if unable to do so shall give good and sufficient reasons for such failure. Answers to such questions shall be verified under oath and returned to the commissioner within the period fixed by the commissioner therefor.

Inspection of records.

SEC. 112. 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 commissioner or any of his authorized auditors, accountants, or inspectors for the purpose of ascertaining the correctness of the wage expenditure and number of men employed and such other information as may be necessary for the uses and purposes of the commissioner in the administration of this chapter.

Interstate commerce.

SEC. 113. The provisions of this chapter shall apply to employers and employees engaged in intrastate and also 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: *Provided*, That awards according to the provisions of this chapter may be made by the board in respect of injuries subject to the admiralty or other Federal laws in case the claimant, the employer, and the insurance carrier waive their admiralty or interstate commerce

rights and remedies, and the State insurance fund or other insurance carrier may assume liability for the payment of such awards under this chapter.

SEC. 114. If for the purpose of obtaining any benefit or payment under the provisions of this chapter, either for himself or any other person, any person willfully makes a false statement or representation, he shall be guilty of a misdemeanor. False representation.

SEC. 115. No limitation of time provided in this chapter shall run as against any person who is mentally incompetent or a minor so long as he has no committee or guardian. Limitation.

SEC. 116. The offices of the department shall be open for business during all business hours of all days except Sundays and legal holidays. All sessions of the board shall be public. The records of the board shall contain a record of each case considered, and all awards, decisions, or orders with respect thereto. For convenience of parties and prevention of delay or expense, the board may hold sessions in cities other than Albany. Sessions of board.

SEC. 117. The board may adopt reasonable rules consistent with and supplemental to the provisions of this chapter and the labor law. The commissioner may make reasonable regulations consistent with the provisions of this chapter and the labor law. Rules.

SEC. 118. The commissioner, board, referee, or deputy commissioner in making an investigation or inquiry or conducting a hearing shall not be bound by common law or statutory rules of evidence or by technical or formal rules of procedure, except as provided by this chapter; but may make such investigation or inquiry or conduct such hearing in such manner as to ascertain the substantial rights of the parties. Declarations of a deceased employee concerning the accident shall be received in evidence and shall, if corroborated by circumstances or other evidence, be sufficient to establish the accident and the injury. Procedure.

SEC. 119. A subpoena may be signed and issued by the commissioner, deputy commissioner, member of the board, referee, or such other officer as may be designated by the commissioner. Failure to obey such subpoena shall constitute a contempt as provided by the civil practice act. Subpœna.

SEC. 120. Each witness who appears in obedience to a subpoena shall be entitled to the same fees as witnesses in a civil action in the supreme court. Witness fees.

SEC. 121. The commissioner or board may cause depositions of witnesses residing within or without the State to be taken in the manner prescribed by law for like depositions in civil actions in the supreme court. Depositions.

SEC. 122. A copy of the testimony, evidence, and procedure of any investigation, or a particular part thereof, transcribed by a stenographer in the employ of the department and certified by such stenographer to be true and correct may be received in evidence with the same effect as if such stenographer were present and testifying to the facts so certified. A copy of such transcript shall be furnished to any party upon payment of the fee for transcripts of similar minutes in the supreme court. Transcripts.

SEC. 123. The power and jurisdiction of the department over each case shall be continuing, and it may from time to time make such modification or change with respect to former findings, awards, decisions, or orders relating thereto as in its opinion may be just. Jurisdiction continuing.

SEC. 124. The commissioner shall prescribe and distribute such blank forms as the administration of this chapter requires, including forms of notices and claims and forms for proving injury, death, medical, or other attendance or treatment, employment, and wage earnings. Insurance carriers shall constantly keep on hand at their own expense a sufficient supply of such blanks. Forms.

SEC. 125. The commissioner may by regulation provide for the giving of undertakings by all subordinates who are empowered by this chapter to receive and disburse moneys, to be approved as to form by the attorney general and as to sufficiency by the comptroller. Bonds.

- Expenses of administration.** SEC. 126. The commissioner annually as soon as practicable after July first shall ascertain the total amount of expenses incurred by the department during the preceding fiscal year in connection with the administration of the workmen's compensation law. The commissioner shall keep an accurate record of all hearings held, and the industrial board, in its discretion, may assess against each insurance carrier five dollars for each adjourned hearing held at the request of the insurance carrier. The fund so created shall be applied toward the total amount of the expenses ascertained as above. If there be any deficiency the commissioner shall thereupon assess upon and collect from each insurance carrier, including the State insurance fund and any county, city, town, village, or other political subdivision, failing to secure compensation pursuant to subdivisions one and two of section fifty, the proportion of such expense that the total compensation or payments made by such carrier in such year bore to the total compensation or payments made by all insurance carriers. The amounts so secured shall be transferred to the State treasury to reimburse it for this portion of the expense of administering this chapter.
- Construction.** SEC. 127. This chapter shall be read and construed in connection with the labor law.
- Provisions severable.** SEC. 128. If any section or provision of this chapter be decided by the courts to be unconstitutional or invalid, the same shall not affect the validity of the chapter as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.
- Pending causes.** SEC. 129. This act shall not affect any action pending or cause of action existing or which accrued prior to July first, nineteen hundred and twenty-two.

ARTICLE 7.

- Laws repealed.** SECTION 140. Article fourteen-a and sections two hundred and fifteen to two hundred and nineteen-g, both inclusive, of chapter thirty-six of the Laws of Nineteen Hundred and Nine, as added by chapter six hundred and seventy-four of the Laws of Nineteen Hundred and Ten, are hereby repealed.
- Act in effect.** SEC. 141. This chapter as amended shall take effect July first, nineteen hundred and twenty-two.

ACTS OF 1921.

CHAPTER 50.—*Labor law.*

[Extracts relating to the industrial commissioner and industrial board.]

ARTICLE 2.

- Department of labor.** SECTION 10. The department of labor is continued. The head of the department shall be the industrial commissioner. The industrial commissioner shall be appointed by the governor, by and with the advice and consent of the senate. The term of office of the commissioner shall be four years, except that the term of the commissioner first appointed hereunder shall expire January first, nineteen hundred and twenty-five.
- Deputy commissioner.** SEC. 11. There shall be a deputy commissioner, who shall be appointed by and removed at the pleasure of the commissioner.
- Industrial board.** SEC. 12. There shall be in the department an industrial board consisting of three members. The members of such board shall be appointed by the governor, by and with the advice and consent of the senate, one of whom shall be designated by the governor as chairman. Upon the appointment of a successor to the chairman, the governor shall designate such successor or other member of the board as chairman. The term of office of a member of such board shall be six years, except that the terms of the mem-

bers first appointed shall expire, one on January first, nineteen hundred and twenty-three, one on January first, nineteen hundred and twenty-five, and one on January first, nineteen hundred and twenty-seven.

SEC. 14. The principal office of the department shall be in the city of Albany in rooms designated by the trustees of public buildings as provided by law. There shall be a branch office in the city of New York and in such other cities of the state as the commissioner may determine. Offices of the department.

SEC. 17. The commissioner and members of the industrial board shall devote their entire time to the duties of their respective offices. The commissioner shall receive an annual salary of eight thousand dollars; each member of the industrial board shall receive an annual salary of eight thousand dollars; and the deputy commissioner shall receive an annual salary of seven thousand dollars. The reasonable and necessary expenses of the department and the reasonable and necessary traveling and other expenses of the commissioner, deputy commissioner, members of the industrial board and other officers and employees of the department, while actually engaged in the performance of their duties outside of the city of Albany, or if any such officer or employee be in charge or actually employed at a branch office of the department, the reasonable and necessary traveling and other expenses outside of the place in which such branch office is located shall be paid by the State treasurer upon the audit of the comptroller, upon vouchers approved by the commissioner. Salaries and expenses.

SEC. 19. The commissioner shall appoint as many persons as may be necessary to be referees to perform the duties prescribed by this section. A referee shall devote his entire time to the duties of his office and shall receive an annual salary to be fixed by the commissioner within the appropriation made therefor. It shall be the duty of a referee, under rules adopted by the industrial board, to hear and determine claims for compensation, and to conduct such hearings and investigations and to make such orders, decisions, and determinations as may be required by any general or special rule or order of the industrial board, under the workmen's compensation law pursuant to the provisions of such law. The decision of a referee on such a claim shall be deemed the decision of the industrial board from the date of the filing thereof in the department unless the industrial board, on its own motion or on application duly made to it, modify or rescind such decision. Referees.

SEC. 21. The commissioner shall be the administrative head of the department. Commissioner.

The commissioner

1. Shall enforce all the provisions of this chapter and of the industrial code, except as in this chapter otherwise provided;

2. Shall exercise the powers and perform the duties in relation to the administration of the workmen's compensation law heretofore vested in the industrial commission by chapter six hundred and seventy-four of the laws of nineteen hundred and fifteen, except in so far as such powers and duties are vested by this chapter in the industrial board;

* * * * *

SEC. 22. The commissioner may sit with the industrial board in the consideration of any matter except reviews under the provisions of the workmen's compensation law; but shall not have a vote upon any such matter. He shall be the custodian of the records of the board. May sit with board.

SEC. 24. The commissioner may by order filed in the department delegate any of his powers to or direct any of his duties to be performed by the deputy commissioner or a head of a division or bureau of such department. Delegation of powers.

SEC. 26. All papers, books, records, or other documents required to be kept by the provisions of this chapter or of the workmen's compensation law or of the industrial code shall at all times be open for the inspection of the commissioner and the officers and Examination of books and papers.

employees of the department, and the persons in charge thereof shall afford every reasonable facility for their examination and permit copies to be made when required by the commissioner.

Industrial
board.

SEC. 27. General powers and duties of industrial board. The industrial board shall have power to make, amend, and repeal rules for carrying into effect the provisions of this chapter, applying such provisions to specific conditions and prescribing means, methods, and practices to effectuate such provisions. It shall have power to hear and determine all claims for compensation under the workmen's compensation law in the manner provided by this chapter or the workmen's compensation law; to require medical service for injured employees as provided by the workmen's compensation law; to approve claims for medical service or attorney's fees, to excuse failure to give notice either of injury or death of an employee, to approve agreements, to modify or rescind awards, to make conclusions of fact and rulings of law, to certify questions to the appellate division of the supreme court, to enter orders in appealed cases, to determine the time for the payment of compensation, to order the reimbursement of employers for amounts advanced, to assess penalties, to commute awards, to compromise actions for the collection of awards, to require or permit employers to deposit the present value of awards in the aggregate trust fund of the State fund, to determine by rule the assignment of a minor's right to sue a third party, to require guardianship for minor dependents, to hear and determine claims under the occupational disease act, to order physical examinations, to take testimony by depositions; and to have and exercise all other powers and duties, exclusive of purely administrative functions, originally conferred or imposed upon the workmen's compensation commission by the workmen's compensation law or any other statute, and by chapter six hundred and seventy-four of the Laws of Nineteen Hundred and Fifteen conferred and imposed upon the State industrial commission. For the purpose of exercising such powers and performing such duties, the industrial board shall be deemed to be a continuation of the State industrial commission; and all proceedings under the workmen's compensation law pending before such commission are hereby transferred to the industrial board without prejudice to the rights of any party to such proceeding. Any hearing, inquiry, or investigation required or authorized to be conducted or made by the industrial board may be conducted or made by any individual member thereof, and the order, decision, or determination of such member shall be deemed the order, decision, or determination of the board from the date of filing thereof in the department unless the board on its own motion or on application duly made to it modify or rescind such order, decision, or determination.

Service of no-
tice.

SEC. 33. Whenever the commissioner or board or any person affected by the provisions of this chapter is required to give notice in writing to any person, such notice may be given by mailing it in a letter addressed to such person at his last known place of business or by delivering it to him personally. Notice to a partnership may be given to any of the partners and notice to a corporation may be given to any officer or agent thereof upon whom a summons may be served as provided by the Code of Civil Procedure. Whenever an order or demand of the department is required to be served it shall be served in the manner hereinbefore provided for the service of a notice or by delivering it to any person of suitable age and discretion in charge of the premises affected by such order, or if no person is found in charge by affixing a copy thereof conspicuously upon the premises.

Reports.

SEC. 35. Annual report. The commissioner shall make an annual report of the department to the legislature on or before the first day of February.

Process.

SEC. 37. All notices or orders shall be given by and in the name of the department by the commissioner, by the industrial board or a member thereof, or by the deputy commissioner or other officer or employee thereunto duly authorized.

SEC. 38. The commissioner, a member of the industrial board, the deputy commissioner, a referee, and any other officer or employee of the department if duly authorized by the commissioner may administer oaths and take affidavits in matters relating to the provisions of this chapter and the workmen's compensation law. Oaths and affidavits.

SEC. 39. The commissioner, the members of the industrial board, the deputy commissioner, and referees shall have power: Hearings and subpoenas.

1. To issue subpoenas for and compel the attendance of witnesses and the production of books, contracts, papers, documents, and other evidence;

2. To hear testimony and take or cause to be taken depositions of witnesses residing within or without this State in the manner prescribed by law for like depositions in civil actions in the supreme court. Subpoenas and commissions to take testimony shall be issued under the seal of the department.

SEC. 40. Any investigations, inquiry, or hearing which the commissioner or board has power to undertake or to hold may by special authorization be undertaken or held by or before any of the officers of the department, and any decision rendered on such investigation, inquiry, or hearing, when approved and confirmed by the commissioner or board and ordered filed in the office, shall be the order of the department. Proceedings.

SEC. 41. The commissioner and the board shall not be bound by technical rules of evidence and shall conduct all hearings according to procedure prescribed by them respectively. Rules for hearings.

NORTH DAKOTA.

[The compensation law of this State is amended by various acts of the legislature of 1921.

Scope. Section 2 is amended by ch. 142, Acts of 1921, by adding to the definition of the term "employee" the words "and excluding also any executive officer of a business concern who receives a salary of more than twenty-four hundred dollars (\$2,400) per year."

Burial. Section 3 is amended by ch. 141, Acts of 1921, by changing the burial allowance in Paragraph I from \$100 to \$150.

Section 4 is amended by ch. 145, Acts of 1921, by designating the paragraphs in order by the letters A, B, C, etc. Paragraph A is amended to read as follows:]

Bureau cre- SEC. 4. A. A workmen's compensation bureau is hereby created ated. in the department of agriculture and labor, consisting of the State commissioner of agriculture and labor, the State insurance commissioner, and three (3) workmen's compensation commissioners to be appointed by the governor, and the three commissioners so appointed shall devote their entire time to the duties of the bureau. At the expiration of each of the terms of the members of the bureau as legally constituted, their successors shall be appointed for a term of 5 years. One of the appointees of the said bureau shall be a representative of labor and one of the appointees of the said bureau shall be a representative of the public: *Provided*, That the governor may remove for cause any or all commissioners so appointed by him.

[The maximum annual expenditure as fixed by paragraph (D) is increased from \$50,000 to \$55,000.

Following the fifth paragraph a new paragraph is inserted, as follows:]

Quorum. F. A majority of the bureau 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 bureau so long as a majority remains, but the representatives of the employers and the employees, respectively, shall constitute a part of such majority. Any investigation, inquiry, or hearing which the bureau is authorized to hold or undertake, may be held or undertaken by or before any one member of the bureau. All investigations, inquiries, hearings, and decisions of the bureau 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 bureau.

[Section 5 is amended by ch. 143, Acts of 1921, by striking out the second sentence in the first paragraph and substituting therefor the following:]

New employ- It is further provided that if the workmen's compensation ers. bureau finds that any person, firm, private corporation, or any public service corporation, either within or without the State of North Dakota, is an employer within the meaning of this act, it shall determine the date when he or it became such, which finding and determination for all purposes of this act be prima facie but not conclusive evidence thereof, unless it can be otherwise shown by the employer affected. The bureau shall forthwith give notice of said action to the employer, who shall immediately thereafter furnish the bureau with a pay roll covering the period included in said finding, not exceeding twelve (12) months last past, together with an estimated pay roll for twelve (12) months

next succeeding from the date of such finding, and comply with all provisions of the workmen's compensation act, and all amendments thereto, which information shall be furnished on blanks to be prepared by the bureau; and it shall be the duty of the bureau to furnish such blanks to employers free of charge upon request therefor.

[This section is also amended by inserting the word "willfully" before the word "misrepresents" in the first line of the third paragraph.

Section 8 is amended so as to read as follows:]

SEC. 8 (as amended by ch. 144, Acts of 1921). If an employer fails, neglects, or refuses to make any payments required to be made by him or it to the workmen's compensation fund, it shall be conclusively presumed that such employer has elected to pay his or its full premium into the workmen's compensation fund, and the bureau shall then determine the amount of premium due from said employer for the next succeeding twelve (12) months from the date notice is given by the bureau of the amount so due and shall inform said employer of the amount thereof in such notice, and shall order the same paid into said fund: *Provided*, That if the annual premium payable to the fund by any employer amounts to \$200 or more, one-half thereof shall be paid in cash within a period of ten (10) days from date said notice is received, and one-half thereof shall be paid within a period of six (6) months from date of said notice: *Provided*, Such employer files a certified check, a certificate of deposit, or a bond within said period of ten (10) days with the workmen's compensation bureau with sureties to the approval of said bureau, guaranteeing that such portion to be paid after the said ten (10) days will be paid to said bureau within said period of six (6) months, together with the court costs which may be incurred on account of suit on such bond: *And provided, also*, If the annual premium payable to the fund by any employer amounts to more than \$100 and less than \$200, \$100 thereof shall be paid in cash within said period of ten (10) days, and remaining portion thereof shall be paid within said period of six (6) months, provided a certified check, a certificate of deposit, or a bond is filed with said bureau within said period of ten (10) days with sureties to the approval of the bureau guaranteeing that such portion to be paid after the said ten (10) days will be paid to said bureau within said period of six (6) months, together with court costs as aforesaid. Nothing in this act shall be construed to prevent any employer from paying the whole amount of premium in cash.

In case of default of any employer in making any payment or in filing any proper bond as herein required, it shall be the duty of the workmen's compensation bureau to certify, or cause to be certified, to the attorney general of the State the name and place of business of such employer and the amount due from such employer, and it shall then be the duty of the attorney general forthwith to bring, or cause to be brought, for the collection of such amount so due, a civil action against such employer, in the name of the State, and such action shall be brought in either the district court of Burleigh County, North Dakota, or in any county in which such employer is engaged in business, at the option of the attorney general.

If upon final hearing of said cause, it is found and determined that the defendant is an employer within the meaning of this act, the court shall render judgment against said defendant for the amount of said premium, with interest from the date of the determination of said amount by the bureau, together with costs, which judgment shall be paid into the workmen's compensation fund. The payment of such judgment shall entitle such employer and employees of such employer to the benefits of this act from the date said notice is issued by this bureau notifying such employer of the amount of premium due. If the judgment can not be paid in full, the bureau shall determine the date upon which said employee's right to participate in the fund shall inure.

144 WORKMEN'S COMPENSATION LAWS OF THE UNITED STATES.

Effect of pay- The payment of premium into the workmen's compensation fund
ment. by an employer shall entitle such employer and the employees of such employer to the benefits of this act from the time of payment of said money into the workmen's compensation fund, except as otherwise provided in this section with reference to payment of judgments.

All judgments obtained in any action prosecuted by the bureau, or by the State under authority of this act, shall be a prior lien over all other judgments and liens, except those now in existence.

If any employer, who has complied with this act, shall default in any payment required to be made by him or it to the workmen's compensation fund for a period of ten (10) days after notice that such payment is due, the same proceedings shall be had as in the case of an employer against whom the bureau has made a finding as hereinbefore provided.

All such cases shall have precedence over all other civil actions and shall be assigned for trial as soon as the issues are made up.

Nonresidents.

If the defendant is a nonresident of this State, or a foreign corporation doing business in this State, service of summons may be made upon any agent, representative or foreman of said defendant wherever found in the State, or service may be made in any other manner designated by statute.

Remedies.

In any action, provided for herein for the collection of premiums, the remedies of garnishment or attachment or both shall be available, and in any action for the collection of premiums no exemptions, except absolute exemptions, shall be claimed by or allowed to such employer.

OHIO.

[The compensation law of this State was amended by Acts of 1919 (adjourned session) and 1921. The changes are indicated below.

Section 1465-43 is repealed by act, p. 105, Acts of 1921, which establishes an administrative code for the State. The industrial commission is made a part of the newly created department of industrial relations for administrative purposes.

Section 1465-46 is amended so as to read as follows:]

SEC. 1465-46 (as amended by act, p. 181, Acts of 1921). The information contained in the annual 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 said section, 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 in said report may be tabulated and published by the department, in statistical form, for the use and information of other State departments and the public. Any person in the employ of the commission who shall divulge any information secured by him while in the employ of the commission in respect to the transactions, property, business, or mechanical, chemical or other industrial processes of any company, firm, corporation, person, association, copartnership, or public utility to any person other than the members of the commission shall be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000), and shall thereafter be disqualified from holding any appointment or employment with the commission.

[Section 1465-53a was added as follows:]

Sec. 1465-53a (added by act, p. 181, Acts of 1921). The Industrial Commission of Ohio, on and after July 1, 1921, shall fix such rates of premium for all occupations and industries based upon the total payroll of each of said occupations and industries as will provide an adequate fund for the compensation provided by law on account of occupational disease, and maintain a State occupational disease fund until July 1, 1924.

The Industrial Commission of Ohio shall investigate and ascertain the hazard of the diseases specified in section 1465-68a of the General Code, in occupations or industries and, on and after July 1, 1924, shall classify occupations or industries according to the degree of such hazard and fix such rates of hazard premium of the risks of the same, based upon the total pay roll in each of said classes as will provide an adequate fund for the payment of the compensation provided by law on account of such diseases, and maintain a State occupational disease fund from year to year.

Ten per cent of the money that shall be paid into the occupational disease fund on and after July 1, 1921, shall be set aside for the creation of a surplus until such surplus shall amount to the sum of two hundred and fifty thousand dollars, after which time, whenever necessary in the judgment of the industrial commission to guarantee a solvent occupational disease fund, a sum not to exceed five per cent of all the money paid into the occupational disease fund shall be credited to such surplus fund.

In order to determine properly such classification the commission shall collect and collate information with respect to such

Information
confidential.

Occupational
disease fund.

Statistical, etc.,
information.

diseases, and shall obtain statistical, actuarial, and such other information as may be necessary to effect the purposes of this section, including the study of the experience of other States and countries having similar laws compensating the victims of occupational diseases. The commission shall employ and detail to such work such physicians, examiners, clerks, and assistants as shall be necessary.

In connection with, and as a part of, such investigation, the industrial commission may from time to time publish such conclusions as it may reach as to causes and prevention of occupational diseases.

[Section 1465-55a was added, as follows:]

Audit of fund. SEC. 1465-55a (added by act, p. 590, Acts of 1921). The auditor of State is hereby authorized and required to make a complete audit of the State insurance fund at such time as he may deem necessary. Such audit shall cover all moneys, securities, bonds, vouchers, and transactions relative to such fund, and for such purpose the auditor or any examiners designated by him shall have access to the records and books of the industrial commission at any time, and the cost of such audit shall be a charge against the State insurance fund and shall be paid from such fund monthly upon vouchers certified by the auditor of State.

The auditor of State shall also prescribe forms of records and methods of accounting to be used by the industrial commission in connection with such State insurance fund.

[Section 1465-56 is amended so as to read as follows:]

Custodian. SEC. 1465-56 (as amended by act, p. 181, Acts of 1921). The treasurer of State shall be the custodian of the State insurance fund and the occupational disease fund, and all disbursements therefrom shall be paid by him upon vouchers authorized by the Industrial Commission of Ohio and signed by any two members of said commission; or, such vouchers may bear the facsimile signatures of the members of said commission printed thereon, and the signature of the deputy or other employee of said commission charged with the duty of keeping the account of said funds and with the preparation of vouchers for the payment of compensation to the person or persons entitled thereto under the provisions of this act.

[Section 1465-58 is amended by act, p. 524, Acts of 1921, by adding conservancy districts to the list of those whose bonds may be bought as investments; also by substituting the State industrial commission for the (obsolete) liability board of awards, where the latter is mentioned.

Section 1465-58a is amended by act, p. 47, Acts of 1921, prescribing details of the issue, printing, etc., of bonds and coupons purchased or to be purchased by the industrial commission.

Sections 1465-68a, 1465-68b, and 1465-68c are added, as follows:]

Occupational disease. SEC. 1465-68a (added by act, p. 181, Acts of 1921). Every employee who is disabled because of the contraction of an occupational disease as herein defined, or the dependents of an employee whose death is caused by an occupational disease as herein defined, shall, on and after July 1st, 1921, be entitled to the compensation provided by sections 1465-73 to 1465-82, inclusive, and section 1465-89 of the General Code, subject to the modifications hereinafter mentioned: *Provided*, That no person shall be entitled to such compensation unless for ninety days next preceding the filing of a claim for compensation the employee has been a resident of the State of Ohio, or for ninety days next preceding the filing of a claim for compensation has been employed by an employer required by the workmen's compensation law of Ohio to contribute to the occupational disease fund of Ohio for the benefit of such employee, or to compensate such employee directly under the provisions of section 1465-69 of the General Code.

List. The following diseases shall be considered occupational diseases and compensable as such when contracted by an employee in the

course of his employment in which such employee was engaged at any time within twelve months previous to the date of his disablement and due to the nature of any process described herein.

SCHEDULE.

DESCRIPTION OF DISEASE OR INJURY.	DESCRIPTION OF PROCESS.
1. Anthrax.	Handling of wool, hair bristles, hides, and skins.
2. Glanders.	Care of any equine animal suffering from glanders; handling carcass of such animal.
3. Lead poisoning.	Any industrial process involving the use of lead or its preparation or compounds.
4. Mercury poisoning.	Any industrial process involving the use of mercury or its preparations or compounds.
5. Phosphorus poisoning.	Any industrial process involving the use of phosphorus or its preparations or compounds.
6. Arsenic poisoning.	Any industrial process involving the use of arsenic or its preparations or compounds.
7. Poisoning by benzol or by nitro and amido derivatives of benzol (dinitrobenzol, anilin, and others).	Any industrial process involving the use of benzol or a nitro or amido derivative of benzol or its preparations or compounds.
8. Poisoning by gasoline, benzene, naphtha, or other volatile petroleum products.	Any industrial process involving the use of gasoline, benzene, naphtha, or other volatile petroleum products.
9. Poisoning by carbon bisulphide.	Any industrial process involving the use of carbon bisulphide or its preparations or compounds.
10. Poisoning by wood alcohol.	Any industrial process involving the use of wood alcohol or its preparations.
11. Infection or inflammation of the skin on contact surfaces due to oils, cutting compounds or lubricants, dust, liquids, fumes, gases, or vapors.	Any industrial process involving the handling or use of oils, cutting compounds or lubricants, or involving contact with dust, liquids, fumes, gases, or vapors.
12. Epithelioma cancer or ulceration of the skin or of the corneal surface of the eye due to carbon, pitch, tar, or tarry compounds.	Handling or industrial use of carbon, pitch, or tarry compounds.
13. Compressed air illness.	Any industrial process carried on in compressed air.
14. Carbon dioxide poisoning.	Any process involving the evolution or resulting in the escape of carbon dioxide.
15. Brass or zinc poisoning.	Any process involving the manufacture, founding, or refining of brass or the melting or smelting of zinc.

Law applies. SEC. 1465-68b (added by act, p. 181, Acts of 1921). Every employee mentioned in the next preceding section and the dependent or dependents of such employee and the employer or employers of such employee shall be entitled to all the rights, benefits, and immunities and shall be subject to all the liabilities, penalties, and regulations provided for injured employees and their employers by sections 1465-44 to 1465-108, General Code, inclusive, save and except section 1465-90, General Code, which shall not apply to any case involving occupational disease, and also subject to such other modifications or exemptions hereinafter provided.

The industrial commission shall have all of the powers, authority, and duties with respect to the collection, administration, and disbursement of the State occupational disease fund as are provided for in sections 1465-44 to 1465-108, General Code, inclusive, providing for the collection, administration, and disbursement of the State insurance fund for the compensation of injured employees.

False representations. SEC. 1465-68c (added by act, p. 181, Acts of 1921). No compensation shall be awarded on account of disability or death from disease suffered by an employee who, at the time of entering into the employment from which the disease is claimed to have resulted, shall have willfully and falsely represented himself as not having previously suffered from such disease. Compensation shall not be awarded on account of both injury and disease, except when the disability is caused by such disease and an injury, in which event the commission may apportion the payment of compensation provided for in sections 1465-79 to 1465-82, General Code, inclusive, between the funds as in their judgment seems just and proper. If an employee is suffering from both occupational disease and an injury, and the Industrial Commission of Ohio can determine which is causing his disability, it shall pay compensation therefor from the proper fund.

Payments. Compensation for loss sustained on account of occupational disease by an employee mentioned in subdivision 1 of section 1465-61, General Code, or the dependents of such employee, shall be paid from the fund provided for in sections 1465-62 to 1465-67, General Code, inclusive.

Compensation for loss sustained on account of such disease by an employee mentioned in subdivision 2 of section 1465-61, General Code, or the dependents of such employee, shall be paid from the occupational disease fund or by the employer of such employee, in case such employer has elected to pay such compensation directly to his employees.

[Section 1465-69 is amended by act, p. 291, Acts of 1921, by inserting in the last sentence, after the words "provided for," the words "or revoke the right of such employer to pay compensation direct."

Section 1465-69a is added, as follows:]

Compliance with law. SEC. 1465-69a (added by act, p. 1145, Acts of 1919, adjourned session). It shall be the duty of each member of a firm, and of the president, secretary, general manager or managing agent of each private corporation including any public service corporation mentioned in section 1465-60 of the General Code, to cause such firm or corporation to comply with the provisions of section 1465-69 of the General Code, and every person mentioned in said section 1465-60 and members of such firms and said officers of such corporations referred to in this section who neglect or fail to comply with the provisions of said section 1465-69 shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than five hundred dollars and the costs of prosecution. Such fine when collected shall be paid to the industrial commission and placed in the State insurance fund.

Each day's refusal on the part of such person, members of such firm or the officers of such corporations to comply with said section 1465-69, after notice to said person, firm, or corporation,

including any public service corporation, from the industrial commission to comply with the same, shall be deemed a separate offense and be punished as herein provided.

All courts exercising jurisdiction in cases of misdemeanor, including justices of the peace, shall have final jurisdiction of offenses under this section; but an affidavit charging such an offense shall not be filed unless the same bears the approval of the prosecuting attorney of the proper county or of the attorney general.

[Section 1465-69b (so designated by the attorney general) is added, as follows:]

SEC. 1465-69b (added by act, p. 181, Acts of 1921). Every person, firm, or corporation, who is an employer within the meaning of subdivision 2 of section 1465-60, General Code, shall, in the month of July, 1921, and semiannually thereafter, pay into the occupational disease fund for the compensation of occupational diseases the amount of premium determined and fixed by the Industrial Commission of Ohio; and in the month of July, 1924, and semiannually thereafter, shall pay into the occupational disease fund for the compensation of occupational diseases such amount of premium as shall be fixed and determined by the Industrial Commission of Ohio, for the occupation or employment of such employer, according to the classifications, rules, and rates made and published by said commission; and such employer shall semiannually thereafter pay such further sum of money into the occupational disease fund as may be ascertained to be due from him by applying the rules of said commission, and a receipt or certificate that such payment has been made shall immediately be mailed to such employer by the Industrial Commission of Ohio, which receipt or certificate, attested by the seal of said commission shall be prima facie evidence of the payment of such premium: *Provided*, That all such employers who become subscribers to the occupational disease fund for the compensation of occupational diseases after July 1, 1921, shall make such semiannual payments on the dates on which such employers become subscribers to the occupational disease fund for the compensation of occupational diseases and thereafter upon the expiration of the respective periods for which payments into the fund have been made by them: *And provided*, That such employers who desire to pay individually the compensation on account of occupational diseases of their employees upon the terms and conditions provided in section 1465-69, General Code, may pay such compensation upon compliance with and satisfaction of all the terms and conditions of said section. Except in lieu of the payments required to be paid into the surplus of the State insurance fund by said section, such employer shall pay into the occupational disease fund such amount or amounts as are required to be credited to the surplus of such fund as provided in section 1465-53a, General Code. Such employers as are permitted to pay such compensation individually shall be entitled to all the benefits and immunities and subject to all of the liabilities and penalties to which employers who elect to pay directly the compensation of injured employees under the provisions of section 1465-69, General Code, are entitled or subjected under the workmen's compensation law of the State of Ohio, except as herein provided.

[Section 1465-72b is added, as follows:]

SEC. 1465-72b (added by act, p. 181, Acts of 1921). In all cases of occupational disease, or death resulting from occupational disease, claims for compensation shall be forever barred, unless, within two months after the disability due to the disease began, application shall be made to the Industrial Commission of Ohio, or to the employer in the event such employer has elected to pay compensation direct, except in such cases as are provided for in section 1465-82, subdivision 4, General Code.

[Section 1465-75 is amended so as to read as follows:]

SEC. 1465-75 (as amended by act, p. 1145, Acts of 1919, adjourned session). If the industrial commission finds that any

Payments to fund.

Self-insurers.

Time for claims.

New employers.

person, firm, or private corporation, including any public service corporation, is an employer within the meaning of this act, it shall determine the date when he or it became such, which finding and determination shall for all purposes of this act be prima facie evidence thereof. The commission shall forthwith give notice of said action to the employer who shall immediately thereafter furnish the commission with a pay roll covering the period included in said finding, together with an estimated pay roll for six months next succeeding from the date of such finding and shall comply with all the provisions of section 1465-69 of the General Code.

Premiums.

If said employer fails, neglects, or refuses to comply with the provisions of said section within five days after receiving such notice, it shall be conclusively presumed that such employer has elected to pay his or its full premium into the State insurance fund and the commission shall then determine the amount of premium due from said employer from the date the commission found him or it to be subject to this act, including the amount of premium to be paid by him or it for the next succeeding six months, and shall notify said employer of the amount thereof and shall order the same paid into said fund. If said amount is not paid within five days after receiving such notice, the commission shall certify the same to the attorney general, to be by him collected in the name of the State from the employer, by civil action in the court of common pleas of Franklin County or of any county in which such employer is engaged in business.

Enforcement of payments.

Unless such employer shall, within the five days last aforesaid, execute a bond to the State in double the amount so found and ordered paid by the commission, with sureties to the approval of the commission, conditioned that he or it will pay any judgment and costs rendered against him or it for said premium, the court at the time of the filing of the petition, and without notice, shall appoint a receiver for the property and business of such employer, in this State, with all the powers of receivers in other cases, who shall take charge of all said property and assets of the defendant and administer the same under the orders of the court.

If upon final hearing of said cause it is found and determined that the defendant is an employer within the meaning of this act, the court shall render judgment against said defendant for the amount of said premium, with interest from the date of the determination of said amount by the commission, together with costs, which judgment shall be given the same preference as is now or may hereafter be allowed by law on judgments rendered for claims for taxes, and shall be paid by the receiver into the State insurance fund. The payment of such judgment shall entitle employees of such employer to the benefits of this act from the date on which the latter became subject to this act as determined by the commission. If the judgment can not be paid in full, the commission shall determine the date upon which said employees' right to participate in the fund shall inure.

Defaults.

If any employer who has complied with this act shall default in any payment required to be made by him or it to the State insurance fund, for a period of ten days after notice that such payment is due, the same proceedings shall be had as in the case of an employer against whom the commission has made a finding as hereinbefore provided.

All such cases shall have precedence over all other civil actions and shall be assigned for trial as soon as the issues are made up.

Nonresident.

The judgment herein shall not be a bar to the adjustment of the premiums provided for in section 1465-55 of the General Code.

If the defendant is a nonresident of this State or a foreign corporation doing business in this State, service of summons may be made upon any agent, representative or foreman of said defendant, wherever found in the State, or service may be made in any other manner designated by statute.

[Section 1465-80 is amended by act, p. 291, Acts of 1921, by changing the weekly maximum benefit for partial disability from \$12 to \$15; also by inserting before the last paragraph the following:]

In case an injury results in serious facial or head disfigurement which impairs the opportunities to secure or retain employment, the Industrial Commission of Ohio may in its discretion, make such award of compensation as it may deem proper and equitable, in view of the nature of the disfigurement and not to exceed the sum of thirty-seven hundred and fifty dollars.

Disfigurement.

[Section 1465-81 is amended by act, p. 291, Acts of 1921, by changing the weekly maximum benefit for permanent total disability from \$12 to \$15.

Section 1465-82 is amended by act, p. 291, Acts of 1921, by adding a new clause to paragraph 5(B), so that it now reads:]

(B) A child or children under the age of sixteen years (or over said age if physically or mentally incapacitated from earning) upon the parent with whom he is living at the time of the death of such parent, or for whose maintenance such payment was legally liable at the time of his death.

Dependent children.

[Section 1465-90 is amended so as to read as follows:]

SEC. 1465-90 (as amended by act, p. 291, Acts of 1921). The commission shall have full power and authority to hear and determine all questions within its jurisdiction, and its decision thereon shall be final: *Provided, however,* In case the final action of such commission denies the right of the claimant to participate at all or to continue to participate in such fund on the ground that the injury was self-inflicted or on the ground that the accident did not arise in the course of employment, or upon any other jurisdictional ground going to the basis of the claimant's right, then the claimant, within thirty (30) days after the notice of the final action of such commission, may by filing his appeal in the common pleas court of the county wherein the injury was inflicted or in the common pleas court of the county wherein the contract of employment was made, in cases where the injury occurs outside of the State of Ohio, be entitled to a trial in the ordinary way, and be entitled to a jury if he demands it. In such a proceeding, the prosecuting attorney of the county, unless he represents the appellant, shall represent the Industrial Commission of Ohio, without additional compensation, and he shall be notified by the clerk forthwith of the filing of such appeal, but if said prosecuting attorney represents the appellant, the Industrial Commission of Ohio shall be notified by said clerk forthwith of the filing of said appeal. Within thirty days after filing his appeal, the appellant shall file a petition in the ordinary form against such commission as defendant, and further pleadings shall be had in said cause, according to the rules of civil procedure. The Industrial Commission of Ohio shall certify with its answer a transcript of its record relating to the matter in which the appeal is taken, and the court, or the jury, under the instructions of the court, if a jury is demanded, shall determine the right of the claimant upon the evidence contained in such record and no other evidence, and if they determine the right in his favor, shall fix his compensation within the limits under the rules prescribed in this act; and any final judgment so obtained shall be paid by the Industrial Commission of Ohio out of the State insurance fund in the same manner as such awards are paid by such commission. In claims for compensation, medical, hospital and nursing services, and medicines and funeral expenses brought before said commission, by an injured employee or by his dependents in the event of his death as the result of injury sustained in the course of employment, in which said commission denies the right of claimant or claimants to receive or to continue to receive compensation from an employer who has duly elected to pay compensation, medical, hospital and nursing services, and medicines and funeral expenses direct

Decisions final.

Appeals.

Procedure.

to his injured and the dependents of his killed employees on the ground that the injury was self-inflicted, or on the ground that the injury did not arise in the course of employment, or upon any other jurisdictional ground going to the basis of the claimant's right, the claimant or claimants shall have the right to appeal to the common pleas court of the county wherein the injury was inflicted, or to the common pleas court of the county wherein the contract of employment was made, in cases where the injury occurs outside of the State of Ohio, in the same manner as in claims against the State insurance fund and as heretofore prescribed in this section, except that the employer shall be the defendant in such proceedings. Upon the filing of the petition by such claimant against such employer, the court wherein the petition is filed shall order the Industrial Commission of Ohio to certify to said court a transcript of its record in the claim in which the appeal is taken and further proceedings shall be had in said cause as provided in appeals against the Industrial Commission of Ohio, and if a verdict is rendered in favor of the claimant or claimants, compensation shall be fixed within the limits under the rules prescribed in this act; and any final judgment so obtained shall be paid by the employer. Such judgment shall have the same preference against the assets of the employer in favor of the claimant or claimants as is now, or may hereafter be, allowed by law on judgment rendered for claims for taxes. Any claims for compensation, medical, hospital and nursing services, and medicines and funeral expenses brought before said commission by an injured employee, or by his dependents in the event of his death as a result of injury sustained in the course of employment in which said commission denies the right of claimant or claimants to receive or to continue to receive compensation from an employer who has failed or neglected, either to contribute to the State insurance fund or to elect to pay compensation, medical, hospital or nursing services, and medicines and funeral expenses direct to his injured, or the dependents of his killed employees, on the ground that the injury was self-inflicted or on the ground that the injury did not arise in the course of employment, or upon any other jurisdictional ground going to the basis of the claimant's right, the claimant or claimants have the right to appeal to the common pleas court of the county wherein the injury was inflicted, or to the common pleas court of the county wherein the contract of employment was made, in cases where the injury occurs outside of the State of Ohio, in the same manner as in claims against the State insurance fund and as heretofore prescribed in this section; except that the employer shall be the defendant in such proceedings. Upon the filing of the petition by such claimant against such employer, the court wherein the petition is filed shall order the Industrial Commission of Ohio to certify to said court a transcript of its record in the claim in which the appeal is taken and further proceedings shall be had in said cause as provided in appeals against the Industrial Commission of Ohio; and if a verdict is rendered in favor of the claimant or claimants, compensation shall be fixed within the limits under the rules prescribed in this act; and any final judgment so obtained shall be paid by the employer. Such judgment shall have the same preference against the assets of the employer in favor of the claimant or claimants as is now, or may hereafter be, allowed by law on judgment rendered for taxes. The cost of any legal proceedings, authorized by this section, including an attorney's fee to the claimant's attorney to be fixed by the trial judge, shall be taxed against the unsuccessful party: *Provided, however,* That such attorney fee shall not exceed twenty per cent of any award up to the sum of five hundred dollars, and ten per cent on all accounts in excess thereof, but in no event shall such fee exceed the sum of five hundred dollars. Either party in any of such proceedings shall have the right to prosecute error as in the ordinary civil cases.

Judgments.

Claims against
employers.

Appeals.

Costs.

[Section 1465-91 is amended so as to read as follows:]

SEC. 1465-91 (as amended by act, p. 181, Acts of 1921). Such commission shall not be bound by the usual common law or statutory rules of evidence or by any technical or formal rules of procedure, other than 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: *Provided*, That no compensation shall be paid to any claimant on account of any occupational diseases, the existence of which is denied, unless a medical advisor appointed by the commission shall have examined such claimant for the purpose of determining the existence of such disease, and the approximate time, place, and cause of its inception; and when an employee is claimed to have died from an occupational disease, no award shall be paid to the dependents of such deceased person until a medical advisor appointed by the commission shall have had opportunity to examine the body of such deceased person for the purpose of determining the cause of death.

Procedure.

[Section 1465-99a is added, as follows:]

SEC. 1465-99a (added by act, p. 181, Acts of 1921). Every physician in this State attending on or called in to visit a patient whom he believes to be suffering from an occupational disease as defined in this act shall, within forty-eight hours from the time of making such diagnosis, send to the Industrial Commission of Ohio a report stating: (a) Name, address, and occupation of patient; (b) name and address of business in which employed; (c) nature of disease; (d) name and address of employer of patient; (e) such other information as may be reasonably required by the Industrial Commission of Ohio.

Duty of physicians.

The reports herein required shall be made on blanks to be furnished by the Industrial Commission of Ohio. The mailing of the report within the time stated in a stamped envelope addressed to the office of the Industrial Commission of Ohio shall be a compliance with this section.

Reports made under this section shall not be evidence of the facts therein stated in any action arising out of a disease therein reported.

It shall be the duty of the Industrial Commission of Ohio within twenty-four hours after the receipt of such report to send a copy thereof to the employer of the patient named in the report.

Whoever, being a physician practicing in the State of Ohio, neglects or refuses to make and transmit to the Industrial Commission of Ohio the report provided for in this section shall be fined not to exceed one hundred dollars or imprisoned for not to exceed ninety days, or both, but no person shall be imprisoned under this section for a first offense, and the prosecution shall always be as and for a first offense unless the affidavit upon which the prosecution is instituted contains the allegation that the offense is a second or repeated offense. The Industrial Commission of Ohio is directed to enforce the penal provisions of this section.

[Section 1465-103 is amended so as to read as follows:]

SEC. 1465-103 (as amended by act, p. 181, Acts of 1921). As a part of its annual report such commission, under the 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, a general statement of the causes of occupational diseases for which awards were made, and a detailed statement of the condition of its respective funds. In such report, it may bring to the attention of the governor such diseases arising out of and due to industrial processes as it believes should be made compensable as occupational diseases.

Reports.

From time to time the commission may collate such general information as to the business transacted by the department as in its judgment may be desirable for distribution to employers and employees.

OREGON.

[The compensation law of this State was amended in several sections by ch. 311, Acts of 1921. The act has been codified, and the code section numbers are given below, following the original section number. The changes are as follows:]

Employees of
railroad com-
panies.

Section 10 (6614) is amended by adding the following proviso:]
Provided, however, That if any railroad company operating as a common carrier of freight or passengers, including street railway companies operating as common carriers, shall be engaged in one or more of the hazardous occupations hereinafter defined, other than the maintenance and operation of a railroad, such railroad company may, by filing a written statement to that effect with the commission, elect to be subject to this act as to all such hazardous occupations other than the maintenance and operation of such railroad, and not subject thereto as to such railroad maintenance and operation.

Recall of elec-
tion.

[Section 17 (6622) is amended so as to read as follows:]
Sec. 17 (as amended by ch. 311, Acts of 1921). Any employer who has so elected not to contribute hereunder may at any time by filing with said commission written notice, recall such election, whereupon he shall forthwith post in conspicuous places notices properly dated as provided by section 6620, announcing his election to become subject to the provisions of the act, and fifteen days from the date of filing of said notice such employer shall become and continue in all respects subject to this act.

Statements to
be filed.

From and after the first day of July, 1921, no person, firm or corporation other than the persons, firms and corporations paying to the industrial accident commission the required pay roll percentage prescribed by this act shall engage as an employer in any of the hazardous occupations enumerated in section 6617 unless and until such person, firm or corporation shall have filed with the industrial accident commission a statement in writing signed by such person, or by the duly authorized agent of such firm or corporation, stating the name and address of such person, firm or corporation and describing the hazardous occupation in which such person, firm or corporation is engaged or proposes to engage, and if the name or address of such person, firm or corporation shall be changed, such person, firm or corporation shall, within thirty (30) days of such change, file an amended statement setting forth the true name and address and describing the hazardous occupation in which he or it is engaged. It shall be a misdemeanor for any such person, firm or corporation to engage in any such hazardous occupation unless or until such prescribed statement or statements shall have been filed, and each day during which such person, firm or corporation shall be engaged in any such hazardous occupation in violation of the terms hereof shall constitute a separate offense, and upon conviction of such offense the offending party shall be liable to a fine in a sum not less than ten dollars (\$10) nor more than one hundred dollars (\$100).

Monthly state-
ments.

[Section 19 (6224) is amended in respect of the third and subsequent paragraphs following the schedule of rates. They now read as follows:]

Every employer who is hereby required to make such payments to the commission shall on or before the fifteenth day of each month forward to the commission a signed statement showing the total pay roll of such employer for the preceding calendar month, the kind of work performed, the number of

men and number of days worked. Failure on the part of any such employer to send such statement within thirty days after receipt of notice by the commission shall be a misdemeanor.

When during the first fiscal year any employer is a contributor to the industrial accident fund the total amount paid out of the industrial accident fund or set apart therefrom as hereinafter provided on account of injuries sustained by his workmen shall be less than 30 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 during the following year shall be reduced by 30 per cent of the amount hereinbefore prescribed; where the total amount paid out or set aside is more than 30 per cent and not more than 40 per cent of the amount contributed by such employer, the rate of contribution shall be reduced by 25 per cent; where the total amount paid out or set aside is more than 40 per cent and not more than 50 per cent of the amount contributed, the rate of contribution shall be reduced by 20 per cent; where the total amount paid out or set aside is more than 50 per cent and not more than 60 per cent of the amount contributed, the rate shall be reduced by 15 per cent; where the total amount paid out or set aside is more than 60 per cent and not more than 70 per cent of the amount contributed, the rate shall be reduced by 10 per cent; where the total amount paid out or set aside is more than 70 per cent and not more than 80 per cent of the amount contributed, the rate shall be increased by 5 per cent; where the total amount paid out or set aside is more than 80 per cent and not more than 90 per cent of the amount contributed, the rate shall be increased by 10 per cent; where the total amount paid out or set aside is more than 90 per cent and not more than 100 per cent of the amount contributed, the rate shall be increased by 15 per cent. Where an employer continues as a contributor to the industrial accident fund, the rate of contribution for each succeeding fiscal year shall be determined in like manner by combining the amounts paid out and set aside on account of injuries sustained by the workmen of such employer during the entire period such employer has been subject to the act, but not more than the preceding five years, and combining also the amounts contributed by such employer to the accident fund during each period: *And provided further*, That no employer shall be entitled to any such reduction if the commission shall find that during the preceding fiscal year he has willfully failed to install or maintain any safety appliance, device, or safeguard required by statute.

For the purpose of determining the rate as in this section provided, the amount paid out or set aside on account of an accident resulting in the fatal injury or the permanent disability of a workman shall be deemed to be the average amount paid out and set aside on account of all such injuries during the preceding fiscal year.

It shall be the duty of the commission to establish standards or rules designed to promote organization and educational work in accident prevention, and every employer subject to the act shall be entitled to a reduction, or a further reduction, in rate of 5 per cent upon compliance with such standards or rules during any fiscal year: *Provided, however*, Such employer shall file with the commission a written notice of his intention to comply with such rules, and such reduction in rate shall not become effective prior to the filing of such notice.

If an employee who has previously incurred permanent partial disability incurs a subsequent permanent partial disability such that the compensation payable for the disability resulting from the combined injuries is greater than the compensation which, except for the preexisting disability would have been payable for the latter injury, the employee shall receive compensation on the basis of the combined injuries, but the charge against the rating of his employer shall be for the latter injury only.

Employers' credits. On July 1, 1920, and annually thereafter, the commission shall determine the total liability existing against the industrial accident fund, and if it finds the industrial accident fund amounts to a sum sufficient to cover all liability, together with a surplus of three hundred thousand dollars (\$300,000), aside from the reserves in the segregated accident fund, and in moneys in the emergency and catastrophe funds, the commission shall place to the credit of each employer contributing to the fund during the preceding twelve months, on account of contributions required by this act to be paid during that time, such proportion of the surplus paid into the accident fund during that period as his contribution is to the total contributions of all employers paid into the accident fund for the preceding twelve months.

Catastrophe fund. There is also hereby created a fund to be known as the "catastrophe fund." The State treasurer shall transfer fifty thousand dollars (\$50,000) from the industrial accident fund to the catastrophe fund, and there shall also be transferred to such fund monthly one (1) per cent of the total monthly contributions received from employers and workmen until such time as in the judgment of the commission such fund shall be sufficiently large to cover the catastrophe hazard. Such fund shall be invested by the State treasurer in the same manner as the investment of moneys in the segregated accident fund, and the interest earnings of investments from the catastrophe fund shall be credited to the industrial accident fund. Expenditures from the catastrophe fund shall be made in the event of occurrence of a single accident causing the death or permanent total disability of more than one workman. For the purpose of determining the rate of contributors to the fund as in this section provided, the total amount paid out and set aside in the event of a catastrophe shall be deemed to be the average amount paid out and set aside in each case of fatal injury and permanent total disability during the preceding year. The commission shall also have authority to authorize the payment of other compensation benefits from such fund in the event of the depletion of the industrial accident fund.

In the latter event, the catastrophe fund shall again be fully restored by setting aside a portion of contributions to the industrial accident fund in the manner provided in this paragraph.

Revision of rates. In that the intent is that the contributions from employers shall fairly represent the degree of hazard of each occupation or industry, the commission shall have authority on July 1, 1920, and annually thereafter, to readjust, increase, or decrease the rates of contribution contained in section 6624. Any such readjustment, increase, or decrease shall be based on the hazard of each occupation or industry as compared to the hazards of other occupations or industries subject to this act, and due regard shall be had for the experience of each occupation or industry as related to the experience of all occupations and industries defined in section 6624 hereof.

The words "fiscal year" employed in this section (to) mean the period of time commencing on July first and ending on the succeeding June thirtieth.

[Section 20 (6625) is amended by making the appropriation out of the State treasury "a sum equal to one-half of the total administrative expenditures of the commission, exclusive of expenditures for physiotherapy and vocational rehabilitation," striking out the words "one-seventh * * * hereof," inclusive.

Section 21 (6626) is amended by changing the first paragraph of schedule item (d) so as to read as follows:]

Temporary total disability. (d) When the total disability is only temporary, the workman shall receive during the period of such total disability:

1. If unmarried at the time of the injury, or, if married, having a husband not an invalid, compensation equal to 40 per centum of wages, but not more than \$55 per month.

2. If the workman have a wife or invalid husband, but no child under the age of sixteen years, compensation equal to 48 per centum of wages, but not more than \$65 per month.

3. If the workman have a wife or invalid husband and a child under the age of sixteen years, 53 per centum of wages, but not more than \$73 per month.

4. If the workman have a wife or invalid husband and two children under the age of sixteen years, 58 per centum of wages, but not more than \$81 per month.

5. If the workman have a wife or invalid husband and three children under the age of sixteen years, 63 per centum of wages, but not more than \$89 per month.

6. If the workman have a wife or invalid husband and four or more children under the age of sixteen years, two-thirds of wages, but not more than \$97 per month.

7. If the workman be a widow or widower and have one or more children under the age of sixteen years, 40 per centum of wages, but not more than \$55 per month, and on behalf of said children 5 per centum of wages, but not more than \$8 per month additional for each child under sixteen years of age.

8. In no event shall the rate of compensation for temporary total disability be less than \$30 per month for an unmarried workman, and \$40 per month for a workman having a wife or invalid husband, unless the actual wages be less than these amounts, in which event compensation equal to wages shall be paid.

9. For the purposes of this act the monthly wage of workmen shall be ascertained by multiplying by twenty-six the daily wage the workman was receiving at the time of his injury, or, in case the workman was regularly employed seven days a week, by multiplying by thirty the daily wage the workman was receiving at the time of his injury.

[The following is added to schedule item (k) :]

In all cases where the period of payments for permanent partial disability does not exceed twenty-four months, the commission may, in its discretion, pay to the injured workman in a lump sum an amount equal to the present worth of the monthly installments payable to such injured workman.

Lump sums.

[Section 22 (6627) is amended by adding thereto the following:]

In the event that an employer subject to this act shall have in good faith employed a minor under the age permitted by law, believing him to be of lawful age, and such minor shall sustain an injury or suffer death in such employment, such minor shall be conclusively presumed to have accepted the provisions of this act, and the State industrial accident commission shall have authority to determine conclusively the good faith of such employer unless the employer shall have in his possession at the time of the accident resulting in such injury or death a certificate from some duly constituted authority of the State of Oregon, authorizing the employment of such minor in the work in which he shall be then engaged, and such certificate shall be conclusive evidence of the good faith of such employer. If such employer shall hold no such certificate and said commission shall find that such employer did not employ such minor in good faith, such minor shall be entitled to the benefits of this act, but the employer shall pay to the industrial accident fund by way of penalty a sum equal to 25 per cent of the amount paid out or set apart under this act on account of the injury or death of such minor, but such sum payable as penalty shall not exceed \$500.

Minors under working age.

[Section 23 (6628) is amended by inserting after the word "accommodations" in the second sentence the words "and may, for the purpose of experience rating only, charge to the account of such employers the average cost of such services as shown by the experience of employers in a similar industry or occupation who do not come under the provisions of this section."]

Section 24 (6629) is amended by inserting after the second paragraph the following:]

Every employer in default in the payment of any contributions required by this act, and who shall have received from fault.

Notice of de-

the commission a formal notice of default for payment, is hereby required to display such notice of default by posting same in a place accessible to his workmen in such manner as to inform his workmen of such default. Failure on the part of such employer to post notice of default, as herein provided, shall be a misdemeanor.

[Section 29 (6634) is amended by striking out the last paragraph.]

Section 32 (6637) is amended by changing the last sentence of the second paragraph to read, "Appeals may be taken from the judgment of the circuit court as in other cases"; also by adding thereto the following:]

Attorney for
commission.

The commission is authorized to employ an attorney to represent it in making collections of delinquent contributions to the industrial accident fund and the interest and penalties accruing, and to conduct on behalf of said commission any and all suits, actions, and proceedings whatsoever for such purpose, and said attorney or the commission may call upon the district attorney of any county in which such proceedings are instituted or pending for any service or assistance in connection therewith.

The commission shall fix the compensation of such attorney, which shall be paid from the industrial accident fund, as the salaries of other employes of said commission are paid.

The attorney general shall not be required to advise upon or perform any service in, or in any way connected with, the collection of such moneys.

CHAPTER 5.—*Workmen's compensation—Increase in rates.*

[This was a transitory measure, effective from December 1, 1919, to June 30, 1921, increasing by 30 per cent all compensation awards running between the two dates.]

ACTS OF 1920 (SPECIAL SESSION).

CHAPTER 6.—*Workmen's compensation—Rehabilitation fund.*

Fund created.

SECTION 1. There is hereby created a fund to be known as the "rehabilitation fund." The State treasurer shall transfer one hundred thousand dollars (\$100,000) from the industrial accident fund to the rehabilitation fund and there shall also be transferred to such fund, monthly, two and one-half per cent of the total monthly receipts of the State industrial accident commission from all sources. All interest earnings of the rehabilitation fund shall be credited to the industrial accident fund.

Rules.

SEC. 2. The said commission is hereby authorized to provide under uniform rules and regulations for the vocational rehabilitation of men and women injured by accident arising out of and in the course of their employment while working under the protection of the workmen's compensation law.

Use of fund.

SEC. 3. The said commission is hereby authorized to expend as much of the said rehabilitation fund as may be necessary to accomplish the vocational rehabilitation of men and women injured as aforesaid: *Provided, however,* That nothing in this act shall be construed to amend or repeal the authority of the said commission under section 23, chapter 112, General Laws of Oregon for 1913, as amended, to expend from the industrial accident fund money for the rent of buildings, the purchase of equipment and supplies, the payment of such doctors and nurses as may be necessary for the purpose of physical rehabilitation of injured workmen under said section 23.

Duty of school
boards.

SEC. 4. Every school board of every school district maintaining vocational instructors or departments of any kind shall upon application of the State industrial accident commission, and when its facilities will permit, furnish to any person or persons designated by said commission such vocational instruction as is provided for the pupils of said district, and said commission shall

cause to be paid to said district the actual cost of such instruction as nearly as may be estimated by said school board.

SEC. 5. Upon application of the State industrial accident commission, the State board of control shall provide for any person or persons designated by said commission, such vocational instruction at the Oregon State schools for the blind and the deaf as is furnished to the other pupils of said school, and said commission shall cause to be paid therefor to the State board of control, such tuition charges as may be fixed by said board which amount may be expended by said board for the support and maintenance of said school.

Schools for blind and deaf.

Approved January 17, 1920.

ACTS OF 1921.

CHAPTER 401.—*Workmen's compensation—Suits for injuries.*

SECTION 1. Upon application by any employer who is subject to the provisions of the workmen's compensation act and who has been made defendant in any personal injury litigation brought against him by any workman in his employ and subject to the provisions of said act on account of injury arising out of and in the course of his employment, the State industrial accident commission is hereby authorized and directed to pay such expense as may be incurred by the attorney general in defending such employer in any such litigation.

Return of expenses.

SEC. 2. The attorney general shall cooperate with the said commission in such defense and represent such employer as attorney.

Attorney general.

SEC. 3. The expense of defending any such litigation, including all court costs and the traveling expenses of the attorney general necessitated thereby, shall be paid by the State treasurer upon warrant drawn by the secretary of State out of the State industrial accident fund, upon the submission of a duly executed voucher therefor approved by said commission.

Expenses.

Approved February 28, 1921.

PENNSYLVANIA.

[The compensation act of this State and some related acts were amended by the legislature of 1921. The changes are indicated below.

The second paragraph of section 305 was amended by No. 67, Acts of 1921, so as to read as follows:]

Failure to insure.

If any employer fails to comply with the provisions of this section, the bureau shall serve, by registered mail or in such other manner as the rules and regulations of the bureau shall provide, upon such employer a notice to comply forthwith with such provisions; and if such employer does not, within thirty days thereafter, insure his liability as aforesaid or obtain exemption from such insurance, such employer shall pay as a penalty the sum of one dollar (\$1) per diem for each employee during the continuance of such failure to insure or obtain exemption, which sum shall be collectible by the bureau of workmen's compensation in the same manner as debts of like amounts are now by law recovered. All moneys so recovered by the bureau shall be immediately covered into the State treasury: *Provided, however,* That a second notice, with bill for fines incurred, sent by registered mail, shall be served on employers within thirty days after their fines begin to run.

Penalty.

[Section 306 was amended by No. 342, Acts of 1921, by inserting section (c), after the clause beginning, "For the loss of any two or more of such members," etc., the following:]

Disfigurement.

"For serious and permanent disfigurement of the head or face of such a character as to produce an unsightly appearance, and such as is not usually incident to the employment, sixty per centum of the wages, not to exceed one hundred and fifty weeks."

WORKMEN'S COMPENSATION INSURANCE.

[No. 341, Acts of 1915, as amended by No. 306, Acts of 1919, is repealed by No. 284, Acts of 1921.

Sections 636-647, inclusive, of this act regulate employers' mutual liability insurance associations; and sections 651-655, inclusive, regulate workmen's compensation insurance.

WORKMEN'S COMPENSATION BOARD.

No. 441, Acts of 1919, creating a workmen's compensation board, is amended in section 14, by No. 407, Acts of 1921, which makes the salaries of members \$8,000 per annum and of the chairman \$9,000. The assistant secretary now receives \$3,600 and the director of the workmen's compensation bureau \$5,000.]

PORTO RICO.

[The compensation act of this Territory is amended by No. 1, Acts of 1920, and No. 61, Acts of 1921, as indicated below.

Sections 2 and 3 are amended so as to read as follows:]

Sec. 2 (as amended by No. 61, Acts of 1921). The provisions of this act shall apply to laborers injured or disabled or who lose their lives from accidents or sickness occurring because of any act or function inherent in their work or employment and while engaged therein and as a consequence thereof. Farm laborers not employed to work with machinery operated by steam, gas, electricity, animal or other mechanical power or instruments or tools the use of which can not cause serious corporal injury, domestic servants and employees engaged in clerical work, in offices and commercial establishments where machinery is not used, are excepted: *Provided, however,* That farm laborers employed in agricultural work, where animal power or instruments or tools the use of which may cause serious corporal injury are used, shall be entitled to the benefits of this act: *And provided, further,* That the provisions of this act shall be applicable to members of municipal fire corps, to which end municipalities shall include salaried firemen in the labor reports rendered by them as employers.

This act shall apply to every employer who employs any laborer or employee whose wages do not exceed the sum of fifteen hundred (1,500) dollars annually, computed monthly: *Provided,* That pursuant to the provisions of this act, compensation shall be paid to injured laborers who become disabled or who lose their lives through accidents or sickness originating from any act or function inherent in their work or employment and occurring during the course of their employment as a consequence thereof on any work performed by administration under direction of the insular government.

The workmen's relief commission is hereby authorized and directed to pay said compensation pursuant to the terms of this act, by drawing from the trust fund belonging to the Government such sum or sums as may be necessary for the payment of said compensation.

The sums so paid need not be reimbursed to the people of Porto Rico out of the fund created by this act.

The commissioner of the interior is hereby authorized to make advances on account of their compensation, to workmen injured on public works, which advances shall be reimbursed to said official, if justified, out of the said fund, upon settlement of the compensation to workmen injured on public works.

Sec. 3 (as amended by No. 61, Acts of 1921). Any laborer who may be injured or who is taken sick within the provisions of this act, shall be entitled to:

A. In case of accident—

1. Medical attendance and such medicines and sustenance as may be prescribed, including hospital services when necessary.

2. If the injury be of a temporary nature, to compensation equal to one-half of the wages received by him the day of the accident, which compensation shall run during such time as it may take to effect a cure. The period of such payments shall in no case exceed one hundred and four weeks or the time which the commission may require to decide the case: *Provided,* That in no case shall there be paid more than twelve (12) nor less than three (3) dollars per week.

Scope.

Payment of benefits.

Compensation.

Medical, etc., aid.

Temporary disability.

Permanent disability.

3. If the laborer is partially disabled for permanent work he shall receive additional compensation of not to exceed twenty-five hundred (2,500) dollars. Compensation shall be graded in proportion to the rate of wages that the laborer earned and the importance of the injury sustained.

Any permanent injury which does not constitute permanent total disability, such as the loss of an eye, a hand, a foot, or any other injury of a permanent nature which does not wholly disable a laborer for any work in a remunerative occupation, shall be considered as partial permanent disability.

4. If the laborer is totally disabled for work, he shall receive a compensation of two thousand (2,000) dollars as a minimum and four thousand (4,000) dollars as a maximum. The compensation shall be graded in proportion to the rate of wages that the laborer earned.

The preceding compensations shall be fixed between the maximum and minimum in view of the earning capacity of the injured laborer and his probabilities of life.

The total and permanent loss of sight of both eyes; the loss of both feet at or above the ankle; the loss of both hands at or above the wrist; the loss of one hand and one foot, and such injuries as may result in the permanent disability of the laborer for any work in a remunerative occupation shall be considered total disability.

Death.

5. If the laborer loses his or her life as a result of the injuries sustained, death occurring within one year from the time of the accident, as a consequence of such accident, the parents, widower or widow, and legitimate children and grandchildren, and, in the proper case, the illegitimate children, whether natural or not, of the deceased laborer, all of whom were reasonably dependent on his or her earnings for their support, shall receive a compensation of from two thousand (2,000) to four thousand (4,000) dollars as a maximum, which shall be graded according to the earning capacity of the deceased laborer, to the number of persons entitled to receive compensation, and to their conditions and necessities, which compensation shall be distributed in equal parts among the persons entitled thereto. In default of the aforesaid persons, the foster father or mother, or the nearest relative reasonably dependent on the earnings of the decedent, shall receive a compensation of from two thousand (2,000) to four thousand (4,000) dollars as a maximum, and should there be several near relatives entitled to compensation, such compensation shall be distributed among them in equal parts.

In cases coming under paragraphs 3, 4, and 5, where a sum of money is to be paid to the laborer or to his heirs as compensation, pursuant to this act, the workmen's relief commission hereinafter created shall exercise its good offices by reasonable suggestions so that the sum received shall be invested in a manner advantageous to the welfare of the laborer and his relatives, in such form as to produce the best possible means of subsistence; and the commission may, in such cases as it may deem advisable, grant a pension on account of the compensation allowed, and for a time certain: *Provided*, That no allowance for medicine and food shall be made after the date of the granting of such compensation and sums advanced therefor to the laborer shall be deducted from the said compensation: *Provided, further*, That if the laborer or his heirs, pursuant to this act, are minors or incapacitated persons, or if, in the judgment of the said commission, there is a reasonable risk that such cash compensation may be squandered, the said commission shall deliver the amount of such compensation to the district court of the district where the beneficiary resides, for custody and investment in accordance with the provisions of the law regulating the application of amounts derived from the sale of the property of minors.

Occupational disease.

B. In case of sickness originating from the employment, the laborer shall be entitled—

1. To medical attendance, and such medicines and subsistence as may be prescribed, including hospital service when necessary.

2. If the disease is of temporary character, to compensation equal to one-half the wages received by him when taken sick, for such time as may be necessary to effect a cure (but such payments shall not extend over a period greater than one hundred and four weeks. In no case shall there be paid more than twelve (12) dollars or less than three (3) dollars a week.

3. If by reason of the disease contracted the laborer should be totally disabled for work, he shall be entitled to compensation of not less than one thousand (1,000) or more than three thousand (3,000) dollars.

All the provisions of paragraphs 3, 4, and 5 of subhead A of this section shall be applicable to subhead B.

[Section 4 is amended by No. 61, Acts of 1921, by inserting the word "the" after the word "when" in subdivision 4.

Sections 6, 7, 8, and 9 are amended so as to read as follows:]

SEC. 6 (as amended by No. 61, Acts of 1921). A commission to be known as the workmen's relief commission is hereby created which shall consist of five members and shall be constituted as follows: The Governor of Porto Rico, with the approval of the senate, shall appoint a president, who shall be the chief administrative officer of the commission. Three members shall be elected at the general election in November, one to be designated by each of the three political parties obtaining the greatest number of votes in the preceding election: *Provided*, That the foregoing provision shall in no way affect the members of the commission elected at the election of November 2, 1920. The fifth member shall be permanent and shall receive a salary of two thousand six hundred (2,600) dollars a year, his appointment to be made by the governor with the advice and consent of the senate. The commission shall elect one of its members as vice president, who shall preside at the meetings in cases of justified absence of the president.

Commission created.

The president, in his capacity as administrative chief, shall receive a salary of three thousand five hundred (3,500) dollars, to be included from and after 1921-22 in the appropriation act.

The president and the permanent member shall have power to decide all cases of temporary disability, and shall report to the commission, at its first meeting, such decision as may have been rendered by each one of them. Said decisions may be reconsidered by the commission on its own initiative or on application of the injured laborer or employer interested in such decided cases, provided such application for reconsideration is made within the ten days following the service of notice of such decision on the interested party.

Cases of death, of total disability, or of permanent partial disability, shall be decided by the commission.

The administrative chief, in case of illness or justified absence, shall designate his substitute in said administrative functions from among the other members of the commission.

Members of the commission who are not employees of the Insular Government shall receive a per diem of ten (10) dollars each for each regular and special meeting of the commission which they may attend, said per diems to be paid out of the workmen's compensation trust fund.

Prior to July 1 of each year said commission shall elect a secretary from among its members. The commission shall have power to adopt such rules and regulations as may be necessary to carry out the provisions of this act: *Provided*, Such rules and regulations are not in conflict herewith, and said rules and regulations shall have the force of law: *Provided*, That the commission shall further have power to establish a medical and hospital service, including the construction of an adequate building, for the due and efficient care of the injured protected by this Act.

Rules.

Any violation of any rule or regulation issued by the commission hereby created, shall be a misdemeanor punishable by fine not exceeding fifty (50) dollars for each violation.

If after a general election a vacancy shall occur of any eligible member of the commission, the governor, on recommendation of the directing body of the political party to which said vacancy belongs, and with the approval of the senate, shall fill such vacancy until the next general election.

Report of injuries.

SEC. 7 (as amended by No. 1, Acts of 1920). Every employer subject to the provisions of this act, or the person representing him in business, shall report to the workmen's relief commission as soon as possible, within a period of five days from the date of the accident, all injuries suffered by his employees in the course of their employment. Such reports shall be upon printed blanks furnished upon request by the commission, and shall contain the name and nature of the business of the employer, the location of the establishment or place of business, the name, age, sex and occupation of each injured employee, and shall state the date and hour of the accident, the nature and cause of the injuries sustained and such other information as may be requested by the workmen's relief commission.

The report made by the employer under the provisions of this section shall not be evidence against the employer in any proceeding under this or any other act.

The refusal or neglect of any employer to make the report required by this section shall be punished by a fine of not less than twenty-five (25) nor more than fifty (50) dollars for each offense.

Investigation.

The workmen's relief commission shall have power to direct the investigation of accidents, whether through the inspectors of the bureau of labor, in the districts of their residence, through the chief of said bureau, or through such investigators as shall have been or shall hereafter be appointed by him for such purposes. The said inspectors or investigators shall make a thorough investigation of accidents to workmen subject to the provisions of this act, the cause or causes thereof, the character, nature, and extent of the injuries sustained, and shall file a full report of the said facts with the commission, including in the said report such other facts and circumstances as in the opinion of the commission may enable it to pass judgment on the claim for the relief of the injured workman when the said claims shall be presented to the commission as herein provided.

The workmen's relief commission shall have the power to make such further investigations as it may deem necessary for the purposes of this act.

The workmen's relief commission, or some trustworthy person designated by said commission, is hereby expressly authorized to subpoena witnesses, under notice of punishment for contempt, to take oaths and declarations, to examine books and documentary evidence material to the case under investigation, and to visit and inspect the buildings, machinery and other property where any accident to a workman may have occurred.

In the case of uninsured employers, in violation of the law, whose workmen may suffer accidents which may come to the knowledge of the commission through any source, the treasurer of Porto Rico may, at the request of the commission, levy immediately an attachment, as in the case of collection of property taxes, on the property of such employers, in such amounts as the commission may determine, to secure the payment of such compensation as may be finally agreed upon by the commission, and expenses, in accordance with the law.

Claims.

SEC. 8 (as amended by No. 61, Acts of 1921). From and after the taking effect of this act, any workman subject to this act who has sustained injuries or suffered sickness while engaged in his work, and in case of the death of such workman as the result of said injuries or sickness, his legal heirs, as described in paragraph 5, section 3, of this act, reasonably dependent upon his

wages for support, may present to the workmen's relief commission, within ninety days counted from the date of the injuries or from the date of the death of the workman, as the case may be, an application in writing for the compensation provided by this act: *Provided*, That when the ninety days allowed for filing the application shall have elapsed, such application not having been made, it shall be the duty of the workmen's relief commission to investigate the reason why the person concerned did not make such application, and when the commission deems that said application was not made because of ignorance of the party concerned or because of some other reason not under the control of such party concerned, said party shall be granted thirty days more: *And provided further*, That no application shall be denied on account of prescription unless it is clearly shown that said party concerned was notified of his right.

Such application shall state the date, place, nature, and cause of the injury, sickness, or death, the name and address of the employer, and the name and address of the injured workman.

In case that the petition be filed by persons who believe themselves to be the heirs of a deceased workman, the commission shall immediately refer the same to the attorney general for all such proceedings, in a proper district court, by the fiscal thereof, or by any law clerk authorized to act as fiscal, as may be necessary, until a declaration of heirs of the deceased workman shall have been obtained and transmitted to the commission: *Provided*, That this class of proceedings shall be prosecuted in all urgency by the courts without the necessity of including the same in a special calendar: *And provided further*, That no fees or costs shall be taxed by the court or any of its officers for the prosecution and approval of such proceedings, nor for certificates issued for the use of the commission. Persons in charge of civil registries shall issue gratis all such certificates as may be necessary for the aforesaid purpose.

After the workmen's relief commission shall have received the reports of the investigators on accidents, pursuant to the provisions of paragraph 4, section 7, it shall consider the petition for compensation applied for; and in case the commission is of the opinion that the petitioner is entitled to compensation the decision of the commission shall specify the amount to be paid, and the date and manner in which payment shall be made.

Awards.

In cases of accidents of temporary disability, these requirements shall be fulfilled by the president and administrative chief of the commission, or by the permanent member.

A certified copy of the decision of the workmen's relief commission or of the decision of the administrative chief, or of the decision of the permanent member, as the case may be, denying or granting compensation under the provisions of this act, shall be served upon the applicant and upon the employer for whom the injured workman was working at the time of the accident, within ten days after the rendering of such decision.

A certified copy of the decision of the commission, of the administrative chief, or of the permanent member, as the case may be, signed by the president and secretary thereof, and sealed with such seal as the commission may adopt, shall be sufficient authority for the auditor of Porto Rico, in accordance with this act, to issue a warrant, which shall be paid by the treasurer of Porto Rico out of the workmen's relief trust fund.

No claim for the compensation provided for in this act shall be considered by the workmen's relief commission unless the commission has received a written application from the person or persons entitled thereto, within the terms hereinbefore fixed: *Provided*, That as soon as such claim is filed the commission shall refer the same to the employer against whom such claim is made, and, following as nearly as possible the practice observed by the courts of justice, it shall give both parties an opportunity to be heard and to defend themselves.

Appeals.

SEC. 9. (as amended by No. 61, Acts of 1921). Appeals from the decisions of the workmen's relief commission to the district court of the district where the accident occurred shall be allowed to the claimant in all cases where he deems himself aggrieved by the decision of the commission.

Appeals from the decision of the workmen's relief commission shall likewise be allowed to any employer who shall have filed with the commission his employment report or declaration, thus appearing as an insured employer on the date of the accident, only when the decision of the workmen's relief commission is to the effect that the accident is one for which compensation should be allowed pursuant to the provisions of this act.

Such appeal shall be taken by filing with the secretary of the district court for the judicial district where the accident occurred, and within the thirty days following receipt of notice of the decision of the commission, a written statement of the facts of the accident giving rise to the claim before the commission and, besides, a statement of the fact on which the appeal is based. Such statement shall be made in the form of an ordinary complaint in accordance with the provisions of the Code of Civil Procedure of Porto Rico. The commission shall be summoned by serving a copy of the complaint on the persons of its members and in the manner determined by the Code of Civil Procedure: *Provided*, That the laborer appealing from the decision of the workmen's relief commission shall not be obliged to pay costs nor shall he incur any expenses in the prosecution of such matters in the district courts of Porto Rico. The laborer shall, moreover, be entitled to appeal from the decision of the district court to the Supreme Court of Porto Rico in accordance with the provisions of the Code of Civil Procedure of Porto Rico relative to appeals in civil cases taken from the district courts to the supreme court: *Provided*, That it shall be the duty of the stenographers of the district courts to transcribe the record of such cases free of charge to the appellant, and the secretaries of the district courts shall prepare and certify the transcript of the record to be forwarded to the Supreme Court of Porto Rico, for the purposes of such appeal, free of charge.

The workmen's relief commission, through the attorney general of Porto Rico, shall appear within the term stated in the summons and shall plead in the manner provided by the Code of Civil Procedure of Porto Rico.

The district courts, as well as the supreme court, shall give preference to the hearing and decision of the aforesaid matters over all such other matters as may be pending in said courts.

[Section 10 is not formally amended but is affected by the terms of section 10, of No. 61, Acts of 1921, which reads as follows:]

Classifications.

SEC. 10 (of No. 61, Acts of 1921). Within the thirty days following the approval of this act, the workmen's relief commission shall classify and group the occupations of laborers to which this act is applicable, according to probable risks and the danger of injury or sickness originating from the work within existing conditions and shall fix rates to be paid by the employers of laborers in said groups: *Provided*, That the commission may, for the purposes of this act, increase rates of insurance and premiums provided in section 10 of the workmen's accident compensation act in a sum not greater than one-half ($\frac{1}{2}$) per cent over and above the rates fixed for each one of the five groups to which said section 10 refers.

[Sections 13, 15, and 26 are amended so as to read as follows:]

Statements by employers.

SEC. 13 (as amended by No. 61, Acts of 1921). It shall be the duty of every employer of workmen entitled to the benefits of this act to file with the workmen's relief commission on or before the fifteenth day of July in each year a duplicate statement under oath showing the number of workmen employed by said employer, the class of occupation of said workmen, and the total amount of wages paid to said workmen during the preceding fiscal year. On the total amount of wages declared in said statement the

premium prescribed in sections 11 and 12 of this act shall be computed: *Provided*, That every employer employing workmen covered by this act for any term or part of a semester, shall file the aforesaid statement in duplicate and under oath, showing the number of workmen employed, the class of occupation, and the estimated wages to be paid such workmen, and on such sum the premium payable by said employer shall be computed, and upon the termination of the work of said workmen the employer shall file a sworn statement similar to the one above stated, showing the total amount of wages paid, on which sum the corresponding liquidation shall be made, and should this pay roll prove greater than the previous one, the treasurer shall assess, levy, and collect additional premiums on the difference. Collection of these premiums shall have preference over any other obligation of the employer and such premiums shall constitute a lien on the property of the employer just as soon as the same shall be left unpaid upon service of notice to pay. The insurance of every employer shall become effective on the date on which his pay roll or statement is filed in duplicate in the office of the commission: *Provided*, That this shall in no way affect the right of the injured laborer to the corresponding compensation.

The failure to file such statement on or before the date above specified shall constitute a misdemeanor, punishable by a fine of not less than fifty (50) nor more than five hundred (500) dollars, in the discretion of the court. Blanks for such statements shall be furnished upon request by the workmen's relief commission.

It shall be the duty of every employer of laborers entitled to the benefits of this act to keep a complete register, in accordance with such regulations as may be prescribed by the workmen's relief commission, showing the name of every such laborer, the age and sex of such laborer, the nature of the work performed by, and the wages paid to every one of the said laborers.

Register.

The workmen's relief commission may order an inspection to be made of all the pay rolls and other books or records of such employers relating to the payment of wages, by any representative duly authorized by it; and it shall be the duty of such employer to permit such an inspection.

Any employer who knowingly falsifies the information required by this section shall be subject to the same penalty herein provided for a failure to file the statement required by this section and shall also be liable to the workmen's relief commission for three times the difference between the premium paid and the amount that should have been paid, which sum shall be collected in the same manner as provided for the collection of the regular premiums under this act.

False statements.

SEC 15 (as amended by No. 61, Acts of 1921). Prior to July 1 of each year the workmen's relief commission shall prepare its general estimate of expenses of administration for the succeeding fiscal year, which estimate the commission shall submit to the Governor of Porto Rico for approval; and when in the judgment of the commission the services of additional employees become absolutely necessary to perform the work of the commission in connection with this act, the workmen's relief commission, with the approval of the governor, may decide upon employing such additional employees and may determine their compensation. Such expenses as the commission may incur in the performance of its work shall be chargeable to the workmen's relief trust fund.

Expenses of administration.

SEC. 26 (as amended by No. 61, Acts of 1921). In reporting their annual pay rolls all employers shall include all workmen who are working either on piecework or under a person with whom the employer contracted or under any independent contractor or subcontractor employed or contracted by such employer, and all premiums shall be based upon the current pay roll of the employer, so computed: *Provided*, That this section shall not apply to employers for whom work is done by an independent contractor insured as an employer in accordance with the provisions of this act.

Pieceworkers and contractors' employees.

RHODE ISLAND.

[In article 1, sections 5 and 6 are amended so as to read as follows:]

Election made, how. **Term.** Sec. 5 (as amended by ch. 2095, Acts of 1921). Such election on the part of the employer shall be made by filing with the commissioner of labor 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 and all acts amendatory thereof for the term of one year from the date of the filing of such statement, and thereafter, without further act on his part, for successive terms of one year each, unless said employer shall, at least sixty days prior to the expiration of such first or any succeeding year, file with said commissioner a notice in writing to the effect that he desires to withdraw his election to be subject to the provisions of this act and shall give reasonable notice thereof to his workmen: *Provided, however,* That any employer now subject to the provisions of this act shall not be required to file a further written statement of acceptance or hereafter post notices of his said acceptance. Blank forms of election and withdrawal, as herein provided, shall be furnished by said commissioner.

Election by employees. Sec. 6 (as amended by ch. 2095, Acts of 1921). An employee of an employer who shall have elected to become subject to the provisions of this act as provided in section 5 of this article shall be held to have waived his right of action at common law to recover damages for personal injuries, if he shall not have given his employer at the time of his contract of hire notice in writing that he claimed such right and within ten days thereafter have filed a copy thereof with the commissioner of labor, or, if the contract of hire was made before the employer so elected, if the employee shall not have given the said notice and filed the same with said commissioner within ten days after the filing by the employer of the written statement as hereinbefore provided; and such waiver shall continue in force for the term of one year, and thereafter without further act on his part for successive terms of one year each, unless such employee shall, at least sixty days prior to the expiration of such first or any succeeding year, file with the said commissioner a notice in writing to the effect that he desires to claim his said right of action at common law and within ten days thereafter shall give notice thereof to his employer. A minor working at an age legally permitted under the laws of this State shall be deemed sui juris for the purpose of this act and no other person shall have any cause of action or right to compensation for an injury to such minor employee except as expressly provided in this act; but if said minor shall have a parent living or a guardian, such parent or guardian, as the case may be, may give the notice and file a copy of the same as herein provided by this section, and such notice shall bind the minor in the same manner that adult employees are bound under the provisions of this act. In case no such notice is given, such minor shall be held to have waived his right of action at common law to recover damages for personal injuries. Any employee or the parent or guardian of any minor employee, who has given notice to the employer that he claimed his right of action at common law may waive such claim by a notice in writing, which shall take effect five days after the delivery to the employer or his agent.

Waiting time. [In Article II, section 4 is amended by ch. 2095, Acts of 1921, by reducing the waiting time to one week.

Section 5 is amended by the same act by extending the term of medical treatment to 8 weeks, fixing the maximum cost at \$200. The words "but the failure of the employer to receive such notice shall not render the employee liable for such service" are stricken off from the end of the last sentence. Medical, etc.,
aid.

Section 10 is amended by the same act by advancing the weekly maximum benefit to \$16. Benefits.

In Article III, section 1 is amended so as to read as follows:]

SECTION 1 (as amended by ch. 2095, Acts of 1921). If the employer and the employee reach an agreement in regard to compensation under this act, a memorandum of such agreement signed by the parties shall be filed in the office of the commissioner of labor, who shall forthwith docket the same in a book kept for that purpose. When approved by the said commissioner, the agreement shall be enforceable by the superior court by any suitable process, including executions against goods, chattels and real estate, and including proceedings for contempt for willful failure or neglect to obey the provisions of said agreement. No appeal shall lie from the agreement thus approved unless upon allegation that such agreement has been procured by fraud or coercion. Such agreement shall be approved by the said commissioner only when its terms conform to the provisions of this act. If upon appeal the said superior court having jurisdiction of the matter, as provided in section 16 of this article, shall make any amendment or addition to said agreement as approved by said commissioner, the clerk of said superior court shall forthwith notify the said commissioner of said changes made in said agreement. Agreements between employers
and employees.

When death has resulted from the injury and the dependents of the deceased employee entitled to compensation are, or the apportionment thereof among them is, in dispute, such agreement may relate only to the amount of compensation and to the persons to whom such compensation is payable.

[Section 2 is amended by ch. 2095, Acts of 1921, by inserting between the words "act" and "either" in the second line, the words "or if the commissioner of labor shall fail to approve any agreement;" also by adding another paragraph, as follows:]

The clerk of said court upon the filing of said petition shall forthwith give notice to the commissioner of labor of the pendency of the petition who shall thereupon transmit to said clerk any agreements or documents on file at his office relative to said claim. Notice of petition.

[Section 7 is amended by ch. 2086, Acts of 1921. The latter half of the section now reads as follows:]

Upon the filing of said reasons of appeal and transcript, the clerk of the superior court shall present the transcript to the justice who heard the cause, and in case of vacancy in office, or for any cause, the clerk is unable to present said transcript to the justice who heard the cause, then said transcript shall be presented to any other justice of the superior court, and such justice shall have full power to examine and pass upon and allow said transcript. The justice to whom said transcript has been so presented by the clerk, shall, after examination, restore such transcript to the files of the clerk with a certificate of his action thereon. Appeals.

Upon an appeal being taken and such transcript of the testimony as may be required being allowed and returned, as aforesaid, or in case of allowance or of failure to allow and return the transcript within twenty days from the filing thereof with the clerk, the clerk of the superior court shall forthwith certify the cause and all the papers therein to the supreme court. Thereupon, on motion of either party, or by agreement, the cause may be assigned for hearing on the question of the correctness of the transcript.

[Section 14 is amended by ch. 2095, Acts of 1921, by substituting the commissioner of labor for the superior court in the proviso.

In Article V, section 9 is amended by ch. 2095, Acts of 1921, by inserting the words "to employees" after the word "injuries"

- in the second line; also by adding to the first paragraph the words:]
- Exemption. *"And provided further, That this section shall not apply to policies of insurance against loss from explosion of boilers or fly wheels or other similar single catastrophe hazards."*
- Notice by company. [New sections are added to this article as follows:]
- SEC. 10. (Added by ch. 2095, Acts of 1921.) Every insurance company having written a policy insuring against liability for personal injuries to employees shall immediately notify the commissioner of labor of the issuance of such a policy upon forms to be provided by the commissioner of labor. Upon the cancellation of such policy or failure to renew the same every insurance company having written such policy shall immediately notify the said commissioner of such cancellation or failure to renew.
- Returns. SEC. 11. (Added by ch. 2095, Acts of 1921.) Any insurance company insuring employers against liability for personal injuries to employees shall fill out all blanks and answer all questions submitted to it by said commissioner of labor, relating to premiums and amounts of compensation paid which the said commissioner may deem important either for the proper administration of this act or for statistical purposes.
- Violations. SEC. 12. (Added by ch. 2095, Acts of 1921.) Any insurance company which refuses or neglects to give notice, as required in section 10 of this article, or which fails to comply with the provisions of section 11 of this article, 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.
- Accidents to be reported. [In Article VI, section 1 is amended by ch. 2095, Acts of 1921, by changing "commissioner of industrial statistics" to "commissioner of labor," by substituting "one week" for "two weeks" where the words occur, and by striking out the last sentence.
- Section 7 is amended by the same act by adding thereto the following:]
- Reports to be forwarded. *Provided, however, That the public utility commission shall furnish the commissioner of labor with duplicate reports of all accidents reported to it which would otherwise be reported under this act to the commissioner of labor.*
- [In Article VII, section 8 is amended by ch. 2095, Acts of 1921, by striking out the words "and to report certain accidents of employees."
- In Article VIII, section 1 is amended by ch. 1900, Acts of 1920, by substituting \$3,000 for \$1,800 in subsection (b).]

SOUTH DAKOTA.

[Section 9442 of the compensation law is amended by ch. 421, Acts of 1921, by inserting after the word "appliance" the words "furnished by the employer."

Section 9446 is amended by ch. 416, Acts of 1921, so that the second clause thereof now reads as follows:]

And if compensation is awarded under this article, the employer having paid the compensation, or having become liable therefor, may collect in his own name, or that of the injured employee, or his personal representative, if deceased, from the other person against whom legal liability for damage exists the amount of such liability and shall hold for the benefit of the injured employee or his personal representative, if deceased, the amount of damages collected in excess of the amount of compensation paid such employee or his representative, plus the necessary and reasonable expense of collecting the same. Subrogation of employer.

[Section 9458 is amended in subsection 6 by ch. 420, Acts of 1921, by adding thereto the following:]

With the consent and approval of the industrial commissioner, the employer may pay to the surviving widow of a deceased, the compensation payable to such widow and the minor children of the deceased without the necessity of the appointment of a guardian for such minor children, and payment of such compensation by the employer shall relieve him of all obligation as to the distribution of such compensation so paid. Except in those cases where a lump-sum settlement has been made, such approval by the industrial commissioner may be at any time revoked or modified for cause. Direct payments.

[Also a new subsection 8 is added by ch. 418, Acts of 1921, as follows:]

8. No compensation shall be payable under this act to a widow or dependent unless such widow or dependent was a resident of the United States at the time of the death of the deceased. Nonresident aliens.

[Section 9459 is amended by ch. 419, Acts of 1921, by changing the weekly maximum payment from \$12 to \$15, and the minimum from \$6.50 to \$7.50 in subsections 2 and 6, likewise the maximum in subsection 8. Weekly maximum.

Section 9465 is amended by ch. 422, Acts of 1921, by fixing the salary of the deputy commissioner at \$2,400.

Section 9471 is amended so as to read as follows:]

SECTION 9471 (as amended by ch. 417, Acts of 1921). The board of arbitration shall make such inquiries and investigations as it shall deem necessary. The hearings of the board shall be in the city or town or place where the injury occurred, provided that when an injury occurs in a remote place, the hearing may be held at some other place which shall appear to the industrial commissioner to be more convenient to the parties and the witnesses. And a record of the proceedings of the board shall be kept, the expense of such record to be borne by the fund of the State industrial commissioner. And the decisions of the board, together with the statement of evidence submitted before it; its rulings, its findings of fact, its conclusions of law and other matters pertinent to questions arising before it, shall be filed in the office of the industrial commissioner. Unless a claim for review is filed by either party within ten days from the date of the filing of the findings of the board of arbitration in the office of the industrial commissioner, the decision shall be enforceable under the provisions of this article. Hearings.

ACTS OF 1919.

CHAPTER 362. *Operation of threshing machines.*

[This act, relating to compensation for thresher employees, is amended by ch. 423, Acts of 1921.

Section 1 is amended by adding at the end the words "as such employees."

Section 2 is amended by inserting after the first sentence the following:]

Mutuals.

Provided, however, That any organization or association organized and existing under the provisions of section 9484 of chapter 5 of the South Dakota Revised Code of 1919, may issue a certificate of membership to be approved by the industrial commissioner, which certificate of membership shall have the same force and effect as the policy of insurance herein referred to.

[Section 2 is further amended by inserting in the last sentence after the words "policy of insurance" the words "or certificate of membership." The same change is made in section 3.]

ACTS OF 1920—SPECIAL SESSION.

CHAPTER 66.—*Workmen's compensation insurance—Premium rates.*

Rates to be filed.

SECTION 1. It shall be the duty of each insurer of any obligation under the South Dakota workmen's compensation law to file with the commissioner of insurance whenever required by him a schedule of the premiums charged employers by such insurer for insuring such obligations and also to furnish him whenever required verified statements of the total amount of premiums charged and compensation, medical and other expenses paid by such insurer in complying with the provisions of the South Dakota workmen's compensation law. It shall be the duty of such commissioner to make a careful investigation whenever and as often as he may deem necessary and give employers and insurers ample opportunity to be heard. If after such investigation he shall be of the opinion that such premiums are excessive, he shall make an order to that effect therein stating what changes should be made in such premiums and when such changes shall take effect and serve the same upon such insurers by forwarding copies of such order by registered mail to the home office of such insurers, and thereafter it shall be unlawful for such insurers to charge greater premiums than so specified by such commissioner. Such order may at any time be modified or revoked by such commissioner for due cause after giving employers and insurers an opportunity to be heard. Such order may be reviewed by the circuit court in Hughes County upon the petition of any insurer, employer, or other person interested.

Excessive rates.

Approved June 30, 1920.

TEXAS.

[Section 2 of part 1 of the compensation law of this State is amended by ch. 115, Acts of 1921, by inserting after the words "farm laborers," the words "ranch laborers," thus effecting their specific exclusion.] **Exclusion.**

32860°—23—12

173

UTAH.

[The compensation law of this State is embodied in the legislation establishing an industrial commission, and providing for industrial safeguards, factory inspection, etc. This title was amended by ch. 67, Acts of 1921.

Failure to provide safeguards. Section 3072 of the Compiled Laws, relative to safeguards and safety devices, is amended by adding thereto the following:]

Where injury is caused by the willful failure of the employer to comply with any statute of the State or any lawful order of the industrial commission, compensation as provided in this act shall be increased fifteen per cent, except in case of injury resulting in death.

Acts of employees. [Section 3073 is amended by adding the following:]

(a) Where injury is caused by the willful failure of the employee to use safety devices where provided by the employer, or,

(b) Where injury results from the employee's willful failure to obey any order or reasonable rule adopted by the employer for the safety of the employee, or,

(c) Where injury results from the intoxication of the employee, compensation provided therein shall be reduced fifteen per cent.

The above provisions do not apply in death benefits.

[Section 3094 is amended by striking out the words "to the State insurance fund hereinafter provided for," and substituting the words "into the State treasury."

Section 3104 is amended by changing "and" to "or" in the first line of paragraph 3.

Section 3108 is amended by striking out, near the middle thereof, the words "at par and accrued interest."

Weekly earnings. Supervision of insurance companies. Section 3112 is amended by adding a new paragraph, as follows:]

(8) The term "average weekly earnings" shall mean the average weekly earnings arrived at by rule provided in section 3142.

[Section 3114 is amended by adding to paragraph 3 the following:]

Provided, The industrial commission of Utah may at any time change or modify its findings of fact herein provided for, if in its judgment such action is necessary or desirable to secure or assure a strict compliance with all the provisions of the law in reference to the payment of compensation and the furnishing of medical, nurse, and hospital services, medicines, and burial expenses to injured and the dependents of killed employees.

[Also, by striking out from paragraph 4 (newly so numbered), the entire matter following the word "used" in the fifth line.

Section 3116 is amended by substituting the words "State insurance fund" for the word "commission" in the second line.

Section 3121 is amended by striking out the words "three months" in the last clause and substituting therefor the words "on or before December 15th."

Section 3123 is amended by inserting after the word "thereafter" in the fourth line the words "furnish pay-roll expenditure reports and."

Tax on premiums, etc. Section 3125 is amended so as to read as follows:]

SEC. 3125 (as amended by ch. 67, Acts of 1921). Employers who under the terms of this act, or by authority of the commission, are authorized to pay compensation direct, and the State insurance fund, shall pay a tax of the same per cent as required by law to be paid by insurance companies upon their premiums.

based upon an amount equivalent to premiums which would be paid by such employer if insured in the State insurance fund; said tax to be computed and collected by the State commission and paid into the State treasury.

[Section 3127 is amended by striking out all matter following the word "occurring," in the fourth line thereof.

Section 3132 is amended by inserting after the word "employee" in the second line the words "whether resulting in death or otherwise."

Section 3133 is amended so as to read as follows:]

Sec. 3133 (as amended by ch. 67, Acts of 1921). If an employee under this act be injured or killed while in the course of his employment by another not in the same employment, he or his dependents in case of death, shall be entitled to compensation and to no other remedy unless the employer be subject to the provisions of sections 3129 and 3130. No employee or the dependents in case of death shall be granted compensation in such case unless such employee or his dependents, as the case may be, shall assign any cause of action existing against the person responsible for or causing the injury or death to the State insurance fund, if compensation be payable therefrom, and otherwise to the person or association or corporation liable for the payment of such compensation. And such cause of action is by this section made assignable, whether it be for injury or death, and the dependents or the personal representative and not the heirs in such case shall have the right and power to make a full and exclusive assignment notwithstanding sections 6504 and 6505, Compiled Laws of Utah, 1917.

Injuries by third parties.

[Section 3134 is repealed.

Section 3137 is amended by inserting after the words "a minimum of \$7 per week," the words "Provided, That where the wage earned at the time of injury is less than \$7 per week, then in such cases the amount of wages earned should be the amount of compensation to be paid."

Section 3140 is amended by changing paragraph 1 so as to read as follows:]

1. The employer or insurance carrier shall pay the burial expenses of the deceased as provided herein, and if there are no dependents, shall pay into the State treasury a sum equal to twenty per cent of the amount provided in subsection 2 of this section. Any claim for compensation must be filed with the commission within one year from the date of the death of the deceased; and if at the end of one year from the date of the death of the deceased, no claim for compensation shall have been filed with the commission, the payment of the sum equal to twenty per cent of the amount provided in subsection 2 of this section shall be paid at that time into the State treasury by the employer or the insurance carrier. Such payment shall be held in a special fund for the purposes provided in subsections 6 and 7 of this section; the State treasurer shall be the custodian of this special fund, and the commission shall direct the distribution thereof.

Death.

[Paragraph 3 of this section is amended by adding thereto the following:]

Provided, That the benefits provided for in this subsection shall be in keeping with the circumstances and conditions of dependency existing at the date of injury, and any amount awarded by the commission under this section must be consistent with the general provisions of this act.

Adjustment of benefits.

[Paragraph 5 is amended by adding thereto the words, "Half brothers and half sisters shall be included in the words 'brother or sister' as above used."

New paragraphs 7 and 8 are added, as follows:]

7. If any wholly dependent persons, who have been receiving the benefits of this act, and who, at the termination of such benefits are yet in a dependent condition, and under all reasonable circumstances, should be entitled to additional benefits, the indus-

Extension of benefits.

trial commission may, at its discretion, extend indefinitely such benefits; but the liability of the employer or insurance carrier involved shall not be extended, but the additional benefits allowed shall be paid out of the special fund provided for in subdivision 1 of this section.

Aliens.

8. When any alien dependent of the deceased resides outside of the United States of America or any of its dependencies, or Canada, such dependent shall be paid not to exceed one-half of the amount provided herein.

[Section 3141 is amended by changing the last sentence so as to read as follows:]

Death of beneficiary.

Should any dependent of a deceased employee die during the period covered by such weekly payments, the right of such dependent to compensation under this title shall cease: *Provided*, Should a widow who is the sole dependent of a deceased employee, and who is receiving the benefits of this act, remarry during the period covered by such weekly payments, she shall be entitled to receive in lump-sum payment one-third of the benefits yet remaining unpaid at the time of such remarriage.

Remarriage.

[Sections 3142 and 3147 are amended so as to read as follows:]

Computation of wages.

Sec. 3142 (as amended by ch. 67, Acts of 1921). 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, and shall be arrived at and determined in the following manner, to wit: Employment shall mean pursuit in the usual trade, business, or profession of the employer. Five and one-half or six day employment shall mean pursuit in the usual trade, business, or profession, the usual operation of which is six days or less per week. Seven day employment shall mean pursuit in the usual trade, business, or profession, the usual operation of which is seven days per week. The average weekly wage shall be determined as follows:

1. Determine the contract of hire existing at the time of the injury, whether upon annual, month, week, day, hour, or piece basis;

2. Determine whether the employment is operated on a five and one-half, six, or seven day basis;

3. Determine daily wage as follows:

(a) If the wage is on an annual basis, and the employment is seven days per week, divide the annual salary by 364 days. Result—daily wage. If employment is five and one-half or six days per week, divide the annual salary by 312 days. Result—daily wage.

(b) If wage is on monthly basis, multiply monthly salary by 12 and proceed as above (a) to determine daily wage.

(c) If the wage is on a daily basis, no rule is required.

(d) If the wage is on an hourly basis, multiply pay per hour by the number of hours said employment regularly operates, or if operation is not regular, use eight hours as a day.

(e) If the wage is on piece basis, use the average daily earnings for a reasonable period in which employment has been regular. Divide the amount earned by the number of days worked in such period. If the duration of employment has been too short to determine as above, then use the wage of an average employee, taking into consideration the experience of said employee and determine as above (a).

(f) If the wage is on part-time basis, and the employment is regular, the wage shall be extended to full-time basis, or that wage the injured would earn if working full time in such employment, and determine as above (a).

4. To determine average weekly wage, if the employment is five and one-half or six days per week, multiply the daily wage, as determined by the foregoing method, by 300 and divide by 52. If the employment is seven days per week, multiply the daily wage, as determined above, by 332 days and divide by 52.

5. To determine weekly compensation, let D represent daily wage.

If 5½ or 6 days of employment per week . . .

$$\frac{D \times 300 \times 60}{52} = \text{weekly compensation.}$$

If 7 days of employment per week . . .

$$\frac{D \times 332 \times 60}{52} = \text{weekly compensation.}$$

6. To determine daily compensation, divide weekly compensation by seven.

SEC. 3147 (as amended by ch. 67, Acts of 1921). In addition to the compensation provided for in this act, the employer or insurance carrier, or the State insurance fund shall in ordinary cases also be required to pay such a reasonable sum for medical, nurse, and hospital services, and for medicines, and for such other artificial means and appliances as may be necessary to treat the patient as in the judgment of the commission may be just, not exceeding the sum of \$500: *Provided*, That if upon application to and investigation by the commission it shall find that in particular cases such an amount is insufficient, then and in such event the commission shall determine and fix such a reasonable amount as under all the circumstances shall be fair and just, and in case death results from the injury the commission shall also require the employer or insurance carrier, or the State insurance fund, to pay the burial expenses in ordinary cases not exceeding the sum of \$150:¹ *Provided, however*, That if upon an application and hearing the commission shall find that in particular cases that amount shall be insufficient, then and in that event the commission shall determine and fix such a sum for burial expenses as in its judgment under all the circumstances shall be fair and just. The commission shall in all cases allow only such an amount for the services and things herein provided for as in its judgment shall be fair and just.

Medical, etc., aid.

Burial expenses.

[Section 3148 is amended by inserting after the word "thereby" in the fourth line, the words "including the State insurance fund"; also by adding a new subsection (e), as follows:]

(e) In all cases coming before the industrial commission in which attorneys have been employed, the commission is vested with full power to regulate and fix the fee charge to be made by such attorneys.

Attorneys' fees.

[Section 3152 is amended by adding a new paragraph, as follows:]

1. An injured employee who desires to leave the locality in which he or she has been employed during the treatment of his or her injury or desires to leave this State, shall report to his or her attending physician for examination, notifying the commission in writing of such intention to leave, accompanying such notice with a certificate from the attending physician, setting forth the exact nature of the injury, the condition of the employee, together with a statement of the probable length of time the disability will continue. After complying with the requirements herein set forth and upon written consent of the commission, the employee may leave the locality in which he or she has been employed, otherwise no compensation will be allowed during such absence from the locality in which he or she has been employed.

Change of locality.

[A new section is added, as follows:]

SEC. 3156x (added by ch. 67, Acts of 1921). Where an employee claiming to have suffered an injury in the service of his

Failure to report injury.

¹The proviso following the figures 150 was retained in the engrossed bill. The minute clerk of the senate, however, certifies that all after these figures was stricken out by an amendment duly carried and recorded.

employer fails to give notice to his employer of the time and place where the accident and injury occurred and the nature of the same within forty-eight hours, or fails to report for medical treatment within said time, the compensation provided for herein shall be reduced fifteen per cent: *Provided, however,* That knowledge of such injury obtained from any source on the part of such employer, his managing agent, superintendent, foreman, or other person in authority, or knowledge of the assertion of the injured sufficient to afford an opportunity to the employer to make an investigation into the facts and to provide medical treatment shall be equivalent to such notice or any defect or inaccuracy therein shall not subject the claimant to such reduction, if it is found as a fact in the proceedings for the collection of the claim that there was no intention to mislead or prejudice the employer in making his defense, and that he was not, in fact, so misled or prejudiced thereby: *And provided further,* That if no notice of the accident and injury is given to the employer within one year from the date of the accident, the right to compensation shall be wholly barred.

Reports.

[Section 3159 is changed so as to provide for biennial reports, the opening lines now reading: "On or before the 15th day of December preceding the regular sessions of the legislature the commission, under the oath of at least two of its members, shall make a report to the governor for the preceding biennial period," etc.

Return of funds.

Section 3163 is amended by adding the following:]

Provided, That the said sum of \$40,000 so appropriated for the State insurance fund shall be returned to the State treasury from the State insurance fund, either in cash or in securities purchased by the State insurance fund or as credits to apply on premiums due or to become due from the State at such time and in such amounts as the commission shall deem advisable and when in the judgment of the commission, the return of said appropriation may be made without impairing the solvency of said State insurance fund.

VERMONT.

[The compensation law of this State is amended by Acts Nos. 167, 168, and 169, Acts of 1921. Section 5785 is amended so as to read as follows:]

SEC. 5785 (as amended by No. 167, Acts of 1921). Where the injury causes total disability for work, the employer during such disability, not including the first fourteen days thereof if said injury is received prior to the first day of July, nineteen hundred and eighteen, and not including the first seven days thereof if received on or after said last-named day, shall pay the injured employee a weekly compensation equal to fifty per cent of the average weekly wages, but not more than twelve dollars and fifty cents, if said injury is received prior to the first day of July, nineteen hundred and twenty-one, and not more than fifteen dollars if received on or after said last-named day, nor less than six dollars a week in any event. Payments shall not continue after the disability ends, nor longer than two hundred and sixty weeks, and 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 and sixty weeks. In case of an employee whose average weekly wages are less than three dollars a week, the compensation shall be the full amount of such average weekly wages.

Total disability.

[Section 5788 is amended by making the first paragraph read as follows:]

SEC. 5788 (as amended by No. 168, Acts of 1921). In case of the following injuries, the compensation shall be paid during total disability, as provided in section five thousand seven hundred and eighty-five, and at the termination of the total disability occasioned by said injuries the employer shall pay to said injured employee fifty per cent of the average weekly wages, computed as provided in section five thousand seven hundred and ninety, and subject to the maximum and minimum as provided in section five thousand seven hundred and eighty-five, for the periods stated against such injuries, respectively, but in no case to exceed the period of two hundred and sixty weeks, which compensation shall be in lieu of all other benefits except those provided in section five thousand seven hundred and eighty-four.

Permanent partial disabilities.

[Section 5804 is amended by No. 169, Acts of 1921, by adding thereto the following:]

On request of said commissioner such examination shall be made by the director of the State laboratory of hygiene or by a physician designated by him. Said director shall advise the commissioner, when requested by him, on medical matters pertaining to the work of said commissioner.

Medical examinations.

ACTS OF 1921.

No. 164.—*Workmen's compensation insurance.*

SECTION 1. Every insurance company, corporation or association or other insurer, herein called "insurer," which insures employers against liability for compensation under the workmen's compensation act shall file with the insurance commissioner its classification of risks and premium rates, together with basic rates 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 shall have approved the same as reasonable and proper for the

Rates to be filed.

risks to which they respectively apply. The commissioner may withdraw his approval of a premium rate or schedule made by an insurer, if in his judgment such premium rate or schedule is inadequate to provide for the obligations assumed by the insurer.

Approval re- On and after September first, nineteen hundred and twenty-one, required. such an insurer shall not issue, renew, or carry any insurance against liability under the workmen's compensation act at premium rates other than those approved by the commissioner for such carrier as reasonable and proper for the risks to which they respectively apply: *Provided*, That if the commissioner shall have previously approved a system of schedule or merit rating, filed with him by an insurer, the same may be applied to risks subject thereto only by a regional rating bureau approved by the commissioner for the uniform and impartial application thereof. The adjusted rate arrived at by any reduction or increase from the basic rate filed with and approved by the commissioner, in the application of such system of schedule or merit rating, shall be clearly set forth in the insurance contracts or in the endorsements attached thereto.

Violations. SEC. 2. An insurer who violates the provisions of this act shall be fined five hundred dollars for the first offense and for a subsequent offense shall be fined a like amount and its license to do business in this State may be suspended or revoked by the insurance commissioner.

Approved April 1, 1921.

VIRGINIA.

[Section 2 of the compensation law of this State is amended by No. 425, Acts of 1922, by making subsection (b) read as follows:]

(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 not in the usual course of the trade, business, occupation, or profession of the employer; and as relating to those so employed by the State the term "employee" shall include all officers and employees thereof, except only such as are elected by the people, or by the general assembly, or appointed by the governor either with or without the confirmation of the senate; as relating to municipal corporations and political divisions of the State, the term "employee" shall include all officers and employees thereof, except such as are elected by the people or elected by the council, or other governing body of said municipal corporation or political division, who act in purely administrative capacities and to serve for a definite term of office. Policemen and firemen, except policemen and firemen in cities containing more than 170,000 inhabitants, shall be deemed to be employees of the respective cities, counties, or towns in which their services are employed and by whom their salaries are paid. Any reference to an employee who has been injured shall, when the employee is dead, include also his legal representative, dependents, and other persons to whom compensation may be payable.

"Employee."

[Section 12 is amended so as to read as follows:]

SEC. 12 (as amended by ch. 176, Acts of 1920). The rights and remedies herein granted to an employee where he and his employer have accepted the provisions of this act respectively to pay and accept compensation on account of personal injury or death by accident shall exclude all other rights and remedies of such employee, his personal representative, parents, dependents, or next of kin at common law, or otherwise on account of such injury, loss of service, or death.

Remedy exclusive.

The making of a lawful claim against an employer for compensation under this act for the injury or death of his employee shall operate as an assignment to the employer of any right to recover damages which the injured employee or his personal representative or other person may have against any other party for such injury or death, and such employer shall be subrogated to any such right and may enforce, in his own name or in the name of the injured employee or his personal representative, the legal liability of such other party. The amount of compensation paid by the employer, or the amount of compensation to which the injured employee or his dependents are entitled, shall not be admissible as evidence in any action brought to recover damages, but any amount collected by the employer under the provisions of this section in excess of the amount paid by the employer or for which he is liable shall be held by the employer for the benefit of the injured employee or other person entitled thereto, less such amounts as are paid by the employer for reasonable expenses and attorney's fees: *Provided*, That no compromise settlement shall be made by the employer or insurance carrier in the exercise of such right of subrogation without the approval of the industrial commission and the injured employee or the personal representative or dependents of the deceased employee being first had and obtained.

Injuries by third parties.

- Subrogation.** Where any employer is insured against liability for compensation with any insurance carrier, and such insurance carrier shall have paid any compensation for which the employer is liable or shall have assumed the liability of the employer therefor, it shall be subrogated to all the rights and duties of the employer, and may enforce any such rights in its own name or in the name of the injured employee or his or her personal representative: *Provided, however,* Nothing herein shall be construed as conferring upon insurance carriers any other or further rights than those existing in the employer at the time of the injury to his employee, anything in the policy of insurance to the contrary notwithstanding. Nothing in this act contained shall be construed to make, for the purposes of this act, the employees of an independent contractor, the employees of the person or corporation employing or contracting with such independent contractor.
- Medical treatment.** [Section 26 is amended by ch. 176, Acts of 1920, by increasing the period for free medical treatment from 30 to 60 days.]
- Waiting time.** Section 29 is amended by the same chapter by reducing the waiting time from 14 to 10 days, also by adding, "If, however, such incapacity shall continue for a period of more than six weeks, then compensation shall be allowed from the first day of such incapacity."
- Maximum benefits.** Section 30 is amended by the same chapter by increasing the weekly maximum benefit from \$10 to \$12, and the total from \$4,000 to \$4,500.
- Section 31 is similarly amended as to the weekly maximum.
- Section 32 is amended by ch. 176, Acts of 1920, by changing subdivision (q) so as to read as follows:]
- Loss of vision.** (q) For the permanent total loss of the vision of an eye, fifty per centum of the average weekly wage during one hundred weeks; and for the permanent partial loss of the vision of an eye, the percentage of one hundred weeks equivalent to the percentage of the vision so permanently lost.
- [Also by adding a new subdivision (s), as follows:]
- Loss of use.** (s) In construing the foregoing section the permanent loss of the use of a member shall be held equivalent to the loss of such member, and for the permanent partial loss or loss of use of a member compensation may be proportionately awarded.
- [Weekly limitations are the same as in section 30.]
- Section 38 is amended so as to read as follows:]
- Death from other cause.** SEC. 38 (as amended by ch. 176, Acts of 1920). When an employee receives or is entitled to compensation under this act, for an injury covered by section thirty-two, 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 statutory distributees dependent upon him for support, in lieu of the compensation the employee would have been entitled to had he lived: *Provided, however,* That if the death is due to a cause that is compensable under this act and the dependents of such employee are awarded compensation therefor, all right to unpaid compensation provided by this section shall cease and determine.
- Death benefits.** [Section 39 is amended by ch. 176, Acts of 1920, by increasing the maximum weekly benefits for death from \$10 to \$12. This act also extended the maximum term of payments to 500 weeks, but this was returned to 300 weeks by ch. 427, Acts of 1922.]
- Section 42 is amended by ch. 176, Acts of 1920, by advancing the total maximum compensation from \$4,000 to \$4,500.
- Lump sums.** Section 45 is amended by ch. 425, Acts of 1922, by reducing the term after which lump-sum commutations may be made from 26 weeks to 6 weeks.
- Section 46 is amended by the same act by inserting after the word "occurred" in the first sentence, the words "or by such other circuit or corporation court as may be designated by the industrial commission as more compatible with the interests and convenience of the beneficiaries."
- Section 48 is amended by ch. 176, Acts of 1920, by striking out in the fourth line of paragraph (b) the words "in the aggregate";

also by inserting after the word "court" in paragraph (c) the words "or the judge thereof in vacation."

Section 53 is amended by the same act by increasing the salary of the commissioners from \$3,000 to \$4,000 per year and of the secretary from \$2,000 to \$3,000.

Section 55 is amended by the same act, so that the third paragraph now reads as follows:]

The commission or any member or deputy commissioner shall have authority to enforce the attendance of all parties in interest and of witnesses and the production and examination of books, papers, and records as is vested by law in the circuit courts of this State.

Power of commission.

[Section 57 is amended by the same act by substituting ten for fourteen in the first line.

Section 61 is amended by ch. 425, Acts of 1922, by inserting after the second sentence (ending with the words "ensuing term") the following:]

Appeals shall lie from such decision of the judge of the circuit or corporation court to the supreme court of appeals in the manner as now provided by law for appeals in civil cases: *Provided, however,* That the petition for such appeal shall be presented to the supreme court of appeals or one of its judges if the court be not in session, within thirty days after the entry of the order appealed from. In such case the filing with the clerk of the appellate court of ten neatly typewritten copies of the record, duly certified by the clerk of the court from which the appeal is taken, shall be taken as a substitute for printing such record. Cases so appealed shall be placed upon the privileged docket of the court and be heard at the next ensuing term thereof wherever held.

Appeals.

[Section 68 is amended by ch. 176, Acts of 1920, by substituting a period for the colon after the word "incurred" in the second sentence, and inserting the following:]

The State treasurer shall be the custodian of the securities deposited by the employers under the requirements of this section, and for such services he shall receive a compensation of one-twentieth of one per centum per annum of the amount of securities deposited with him, payable by the employer.

Custodian.

[The proviso of the second sentence is made a separate paragraph.

Section 69 is amended by ch. 425, Acts of 1922, by adding to paragraph (a) the following:]

Every employer that has complied with the foregoing provision and has subsequently cancelled his insurance shall immediately notify the industrial commission of such cancellation, the date thereof and the reasons therefor; and every insurance carrier shall in like manner notify the commission immediately upon the cancellation of any policy issued by it under the provisions of this act.

Cancellation of policies.

[Section 75 is amended by ch. 176, Acts of 1920, in various paragraphs. Paragraph (a) is amended by substituting the word "association" for the words "plan or scheme" in the first sentence; also by striking out the words "with due allowance for merit rating" in the same sentence; also by inserting the following after the first sentence:]

Subject to such rules as the commissioner of insurance may prescribe, the basic rates may be modified in accordance with a plan of physical or schedule rating, and rates for the renewal of risks carried under policies of insurance having a normal expiration date July 1, 1920, or later, may be further modified in accordance with a plan or scheme of experience rating.

Change of rates.

[Paragraph (c) is amended by changing four to three, as the rate per cent of the tax on premiums. Similarly, four is changed to three in paragraph (d), second sentence, and in paragraph (j), third sentence.]

WASHINGTON.

- [The compensation act of this State is amended by ch. 182, Acts of 1921.]
- Scope.** Section 6604-2 is amended by inserting after the words "ferries and railroads," in the list of extrahazardous occupations, the words, "general warehouse and storage; transfer, drayage, and hauling; warehousing and transfer; fruit warehouse and packing houses."
- The concluding paragraph is amended so as to read as follows:]
- Classification of occupations.** The director of labor and industries through and by means of the division of industrial insurance shall have power, after hearing had upon its own motion, or upon the application of any party interested, to declare any occupation or work to be extrahazardous and to be under this act. The director of labor and industries shall fix the time and place of such hearing, and shall cause notice thereof to be published once at least ten days before the hearing in at least one daily newspaper of general circulation, published and circulated in each city of the first class in this State. No defect or inaccuracy in such notice or in the publication thereof shall invalidate any order issued by the director of labor and industries after hearing had. Any person affected shall have the right to appear and be heard at any such hearing. Any order, finding, or decision of the director of labor and industries made and entered under the foregoing provisions of this act shall be subject to review by the courts within the time and in the manner specified in section 6604-20 and not otherwise.
- [Section 6604-3 is amended by changing the seventh paragraph (definition of employer) so as to read as follows:]
- "Employer."** Except when otherwise expressly stated, "employer" means any person, body of persons, corporate or otherwise, and the legal personal representatives of a deceased employer, all while engaged in this State in any extrahazardous work or who contracts with another to engage in extrahazardous work.
- [The ninth paragraph (relative to working employers) is amended by substituting the term, "director of labor and industries" for the word "commission," where it occurs.]
- A new definition is also added, as follows:]
- "Educational standard."** The term "educational standard" shall mean such standards as the supervisor of safety shall make for the purpose of educating and training both employer and workman in the appreciation and avoidance of danger, and in the maintenance and proper use of safe place and safety device standards.
- [Two new sections are added, as follows:]
- New employ-ers.** SEC. 6604-4A (added by ch. 182, Acts of 1921). Every employer who after June 30th, 1921, shall for the first time since June 30th, 1918, engage in any extrahazardous work shall be known as a temporary employer, and shall remain so for the period of one year following the commencement of such work. Each temporary employer shall contribute to the accident fund on the basis of the class rate for the class or class subdivision to which he shall belong increased 33½ per cent. At the end of the first year of his operations he shall cease to be a temporary employer if he has paid his aforesaid contribution into the accident fund. In each case where the accident cost to the fund for the first year's operations of any temporary employer, who shall so cease to be a temporary employer, shall not exceed his contribution, the said 33½ per cent increase shall be refunded or credited to him out of the accident fund.

SEC. 6604-4B (added by ch. 182, Acts of 1921). It shall be the duty of the county assessor in each of the counties of the State each year to make a list upon blanks to be furnished by the industrial insurance department of all employers within his county who are engaged in extrahazardous industries as defined by this act, and to forward such list of extrahazardous employments and industries to the industrial insurance department on or before the first day of May of each and every year.

Assessors to report.

[Section 6604-10 is amended by striking out the last paragraph, and inserting in lieu thereof the following:]

Aliens.

Except as otherwise provided by treaty, whenever under the provisions of this act compensation is payable to a beneficiary or dependent who is an alien not residing in the United States, the commission shall pay fifty per centum of the compensation herein otherwise provided to such beneficiary or dependent. But if a nonresident alien, beneficiary, or dependent is a citizen of a government having a compensation law which excludes citizens of the United States, either resident or nonresident, from partaking of the benefit of such law in as favorable a degree as herein extended to nonresident aliens, he shall receive no compensation. Proof of dependency by any beneficiary or dependent residing without the United States shall be made before the nearest (United States) consul or consular agent under the seal of such consul or consular agent and the department may cause any warrant or warrants to which such beneficiary or dependent is entitled to be transmitted to the beneficiary or dependent through the nearest (United States) consul or consular agent.

[Section 6604-12 is amended by adding a new paragraph, as follows:]

Physicians to report.

(e) Any physician who fails, neglects, or refuses to file a report with the industrial insurance department as required by this act within ten days of the date of treatment, showing the condition of the injured workman at the time of treatment, a description of the treatment given, and an estimate of the probable duration of the injury, or who fails or refuses to render all necessary assistance to the injured workman as required in this act, shall be guilty of a misdemeanor.

[Section 6604-17 is amended so as to read as follows:]

Public works.

SEC. 6604-17 (as amended by ch. 182, Acts of 1921). Whenever the State, county, any municipal corporation, or other taxing district shall engage in any extrahazardous work, or let a contract therefor, in which workmen are employed for wages, this act shall be applicable thereto. The employer's payments into the accident fund shall be made from the treasury of the State, county, municipality, or other taxing district. If said work is being done by contract, the pay roll of the contractor and the subcontractor shall be the basis of computation, and in the case of contract work consuming less than one year in performance the required payment into the accident fund shall be based upon the total pay roll. The contractor and any subcontractor shall be subject to the provisions of the act, and the State for its general fund, the county, municipal corporation, or other taxing district shall be entitled to collect from the contractor the full amount payable to the accident fund, and the contractor, in turn, shall be entitled to collect from the subcontractor his proportionate amount of the payment. Whenever and so long as, by State law, city charter, or municipal ordinance, provision is made for municipal employees injured in the course of employment, such employees shall not be entitled to the benefits of this act and shall not be included in the pay roll of the municipality under this act. The provisions of this act shall apply to all extrahazardous work done by contract; the employer who lets a contract for such extrahazardous work shall be responsible primarily and directly to the accident fund for the proper percentage of the total pay roll of the work. The contractor and any subcontractor shall be subject to the provisions of this act, and the employer shall be entitled to collect from the contractor the full amount payable

Contractors.

to the accident fund, and the contractor in turn shall be entitled to collect from the subcontractor his proportionate amount of the payment.

[Section 6604-24 is amended by substituting the term "director of labor and industries" for the word "commission" in the first line.

Paragraphs 4 and 7 are amended so as to read as follows:]

Duties of director.

4. Supervise the medical, surgical, and hospital treatment to the intent that same may be in all cases efficient and up to the recognized standard of modern surgery.

7. Create a division of statistics within which shall be compiled such statistics as will afford reliable information upon which to base operations of all divisions under said department.

[Section 6604-33 is amended so as to read as follows:]

Medical, etc., aid.

Sec. 6604-33 (as amended by ch. 182, Acts of 1921). It is the intent to require the industries of the State to furnish medical, surgical, and hospital care to their injured workmen and to place the expense thereof upon each industry and upon each establishment in such industry as near as may be in the proportion in which it produces injury and creates expense. To this end the division of industrial insurance shall divide the industries of the State into five classes representing five degrees in the causation of injury and consequent expense for the medical, surgical, and hospital care thereof, and said classes to be designated, respectively, class A, class B, class C, class D, class E. The industries shall be distributed into these classes as follows: In class C, those industries which produce nearest the average degree of causation and expense; in class A, those which produce nearest one-half of such average; in class B, those which produce nearest three-fourths of such average; in class D, those which produce nearest one and one-fourth times such average; in class E, those which produce nearest one and one-half times such average. The director of labor and industries, through and by means of the division of industrial insurance, shall annually, before January 1st of each year, fix for the ensuing year the rate which each firm shall pay into the medical aid fund, which rate may be increased or decreased, based upon the cost experience of such firm for the preceding year, within the limits of payment now existing, as follows: When the accident cost to the medical aid fund of an employer be not less than 76% or more than 90% of his contribution his medical aid rate shall remain the same. When the accident cost to the medical aid fund of an employer be not less than 51% nor more than 76% of his contribution his medical aid rate shall be reduced to the next lower rate. When the accident cost to the medical aid fund of an employer be not less than 26% nor more than 51% of his contribution his medical aid rate shall be reduced to the second next lower rate. When the accident cost to the medical aid fund of an employer be not less than 90% nor more than 125% of his contribution his medical aid rate shall be increased to the next higher rate. When the accident cost to the medical aid fund of an employer be more than 125% of his contribution his medical aid rate may be advanced to the second next higher class.

Classes.

Rates.

Merit rating.

For the purpose of carrying out the intent of this section in merit rating and penalizing of those industries and employers in classes D and E there [shall] be created two additional classes, designated, respectively, as class F and class G. In class F shall be distributed those industries which produce nearest one and three-fourths times the average degree of causation and expense; in class G, those which produce nearest two times such average. Those industries and employers in classes D and E who shall be penalized as provided in this section shall be placed in class F or class G, respectively, for the ensuing year, as herein otherwise provided for the rerating of classes A, B, C, D, and E.

In no case shall the reduction in one year be greater than two classes and in no case shall the advance in one year be greater than two classes: *Provided*, That the annual rerating directed

herein shall not apply to establishments under contract with physicians, surgeons, or owners of hospitals operating the same while such contract is in effect. From the original classification or any change made therein any employer or workman claiming to be aggrieved may upon application have a hearing before the division of the industrial insurance upon notice to the interested parties, and in the manner provided in section 6604-20 a review by the courts. The body of interested workmen may designate in writing in duplicate one of them to be the recipient of service upon all of them, one copy to be posted for local convenience and the other to be filed with the secretary of the supervisor of industrial insurance. In default of any such designation, service upon any one workman other than the one instituting a complaint shall be service upon all.

[Section 6604-35 is amended by striking out from the first sentence the words "other than section 6604-19, thereof;" also by changing the second and third sentences following the colon to read as follows:]

But after any injured workman shall have returned to his work his medical and surgical treatment may be continued at the expense of the medical aid fund, if and as long as, such continuation is deemed by the supervisor of industrial insurance to be necessary to his more complete recovery. In order to authorize such continued treatment in any case the written order of the supervisor of industrial insurance issued in advance of the continuation shall be necessary. Extension of aid.

[Also by substituting the supervisor of industrial insurance for the State board as the party to furnish an artificial limb or eye when needed; also by striking out from the next to the last sentence the words "by his local aid board."]

Section 6604-45 is amended so as to read as follows:]

SEC. 6604-45 (as amended by ch. 182, Acts of 1921). Any contract made in violation of this act shall be invalid, except that any employer engaged in extrahazardous work may, with the consent of a majority of his workmen, enter into written contracts with physicians, surgeons, and owners of hospitals operating the same, or with hospital associations, for medical, surgical, and hospital care to workmen injured in such employment by and under the control and administration of and at the direct expense of the employer and his workmen. Such a contract shall not be assignable or transferable by operation of law or otherwise except with the consent of the supervisor of industrial insurance endorsed thereon. Before any such contract shall go into effect it shall be submitted to the supervisor of industrial insurance, and may be disapproved by the supervisor of industrial insurance when found not to provide for such care of injured workmen as is contemplated by the provisions of section 6604-36, and if a contract so submitted be with the owners of a hospital operating the same, or with a hospital association, the supervisor of industrial insurance shall have power to disapprove the same if in his judgment the ownership or management of such hospital or hospital association will not be such as to produce satisfactory service. Any such contract with physician, surgeon, or owner and operator of a hospital, or with a hospital association, so disapproved shall not be valid. Otherwise it shall be approved and take and continue in effect for any period of time specified therein, not exceeding three years from date of such approval: *Provided, however,* That the director of labor and industries through the division of industrial insurance may before approving any such contract require the giving by any physician, surgeon, hospital or hospital association of a bond in such sum and in such form, as the director may determine conditioned against any abandonment of such contract. Every such contract to be valid must provide that the expenses incident to it shall be borne one-half by the employer and one-half by such employees, and that it shall be administered by the two interests jointly. Contracts for medical, etc., aid.

Bond.

Expenses.

Effect.

and equally. So long as such contract shall be in effect the subject matter of the contract shall (except as in this section otherwise specified) be outside of and not affected by the provisions of sections 6604-33 to 6604-44 inclusive, and section 6604-46, other than the provisions of section 6604-35 relating to artificial substitutes and lenses and the basis of compensation when lenses supplied, and to transportation of injured workmen, and to educational standards of safety, and other than the provisions of section 6604-40 relating to the analyses and reports of accidents, and the employer shall pay monthly into the medical aid fund ten per centum of the amount he would have been required to pay in that month if such contract had not been made, and of that ten per centum he shall collect one-half from his said workmen by proper deduction from the daily wage of each. During the operation of any such contract the supervisor of industrial insurance or any interested person may file a complaint with the supervisor of industrial insurance alleging that the service and care actually rendered thereunder are not up to the standard provided in section 6604-36, and if upon a hearing had upon notice to the employer and workmen interested thereunder, the supervisor of industrial insurance may make an order that the contracts shall terminate unless the defect or deficiency complained of shall be remedied to his satisfaction within a period to be fixed in such order. Notice to the workman may be effected in the manner provided in section 6604-33. The employer or any interested workman may appeal from such decision to the courts in the manner provided in section 6604-20. During the appeal the contract shall remain in force and operation, but the costs of the appeal shall be paid out of the medical aid fund only in case the decision of the supervisor of industrial insurance is reversed by the court. If during the operation of any such contract, any injured workman shall not receive medical or surgical treatment with reasonable promptness upon the occurrence of his injury, or at any time during his treatment the supervisor of industrial insurance may provide such treatment during the emergency at the expense of his employer, who may charge such expense against such contract, and such emergency treatment shall continue until supplanted by like treatment under such contract, notwithstanding the pendency of an appeal from such action. The cost of such emergency treatment shall not exceed the rates specified in the fee bill provided by section 6604-36. The acceptance of employment by any workman shall be and be held to be an acceptance of any existing contract made under this section to which his employer is a party.

No contract for medical, surgical, or hospital care of injured workmen entered into prior to the time this act shall go into effect shall be invalidated by anything in this act contained.

WISCONSIN.

[The compensation law of this State is amended by several acts of the legislature of 1921.

Section 2394-7 is amended by chapter 451, by adding to subsection (4) the words "unless such employer has, by an affirmative election, in the manner provided in subsection (1) of section 2394-5, specifically elected to include domestic and other employees under coverage of the act."

Domestic, etc., employees.

Section 2394-9, subsection (1), is amended by chapter 414 by inserting after the first sentence thereof: "The employee shall have the right to make choice of his attending physician from a panel of physicians to be named by the employer"; also after the (old) second sentence: "Failure of the employer to maintain a reasonable number of competent and impartial physicians ready to undertake the treatment of the employee and to permit the employee to make choice of his attendant from among them shall constitute neglect and refusal to furnish such attendance and treatment."

Panel of physicians.

Also by adding the following:]

In determining the reasonableness of the size of the medical panel, the commission shall take into account the number of competent physicians immediately available to the community in which the medical service is required, and only where one such physician is available in such community, the tender of attention by such physician shall be construed as a compliance with the provisions of this section. In no event shall the employer be required to maintain a panel of more than three such physicians; except that in counties containing a city of the first class, a panel of not to exceed five such physicians shall be maintained.

Size of panel.

[Subsection (2) is amended by chapter 462 by making subdivision (b) read as follows:]

(b) If the accident causes partial disability, during the period of such partial disability such proportion of the weekly indemnity rate for total disability as the actual wage loss of the injured employee bears to his average weekly wage at the time of his injury.

Partial disability.

[Also by striking from subsection (5), subdivision (f), the words "seven hundred and fifty dollars," and substituting therefor the words "his average annual earnings as defined in section 2394-10."

Reductions for age.

Also by making subsection (5), subdivision (g), read as follows:]

(g) In case of permanent injury to an employee who is over fifty-five years of age, the compensation herein accruing for the permanent disability shall be reduced by five per cent; in case he is over sixty years of age, by ten per cent; in case he is over sixty-five years of age, by fifteen per cent; in case he is over seventy years of age, by twenty per cent; and in case he is over seventy-five years of age, by twenty-five per cent.

[Subsection (8) is amended by chapter 451 by substituting (7) for (6) in the third line.

A new section is added, as follows:]

Sec. 2394-9m (added by ch. 534, Acts of 1921). An employee who is entitled to and is receiving rehabilitation instruction pursuant to section 41.215 shall, in addition to his other indemnity, be paid a sum sufficient to maintain him during rehabilitation, subject to the following conditions and limitations:

Rehabilitation.

(a) He must undertake the course of instruction within sixty days from the date when he has sufficiently recovered from his

injury to permit of his so doing, or as soon thereafter as the State board of vocational education shall provide opportunity for his rehabilitation.

(b) He must continue in rehabilitation training with such reasonable regularity as his health and situation will permit.

(c) He may not have maintenance in excess of ten dollars per week during training, nor for a maintenance period in excess of twenty weeks in all.

(d) The commission shall determine the rights and liabilities of the parties under this section in like manner and with like effect as it does other issues under compensation.

[Section 2394-10, subsection (1), second paragraph, is amended by chapter 462, so as to read as follows:]

Average annual earnings. The average annual earnings for employees shall be taken at not less than five hundred and twenty-five dollars nor more than one thousand three hundred dollars per annum. Between said limits such average annual earnings shall be determined as follows:

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

Minor's earnings. (e) If an employee is a minor and is permanently disabled, his weekly earnings on which to compute the indemnity accruing to him for permanent disability shall be determined on the basis of the earnings that such minor, if not disabled, probably would earn after attaining the age of twenty-one years.

Claims. [Section 2394-11 is amended by chapter 451 by inserting in the second proviso, after the word "claim," the words "that within the thirty-day period actual notice of the injury was given to the employer or to any officer or manager of an employer or company or to any other person designated by the employer for the purpose of receiving reports of injury, or if it is found"; also by adding the words, "The name of the employee or other representative designated by the employer to receive reports of injury shall be posted by the employer in one or more conspicuous places about the premises."]

Section 2394-12 is amended by the same act, making the present section subsection (1), and adding a new subsection, as follows:]

Autopsy. (2) The commission may refuse to receive testimony as to conditions determined from an autopsy if it appears (a) that the party offering the testimony is chargeable with the willful misconduct by failure to make reasonable effort to notify at least one party in adverse interest or the industrial commission in the matter of the autopsy, said notice to be given at least twelve hours before said autopsy, (b) that the autopsy was performed by or at the direction of the coroner for purposes other than those authorized by chapter 200 of the statutes. The commission may in its discretion withhold findings until an autopsy is held in accordance with its directions.

[Section 2394-16 is amended by the same act, by making the present section, down to and including the words "rebut the same on final hearing," subsection (1). New matter is inserted at this point, as follows:]

Investigation. (2) If the commission shall have reason to believe that the liability of any party for the payment of the compensation provided by sections 2394-3 to 2394-31, inclusive, shall not have been discharged, it may on its own motion give notice in writing to the parties, in the manner provided for the service of an application, of a time and place when formal inquiry will be had for the purpose of determining the facts. Such notice shall contain a concise statement of the matter to be considered. Thereafter all other provisions governing proceedings on application shall attach in so far as the same may be applicable. The commission shall make findings and award as provided in section 2394-17 and to the same effect as it might have done in proceedings upon application of a party.

[The remainder of the section, beginning with the words "The commission, or any member thereof," is made subsection (3). A new paragraph is added at the end, by chapter 551, as follows:]

In all proceedings upon claims for compensation against the State, the attorney general, personally or by an assistant, may appear on behalf of the State.

Attorney.

[Section 2394-18m is amended by chapter 451, by adding thereto the following:]

Where such delay is chargeable to the employer and not to the insurer, the provisions of subsection (8) of section 2394-9 shall be applicable and the relative liability of the parties shall be fixed and discharged as therein provided, and not otherwise.

Delay.

[Section 2394-19 is amended by chapter 451, by repealing subsection 2, beginning "Any action," and renumbering subsections 3 and 4, 2 and 3. A new paragraph is also added by chapter 551, as follows:]

Whenever an award is made against the State the attorney general may bring an action for review thereof in the same manner and upon the same grounds as are provided by subsection 1 hereof.

Review.

[Section 2394-21 is amended by ch. 551 by adding to subsection 1 the words: "The State shall be deemed a party aggrieved, within the meaning of this subsection, whenever a judgment is entered upon such a review confirming any order or award against it.

Section 2394-22 is amended by the same act by adding thereto the words: "In actions brought by the State, the governor shall appoint some competent attorney to appear on behalf of said commission."

Section 2394-24 is amended in subsection 1 by ch. 148, so as to read as follows:]

(1) The whole claim for compensation for the injury or death of any employee or any award or judgment thereon, and any claim for unpaid compensation insurance premiums shall be entitled to the same preference in bankruptcy or insolvency proceedings as is given by any law of this State or by the Federal bankruptcy act to claims for labor, but this section shall not impair the lien of any judgment entered upon any award.

Preference.

[Subsection 2 is amended by ch. 451, so as to read as follows:]

(2) An employer liable under this act to pay compensation shall insure payment of such compensation in some company authorized to insure such liability in this State unless such employer shall be exempted from such insurance by the industrial commission. An employer desiring to be exempt from insuring his liability for compensation shall make application to the industrial commission showing his financial ability to pay such compensation, and agreeing as a condition for the granting of the exemption to faithfully report all injuries under compensation according to law and the requirements of the commission and to comply with the provisions of sections 2394-3 to 2394-31, inclusive, and the rules of the commission pertaining to the administration thereof, whereupon the commission by written order may make such exemption. The commission may from time to time require further statement of financial ability of such employer to pay compensation and may upon ten days' notice in writing, for financial reasons or for failure of the employer to faithfully discharge his obligations according to the agreements contained in his application for exemption, revoke its order granting such exemption, in which case such employer shall immediately insure his liability. As a condition for the granting of an exemption the commission shall have authority to require the employer to furnish such security as it may consider sufficient to insure payment of all claims under compensation. Where the security is in the form of a bond or other personal guaranty, the commission may at any time either before or after the entry of an award, upon at least ten days' notice and opportunity to be heard require

Security of payments.

the sureties to pay the amount of the award, the same to be enforced in like manner as the award itself may be enforced. Where an employer procures an exemption as herein provided and thereafter enters into any form of agreement for insurance coverage with an insurance company or interinsurer not licensed to operate in this State, his conduct shall automatically operate as a revocation of such exemption.

[A new subsection is added by the same act, as follows:]

Failure to insure.

(4) If it appears by the complaint or by the affidavit of any person in behalf of the State that the employer's liability continues uninsured there shall forthwith be served on the employer an order to show cause why he should not be restrained from employing any person in his business pending the proceedings or until he shall have satisfied the court in which the matter is pending that he has complied with the provisions of subsection 2 of this section. Such order to show cause shall be returnable before the court or the judge thereof at a time to be fixed in the order not less than twenty-four hours nor more than three days after its issuance. In so far as the same may be applicable and not herein otherwise provided, the provisions of chapter 126 relative to injunctions shall govern these proceedings. If the employer denies under oath that he is subject to the provisions of sections 2394-3 to 2394-31, inclusive, and furnishes bond with such sureties as the court may require to protect all his employees injured after the commencement of the action for such compensation claims as they may establish, then an injunction shall not issue. Every judgment or forfeiture against an employer, under subsection 3 of this section, shall perpetually enjoin him from employing any person in his business at any time when he is not complying with subsection 2 of this section.

[Section 2394-26 is amended by the same act by striking out the words "in whole or in part" in the two places in which it occurs.

Section 2394-27 is amended by the same act by inserting after the first sentence in subsection 1 the words:]

Contract construed.

Such contract shall be construed to grant full coverage of all liability of the assured under and according to the provisions of sections 2394-3 to 2394-31, inclusive, notwithstanding any agreement of the parties to the contrary unless the industrial commission has theretofore by written order specifically consented to the issuance of a contract of insurance on a part of such liability.

WYOMING.

[The compensation law of this State is amended by a number of acts of the legislature of 1921. Section 4 is amended by chapter 138, by adding after the words "bridge building," the words "the occupations of city or town firemen and city or town policemen."

Section 6 is amended by the same act in paragraph (h), by inserting the word "municipality" after the word "any" in the first line; also in paragraph (j) by inserting the word "actually," between the words "part" and "dependent" in the second line, and by striking out the words, "and shall include widow or husband, as the case may be, and children, or if no widow, husband, or children the parents of the injured workman, if actually dependent upon him for support at the time of the injury."

Dependents.

Section 10 is amended by the same act, by adding thereto the following:]

The State treasurer shall also prepare and cause to be printed, for the information of employees and workmen, such helpful instructions as will assist injured workmen in correctly making claims for compensation.

Instructions.

[Section 15 is amended by chapter 65 by substituting "February 20, 1919" for the words "the date on which this act shall take effect," near the middle of the section; also by inserting after the words "United States Government bonds" the words "State, county, school district or municipal bonds;" also by striking out from the following sentence all after the words "industrial accident fund;" also by striking out the sentence beginning "There is also appropriated."

Section 19 is amended in subsections (b), (c), and (d) by ch. 138, Acts of 1921. They now read as follows:]

(b) "Permanent total disability" means the loss of both legs or both arms, 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 or the sight thereof, 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, the workman shall receive a lump sum of four thousand dollars (\$4,000). If the workman have a child or children under sixteen (16) years of age, the guardian of such child or children, appointed as hereinafter provided, shall receive for the use and benefit of said child or children, a lump sum of one hundred and twenty dollars (\$120) per year for each child under sixteen (16) years of age until the time when each of said children shall become sixteen (16) years of age: *Provided*, That the aggregate lump sum paid to said guardian shall in no case exceed four thousand dollars (\$4,000), and any and all awards made on account of any such child or children, shall be disbursed under a proper guardianship to be created by the court or judge making such award.

Permanent total disability.

(c) "Temporary total disability" means an injury which though it may result, or does result in a permanent total or partial disability, 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 case, if the workman be unmarried at the time of the injury he shall receive

Temporary total disability.

the sum of fifty dollars (\$50) 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 sixty dollars (\$60) per month, and if he have children under sixteen (16) years of age, he shall receive seven and one-half dollars (\$7.50) per month for each child under sixteen (16) years of age, but the total monthly payment shall not exceed ninety dollars (\$90) per month. No compensation except the expense of medical attention shall be allowed for the first seven (7) days of disability, unless the incapacity extends beyond the period of twenty-one (21) days, in which case the compensation shall run from the time of the 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.

Medical aid.

(d) In all cases of total disability and permanent partial disability, the expense of medical attention and of care in hospital of the injured workman shall be paid from date of said injury, not to exceed, however, two hundred dollars (\$200) in any case, unless under general arrangement the workman is entitled to medical attention and care in hospital. Where death results from an injury, the expense of burial shall be paid not to exceed one hundred dollars (\$100) in any case, unless other arrangements exist between employer and employee under agreement.

Burial.**Benefits to survivors.**

(1) But if the workman leaves a widow or invalid widower, such surviving spouse shall receive a lump sum payment of two thousand dollars (\$2,000): *Provided*, 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 case the right of children under sixteen (16) years of age to compensation shall not be defeated. If said workman leaves a surviving child or children under sixteen (16) years of age, the guardian of such child or children, appointed as hereinafter provided, shall receive for the use and benefit of said child or children, a lump sum of one hundred and twenty dollars (\$120) per year for each surviving child under sixteen (16) years of age until the time when each of said surviving child[ren] shall become sixteen (16) years of age: *Provided*, That the aggregate lump sum paid to said guardian shall in no case exceed three thousand six hundred dollars (\$3,600). In all death cases where an order of compensation is made on account of children under sixteen (16) years of age, or to persons incompetent, said funds shall be disbursed under a proper guardianship to be created by the court or judge making such an order.

Death during disability.

(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 in excess of two thousand four hundred dollars (\$2,400) received by him during such disability and prior to his death shall be proportionately deducted from the lump amounts herein provided to be paid to the surviving widow and the guardian of the workman's children under sixteen (16) years of age.

Parents.

(3) If the workman leaves no widow, or widower or child under the age of sixteen (16) years, but leaves a parent or parents surviving, 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 received by such parent or parents from the workman during the three years 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 one thousand dollars (\$1,000).

[Section 25 is amended by the same act by making the limitation on fees read: "any sum or sums aggregating 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, and in no event to exceed fifty dollars (\$50)"; also by adding the following:]

"It shall be the duty of the county and prosecuting attorney of the county in which any injury occurs to give all necessary legal advice to any injured workman or his dependents, who may seek advice in making and filing claims for compensation, and to prepare all statements of claim or other papers necessary or advisable to be filed by such workman or dependents, free of all charges and costs."

Legal advice.

[A new section 32 is added as follows:]

SEC. 32 (added by ch. 68, Acts of 1921). Any balance standing to the credit of any employer in the industrial accident fund for three years after said employer shall have ceased to engage in Wyoming in the occupation on account of which his said contributions have been made shall be debited from his account to the profit and loss account of said fund, and said employer's account shall be thereupon finally closed, and thereafter the said balance shall permanently remain a part of the industrial accident fund.

Adjustment of balances.

[Old section 32 becomes section 33, and is amended so as to read as follows:]

SEC. 33 (as amended by ch. 76, Acts of 1921). 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: *Provided*, That when any employer engaged in an extrahazardous occupation as defined in this chapter, has heretofore sold and conveyed, or shall hereafter sell and convey his or its property to a purchaser who continues to conduct and carry on said business at the same place, the seller shall be entitled to transfer and assign to the purchaser all rights, benefits, privileges, and immunities accruing to such employer by virtue of any sum then on deposit to his or its credit in the industrial accident fund in the State treasury under the provisions of said act; and upon filing such assignment with the State treasurer, the purchaser shall succeed to all said rights, benefits, privileges, and immunities of said employer. Said purchaser shall be subject to obligations of compensation against the seller incurred and existing at the date of such assignment: *Provided*, That 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*, That every employer, operating under the provisions of said act shall pay into said "workmen's compensation fund," the sum of at least \$5,000: *And provided further*, If this chapter shall be hereafter repealed or held invalid, the moneys which are in the industrial fund at the time of disposition as may be provided by the legislature [sic], 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.

Payments to fund.

UNITED STATES.

[The United States employees compensation act was amended by act of June 13, 1922 (Public No. 241), by adding to section 20 the following:]

Time for claims. If the disability or death was the result of an injury sustained during the period of the Great War, and arising out of conditions due to the war, the commission may for any reasonable cause shown allow original claims of civilian employees of the Expeditionary Forces of the United States serving outside of the territory of the United States to be made at any time within one year after the passage of this act.

[The judicial code was amended by the 67th Congress for the purpose of giving State compensation laws jurisdiction over certain occupations classed as maritime. The portions affected are given below.]

PUBLIC No. 239.—*Compensation for stevedores, longshoremen, etc.*

JUDICIAL CODE—SECTION 24. The district courts shall have original jurisdiction as follows:

* * * * *

Admiralty, etc. Third. Of all civil causes of admiralty and maritime jurisdiction, saving to suitors in all cases the right of a common-law remedy where the common law is competent to give it, and to claimants for compensation for injuries to or death of persons other than the master or members of the crew of a vessel their rights and remedies under the workmen's compensation law of any State, District, Territory, or possession of the United States, which rights and remedies when conferred by such law shall be exclusive; of all seizures on land or waters not within admiralty and maritime jurisdiction; of all prizes brought into the United States; and of all proceedings for the condemnation of property taken as prize: *Provided*, That the jurisdiction of the district courts shall not extend to causes arising out of injuries to or death of persons other than the master or members of the crew, for which compensation is provided by the workmen's compensation law of any State, District, Territory, or possession of the United States.

Same. SEC. 256. The jurisdiction vested in the courts of the United States in the cases and proceedings hereinafter mentioned, shall be exclusive of the courts of the several States:

* * * * *

Third. Of all civil causes of admiralty and maritime jurisdiction, saving to suitors in all cases the right of a common-law remedy where the common law is competent to give it and to claimants for compensation for injuries to or death of persons other than the master or members of the crew of a vessel, their rights and remedies under the workmen's compensation law of any State, District, Territory, or possession of the United States.

PART II.—CANADA.

ALBERTA.

[The compensation act of this Province was amended in 1920 and 1921.

Section 4 is amended by ch. 38, Acts of 1921, by providing that another commissioner may be designated as vice chairman.

Section 16 is amended so as to read as follows:]

SEC. 16. (as amended by chs. 39, Acts of 1920 and 38, Acts of 1921). The board may add to, withdraw, or rearrange any industries which are or may be included in the schedules hereto.

Classifications.

(2) In the case of any industry not within the scope of this act, upon the application of the workmen engaged therein, or a majority thereof, or of the employer, the board may bring the industry or workmen within the scope of this act, and upon so doing the industry or workmen shall be deemed to be within the scope of this act: *Provided, however,* That this subsection shall not apply to employers in so far as any employees are concerned excluded from the provisions of this act by section 69.

Election.

(3) Such application shall be for a period of not less than twelve months; at the expiration of the said period for which the application was made, the said employer, or a majority of his employees may on notice to the board withdraw from the scope of the act: *Provided always,* That in default of such notice being given, the said employer and employees shall be within the scope of the act until they withdraw by notice to the board in writing.

(4) The board may require an employer to include in his pay roll the wages of all workmen employed by him in any industry which if carried on separately would be an industry within the meaning of this act, and upon the board so requiring such workmen shall be deemed to be within the scope of this act.

Required coverage.

[Section 20 is amended by ch. 39, Acts of 1920, by striking out of subsection (1) the words, "and at least quarterly"; also by making the last clause thereof read "but in no event shall the assessment be less than \$2.50."

Subsection (2) is stricken out, and the subsequent subsections renumbered accordingly.

New subsection (2) is amended by striking out the words "\$165 in any calendar month," and substituting therefor the words "at the rate of \$2,000 per annum."

Section 25 is amended so as to read as follows:]

SEC. 25 (as amended by ch. 39, Acts of 1920). Any amount due the board upon any assessment, or any amount which an employer is required to pay to the board under any of the provisions of this act or under any rules or regulations made thereunder, shall be collectible by action as a debt due by the employer to the board, but this section shall not be deemed to take away the right of the board to prosecute any person making default in the payment of any such amount for a violation of any of the provisions of this act or of any rules or regulations made thereunder.

Collection of premiums.

[Section 27 is amended by ch. 39, Acts of 1920, by requiring reports "before the twentieth day of January in each year and at such other times as may be required by the board," instead of monthly, and for "the calendar year then last past"; also by inserting between the words "may" and "base" in the third line

of subsection (2) the words "in addition to any other remedy provided in this act."

Section 29 is amended so as to read as follows:]

Sec. 29 (as amended by ch. 39, Acts of 1920). The board shall have power—

Inspections, (a) To investigate from time to time employments and places
etc. of employment within the Province and determine what suitable safety devices or other reasonable means or requirements for the prevention of accidents shall be adopted or followed in any or all employments or places of employment;

(b) To determine the requirements for the proper sanitation of the employers' premises;

(c) To determine what suitable devices or other reasonable means or requirements for the prevention of diseases shall be adopted or followed in any or all employments or places of employment;

(d) To make regulations, whether of general or special application, and which may apply to both employers and workmen, for the prevention of accidents, and the prevention of diseases and provision for proper sanitation in employments or places of employment.

(2) The board or any member of it or any officer or person authorized by it for that purpose shall have the right at any time to enter into the establishment of any employer who is liable to contribute to the accident fund, and the premises connected with it, and every part of them, for the purpose of ascertaining whether the ways, works, machinery, or appliances therein are safe, adequate, and sufficient, and whether all proper precautions are taken for the prevention of accidents as to the workmen employed in or about the establishment or premises, and whether the safety appliances or safeguards prescribed by law are used and employed therein, and whether the sanitary and health conditions are proper, or for any other purpose which the board may deem necessary for the purpose of determining the proportion in which such employer should contribute to the accident fund.

(3) Where in any employment or place of employment safety devices are, in the opinion of the board, necessary for the prevention of accidents or of diseases, the board may order the installation or adoption of such appliances or devices and may fix a reasonable time within which they shall be installed or adopted, and the board shall give notice thereof to the employer.

(4) In any case where safety devices or appliances are, by order of the board, required to be installed or adopted or are prescribed by the regulations and the employer fails, neglects, or refuses to install and adopt such safety devices or appliances in any employment or place of employment in accordance with the terms of the regulations and to the satisfaction of the board, or where under the circumstances the board is of the opinion that conditions of immediate danger exist in any employment or place of employment which would be likely to result in injury to any person, the board may, in its discretion, order the employer to forthwith close down the whole or any part of such employment or place of employment and the industry carried on therein, and the board shall notify the employer of such order: *Provided always*, That nothing herein contained shall take away or abridge any of the powers and duties of the provincial board of health or local boards of health as constituted under the public health act: *Provided further*, That the workmen's compensation board, or any member of it, or any officer appointed by it, may forthwith report to the provincial board of health any breach of the public health act or regulations of the provincial board of health passed thereunder.

[Section 30 is amended by ch. 39, Acts of 1920, by making subsection (2) thereof read as follows:]

Premiums pre-ferred. (2) Notwithstanding anything contained in any other act or ordinance, any amount due to the board upon any assessment made under this act or which the employer is required to pay to

the board under any of the provisions hereof, or upon any judgment therefor, shall have priority as respects the property of the employer within this province, over all the debts, liens, charges, mortgages or other encumbrances whatsoever, whenever created or to be created, excepting wages due to employees by their employer or employers.

[Section 33 is amended by the same act by making subsection (2) thereof read as follows:]

(2) Where in the opinion of the board sufficient precautions are not taken for the prevention of accidents to workmen in the employment of any employer, or where the sanitary and health conditions are not proper, the board may add to the amount of any contribution to the accident fund for which such employer is liable, such a percentage thereof as the board may deem just and may assess and levy same upon such employer. Added premi-
uma.

[Section 48 is amended so as to read as follows:]

SEC. 48 (as amended by chs. 39, Acts of 1920, and 38, Acts of 1921). Where death results from injury, the amount of compensation shall be— Compensation
for death.

(a) The necessary expenses of burial of the workman, not exceeding one hundred dollars;

(b) Where the widow or invalid husband is the sole dependent a monthly payment of thirty-five dollars;

(c) Where the dependents are a widow or invalid husband and one or more children, a monthly payment of thirty-five dollars with an additional monthly payment of seven dollars and fifty cents for each child under the age of sixteen years, not exceeding in the whole sixty-five dollars;

(d) Where the only dependents are children a monthly payment of twelve dollars and fifty cents to each child under the age of sixteen years, not exceeding in the whole fifty dollars;

(e) Where the only dependents are persons other than those mentioned in the foregoing clauses a sum reasonable and proportionate to the pecuniary loss to such dependents occasioned by the death to be determined by the board but not exceeding thirty dollars per month to a parent or parents, and not exceeding in the whole sixty-five dollars per month.

(2) Where the workman leaves no widow, or the widow subsequently dies and it seems desirable to continue the existing household, and an aunt, sister, or other suitable person acts as foster-mother in keeping up such household and maintaining and taking care of the children entitled to compensation, in a manner which the board deems satisfactory, such foster-mother while so doing shall be entitled to receive the same monthly payments of compensation for herself and the children as if she were a widow of the deceased, and in such case the children's part of such payments shall be in lieu of the monthly payments which they would otherwise have been entitled to receive.

(3) In the case provided for by clause (e) of subsection 1 the payments shall continue only so long as in the opinion of the board it might reasonably have been expected had the workman lived he would have continued to contribute to the support of the dependents. Duration of
payments.

(a) Compensation shall be payable to an invalid child without regard to the age of such child, and payments to such child shall continue so long as in the opinion of the board it might reasonably have been expected had the workman lived he would have continued to contribute to the support of such child.

(4) Where there are both total and partial dependents the compensation may be allotted partly to the total and partly to the partial dependents. Total and par-
tial dependents.

(5) Where the board is of the opinion that for any reason it is necessary or desirable that a payment in respect of a child should not be made directly to its parent, the board may direct that the payment be made to such persons or be applied in such manner as it may deem most for the advantage of the child. Payments for
benefit of chil-
dren.

- Readjustment of payments.** (6) Where a payment to any one of a number of dependents ceases the board may in its discretion readjust the payments to the remaining dependents so that the remaining dependents shall thereafter be entitled to receive the same compensation as though they had been the only dependents at the time of the death of the workman.
- Prior accidents.** (7) Wherever, since the coming into force of this act, the amount payable under this section or under section 51 hereof, as compensation to a workman or his dependents in case of an accident, has been increased, any workman or his dependents who are in receipt of compensation in respect of an accident which occurred prior to such change shall be entitled from the time of such change to compensation in the same manner as if such accident had occurred subsequent to such increase having been made.
- Remarriage.** [Section 49 is amended by ch. 39, Acts of 1920, by striking out the words "equal to the monthly payments for two years," and substituting therefor "of \$480."]
- Permanent total disability.** Section 51 is amended by ch. 38, Acts of 1921, in subsection (1) thereof, so that it now reads as follows:]
 Sec. 51. Where permanent total disability results from the injury, the amount of the compensation shall be a weekly payment during the life of the workman equal to fifty-five per cent of his average weekly earnings during the previous twelve months, if he has been so long employed, but if not, then for any less period during which he has been in the employment of his employer.
 [Sections 52 and 53 are amended so as to read as follows:]
- Permanent partial disability.** Sec. 52 (as amended by ch. 38, Acts of 1921). Where permanent partial disability results from the injury, the compensation shall be a weekly payment of fifty-five per cent of the difference between the average weekly earnings of the workman before the accident and the average amount which he is earning or is able to earn in some suitable employment or business after the accident, and the compensation shall be payable during the lifetime of the workman.
- (2) Where the impairment of the earning capacity of the workman does not exceed ten per cent of his earning capacity instead of such weekly payment, the board shall, unless in its opinion it would not be to the advantage of the workman to do so, direct that such lump sum as may be deemed to be the equivalent of it shall be paid to the workman.
- (3) Where deemed just, the impairment of the earning capacity may be estimated from the nature of the injury, having always in view the workman's fitness to continue the employment in which he was injured, or to adapt himself to some other suitable occupation.
- Temporary total disability.** Sec. 53 (as amended by ch. 38, Acts of 1921). Where temporary total disability results from the injury, the compensation shall be the same as prescribed by section 51, but shall be payable only so long as the disability lasts.
 [Section 54 is amended by ch. 38, Acts of 1921, by making the main clause of subsection (2) read as follows:]
- Earnings.** (2) For the purposes of the sections of this act relating to "earnings" and "average weekly earnings" of a workman the following rules shall be observed:
 [Also by inserting in paragraph (a), after the word "remunerated", the words, "but not so as in any case to exceed two thousand dollars per annum."
 A new section is added as follows:]
- Minimum rate.** Sec. 54a (added by ch. 38, Acts of 1921). The amount of compensation to which an injured person shall be entitled for temporary total or permanent total disability under the provisions of this act shall not be less than ten dollars per week, or where his average earnings are less than ten dollars per week the amount of such earnings.

[Section 57 is amended so as to read as follows:]

SEC. 57 (as amended by ch. 39, Acts of 1920). For the purpose of ascertaining the amount of compensation due, such amount may be computed on a daily basis.

Basis.

[Section 58 is amended by the addition of subsections (4) and (5) by ch. 39, Acts of 1920, and of subsection (6) by ch. 38, Acts of 1921. The new subsections are as follows:]

(4) In the event of the employer failing to retain out of the moneys earned by the workman or workmen the amount he is empowered to retain under the provisions of subsections 2 and 3 hereof, the said employer shall be liable to personally pay the board the amount which he should have retained, and the board shall have the like powers and be entitled to the like remedies for enforcing payment of such sum as it possesses or is entitled to in respect of an assessment.

Employer liable.

(5) Employers in any industries shall when required by the board install and maintain such first-aid appliances and service as the board may direct.

First aid.

(6) All questions as to the necessity, character, and sufficiency of any medical aid furnished or to be furnished shall be determined by the board; the fees or charges thereof shall be fixed and determined by the board, and no action shall lie in respect of any medical aid provided.

Power of board.

[Section 61 is amended by ch. 39, Acts of 1920, by adding to subsection (2) the words "and shall at the same time transmit a statement of the total amount of wages earned by all his workmen for the portion of the then current year during which he has continued in business."

Section 62 is amended by the same chapter by striking out all of subsection (1) after the words "twenty-four hours of" and substituting therefor the words "such accident"; also by striking out of subsection (2) the words "on a form prescribed by the board"; also by adding a new subsection, as follows:]

Notice of accidents.

(3) All books, returns, notices, reports, forms, or other documents or papers, and copies thereof required to be kept, posted, or forwarded in accordance with the provisions of this act or regulations made thereunder, shall be in a form approved of by the board.

Forms.

[Section 63 is amended by the same act by inserting after the word "regulations" the words "or orders"; also by adding a new subsection, as follows:]

(2) Any person being convicted for violating any of the provisions of this act or any regulations made thereunder, and failing after such conviction to comply with the provisions of the act or the regulations made thereunder for the breach of which he was convicted, shall be guilty of an additional offense, and on summary conviction shall be liable to a penalty of \$25 a day for each day such failure or default continues, and in default of payment to imprisonment for a period not exceeding three months.

Violations.

[Section 69 is amended by ch. 39, Acts of 1920, by striking out paragraph (a) and relettering the subsequent paragraphs accordingly. To former paragraph (b), now (a), are added the words "saving and excepting those which may be brought within the scope of the act by section 16 as amended by this act." A new paragraph (e) is also added, to read, "(e) Persons employed in the industry of farming or ranching."

Schedule 2 is amended by inserting after the word "ice" where it occurs the words "employment by the Crown in the right of the Province in any capacity whatsoever."]

BRITISH COLUMBIA.

Benefits. [The compensation law of this Province was amended by ch. 105, Acts of 1920. Section 15 was amended in subsection (2), paragraph (a), by changing twenty to thirty-five, as the monthly payment to widows and invalid widowers.

The same change is made in paragraph (b). The child's allowance is made \$7.50 instead of \$5, and the total \$65 instead of \$40.

In paragraph (c) the separate allowances are made \$12.50 instead of \$10, and the maximum total \$50 instead of \$40.

In paragraph (d) \$30 is substituted for \$20 and \$45 for \$30, where they occur.

In paragraph (e) \$30 is substituted for \$20, and \$65 for \$40 where they occur.

In subsection (8), paragraph (b) the maximum is fixed at \$50 instead of \$35, and the amount for each child is fixed at \$10 instead of \$7.50.

Paragraph (c) is amended and a new paragraph (d) and a new subsection (9) are added, as follows:]

Use of balances of reserves. (c) If there be any balance of such accumulation, the same shall be applied in payment of increased monthly payments to other dependents residing in Canada: *Provided*, That the increase in monthly payments paid under this clause shall in no case exceed fifty per centum of the amount of the monthly payment previously awarded; and

(d) If after the making of the payments provided in clause (c) any balance remains of such accumulation, the same shall be carried forward and applied as part of the undisturbed accumulation available for distribution during the next distribution period of six months.

Added payments to children. (9) Where, after any payment made pursuant to clause (a) of subsection (8), there remain any children dependents, residing in Canada, who by reason of the maximum monthly limits of sixty-five dollars and fifty dollars fixed by subsection (2) have not received the full amount of compensation to which they would otherwise be entitled, such additional amounts shall be paid from the accident fund as are necessary to secure to such children dependents respectively the full monthly payments of compensation which, except for such maximum monthly limits, would be payable to them under subsection (2).

[Section 16 is amended by adding the words, "but not to exceed in any case the sum of four hundred and eighty dollars."]

MANITOBA.

[A new compensation law, superseding the act of 1916, was enacted in 1920. It is reproduced in full:]

ACTS OF 1920.

CHAPTER 159.—*Compensation of workmen for injuries.*

SECTION 1. This act may be cited as the workmen's compensation act. Short title.

SEC. 2. (1) In this act, unless the context otherwise requires, the expression:

(a) "Accident" means a fortuitous event occasioned by a physical or natural cause and includes a willful and intentional act not being the act of the injured workman; Definitions.

(b) "Accident fund" means the fund provided for the payment of compensation, outlays, and expenses under Part I of this act;

(c) "Board" means the workmen's compensation board as created by this act;

(d) "Construction" includes reconstruction, repair, alteration, and demolition;

(e) "Dependents" means such of the members of the family of a workman as were wholly or partly dependent upon his earnings at the time of his death or who, but for the incapacity due to the accident, would have been so dependent.

(f) "Employer" includes every person having in his service under a contract for hiring or apprenticeship, written or oral, expressed or implied, any person engaged in any work in or about an industry, including the Crown in the right of the Province, as well as municipal corporations, boards, and commissions, having the management and conduct of any work or service owned by or operated for a municipal corporation or by or for the Province of Manitoba and where the services of a workman are temporarily let or hired to another person by the person with whom the workman has entered into such contract, the latter shall be deemed to continue to be the employer of the workman whilst he is working for that other person;

(g) "Employment" shall include employment in an industry or any part, branch, or department of an industry;

(h) "Industrial disease" means any of the diseases mentioned in the schedule 2 of this act and any other disease which by regulations is declared to be an industrial disease;

(i) "Industry" includes establishment, undertaking, trade, and business;

(j) "Invalid" means physically or mentally incapable of earning;

(k) "Manufacturing" includes altering, making, preparing, ornamenting, printing, finishing, packing, assembling the parts of and adapting for use or sale any article or commodity;

(l) "Medical referee" means a medical referee appointed by the board;

(m) "Member of the family" means and includes wife, husband, parent, grandparent, step-parent, child, grandchild, step-child, brother, sister, half brother, and half sister and a person who stood in loco parentis to the workman or to whom the workman stood in loco parentis, whether related to him by consanguinity or not so related, and, where the workman is the

parent or grandparent of an illegitimate child, includes such child, and, where the workman is an illegitimate child, includes his parents and grandparents;

(n) "Outworker" means a person to whom articles or materials are given out to be made up, cleaned, washed, altered, ornamented, finished, repaired, or adapted for sale in his own home or on other premises not under the control or management of the person who gave out the articles or materials;

(o) "Person" includes females as well as males and any body corporate or politic;

(p) "Physician" means and includes any person registered under the medical act and lawfully and regularly engaged in the practice of his profession in Manitoba;

(q) "Regulations" means rules and regulations made by the board under the authority of this act;

(r) "Workman" includes a person, whether under the age of twenty-one years or not, who has entered into or works under a contract of service or apprenticeship, written or oral, expressed or implied, whether by way of manual labor or otherwise, but when used in Part I shall not include an outworker or a person engaged in purely clerical work and not exposed to the hazards incident to the nature of the work carried on in the employment.

(2) The exercise and performance of the powers and duties of:

(a) A municipal corporation;

(b) The Greater Winnipeg water district;

(c) Any commission or board having the management and conduct of any work or service owned or operated by a municipal corporation or by or for the Province of Manitoba;

(d) A school board;

shall for the purposes of this act be deemed the trade or business of the corporation, commission, board, or school board, but the obligation to pay compensation under this act shall apply only to such part of the trade or business as, if it were carried on by a company or an individual, would be an industry for the time being included within this act and to workmen employed in or in connection therewith.

PART I.

- Compensation.** Section 3 (as amended by ch. 83, Acts of 1921). (1) Where in any industry within the scope of this part personal injury by accident arising out of and in the course of the employment is caused to a workman, compensation as provided by this part shall be paid by the board out of the accident fund, subject to the following subsections.
- Waiting time.** (2) If the injury does not disable the workman longer than three days from earning full wages at the work at which he was employed, no compensation other than medical aid shall be payable under this part. If the injury disables the workman longer than three days, no compensation other than medical aid shall be payable for the first three days of disability.
- Misconduct.** (3) Where the injury is attributable solely to the serious and willful misconduct of the workman, no compensation shall be payable unless the injury results in death or serious and permanent disability.
- Presumptions.** (4) Where the accident arose out of the employment, unless the contrary is shown, it shall be presumed that it occurred in the course of the employment; and where the accident occurred in the course of the employment, unless the contrary is shown, it shall be presumed that it arose out of the employment.
- Casual employment.** (5) This section shall not apply to a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business.
- Work outside of Province.** (6) No compensation shall be payable under this part where the accident to the workman happened elsewhere than in Manitoba, except in a case where the accident happens to an employee engaged in connection with the operation of a steamboat, ship,

or vessel, or a railway and the workman is a resident of Manitoba, and the nature of the employment is such that, in the course of the work or service which the workman performs, it is required to be performed both within and without Manitoba and the workman elects to claim compensation hereunder.

(7) The board may award compensation under this part in respect of the permanent disability suffered by a workman, but without temporary total disability. Permanent disability.

SEC. 4. (1) Where a dependent is not a resident of Manitoba he shall not be entitled to compensation unless, by the law of the place or country in which he resides the dependents of a workman to whom an accident happens in such place or country if resident in Manitoba would be entitled to compensation; and where such dependents would be entitled to compensation under such law, the compensation to which the nonresident dependent shall be entitled under this part shall not be greater than the compensation payable in the like case under that law. Nonresidents.

(2) Notwithstanding the provisions of subsection (1), the board may award such compensation or sum in lieu of compensation to any such nonresident dependent as may be deemed proper and may pay the same out of the accident fund.

SEC. 5 (as amended by ch. 83, Acts of 1921). (1) Where an accident happens to a workman in the course of his employment under such circumstances as entitle him or his dependents to an action against some person other than his employer, the workman or his dependents, if entitled to compensation under this part, may claim such compensation or may bring such action. Injuries by third parties.

(2) If an action is brought and less is recovered and collected than the amount of the compensation to which the workman or his dependents are entitled under this part, the difference between the amount recovered and collected and the amount of such compensation shall be payable as compensation to such workman or his dependents: *Provided*, That the board shall have the right to require that any money recovered and collected in such action shall, when it is less than the amount of the compensation to which the workman or his dependents are entitled under this part, be paid over to and deposited with the board, to be kept and applied in or toward payment of the monthly or other periodical sums awarded or to be awarded as compensation under this part.

(3) A compromise settlement of any such action or cause of action by the workman or his dependents at an amount less than the compensation provided for herein shall be made only with the written approval of the board.

(4) For the purpose of this section the commencement of an action in the court of king's bench or a county court shall be deemed the filing of a claim for compensation hereunder in the event of a failure by the plaintiff to recover by such action a sum equal to or greater than what would have been awarded had such action not been brought and claim made hereunder.

(5) If any workman or dependent makes an application to the board claiming compensation under this part, the board shall be subrogated to the rights of the workman or dependent as against such other person for the whole or any outstanding part of the claim of the workman or dependent against such other person. Subrogation.

(6) In any case within the provisions of subsection (1), neither the workman nor his dependents nor the employer of such workman shall have any right of action in respect of such accident against an employer in any industry within the scope of this part (unless such accident occurred otherwise than in the conduct of the operations usual in or incidental to the industry carried on by such employer); and in any such case where it appears to the satisfaction of the board that a workman of an employer in any class is injured owing to the negligence of an employer or of the workman of an employer in another class within Limitation.

- the scope of this part, the board may direct that the compensation awarded in such case shall be charged against the last-mentioned class.
- Election for minor.** (7) In case the person required to make an election under this section is under the age of twenty-one years, his official guardian may make the election for him without the necessity of applying to any court or judge for directions in respect thereto.
- Board may file claim.** (8) Where an injured man with right of election hereunder is deemed in need of immediate special care or operation the board even though the injured man has not filed a claim or made election, may direct same to be given or done, and the cost thereof shall be a first charge against any sum recovered by the injured man in any action brought by him.
- Duty of principal.** SEC. 6 (as amended by ch. 83, Acts of 1921). (1) Where a person, whether carrying on an industry included within the scope of this part or not, in this section referred to as the principal, contracts with any other person for the execution by or under the contractor of the whole or any part of any work for the principal, it shall be the duty of the principal to see that such contractor files the statements and declarations required by this part and, if any such principal fails to do so, he shall be liable to the penalties provided by section 60 hereof.
- Liability.** (2) In addition to his liability under subsection (1) hereof, the principal shall be liable to pay to any workman employed in the execution of any such work the compensation which he would have been liable to pay if that workman had been immediately employed by him, where the immediate employer has failed to provide protection under the act for such workman.
- Member of employer's family.** SEC. 7. A member of the family of an employer or the dependents of such member shall not be entitled to compensation under this part unless it is established to the satisfaction of the board that such member was a bona fide employee of such employer at the time of the accident, nor for the purpose of determining the compensation, shall his earnings be taken to be more than the amount of his wages as shown by his employer's pay roll and statement.
- Suits forbidden.** SEC. 8. No action shall lie for the recovery of the compensation but all claims for compensation shall be heard and determined by the board without the intervention of counsel or solicitors on either side except with the express permission of the board.
- Compensation exclusive.** SEC. 9. (1) The right to compensation provided by this part shall be in lieu of all rights and rights of action, statutory or otherwise, to which a workman, or his dependents are or may be entitled against the employer for or by reason of any accident which happens to him arising out of and in the course of his employment, and no action in any court of law against the employer in respect thereof shall thereafter lie.
- Minors.** (2) A workman under the age of twenty-one years and working at an age and in an employment permitted under the laws of the Province shall be deemed sui juris for the purpose of this part, and no other person shall have any cause of action or right to compensation for an injury to such workman except as expressly provided in this part.
- Contracting out.** SEC. 10. It shall not be competent for a workman to agree with his employer to waive or forego any of the benefits to which he or his dependents are or may become entitled under this part and every agreement to that end shall be absolutely void.
- Deduction from wages.** SEC. 11. Except as provided in this act it shall not be lawful for an employer, either directly or indirectly, to deduct from the wages of his workman any part of any sum which the employer is or may become liable to pay into the accident fund or otherwise under this part or to require or to permit any of his workmen to contribute in any manner toward indemnifying the employer against any liability which he has incurred or may incur under this part.
- Penalty.** SEC. 12. Every person who contravenes any of the provisions of the last preceding section shall for every such contravention

incur a penalty not exceeding fifty dollars and shall also be liable to repay to the workman any sum which has been deducted from his wages from which he has been required or permitted to pay in contravention of the last preceding section.

SEC. 13. (1) In every case of injury to a workman by accident in any industry within the scope of this part, it shall be the duty of the workman, or in case of his death the duty of a dependent, as soon as practicable after the happening of the accident, to give notice thereof to the employer. The notice shall be in writing and contain the name and address of the workman, and state in ordinary language the nature and cause of the injury and the time when and place where the accident occurred, and shall be signed by the injured workman or some person on his behalf, or, in case of death, by any one or more of his dependents or by a person on their behalf.

Notice of accident.

(2) In the case of an industrial disease, the employer to whom notice of death, disability, or suspension from employment is to be given shall be the employer who last employed the workman in the employment to the nature of which the disease was due.

Industrial disease.

(3) The notice may be served upon the employer, or upon any one employer if there are more employers than one, or upon any officer or agent of the corporation if the employer be a corporation, or upon any agent of the employer in charge of the business in the place where the injury occurred, by delivering the same to the person upon 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 him at his last-known residence or place of business.

Service.

(4) Failure to give the notice required by virtue of this section, unless excused by the board, either on the ground:

Failure to give notice.

(a) That notice for some sufficient reason could not have been given; or

(b) That the employer or his superintendent or agent in charge of the work where the accident happened had knowledge of the injury; or

(c) That the board is of opinion that the claim is a just one and ought to be allowed,

shall be a bar to any claim for compensation under this part.

Reports of accidents.

SEC. 14. (1) In case of accident to a workman in his employment, it shall be the duty of every employer, within three days after its occurrence, to report the accident and the injury resulting therefrom to the board, and also to any local representative of the board at the place where the accident occurred. The report shall be in writing and state:

(a) The name and address of the workman and the nature of the industry in which he was employed;

(b) The time when and place where the accident occurred;

(c) The cause and nature of the accident and injury;

(d) The name and address of the physician by whom the workman was or is being attended for the injury; and

(e) Any other particulars required by the board; and may be made by mailing copies thereof addressed to the board and to the local representative at their usual addresses, respectively, postage prepaid.

(2) It shall be the duty of the employer to make such further and other reports respecting the accident and workman as may be required by the board.

(3) Every employer who fails to make any report required by virtue of this section, unless excused by the board on the ground that the report for some sufficient reason could not have been made shall incur a penalty not exceeding \$500.

SEC. 15. (1) Where a workman or dependent is entitled to compensation under this part, he shall file with the board an application for the compensation, together with the certificate of the physician (if any) who attended the workman in the

Application for compensation.

form prescribed by the board for that purpose, and such further or other proofs of his claim as may be required by the regulations or by the board.

(2) Unless application for the compensation is filed:

(a) Within one year after the day upon which the injury occurred; or

(b) In case the applicant is a dependent, then within one year after the death, no compensation in respect of any injury shall be payable under this part.

Duty of physician.

SEC. 16. It shall be the duty of every physician attending or consulted upon any case of injury to a workman by accident in any industry within the scope of this part:

(a) To furnish from time to time such reports in respect of the injury in such form as may be required by the regulations or by the board; and

(b) To give all reasonable and necessary information, advice, and assistance to the injured workman and his dependents in making application for compensation, and in furnishing in connection therewith such certificates and proofs as may be required, without charge to the workman.

Certificates.

(c) For the certificates required by the board in respect to an injured workman, who is a claimant for compensation, the physician furnishing same shall be paid by the board, out of the accident fund, a fee of two dollars.

Medical examinations.

SEC. 17. Every workman who applies for or is in receipt of compensation under this part, if required by the board, shall submit himself to medical examination in accordance with the regulations at a place reasonably convenient for the workman to be fixed by the board. If the workman fails to submit himself to the examination, or obstructs the same, his right to compensation shall be suspended until the examination has taken place, and no compensation shall be payable during the period of such suspension unless the board otherwise orders.

Practices delaying recovery.

SEC. 18. If an injured workman persists in unsanitary or injurious practices which tend to imperil or retard his recovery, or refuses to submit to such medical or surgical treatment as in the opinion of the board is reasonably essential to promote his recovery, the board may, in its discretion, reduce the compensation of such workman to such sum, if any, as would in its opinion be payable were such practices not persisted in or if such treatment had been submitted to.

Exemption from attachment, etc.

SEC. 19. No sum payable as compensation or by way of commutation of any periodical payment in respect of it shall be capable of being assigned, charged, or attached, nor shall it pass by operation of law except to a personal representative, nor shall any claim be set off against it.

Review of payments.

SEC. 20. Any periodical payment to a workman may be reviewed from time to time by the board, and on such review the board may put an end to or diminish or may increase such payment to a sum not beyond the maximum hereinafter prescribed.

Basis of compensation to minors.

SEC. 21. Where the workman was, at the date of the accident, under twenty-one years of age, the amount of the weekly or other periodical payment may be fixed by the board by its first order, or at any subsequent review, on the basis of the earnings of an average workman aged twenty-one years, employed at a similar class of work, or on any lower basis, provided the same be not lower than: (a) in the case of a first order, his average earnings at the date of the accident, and (b) in the case of a subsequent review, the average earnings which, if he had not been injured, he would probably have been earning at the date of the review.

Payments to be periodical.

SEC. 22. (1) Payments of compensation shall be made periodically at such times and in such manner and form as the board may deem advisable; and, in the case of minors or persons of unsound mind, payments may be made to such persons as, in the opinion of the board, are best qualified in all the circumstances

to administer such payments, whether or not the person to whom the payment is made is the legal guardian of such minor or person of unsound mind.

(2) The board may, with the consent of the workmen or dependent to whom it is payable, but not otherwise:

(a) Commute the whole or any part of the periodical payments due or payable to the injured workman or any dependent to one or more lump-sum payments to be applied as directed by the board; Lump-sum payments.

(b) Or divide into periodical payments any compensation payable in a lump sum.

SEC. 23. (1) In addition to the other compensation provided by this part, the board shall have authority to provide for the injured workman such medical, surgical, and hospital treatment, transportation, nursing, medicines, crutches and apparatus, including artificial members, as it may deem reasonably necessary at the time of the injury, and thereafter during the disability to cure and relieve from the effects of the injury, and the board shall have full power to adopt rules and regulations with respect to furnishing medical aid to injured workmen entitled thereto and for the payment thereof. Medical, etc., treatment.

(2) Where in a case of emergency, or for other justifiable cause, a physician is called in to treat the injured workman, if the board finds there was such justifiable cause and that the charge for the services of such physician is reasonable, it shall be paid by the board. Emergency.

(3) Where in any case, in the opinion of the board, the provision of a special surgical operation, or other special medical treatment for a workman, and the furnishing of the same by the board, will be a means of avoiding heavy payment for a permanent disability, the amount of the cost thereof shall be payable as compensation, in addition to the amounts hereinafter mentioned. Special operation.

(4) If an autopsy is deemed by the board necessary to enable it to determine the cause of any death, the board may direct that such autopsy be made within a time to be fixed by the board, and, if the dependent or dependents refuse to permit the same, the board may reject any claim for compensation under this part. The expenses of such autopsy shall be paid out of the accident fund. Autopsy.

(5) The board may in its discretion authorize employers to furnish or provide medical aid at the expense of the board and upon terms fixed by it. Medical aid by employers.

(6) Any plan for providing medical aid in force between an employer and his workmen or otherwise, available to the workmen at the time of the coming into force of this part, or which is hereafter put into force, or made available to the workmen, and which in the opinion of the board, after investigation of the facts, is found on the whole to be not less efficient in the interests both of the employer and of the general body of his workmen than the provisions for medical aid contained in this section, may by order of the board, subject to such conditions as the board may require, be declared to be a plan approved by the board. Group medical aid.

(7) Medical aid furnished or provided under any of the preceding subsections of this section shall at all times be subject to the supervision and control of the board; and the board shall have full power and authority to contract with doctors, nurses, hospitals and other institutions for any medical aid required, and to agree on a scale of fees or remuneration for such medical aid. Supervision.

(8) Without in any way limiting the power of the board under this section to supervise and provide medical aid in every case where the board is of the opinion that the exercise of such power is expedient, the board may permit medical aid to be administered, so far as the selection of a physician is concerned, Choice of physicians.

by the physician who may be selected or employed by the injured workman or his employer, to the end that so far as possible any competent physician may be employed and be available to injured workmen.

**First-aid appli- (9) Employers in any industries in which it is deemed proper
ances.** may be required by the board to maintain such first-aid appli-
ances and service as the board may direct, and the board may
make such order respecting the expense thereof as may be
deemed just.

**Compensation (SEC. 24 (as amended by ch. 83, Acts of 1921). (1) Where
for death.** death results from any injury the amount of compensation
shall be:

(a) The necessary expenses of the burial of the workman not exceeding one hundred and fifty dollars.

(b) Where the widow or an invalid widower is the sole dependent, a monthly payment of thirty dollars for life;

(c) Where the dependents are a widow or an invalid widower and one or more children, a monthly payment of thirty dollars with an additional payment of seven dollars and fifty cents for each child under the age of sixteen years.

(d) Where the dependents are orphan children, a monthly payment of fifteen dollars for each child under the age of sixteen years. Payments in respect of a child shall cease when the child attains the age of sixteen years or dies: *Provided*, That in case the child at the time of attaining the age of sixteen years is an invalid the payments shall continue until the child ceases to be an invalid. Payments in respect of an invalid child over the age of sixteen years shall cease when the child ceases to be an invalid or dies.

(e) Where in the opinion of the board the furnishing of further or better education to a child approaching the age of sixteen years appears advisable the board in its discretion may extend the period to which compensation shall be paid in respect to such child for such additional period as is spent by such child in the furthering or bettering of his education, but in no case beyond the age of eighteen years.

(f) Where there are dependents other than those mentioned in the preceding paragraphs, a sum reasonable and proportionate to the pecuniary loss to such dependents occasioned by the death to be determined by the board and not exceeding to any one such dependent twenty dollars per month, and not exceeding in the whole forty dollars a month.

(2) In the case provided for by paragraph (f) of subsection (1), the payments shall continue only so long as in the opinion of the board it might reasonably have been expected, had the workman lived, that he would have continued to contribute to the support of such dependents.

(3) Where the board is of the opinion that for any reason it is necessary or desirable that a payment in respect of a dependent child shall not be made directly to his parent, the board may direct that the payment may be made to such person or be applied in such manner as the board may direct for the advantage of the child.

Alien enemies. SEC. 25. No compensation shall be paid under this part to or for the benefit of any dependent resident in any of the countries that were enemy countries during the recent Great War at the date of the death in respect of which compensation would otherwise be payable under this part.

Cessation of payments. SEC. 26. Where a payment to any one of a number of dependents ceases, the board may in its discretion readjust the payments to the remaining dependents so that the remaining dependents shall thereafter be entitled to receive the same compensation as though they had been the only dependents at the time of the death of the workman.

Remarriage of widow. SEC. 27. (1) If a dependent widow marries, the monthly payment to her shall cease, but she shall be entitled in lieu of that to a lump sum equal to the monthly payments for two years.

(2) Subsection 1 shall not apply to payments to a widow in respect of her dependent child or children.

SEC. 28. The board may from time to time require such proof of the necessities, condition, and existence of any dependents in receipt of compensation payments as may be deemed necessary by the board and pending the receipt of such proof may withhold further payments. Proof of condition of dependents.

SEC. 29 (as amended by ch. 83, Acts of 1921). Where permanent total disability results from the injury, the amount of the compensation shall be a periodical payment during the life of the workman equal to sixty-six and two-thirds per centum of his average earnings: *Provided*, That such compensation shall not be less than fifteen dollars per week. Permanent total disability.

SEC. 30. (1) Where permanent partial disability results from the injury, the compensation shall be a periodical payment of sixty-six and two-thirds per centum of the difference between the average earnings of the workman before the accident and the average amount which he is earning or is able to earn in some suitable employment or business after the accident, and the compensation shall be payable during the lifetime of the workman. Permanent partial disability.

(2) Notwithstanding the provisions of subsection (1), where, in the circumstances, the amount which the workman was able to earn before the accident has not been substantially diminished, the board may, in case the workman is seriously and permanently disfigured about the face or head, or otherwise permanently injured, recognize such injury as an impairment of earning capacity, and allow a lump sum in compensation therefor.

SEC. 31. Where temporary total disability results from the injury, the compensation shall be the same as that prescribed by section 29, but shall be payable only so long as the disability lasts. And, in case the period of disability appears in the opinion of the board to be unnecessarily prolonged, it may reduce temporarily or permanently the percentage of wages allowed as compensation by said section 29 with power to restore the full percentage at any time. Temporary total disability.

SEC. 32. Where temporary partial disability results from the injury, the compensation shall be the same as that prescribed by section 30, but shall be payable only so long as the disability lasts. Temporary partial disability.

SEC. 33. The average earnings and earning capacity of a workman shall be determined with reference to his average earnings and earning capacity at the time of the accident, and may be calculated upon the daily, weekly, or monthly wages and other regular remuneration which the workman was receiving at the time of the accident, or upon the average yearly earnings of the workman for one or more years prior to the accident, or upon the probable yearly earning capacity of the workman at the time of the accident, as may appear to the board best to represent the actual loss of earnings suffered by the workman by reason of the injury, but not so that his average earnings shall be deemed in any case to exceed the rate of two thousand dollars per year. Calculation of average earnings.

SEC. 34. In fixing the amount of a periodical payment of compensation regard shall be had to any payment, allowance, or benefit which the workman may receive from his employer during the period of his disability, including any pension, gratuity, or other allowance provided wholly at the expense of the employer, and any sum so paid by the employer may be paid to the employer out of and deducted from the compensation. Deductions.

SEC. 35. There is hereby constituted a commission for the administration of this part, to be called "The workmen's compensation board," which shall consist of a commissioner and two directors to be appointed by the lieutenant governor in council, and shall be a body corporate and politic. Workmen's compensation board.

SEC. 36. By resolution of the board one of the directors may act as commissioner during the temporary absence of the commissioner from any cause. Absence of commissioner.

- Removal.** SEC. 37. The commissioner shall, subject to section 38, hold office during good behavior, but may be removed at any time for cause.
- Retirement.** SEC. 38. Unless otherwise directed by the lieutenant governor in council a commissioner shall cease to hold office when he attains the age of seventy-five years.
- Whole-time service.** SEC. 39. The commissioner shall devote the whole of his time to the discharge of his duties under this part.
- Salaries.** SEC. 40 (as amended by ch. 83, Acts of 1921). (1) The salary of the commissioner shall be six thousand dollars per annum, and of each of the directors one thousand dollars per annum, and such salaries shall be payable out of the accident fund.
- (2) The lieutenant governor in council may authorize the payment of [to] any director out of the accident fund of an additional allowance of \$15 for each meeting of the board in excess of fifty which any director attends in any year.
- Powers as to witnesses.** SEC. 41. (1) The board shall have all the powers which may be conferred upon commissioners under "An act respecting commissioners to make enquiries concerning public matters," being chapter 34 of the Revised Statutes, 1913, for compelling the attendance of witnesses and of examining them under oath and of compelling them to answer questions, and compelling the production of books, papers, documents, and other things.
- Depositions.** (2) The board may cause depositions of witnesses residing within or without the Province to be taken before any person appointed by the board in a similar manner to that prescribed by the rules of the court of king's bench for the taking of like depositions in that court before a commissioner.
- Qualifications.** SEC. 42. (1) A member of the board shall not directly or indirectly have, purchase, take, or become interested in any industry to which this part applies, or any bond, debenture, or other security of any person or corporation owning or carrying it on.
- (2) If any such industry or interest therein, or any such share, bond, debenture, security, or thing comes to or becomes vested in a member of the board by will or by operation of law and he does not within three months thereafter sell and absolutely dispose of it, he shall cease to hold office.
- Offices.** SEC. 43. The offices of the board shall be situated in the city of Winnipeg, and its sittings shall be held there, except where it is expedient to hold sittings elsewhere, and in that case sittings may be held in any part of Manitoba.
- Meetings.** SEC. 44. (1) The board shall sit at least once in each week, and at such other times as may be necessary, and shall conduct its proceedings in such manner as it may deem most convenient for the proper discharge or speedy dispatch of business.
- Quorum.** (2) The presence of two members of the board shall be necessary to constitute a quorum of the board.
- Officers, clerks, etc.** SEC. 45. (1) The board shall appoint such officers and other employees as the board may deem necessary for carrying out the provisions of this part and may prescribe their duties and, subject to the approval of the lieutenant governor in council, may fix their salaries, which shall be paid out of the accident fund.
- (2) Every person so appointed shall hold office during the pleasure of the board.
- Jurisdiction.** SEC. 46. (1) The board shall have exclusive jurisdiction to examine into, hear, and determine all matters and questions arising under this part and as to any matter or thing in respect of which any power, authority, or discretion is conferred upon the board, and the action or decision of the board thereon shall be final and conclusive and shall not be open to question or review in any court, and no proceedings by or before the board shall be restrained by injunction, prohibition, or other process or proceeding in any court or be removable by certiorari or otherwise into any court.
- (2) Without hereby limiting the generality of the provisions of subsection (1), it is declared that the exclusive jurisdiction of the board shall extend to determining—

(a) Whether any injury or death in respect of which compensation is claimed was caused by an accident within the meaning of this part;

(b) The question whether any injury has arisen out of or in the course of an employment within the scope of this part;

(c) The existence and degree of disability by reason of any injury;

(d) The permanence of disability by reason of any injury;

(e) The degree of diminution of earning capacity by reason of any injury;

(f) The amount of average earnings;

(g) The existence, for the purpose of this part, of the relationship of any member of the family of a workman as defined by this act;

(h) The existence of dependency;

(i) Whether or not any industry or any part, branch, or department of any industry is within the scope of this part, and the class to which any industry or any part, branch, or department of any industry within the scope of this part should be assigned;

(j) Whether or not any workman in any industry is within the scope of this part and entitled to compensation thereunder.

(3) Nothing in subsection (1) shall prevent the board from reconsidering any matter which has been dealt with by it or from rescinding, altering or amending any decision or order previously made, all of which the board shall have authority to do. Review by board.

(4) The decisions of the board shall always be given upon the real merits and justice of the case, and it shall not be bound to follow strict legal precedent. Procedure.

SEC. 47. No action for damages shall be brought in any court of law against the board, or any of its members, in respect of anything done by it or them beyond their jurisdiction, as conferred by this act, if the same was done in the bona fide belief that it was within their jurisdiction. Actions against board.

SEC. 48. The board may award such sum as it may deem reasonable to the successful party to a contested claim for compensation or to any other contested matter as compensation for the expenses he has been put to by reason of or incidental to the contest, and an order of the board for the payment of any sum so awarded, when filed in the manner provided by section 64, shall become a judgment of the court in which it is filed and may be enforced accordingly. Costs in contested claims.

SEC. 49. (1) The board may act upon the report of any of its officers and any inquiry or examination which it shall be deemed necessary to make may be made by any one of the officers of the board, or by a commissioner, a medical referee or some other person appointed to make the inquiry or examination, and the board may act upon his report as to the result of the inquiry or examination. Reports of officers of board.

(2) The person appointed to make the inquiry or examination shall for the purposes thereof have all the powers conferred upon the board by section 41. Powers of officers.

SEC. 50. (1) The board may make such regulations as may be deemed expedient or requisite for the due administration and carrying out of the provisions of this part and to meet cases not specially provided for by this part, and may likewise prescribe the form and use of such pay rolls, records, reports, certificates, declarations, and documents as may be requisite, and a certified copy of every regulation so made shall be transmitted forthwith to the attorney general, but any such regulation may within one month after it has been received by the attorney general, be disallowed by the lieutenant governor in council. Regulations of the board.

(2) Every regulation which is approved by the lieutenant governor in council shall, immediately after approval or on the day named by him for that purpose, become effective, and after the period for disallowance has expired every regulation which has not been disallowed shall become effective and every regula-

- tion which has become effective shall be forthwith published in the Manitoba Gazette.
- Penalty.** (3) Every person who contravenes any such regulation after it has become effective shall for every contravention incur a penalty not exceeding \$50.
- Adjudications.** (4) Where an action in respect of an injury is brought against an employer by a workman or a dependent, the board shall have jurisdiction upon the application of any party to the action to adjudicate and determine whether the action is one the right to bring which is taken away by this act; and such adjudication and determination shall be final and conclusive, and if the board determines that the action is one the right to bring which is taken away by this part, the action shall be forever stayed.
- Audit of accounts.** SEC. 51. The accounts of the board shall be audited by the comptroller general or by an auditor appointed by the lieutenant governor in council for that purpose, and the salary or remuneration of the last mentioned auditor shall be paid by the board.
- Annual reports.** SEC. 52. The board shall on or before the 31st day of January in each year make a report to the lieutenant governor in council of its transactions during the last preceding calendar year and such report shall contain a statement of the accounts required to be kept under section 66 of this act and such particulars as the lieutenant governor in council may prescribe.
- Submission to assembly.** SEC. 53. Every such report shall be forthwith laid before the legislative assembly if such assembly is then in session, and, if it is not then in session, within fifteen days after the opening of the next session.
- Contribution by the Province.** SEC. 54. To assist in defraying the expenses incurred in the administration of this part there shall be paid to the board out of the consolidated revenue fund such annual sum as the lieutenant governor in council may direct.
- Accident fund.** SEC. 55. For the purpose of assessment in order to create and maintain a fund to be called the "Accident Fund" for the payment of the compensation, outlays and expenses under this part, all the following industries shall be within the scope of this part and shall, subject to sections 59 and 70, be divided into the following classes:
 Class A—The Canadian Pacific Railway company and its subsidiary companies;
 Class B—The Grand Trunk Pacific Railway company and its subsidiary companies;
 Class C—The Canadian National Railway company;
 Class D—The Crown in the right of the Province of Manitoba;
 Class E—The City of Winnipeg;
 Class F—All other municipalities in Manitoba;
 Class G—All industries set out in schedule 1 hereto and not included in the above classes.
- Industries, etc., not covered.** SEC. 56 (as amended by ch. 83, Acts of 1921). (1) Any industry or workman not within the scope of this part may on the application of the employer be admitted by the board as being within the scope of this part subject to such terms and conditions and for such period as the board may deem adequate and proper.
 (2) Any employer in an industry within the scope of this part may be admitted by the board as being entitled for himself and his dependents to the same compensation as if the employer were a workman within the scope of this part.
- The Crown.** SEC. 57. This part shall apply to any employment by or under the Crown in the right of the Province of Manitoba to which this part would apply if the employer were a private person.
- Power of board.** SEC. 58. (1) The board may by regulations:
 (a) create new classes in addition to those mentioned in section 55;
 (b) consolidate or rearrange from time to time any of the existing classes; and
 (c) withdraw from a class any industry included therein and transfer it wholly or in part to any other class, or form it into a separate class.

(2) In case of any rearrangement of the classes, or the withdrawal of an industry from any class, the board may make such adjustment and disposition of the funds, reserves, and accounts of the classes affected as may be deemed just and expedient.

SEC. 59. The board shall assign every industry within the scope of this part to its proper class, and, where any industry includes several departments assignable to different classes, the board may either assign such industry to the class of its principal or chief department, or may, for the purpose of this part, divide such industry into two or more departments, assigning each of such departments to its proper class.

Classification.

SEC. 60. (1) Every employer shall, on or before the first day of January, 1921, or whenever thereafter he becomes an employer within the meaning of this part, and at such other times as may be required by regulations or by the board, cause to be furnished to the board an estimate of the probable amount of the pay roll of each of his industries within the scope of this part for the year next following, together with such further and other information as may be required by the board for the purpose of assigning each industry to the proper class and of making the assessments hereunder; and every such employer shall, at the close of each calendar year, and at such other times as may be required by the board, furnish certified copies or reports of his pay rolls, verified by statutory declaration.

Estimate of pay roll.

(2) In computing the amount of the pay roll of any industry for the purpose of assessment, regard shall be had only to such portion of the pay roll as represents workmen and employment within the scope of this part; and where the wages of any workman exceed the rate of two thousand dollars per year, a deduction shall be made in respect of the excess.

(3) If an employer does not comply with the provisions of subsection (1), or if any statement made in pursuance of its provisions is not a true and accurate statement of any of the matters required to be set forth in it, the employer for every such noncompliance and for every such inaccurate statement shall incur a penalty not exceeding \$500.

SEC. 61. (1) For the purpose of creating and maintaining an adequate accident fund, the board shall every year assess and levy upon and collect from the employers in each class by an assessment or by assessments made from time to time rated upon the pay roll, or in such other manner as the board may deem proper, sufficient funds, according to an estimate to be made by the board:

Annual assessment.

(a) to meet all amounts payable from the accident fund under this part during the year;

(b) to provide in each year capitalized reserves sufficient to meet the periodical payments of compensation accruing in future years in respect of all accidents which occur during the year; except that in cases where future payments are guaranteed by the governments of the Dominion of Canada or the Province of Manitoba, the board may dispense with the setting up of reserves; and

(c) to provide a surplus or equalization fund to be used to meet the losses arising from any disaster or other circumstance which, in the opinion of the board, would unfairly burden the employers in any class.

(2) Assessments may be made in such manner and form and by such procedure as the board may deem adequate and expedient, and may be general as applicable to any class or subclass, or special as applicable to any industry or part or department of an industry.

(3) Assessments may, wherever it is deemed expedient, be collected in half-yearly, quarterly, or monthly installments, or otherwise; and, where it appears that the funds in any class are sufficient for the time being, any installment may be abated or its collection deferred.

(4) In case the estimated assessments in any class prove insufficient, the board may make such further assessments and levies as may be necessary, or the board may temporarily advance the amount of any deficiency out of any fund provided for that purpose and add such amount to any subsequent assessments.

(5) The board shall give notice to each employer of the amount of each assessment due from time to time in respect of his industry and the time when such is payable. The notice may be sent by post to the employer, and shall be deemed to be given to him on the day on which the notice is posted.

Allocation of rates. SEC. 62. The board shall establish such subclassifications, differentials, and proportions in the rates as between the different kinds of employment in the same class as may be deemed just; and, where in the opinion of the board any particular industry is shown to be so circumstanced or conducted that the hazard differs from the average of the class or subclass to which the industry is assigned, the board may confer or impose upon such industry a special rate, differential, or assessment to correspond with the relative hazard of that industry; and for such purpose may adopt a system of rating in such a manner as to take account of the peculiar hazard of the individual plant or undertaking of each employer.

Security in temporary industry. SEC. 63. (1) Where an employer engages in any of the industries within the scope of this part, and has not been assessed in respect of it, the board, if it is of opinion that the industry is to be carried on only temporarily, or that it is for some other reason expedient, may require the employer to pay or to give security for the payment to the board of a sum sufficient to pay the assessment for which the employer would be liable if the industry had been in existence when the last preceding assessment was made.

(2) Every employer who makes default in complying with any requirement of the board under subsection (1) shall incur a penalty not exceeding \$500.

Collection of assessments. SEC. 64 (as amended by ch. 83, Acts of 1921). (1) If any assessment or part thereof or deficiency is not duly paid in accordance with the terms of the assessment and levy, the board shall have a right of action against the defaulting employer in respect of the amount unpaid, and any penalties imposed under the provisions of this act, together with costs of such action.

(2) Where default is made in the payment of any assessment or any part of it, the board may issue a certificate stating that the assessment was made, the amount remaining unpaid on account of it, and the person by whom it is payable, and such certificate, or a copy of it, certified by the secretary under the seal of the board to be a true copy, may be filed with the clerk of the county court of the judicial division in which such person resides or carries on business, and when so filed shall become an order of that court, and may be enforced as a judgment of the court against such person for the amount mentioned in the certificate.

Penalty for nonpayment. SEC. 65. (1) If any assessment levied under any provision of this part is not paid at the time when it becomes payable, the defaulting employer shall be liable to pay and shall pay as a penalty for his default such a percentage upon the amount unpaid as may be prescribed by regulations or may be determined by the board.

(2) Any employer who refuses or neglects to make or transmit any pay roll, return, or other statement required to be furnished by him under the provisions of subsection (1) of section 60, or who refuses or neglects to pay any assessment, or the provisional amount of any assessment, or any installment or part thereof, shall, in addition to any penalty or other liability to which he may be subject, pay to the board the full amount or capitalized value, as determined by the board, of the compensation payable in respect of any accident to a workman in his employ which

happens during the period of such default, and the payment of such amount may be enforced in the same manner as the payment of an assessment may be enforced.

(3) The board, if satisfied that such default was excusable, may in any case relieve such employer in whole or in part from liability under this section.

SEC. 66. Separate accounts shall be kept of the amounts collected and expended in respect of every class and of every fund set aside by way of reserve or as a special fund for any purpose, but for the purpose of paying compensation the accident fund shall, nevertheless, be deemed one and indivisible.

Separate accounts.

SEC. 67. (1) On or before the thirty-first day of March in each year the amount of the assessment for the preceding calendar year shall be adjusted upon the actual requirements of the class and upon the correctly ascertained pay roll of each industry, and the employer shall forthwith make up and pay to the board any deficiency, or the board shall refund to the employer any surplus, or credit the same upon the succeeding assessment, as the case may require.

Annual adjustments.

(2) Where in any industry a change of ownership or employment has occurred, the board may levy any part of such deficiency on either or any of the successive owners or employers, or pay or credit to any one or more of such owners such surplus as the case may require, but as between or amongst such successive owners the assessments in respect of such employment shall, in the absence of an agreement between the respective owners or employers determining the same, be apportionable, as nearly as may be, in accordance with the proportions of the pay rolls of the respective periods of ownership or employment.

Change in ownership.

SEC. 68. Where any work within the scope of this part is performed under contract for any municipal corporation or for any board or commission having the management of any work or service operated for the municipal corporation, any assessment in respect of such work may be paid by such corporation, board, or commission, as the case may be, and the amount of such assessment deducted from any moneys due the contractor in respect of such work.

Work for municipal corporation.

SEC. 69. (1) Where any work within the scope of this part is undertaken for any person by a contractor, both the contractor and the person for whom such work is undertaken shall be liable for the amount of any assessment made under this act in respect thereof, and such assessment may be levied upon and collected from either of them, or partly from one and partly from the other: *Provided*, That in the absence of any term in the contract to the contrary the contractor shall, as between himself and the person for whom the work is performed, be primarily liable for the amount of such assessment.

Liability of contractor and principal.

(2) Where any work within the scope of this part is performed under subcontract, both the contractor and the subcontractor shall be liable for the amount of the assessments in respect of such work; any such assessments may be levied upon and collected from either, or partly from one and partly from the other.

Subcontractors.

SEC. 70. The board shall have jurisdiction and authority to exclude or include by regulation any industry from or within the application of this part.

Exclusion and inclusion of industries.

SEC. 71. (1) Subject to subsections (2) and (3) of this section, the provincial treasurer shall be custodian of all moneys and securities belonging to the accident fund and the Province shall be liable for the safe-keeping thereof. All moneys belonging to the accident fund collected or received by the board shall be delivered to the provincial treasurer or may be deposited to his credit in such banks throughout the Province as he may designate, and all moneys so delivered or deposited shall be credited to the accident fund, and shall be accounted for as part of the consolidated revenue fund of the Province. No moneys collected

Custody of funds.

or received on account of the accident fund shall be expended or paid out without first passing into the provincial treasury and being drawn therefrom as provided in this part. In like manner all securities belonging to the accident fund shall be delivered to the provincial treasurer and held by him until otherwise disposed of for the purpose of this part.

(2) The board shall submit each month to the comptroller general an estimate of the amount necessary to meet the current disbursements from the accident fund during the succeeding calendar month, and, when the estimate is approved by the comptroller general the provincial treasurer shall pay the amount thereof to the board. At the end of each calendar month the board shall account to the comptroller general for all moneys so received.

Investment of surplus.

(3) The board shall cause all moneys in the accident fund in excess of current requirements to be invested and reinvested in any securities which are under the "Trustee act" a proper investment for trust funds. The board shall from time to time submit to the comptroller general an estimate of the amount required by it for investment, which estimate shall be accompanied by a full description of the kind and character of the investments proposed to be made, and when the estimate and investments are approved by the comptroller general and by the provincial treasurer he shall pay out the amount thereof for the purpose of such investments. At the end of each calendar month the board shall account to the comptroller general for all moneys so invested, furnishing proper vouchers therefor.

Interest on investments, etc.

(4) All investments shall be made in the names of the board and the provincial treasurer jointly, and all interest on investments shall be payable to the board and form part of the accident fund.

(5) Interest on all moneys belonging to the accident fund in the custody of the provincial treasurer in excess of current requirements and not invested shall, subject to the certificate of the comptroller general, be paid by the provincial treasurer to the board at a rate not less than three and one-half per centum per annum, payable quarterly, and shall form part of the accident fund.

Advancements.

Sec. 72. Where at any time there is not sufficient money in the hands of the board available for payment of the compensation which may become due, the lieutenant governor in council shall direct that the same be advanced to the board out of the consolidated revenue fund, and in that case the amount advanced shall be repaid by the board to the Provincial treasurer out of the accident fund when sufficient funds are available.

New industries.

Sec. 73. (1) Where an industry coming within this part is established or commenced after the date prescribed by the board pursuant to section 60 of this act, it shall be the duty of the employer forthwith to notify the board of the fact and to furnish to the board an estimate of the probable amount of his pay roll for the remainder of the year, verified by statutory declaration.

Examination of books.

(2) For default in complying with the provisions of subsection (1) the employer shall incur a penalty not to exceed \$500.

Sec. 74. (1) The board and any officer or person authorized by it for that purpose, shall have the right to examine the books and accounts of the employer and to make such other inquiry as the board may deem necessary for the purpose of ascertaining whether any statement furnished to the board is an accurate statement of the matters which are required to be stated therein or of ascertaining the amount of the pay roll of any employer, or of ascertaining whether any industry or person is under the operation of this part, and for the purpose of any such examination and inquiry the board and the person so appointed shall have, in addition to all the powers conferred by this act, all the powers which may be conferred on a commissioner under "An act respecting commissioners to make inquiries concerning public

matters," Revised Statutes of Manitoba, 1913, chapter 34, and amendments thereto.

(2) For the purpose of any such examination or inquiry, the board or person authorized to make the examination or inquiry may give to the employer or his agent notice in writing requiring him to bring or produce before such board or person, at a place and time to be mentioned in the notice, which time shall be at least ten days after the giving of the notice, all documents, writings, books, deeds, and papers in the possession, custody, or power of the employer touching or in anywise relating to or concerning the subject matter of the examination or inquiry referred to in the notice, and every employer and every agent of the employer named in and served with any such notice shall produce at the time and place required all such documents, writings, books, deeds, and papers according to the tenor of the notice.

(3) Any employer and every other person who obstructs or hinders the making of the examination and inquiry mentioned in subsection (1), or refuses to permit it to be made or fails to comply with the terms of any notice given under subsection (2) hereof, shall incur a penalty not exceeding \$500.

(4) The board and every officer or person authorized by it to make any examination or inquiry under this section shall have power and authority to require and take affidavits, affirmations or declarations as to any matter of such examination or inquiry and to take statutory declarations required under this part and in all such cases to administer oaths, affirmations, and declarations and certify to the same having been made.

Oaths, etc.

SEC. 75. (1) The board and any officer or person authorized by it for that purpose shall have the right at all reasonable hours to enter into the establishment of any employer who is liable to contribute to the accident fund under this part, and the premises connected with it, and every part of them, for any purpose which the board may deem necessary.

Right to entry to establishments.

(2) Any employer and every other person who obstructs or hinders the making of any inspection under the authority of subsection (1), or refuses to permit it to be made shall incur a penalty not exceeding \$500.

SEC. 76. (1) No officer of the board and no person authorized to make an inquiry under this part shall divulge or allow to be divulged, except in the performance of his duties or under the authority of the board, any information obtained by him or which has come to his knowledge in making or in connection with an inspection or inquiry under this part.

Information confidential.

(2) Every person who contravenes any of the provisions of subsection (1) shall incur a penalty not exceeding \$500.

SEC. 77. The penalties imposed by or under the authority of this part shall be recoverable under "The Manitoba summary convictions act," and when collected shall be paid over to the provincial treasurer and shall become part of the consolidated revenue fund.

Recovery of penalties.

SEC. 78. In the case of a work or service performed by an employer in any of the industries included under this part for which the employer will be entitled to a lien under "The mechanics and wage earners' lien act," it shall be the duty of the owner, as defined by that act, to use all due diligence to see that statements are filed by such employers as required in this part, and if such owner fails to do so he shall incur a penalty not exceeding \$50.

Mechanics' liens.

SEC. 79. Subject to any statute of the Dominion of Canada, there shall be included among the debts which, under "The assignments acts," "The Manitoba trustee act" and "The companies' winding up act," are, in the distribution of the property in the case of an assignment or death or of the assets of a company being wound up, under the said acts, respectively, to be paid in priority to all other debts, the amount of any assessment the liability for which accrued before the date of the assignment or death or the commencement of the winding up respectively.

Priority of assessments.

SEC. 80. (1) Where a workman suffers from an industrial disease and is thereby disabled from earning full wages at the work

Industrial diseases.

at which he was employed or his death is caused by an industrial disease and the disease is due to the nature of any employment in which he was engaged at any time within twelve months previous to the date of his disability, whether under one or more employments, the workman or his dependents shall be entitled to compensation as if the disease were a personal injury by accident and the disability were the happening of the accident, subject to the modifications herein mentioned, unless at the time of entry into the employment he had willfully and falsely represented himself in writing as not having previously suffered from the disease.

Report by physician.

(2) The board may by regulation require every physician treating a patient who is suffering from any industrial disease to report to the board such information relating thereto as it may require.

Disease arising from employment.

(3) If the workman, at or immediately before the date of the disability, was employed in any process mentioned in the second column of schedule 2 hereto, and the disease contracted is the disease in the first column of the said schedule set opposite to the description of the process, the disease shall be deemed to have been due to that employment unless the contrary is proved.

Disease generally.

(4) Nothing in this section shall affect the right of the workman to compensation in respect of any disease to which this section does not apply, if the disease is the result of an injury in respect of which he is entitled to compensation under this part.

Three years' residence required.

(5) Except where the board is satisfied that the disease is not due to any other cause than his employment in Manitoba, no compensation shall be payable under this section unless the workman has been a resident of Manitoba for the three years next preceding his first disability.

PART II

[This is an employers' liability law for industries, etc., not covered by the compensation statute, Part I.]

SCHEDULE 1.—(SECTION 55.)

Occupations covered:

Classes.

1. Lumbering; logging, river-driving, rafting, booming, sawmills, shingle mills, lath mills; manufacture of veneer, excelsior, staves, spokes, or headings; lumber yards (including the delivery of lumber) carried on in connection with sawmills; the creosoting of timbers.

2. Pulp and paper mills.

3. Manufacture of furniture, interior woodwork, organs, piano actions, pianos, canoes, small boats, coffins, wicker and rattan ware, mattresses, bed springs, artificial limbs, cork articles, cork carpets or linoleum, upholstering, picture framing, and cabinet work.

4. Planing mills, sash and door factories, manufacture of wooden and corrugated paper boxes, cheese boxes, mouldings, window and door screens, window shades, carpet sweepers, wooden toys, articles and wares or baskets, matches or shade rollers; lumber yards (including the delivery of lumber) carried on in connection with planing mills or sash and door factories; cooperage, not including the making of staves or headings. Retail lumber yards (no mill or factory in connection).

5. Mining; reduction of ores and smelting; preparation of metals or minerals; boring and drilling, including sinking of artesian wells (except when done by an employer coming under paragraph 13); manufacture of calcium carbide, carborundum or alundum.

6. Sand, shale, clay or gravel pits; marble works, stone cutting or dressing; manufacture of brick, tile, terra cotta, fireproofing, paving blocks, sewer pipe, roof tile, plaster blocks, plaster boards, slate or artificial stone.

7. Quarries, stone crushing, lime kilns; manufacture of cement.

8. Manufacture of glass, glass products, glassware, porcelain, or pottery.

9. Iron, steel, or metal foundries; rolling mills; manufacture of castings, forgings, heavy engines, locomotives, machinery, safes, anchors, cables, rails, shafting, wires, tubing, pipes, shot, sheet metal, boilers, furnaces, stoves, structural steel, iron, or metal.

10. Manufacture of small castings or forgings, metal wares, 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, sheet metal products, buttons of metal, ivory, pearl, or horn, dry batteries, storage batteries for autos and lighting plants, cameras, sporting goods, firearms, windmills, ivory articles, rubber stamps, pads or stencils, machine shops, not elsewhere included in schedule 1, the industry of carrying on a blacksmith shop.

11. Manufacture of agricultural implements, threshing machines, traction engines, wagons, carriages, sleighs, vehicles, automobiles, motor trucks, toy wagons, sleighs, or baby carriages; car shops, aeroplanes and hydroplanes (no flying).

12. Manufacture of gold and silverware, plate ware, watches, watchcases, clocks, jewelry, or musical instruments.

13. Manufacture of chemicals, corrosive acids, or salts, ammonia, gasoline, petroleum, petroleum products, celluloid, gas, charcoal, artificial ice, including the handling and delivery thereof; wood alcohol; celluloid articles; the manufacture, transmission, and distribution of natural or artificial gas and operations connected therewith; the cutting, storing, handling, and delivery of natural ice.

14. The manufacture of fireworks, gunpowder, ammunition, nitroglycerine, dynamite, guncotton, or other high explosives.

15. Manufacture of paint, color, varnish, oil, japans, turpentine, printing ink, printers' rollers, tar, tarred, pitched, or asphalted paper.

16. Distilleries, breweries, bottling works; manufacture of spirituous or malt liquors, malt, alcohol, wine, vinegar, cider, mineral water, soda waters, or methylated spirits.

17. Manufacture of nonhazardous chemicals, drugs, medicines, dyes, extracts, pharmaceutical or toilet preparations, soaps, candles, perfumes, noncorrosive acids or chemical preparations; shoe blacking or polish, yeast, baking powder or mucilage.

18. Milling; manufacture of cereals or cattle foods, warehousing or handling of grain or operation of grain elevators.

19. Manufacture or preparation and wholesale distribution of meats or meat products.

20. Packing houses, abattoirs, cold storage warehouses, manufacture of fertilizers, glue, and all work incidental thereto (not incidental to any other industry). The operation of stock yards with railway entry.

21. Tanneries.

22. Manufacture of leather goods and products, belting, whips, saddlery, harness, trunks, valises, trusses, imitation leather, boots, shoes, gloves, umbrellas, rubber goods, rubber shoes, tubing, tires, or hose.

23. Sugar refineries; manufacture of dairy products, butter, cheese, condensed milk or cream, biscuits, confectionery, spices, condiments, salt, or any kind of starch; bakeries.

24. Canning or preparation of fruit, vegetables, fish, or food-stuffs; pickle factories.

25. Manufacture of tobacco, cigars, cigarettes or tobacco products.

26. Flax mills, manufacture of textiles or fabrics, spinning, weaving, and knitting manufactories, manufacture of yarn, thread, hosiery, cloth, blankets, carpets, canvas, bags, shoddy, felt, cordage, ropes, fibre, brooms, or brushes; asbestos goods, hair cloth,

and other hair goods; work in manila or hemp; tents, awnings, and articles not otherwise specified made from fabrics or cordage; the erection of awnings by the manufacturer.

27. Manufacture of men's and women's clothing, white wear, shirts, collars, corsets, hats, caps, furs, robes, feathers, or artificial flowers.

28. Power laundries, dyeing, cleaning, or bleaching.

29. Printing, photo-engraving, engraving, lithographing, book-binding, embossing, manufacture of stationery, paper, cardboard boxes, bags, wall paper, or papier-maché.

30. Heavy teaming or cartage; safe moving or moving of boilers, heavy machinery, building stone, and the like; warehousing, storage, teaming, and cartage, including the hauling for hire by means of any vehicle, howsoever drawn or propelled, of any commodity or material; scavenging, street cleaning or removal of snow or ice; deliveries from wholesale establishments; the shipping, receiving, and packing departments of wholesale establishments; coal, wood, lumber; and builders' supply industries.

31. The operation of coaling plants or stations.

32. Steel building and bridge construction; installation of elevators, fire escapes, boilers, engines, or heavy machinery; bridge building, not included elsewhere in schedule 1, erection of wind-mills.

33. Bricklaying, mason work, stone setting, concrete work, plastering, manufacture of concrete blocks; structural carpentry, lathing, installation of pipe organs; house wrecking or house moving.

34. Painting, decorating or renovating; sheet metal work and roofing.

35. Plumbing, sanitary or heating engineering, gas and steam fitting; the work of artisans and mechanics employed for their whole time at their trade in an industry not classified herein; operation of theatre stage or moving pictures; operation of passenger or freight elevators which are not operated in connection with an industry included in another class, including the operation of elevators used in connection with an industry to which this schedule does not apply or in connection with a warehouse or shop or an office or other building or premises.

36. Sewer construction, tunnelling, shaft sinking and well digging, the maintenance and operation of a waterworks system; excavation work for cellars, foundations and canals; trenching less than six feet deep, for gas pipes, water pipes, or wire conduits; and all excavation work where the depth is more than six feet and the width is less than half the depth.

37. Construction, installation or operation of electric power lines or appliances and power transmission lines, electric wiring of buildings and installation of lighting fixtures; construction or operation of an electric light system, construction or operation of an electric light works not included elsewhere in schedule 1, construction or operation of telegraph or telephone lines, construction or operation of telephone lines and works for the purpose 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.

38. Construction or operation of railways, road making or repair of roads with machinery; making and repairing of roads of all kinds not included elsewhere in schedule 1, manufacture of asphalt material and paving material; this class shall not include the making or repairing of roads in rural municipalities unless the work is done through a contractor.

39. Shipbuilding, dredging, subaqueous construction or piledriving, fishing, stevedoring, operation of and work upon wharves, operation of dry docks, not included elsewhere in schedule 1.

40. If not included elsewhere in schedule 1, any trade or business connected with the industries of:

Lumbering, mining, quarrying, fishing, manufacturing, building, construction, engineering, transportation, operation of electric

power lines, waterworks, and other public utilities, navigation, operation of boats, ships, tugs and dredges, operation of grain elevators and warehouses, teaming, scavenging and street cleaning, painting, decorating and renovating, dyeing and cleaning, or any occupation incidental thereto or immediately connected therewith.

41. The trade or business, as defined by subsection (2) of section 2, of a municipal corporation, a public utilities commission, or any other commission having the management and conduct of any work or service owned by or operated for a municipal corporation or a board of school trustees, and policemen, firemen or ferrymen employees of such a corporation.

42. The construction or operation of railways operated by steam, electric, or other motive power, street railways and incline railways, but not their construction when constructed by any person other than the company which owns or operates the railway.

43. The construction or operation 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 constructed or operated by the company which owns or operates the railway.

44. The construction or operation of steam vessels and works for the purpose of the business of a navigation company or used or to be used in connection with its business when constructed or operated by the company and all other navigation, towing, operation of vessels and marine wrecking.

45. The operation of the business of an express company which operates on or in conjunction with a railway, or sleeping, parlor or dining cars, whether operated by the railway company or by an express, sleeping, parlor or dining car company.

46. The operation as an industry (otherwise than on tracks) on streets, highways or elsewhere of cars, trucks, wagons, or other vehicles and rollers and engines propelled by steam, gas, gasoline, electric, mechanical, or other power or drawn by horses or mules. (This paragraph does not include the operation of aircraft).

47. Auto garages, including sale of gasoline, oil, accessories, and storage of cars (not including manufacture of cars).

SCHEDULE 2—(SECTION 80).

Description of disease.	Description of process.	Occupational diseases.
Anthrax-----	Handling of wool, hair, bristles, hides, and skins.	
Lead poisoning or its sequelæ---	Any process involving the use of lead or its preparations or compounds.	
Mercury poisoning or its sequelæ-----	Any process involving the use of mercury or its preparations or compounds.	
Phosphorus poisoning or its sequelæ-----	Any process involving the use of phosphorus or its preparations or compounds.	
Arsenic poisoning or its sequelæ-----	Any process involving the use of arsenic or its preparations or compounds.	
Ankylostomiasis-----	Mining.	

NEW BRUNSWICK.

[The compensation law of this Province is amended by ch. 12, Acts of 1920, and ch. 10, Acts of 1922. The changes are as follows:

- Wage basis.** Section 2, paragraph (c) is amended by ch. 7, Acts of 1919, by adding the words "but not in any case to exceed the sum of fifteen hundred dollars per year."
This paragraph is also amended by ch. 12, Acts of 1920, by adding thereto the following:]
- Learners.** Where the workman was at the date of the accident under twenty-one years of age and it is established to the satisfaction of the board that under normal conditions his wages would probably increase, this fact shall be considered in arriving at his average earnings or earning capacity.
[Section 7 is amended by ch. 10, Acts of 1922, by adding thereto the following:]
- Work outside Province.** (a) Whenever a workman is engaged in work part of which is to be performed in this Province and part in an adjoining Province or country, the work shall be considered as done and performed in this Province, and the workman shall be entitled to be paid compensation under this part: *Provided*, The employer includes such workman in his pay roll.
[Section 36 is amended by the same act by adding a new clause to subsection (1), paragraph (d), as follows:]
- Orphans.** (V) When the dependents are children only, each child shall receive the sum of fifteen dollars per month until, if a boy, he attains the age of sixteen years or dies; or if a girl, she attains the age of eighteen years or dies.
[Also by making subsections (6) and (7) read as follows:]
- Termination.** (6) Payments in respect of female children shall cease when the child attains the age of eighteen years or dies; in case of male children when the child attains the age of sixteen years or dies.
- Retroactive effect.** (7) The amendments to section 36 relating to payments to widows, invalid widowers or children shall relate back to and include all widows, invalid widowers, or children as from the first day of January, 1919, but the increased monthly payments shall actually take effect from January first, 1920.
[Section 39 is amended so as to read as follows:]
- Medical, etc., aid.** Sec. 39 (as amended by ch. 12, Acts of 1920). (a) Every workman entitled to compensation under this part, or who would have been so entitled had he been disabled for seven days, shall be entitled to such medical and surgical aid and hospital and skilled nursing services and transportation as may be necessary as a result of the injury.
(b) In this act "medical aid" shall mean the medical and surgical aid and hospital and skilled nursing services and transportation as above mentioned.
(c) In the industries within the scope of part one of this act, such medical aid shall be furnished or arranged for by the board, or as it may direct or approve, and shall be paid for by the board out of the accident fund, and the necessary amount shall be included in the assessments levied upon the employers.
(d) All questions as to the necessity, character, and sufficiency of any medical aid furnished or to be furnished shall be determined by the board.
(e) The fees or charges for such medical aid shall not be more than would be properly or reasonably charged to the workman if he were himself paying the bill, and except in the case of an

employer individually liable and himself furnishing the medical aid, the amount thereof shall be fixed and determined by the board and no action for any amount larger than that fixed by the board shall lie in respect of any medical aid herein provided for.

(f) It shall not be lawful, except as hereinafter provided in clause (g), for any employer directly or indirectly to collect or receive or demand from any workman any contribution towards the expense of medical aid, and every person contravening this provision shall, for every contravention be liable to a penalty not exceeding fifty dollars and shall also be liable, upon the order of the board, to reimburse the workman the amount of any amount so collected, received, or obtained.

(g) Where any employer has now established or hereafter establishes in connection with any industry carried on by him an arrangement for furnishing medical aid to his workman which, in the opinion of the board, is at least as favorable to the workmen as that herein provided for, the board may, after investigating the facts and considering the wishes of both workmen and employer, approve of such arrangements, and as long as such approval continues, such arrangements may be continued in lieu of the medical aid hereinbefore provided for, and if the injury is within the scope of part one of the act, the employer shall be entitled to such reimbursement out of the accident fund, or to such reduction in his rate of assessment as the board shall deem just. But medical aid so furnished or provided shall be subject at all times to the supervision and control of the board.

(h) Employers in any industries in which it is deemed proper may be required by the board to maintain, as may be directed by the board, such first-aid appliances and service as the board may direct, and the board may make such order respecting the expenses thereof as may be deemed just.

First aid, etc.

(i) Every employer shall furnish to any workman injured in his employment, who is in need of it, immediate conveyance and transportation to a hospital, or a physician, or to the workmen's home, such transportation to be paid for by the board out of the general accident fund, and any employer failing so to do shall be subject to a penalty not exceeding twenty dollars, to be collected upon the order of the board.

Transportation.

(j) Where in conjunction with or apart from the medical aid to which workmen are to be entitled, free of charge, further or other service or benefit is, or is proposed to be, given or arranged for, any question arising as to whether or to what extent any contribution from workmen is or would be prohibited by this act, shall be determined by the board.

(k) Every physician, surgical, hospital official, or nurse attending, consulted respecting, or having the care of any workman, shall furnish to the board from time to time without additional charge such reports as may be required by the board in respect of such workman.

Physicians' reports.

(l) In case of any workman employed as a master, mate, engineer, seaman, sailor, steward or fireman, or in any other capacity on board of any vessel on which duty has been paid or is payable for the purpose of the sick mariners' fund, under Part V of the Canada shipping act, being chapter 113 of the Revised Statutes of Canada, 1906, the above sections shall not apply to such workmen during the period in respect of which such duty has been paid or is payable.

Seamen, etc.

[Section 67 is amended by ch. 12, Acts of 1920, by inserting after the word "year" in the first line the words, "or so soon thereafter as the board may deem expedient."]

NOVA SCOTIA.

[The law of this Province was amended by acts of 1920, 1921, and 1922. The changes are indicated below.]

Section 2 is amended by chapter 26, Acts of 1922, by inserting in paragraph (f), after the word "includes," the words "a receiver, liquidator, executor, administrator, and any person appointed by a court or a judge who has authority to carry on an industry."

Also by adding to paragraph (n) the words "a receiver, liquidator, or other person, appointed by a court or a judge with power to manage or carry on the business of a company for winding up or other purposes, shall not be deemed a workman."

Also by adding a new paragraph (r).]

Definition. (r) The word "widow" and the words "invalid widower" in section 35 refer to the widow or invalid widower of a workman whose death results from an accident compensable under part 1.

[Section 3a is amended by ch. 48, Acts of 1921, by changing the wage rate in paragraph (c) from \$1,200 to \$780.

Section 11 is amended so as to read as follows:]

Remedy exclu- sive. Sec. 11 (as amended by ch. 26, Acts of 1922). The provisions of this part shall be in lieu of all rights and rights of action, statutory or otherwise, to which a workman or his dependents are or may be entitled against the employer of such workman for or by reason of any accident in respect of which compensation is payable hereunder or which arises in the course of the workman's employment in an industry under this part at the time of the accident, and no action in respect to such accident or any injury arising therefrom shall lie. This section shall not apply where the workman and the work he was engaged in at the time of the accident were not within the operation of this part.

[Section 15 is amended by ch. 26, Acts of 1922, by changing the last word in subsection (1) from "injury" to "accident."

Also by ch. 42, Acts of 1920, by adding a new subsection (3) as follows:]

Limitation. (3) The foregoing subsection shall not apply where death results from an injury, but in such case no compensation shall be payable to a dependent under this part, unless application for such compensation is made within one year and unless the person applying for compensation establish his right thereto to the satisfaction of the board within fifteen months after the occurrence of the death.

[Also by ch. 26, Acts of 1922, by adding a new subsection (4), as follows:]

Deferred disa- bility. (4) If an accident causes injury, for which the workman receives medical aid within 30 days, but disability compensable under this part does not arise until after the expiration of twelve months from the date of the accident, after which period disability of a serious and permanent nature does arise, the board may, in its discretion, if satisfied that the disability is the result of the injury, extend the times mentioned in subsections (1) and (2) of this section. This section shall take effect retroactively as of January 1st, 1920.

[Section 15a is amended by ch. 42, Acts of 1920, by adding to subsection 7 the following:]

Medical schemes. The board for the purpose of approving of any such arrangement may take into consideration contributions voluntarily or by agreement with workmen made by the employer to any relief

or other association of which at least the majority of workmen of such employer are members. Any arrangement or practice in force on December 31st, 1919, and which has since been continued for providing medical aid for workmen in any industry, although at the expense of workmen, may be temporarily continued unless otherwise ordered by the board pending the adoption of such arrangement as may meet with the approval of the board, and while such temporary arrangement or practice is so continued the board shall not be liable to furnish medical aid to any workmen entitled to medical aid under such arrangement or practice. This section shall be effective as of January 1st, 1920.

[Section 35 is amended so as to read as follows:]

SEC. 35 (as amended by ch. 42, Acts of 1920, and ch. 26, Acts of 1922). (1) Where death results from an injury, the amount of ^{Compensation} for death. compensation shall be—

(a) The necessary expenses of the burial of the workman, not exceeding \$75.

(b) Where the widow or an invalid widower is the sole dependent, a monthly payment of \$30.

(c) Where the dependents are a widow or an invalid widower and one or more children, a monthly payment of \$30, with an additional monthly payment of \$7.50 for each child under the age of 16 years, not exceeding in the whole \$60; a widow entitled to compensation by reason of the death of her husband, or an invalid widower entitled to compensation by reason of the death of his wife, shall not be entitled to any further compensation as a dependent of any other workman whose death results from an accident, and any compensation payable to such widow or invalid widower, in any capacity other than that of a widow or invalid widower, shall cease when such widow or invalid widower becomes entitled to compensation as a widow or invalid widower.

(d) Where the dependents are children, a monthly payment of \$15 to each child under the age of 16 years not exceeding in the whole \$60.

(e) Where no compensation is payable under (b), (c), or (d), and persons other than those mentioned in the foregoing clauses are dependents, a sum reasonable and proportionate to the pecuniary loss to such dependents occasioned by the death, to be determined by the board, but not exceeding \$30 per month to a parent or parents, and not exceeding in the whole \$45 per month.

(f) Where compensation is payable to or for a child under (c) or (d) or under section 37, subsection (2), no additional compensation shall be payable with respect to such child by reason of the subsequent death from an injury of any person upon whom such child was wholly or partly dependent.

(2) In the case provided for in clause (e) of subsection (1), the payments shall continue only so long as in the opinion of the board it might reasonably have been expected had the workman lived he would have continued to contribute to the support of the dependents.

(3) Where there are both total and partial dependents the compensation may be allotted partly to the total and partly to the partial dependents.

(4) Exclusive of the expense of burial, the compensation payable as provided by subsection (1) shall not in any case exceed 55 per cent of the average earnings of the workman, and if the compensation payable under that subsection would in any case exceed that percentage it shall be reduced accordingly, and where several persons are entitled to monthly payments the payments shall be reduced proportionately.

(4½) The foregoing subsection (4) shall not apply to compensation payable under clauses (b), (c), or (d) of said subsection (1): *Provided, however,* That the dependents of a workman whose death results from an injury received while in the employ of an incorporated company shall not be entitled to compensation in excess of that provided by the foregoing subsection (4) if—

(a) Such workman at the time of the accident was an officer and also a shareholder of such incorporated company, or

(b) If a majority of the shares of such incorporated company was owned at the time of the accident directly or indirectly by such workman or by the workman and any members of his family, or by any members of his family.

This subsection (4) shall be deemed to have been in force since January 1st, 1920.

(5) Where death results from an injury, or after an injury from any cause, any compensation payable with respect to any portion of the period between the date of the injury and the date of the death may be paid by the board to the widow or to such of the dependents of the deceased workman as the board may deem advisable, and in case of minors or persons of unsound mind, payment may be made as provided in section 44.

(6) Any compensation payable to a dependent who dies before such compensation is paid may be paid to such member or members of the family of the deceased dependent, or to such person or persons caring or providing for the deceased dependent prior to his or her decease, as the board may deem advisable.

[Section 36 is amended so as to read as follows:]

Remarriage of widow.

SEC. 36 (as amended by ch. 42, Acts of 1920). (1) If a dependent widow marries, her right to compensation under (b) or (c) of subsection (1) of section 35 shall cease, but she shall be entitled to \$20 a month for a period of 25 months from the date of the marriage, or, in the discretion of the board, to be paid an amount equal to such payments in one or more amounts, payable during the said 25 months; and upon payment of same all payments of compensation to her shall cease.

(2) Subsection (1) shall not apply to payments to a widow in respect of a child.

[A new section, 37a, is added by ch. 42, Acts of 1920, defining the application of that act to then existing claims. (Omitted because transitory.)

Partial disability.

Section 39 is amended by the same act, by making the phrase in subsection (2) which read "is able to earn after," now read "was able to earn before."

Section 44 is amended by ch. 26, Acts of 1922, by adding to subsection (2) the words, "in case of a child under sixteen any compensation payable to such child may, in the discretion of the board, be paid to the institution to which such child has been committed."

Section 46 is amended by the same act by adding to subsection (1) thereof the following:]

Withholding payments.

In the case where the board is of opinion that any workman entitled to compensation under this part is likely to use the money in gambling or otherwise than for the benefit of his wife or his children or persons dependent upon such workman, the board, in its discretion, may withhold or suspend the payment of compensation for such period as the board deems advisable. Where compensation is so withheld the board may, in its discretion, pay such compensation so withheld, or any portion thereof, to the wife or children or to any person who was or any persons who were at the time of the accident dependent upon such injured workman, or such compensation may be paid to a trustee appointed by the board, to be expended for the benefit of the workman, his wife or children or persons dependent upon him.

[Section 68 is amended by the same act by adding thereto the following:]

Collecting assessments.

The board may enter judgment as provided by this section against the executors or administrators of a deceased person for the amount due upon any assessment made upon the deceased in his lifetime or made upon the executors or administrators of his estate with respect to an industry carried on by the deceased in his lifetime, and it shall not be necessary to obtain leave of any court or judge for such purpose.

[Section 74 is amended by ch. 42, Acts of 1920, by adding to subsection (3) thereof the following:]

Provided, That in the absence of any term in the contract or subcontract to the contrary the principal shall be entitled to recover from the contractor and the contractor from the subcontractor the amount or proportionate part of any assessment paid by the principal with respect to the contractor or his workmen or paid by the contractor in respect to a subcontractor or his workmen.

Contractors.

[Also by ch. 26, Acts of 1922, by adding a new subsection, as follows:]

(4) In any case where a principal is or may become liable for an assessment with respect to work carried on by a contractor the principal shall be entitled to withhold from any moneys payable to the contractor such amount as the board may estimate as the probable amount for which the principal is or may become liable, and in any action that the contractor may bring against the principal the principal shall have the right to offset such amount and the contractor shall not be entitled to recover from the principal any portion of same, but after final adjustment by the board of the amount due with respect to the work carried on by the contractor the contractor shall be entitled to any amount still remaining in the hands of the principal after payment of the amount due the board. As between the contractor and subcontractor, the contractor shall be deemed a principal.

Rights of principals.

[Section 76 is amended by ch. 26, Acts of 1922, by making subsection (2) read as follows:]

(2) The amount of any assessment and any judgment with respect to same shall be a first lien upon all the property, real, personal, or mixed, used in or in connection with or produced in or by the industry with respect to which the employer is assessed, though not owned by the employer, subject only to municipal taxes, and the amount levied under execution upon any such judgment to the extent of the amount due upon such execution shall forthwith be paid by the sheriff or his deputy to the workmen's compensation board. Any real estate of an employer that may not be otherwise bound by or subject to a lien created by this part shall be bound to the same extent as a registered judgment or mortgage by any assessment made under this part against such employer from the date of the lodging of a certified copy of such assessment in the registry of deeds for the district in which such real estate is situate, and any judgment entered with respect to such assessment shall bind such property from the date of the lodging of such assessment. The registrar of deeds shall record such copy of assessment. This subsection shall apply to all assessments made or payable after January 1st, 1917.

Assessment a lien.

[Section 83 is amended so as to read as follows:]

SEC. 83 (as amended by ch. 26, Acts of 1922). This part shall not apply to farm laborers, or domestic or menial servants or their employers: *Provided, however*, That the board, upon the application of an employer, may, upon such terms and conditions as the board may impose, admit the industry in which such laborers or servants are employed, and in case of such admission and while such admission is in force, such industry and the workmen and servants engaged therein shall be within the scope of this part and shall be subject to all the provisions of this part and of regulations made by the board.

Farm laborers, etc.

ONTARIO.

[The workmen's compensation act of this Province was amended by ch. 43, Acts of 1920, and ch. 56, Acts of 1922. The changes are indicated below:

Section 8 is amended by ch. 56, Acts of 1922, by adding thereto a new subsection, as follows:]

Nonresident
workers.

(4) Notwithstanding any provisions elsewhere contained, where a workman in the employ of a railway company has been obliged by the nature of his work to change his residence from Ontario to a place outside of Ontario, the dependents of such workman, who have become nonresidents of Ontario by reason thereof, shall in respect of an accident to such workman happening in Ontario, be entitled while residing in Ontario to the same compensation as if they were residents of Ontario at the time of the workman's death, and this provision shall apply to all pension payments to dependents accruing after the coming into effect of this act, whether the accident happened before or after that date, and whether the award of compensation has been heretofore, or is hereafter made, but shall not entitle any person to claim additional compensation for any period prior to the coming into effect of this act.

[A new section is added as follows:]

Levies for in-
creased benefits.

SEC. 31b (added by ch. 43, Acts of 1920). The additional moneys necessary to provide for increases of compensation in respect of accidents previously happening may be levied and collected by the board from the employers either now, previously, or hereafter carrying on industries under Part I, in such manner and at such time or times as the board may deem most equitable and most in accordance with the general principles and provisions of this act, and in the case of schedule 1 employers, such levy and collection may be by way of addition to the usual assessment or by levy of special or additional assessment or assessments, and in the case of schedule 2 employers, by way of additional deposit or capitalized amount as may be necessary to provide for such increases.

Benefits.

[Section 32 is amended by ch. 43, Acts of 1920, by advancing the burial expenses in subsection (1), paragraph (a) from \$75 to \$125; by advancing the allowance in paragraph (b) from \$30 to \$40; by changing \$30 to \$40, \$7.50 to \$10, and \$10 to \$15 where they occur, in paragraph (c), and by striking therefrom the words, "not exceeding in the whole \$60"; by changing \$10 to \$15 in paragraph (d), and by striking therefrom the words, "not exceeding in the whole \$60;" by striking from paragraph (e) all after the word "board;" and by adding new subsections, as follows:]

Foster mothers.

(1a) Where the workman leaves no widow or the widow subsequently dies, and it seems desirable to continue the existing household, and an aunt, sister, or other suitable person acts as foster mother in keeping up such household and maintaining and taking care of the children entitled to compensation in a manner which the board deems satisfactory, such foster mother while so doing shall be entitled to receive the same monthly payments of compensation for herself and the children as if she were widow of the deceased, and in such case the children's part of such payments shall be in lieu of the monthly payments which they would otherwise have been entitled to receive;

(1b) In addition to any other compensation provided for the widow, or where the workman leaves no widow, the foster mother, as in subsection 1a described, shall be entitled to a lump sum of \$100.

[Also by changing 55 to 66½ in subsection (5), and by striking out subsection (6).]

The act making the foregoing changes in the amount of compensation contains the following provision as to the application of the increase:]

The increases in the amount of compensation payable under the workmen's compensation act in cases of injury resulting in death shall apply to all pension payments accruing after the coming into effect of this act, whether the accident happened before or after that date, and whether the award of compensation has been heretofore or is hereafter made, but nothing in this section contained shall entitle any person to claim additional compensation for any period prior to the coming into effect of this act.

[Sections 37 and 38 are amended by ch. 43, Acts of 1920, by changing the figures 55 to 66½ when they occur.

A new section is added as follows:]

SEC. 40a (added by ch. 43, Acts of 1920). The amount of compensation to which an injured workman shall be entitled for temporary total or permanent total disability under the provisions of the workmen's compensation act shall not be less than \$12.50 per week, or, where his average earnings are less than \$12.50 per week, the amount of such earnings, and for temporary partial or permanent partial disability a corresponding amount in proportion to the impairment of earning capacity.

[Section 44a is amended by ch. 43, Acts of 1920, by adding to subsection (1) the words, "and shall be entitled to such artificial member or members and apparatus as may be necessary as a result of the injury and to have the same kept in repair for a period of one year;" also, by adding to subsection (2) the words, "and the artificial member or members and apparatus and repair."]

QUEBEC.

[The compensation act of this Province is amended by ch. 69, Acts of 1919, and by ch. 75, Acts of 1920, as follows:

Section 7321 is amended by ch. 75, Acts of 1920, by adding thereto the following:]

Public employ-
ees. Whenever a municipal corporation undertakes or executes public works itself, under such conditions as would render a contractor liable under the provisions of this act, it shall become liable itself.

[Section 7322 is amended by the same act by changing \$2,500 to \$3,000 in subsection 2.

Benefits. Section 7323 is amended by the same act by making the minimum and maximum death benefits \$1,500 and \$3,000, in the first paragraph; also by making the allowance in the second paragraph \$50 instead of \$25, and striking out the remainder of the paragraph after the word "expenses."

In clause (c) the word "principal" is substituted for the word "only" by chapter 69, Acts of 1919.

Section 7326 is amended to read as follows:]

Maximum basic
wage. SEC. 7326 (as amended by ch. 75, Acts of 1920). If the yearly remuneration of the workman exceeds one thousand dollars, no more than such sum shall be taken into account. The surplus up to fifteen hundred dollars shall give a right only to one-fourth of the compensation aforesaid.

This subsection shall not apply in cases where the yearly remuneration exceeds fifteen hundred dollars.

[Section 7328 is amended by ch. 69, Acts of 1919, by adding thereto the following:]

Computing
wages. In the case where the workman receives a fixed wage, he shall not be bound, in calculating the year's wages, to take into account any remuneration he may have received for overtime work.

DOMINION OF CANADA.

[The compensation law of the Dominion was amended by ch. 14, Acts of 1919, by making subsections (3) and (4) of section 1 read as follows:]

(3) Any compensation or costs awarded hereunder may be paid **Fund.** by the minister of finance out of any unappropriated moneys in the consolidated revenue fund of Canada; or the minister of finance may from time to time take such amount of money as may be authorized by the governor in council from the consolidated revenue fund and deposit such money with the board, officers, authority, or court authorized by the law of any Province to determine compensation cases, from which deposit such board, officers, authority, or court may pay any compensation and costs awarded under the provisions of this act. In any Province where the general administration expenses of maintaining such board, officers, authority, or court are paid by the Province or by contributions from employers, or by both, the minister of finance may pay out of any unappropriated money in the consolidated revenue fund of Canada such portion of such expenses as is fair and reasonable and is authorized by the governor in council.

(4) *Provided*, That no employee on the Canadian Government Railways who is an employee within the meaning of the Inter-colonial and Prince Edward Island Railways Employees Provident Fund Act and becomes permanently disabled from following his usual occupation in the service, as a result of injuries received while on duty and actually at work in the service, shall be entitled to receive compensation, under the provisions of this act, for such injuries, unless he elects to accept prior or subsequent to the injuries such compensation in lieu of the allowance payable under the provisions of the provident fund act, section twelve, class D, and gives notice in writing of such election both to the management of the railways and to the provident fund board: *Provided, however*, That the dependents of any such employee who has been or is killed subsequently to the twenty-fourth day of May, 1918, and who has not elected to accept compensation under this act as aforesaid, shall nevertheless be entitled to compensation under this act as though such employee had so elected. **Option.**

INDEX.

	Bulletin No.—			Bulletin No.—	
	272	332		272	332
	Page.	Page.		Page.	Page.
Abrogation of defenses. (<i>See</i> Defenses.)			Accidents, notice and claim for, law as to—Concluded.		
Accidental injury as proximate cause, decisions as to.	128-135		Texas.....	917	
Accident boards. (<i>See</i> Commissions, administrative.)			Utah.....	932	177, 178
Accidents, notice and claim for, decisions as to.....	244-248		Vermont.....	950, 951	
Accidents, notice and claim for, law as to:			Virginia.....	961	
Alabama.....	278		Washington.....	985	
Alaska.....	293-295		West Virginia.....	1011	
Alberta.....	1057, 1062	201	Wisconsin.....	1024	190
Arizona.....	304, 305		Wyoming.....	1035	
British Columbia.....	1079		Yukon Territory.....	1173, 1174	
California.....	315, 316		United States, civil employees.....	1046	196
Colorado.....	318, 319		Accidents, reports of, law as to:		
Connecticut.....	348, 350		Alabama.....	284, 285	
Delaware.....	373, 377		Alberta.....	1062	
Georgia.....	381		British Columbia.....	1079	
Hawaii.....	392, 395		Colorado.....	348	
Idaho.....	408	34, 35	Connecticut.....	377	
Illinois.....	421, 422		Delaware.....	396, 397	
Indiana.....	448	54	Georgia.....	412	45
Indiana.....	455, 456		Hawaii.....	431, 432	
Iowa.....	471, 472		Idaho.....	451	
Kansas.....	494, 495		Illinois.....	464	
Kentucky.....	500-508		Indiana.....	483	
Louisiana.....	513		Iowa.....	513	
Maine.....	529, 532	59	Kentucky.....	547	
Maine.....	542		Maine.....	1104	207
Manitoba.....	1090-1093	207, 208	Manitoba.....	563	
Maryland.....	563, 566		Maryland.....	577, 578	
Massachusetts.....	573, 574	69	Massachusetts.....	598, 599	
Michigan.....	594		Michigan.....	620, 621	91, 92
Minnesota.....	612, 613	85, 86	Minnesota.....	651	
Missouri.....	632, 633		Missouri.....	652, 650	
Missouri.....	647, 652		Montana.....	666	
Montana.....	664, 665		Nebraska.....	680	
Nebraska.....	677, 685		Nevada.....	698, 699	
Nevada.....	699, 700		New Brunswick.....	1116	
New Brunswick.....	1112, 1115		New York.....	763	136
New Hampshire.....	1116		North Dakota.....	775	
New Jersey.....	705		Nova Scotia.....	1134	
New Jersey.....	712, 713	109, 110	Ohio.....	794, 795	
New Mexico.....	717, 724		Oklahoma.....	808	
New Mexico.....	732, 733		Ontario.....	1162	
New York.....	735		Oregon.....	825	
New York.....	748, 749	122, 123	Pennsylvania.....	848	
North Dakota.....	753	127	Porto Rico.....	858	164
Nova Scotia.....	774		Rhode Island.....	876	170
Nova Scotia.....	1128, 1129		South Dakota.....	889	
Ohio.....	1133, 1134		Texas.....	918, 919	
Oklahoma.....	787		Utah.....	940	
Oklahoma.....	800-802		Vermont.....	954, 955	
Ontario.....	824, 825		Virginia.....	967-969	
Oregon.....	835, 836		Washington.....	986	185
Pennsylvania.....	838, 839		West Virginia.....	998, 999	
Porto Rico.....	858, 859	164, 165	Wyoming.....	1035	
Quebec.....	1170		United States, civil employees.....	1047	
Rhode Island.....	869		Accidents, what are, decisions as to.....	107-118	
South Dakota.....	882		Administrative boards. (<i>See</i> Commissions, administrative.)		
Tennessee.....	896		Admiralty, decisions as to.....	160-164	
			Admiralty, law as to.....		196

	Bulletin No.—			Bulletin No.—	
	272	332		272	332
	Page.	Page.		Page.	Page.
Age to be considered in making awards, law requiring:					
British Columbia.....	1074				
California.....	314, 317				
Colorado.....	351, 357				
Idaho.....	419				
Illinois.....	441				
Iowa.....	476				
Kentucky.....	505				
Manitoba.....	1092	208			
Maryland.....	565				
Massachusetts.....	584				
Missouri.....	629				
Nevada.....	697				
New Brunswick.....		224			
New York.....	746	119			
North Dakota.....	767, 768				
Nova Scotia.....	1134				
Ohio.....	791				
Oklahoma.....	798				
Ontario.....	1147				
South Dakota.....	886				
Texas.....	914				
Utah.....	933				
Wisconsin.....	1021, 1023	189			
United States, civil employees.....	1043, 1046				
Aggravation of preexisting conditions, decisions as to.....	128-134				
Agreements, law as to:					
Alabama.....	269, 270				
Alaska.....	292				
Arizona.....	304-306				
California.....	325				
Colorado.....	361				
Connecticut.....	377, 378				
Delaware.....	393				
Georgia.....		34, 42			
Hawaii.....	409				
Idaho.....	421, 424				
Illinois.....	444, 445				
Indiana.....	462, 464				
Iowa.....	478, 480				
Kansas.....	495				
Kentucky.....	510, 512				
Louisiana.....	528, 530				
Maine.....	545-548				
Massachusetts.....	576				
Michigan.....	596, 599				
Minnesota.....	614, 615				
Missouri.....	632				
Nebraska.....	678, 680	106			
New Hampshire.....	706, 707				
New Jersey.....	713, 714	109			
New York.....	749, 750	123			
Oklahoma.....	800, 801				
Ontario.....	1146				
Pennsylvania.....	838, 845				
Quebec.....	1169, 1170				
Rhode Island.....	871, 876	169			
South Dakota.....	878				
Tennessee.....	883, 888	171			
Texas.....	897, 903				
Vermont.....	914				
Virginia.....	944				
Virginia.....	949-951				
Wisconsin.....	950, 967	183			
Yukon Territory.....	1024, 1025				
Agriculture, exclusion of.....	1176				
Alabama:					
Analysis of law of.....	135-137				
Text of law of.....	21				
Alaska:					
Analysis of law of.....	267-288				
Constitutionality of law of.....	21				
Text of law of.....	80, 81				
Text of law of.....	289-300				
Alaskan Railway, law relating to.....			1049, 1050		
Alberta:					
Analysis of law of.....			259	20	
Text of law of.....			1051-1066	197-201	
Alien beneficiaries, nonresident, decisions as to (see also Representation of aliens by consuls).....			169, 170	15	
Alien beneficiaries, nonresident, law as to:					
Alabama.....			279		
Alberta.....			1056		
British Columbia.....			1072		
Colorado.....			354		
Connecticut.....			374, 375	24	
Delaware.....			394		
Georgia.....				38	
Hawaii.....			404		
Idaho.....			418		
Illinois.....			437		
Iowa.....			475		
Kansas.....			490		
Kentucky.....			506		
Maine.....			536	61	
Manitoba.....			1088, 1089	205, 210	
Maryland.....			1105		
Minnesota.....			562	67	
Montana.....			614, 615	86	
Nebraska.....			646, 647		
Nevada.....			674, 675		
New Brunswick.....			695		
New Hampshire.....			1111, 1122		
New Jersey.....			705		
New Mexico.....			712	108	
New York.....			738		
Nova Scotia.....			748	122	
Ohio.....			1128		
Oklahoma.....			795		
Ontario.....			800		
Oregon.....			1144		
Pennsylvania.....			814, 824		
Quebec.....			835		
South Dakota.....			1169		
Tennessee.....				171	
Texas.....			903		
Utah.....			915		
Virginia.....			930	176	
Washington.....			964		
West Virginia.....			975	185	
Wisconsin.....			1011		
Wyoming.....			1023		
Yukon Territory.....			1034		
Yukon Territory.....			1177		
Amount of compensation, law as to:					
Alabama.....			270-277		
Alberta.....			1057-1061	199, 200	
Alaska.....			289-291		
Arizona.....			302, 303		
British Columbia.....			1071-1074	202	
California.....			312-315		
Colorado.....			352-359		
Connecticut.....			374-376	24	
Delaware.....			389-392		
Georgia.....				36-39	
Hawaii.....			403-406		
Idaho.....			416-421	49-50	
Illinois.....			436-441	53	
Indiana.....			456-460		
Iowa.....			472-475		
Kansas.....			490-493		
Kentucky.....			501-507	56	
Louisiana.....			525-528	58, 59	
Maine.....			540-543	61	
Manitoba.....			1093, 1094	210, 211	

	Bulletin No.—			Bulletin No.—	
	272	332		272	332
	Page.	Page.		Page	Page.
Amount of compensation, law as to—Concluded.			Assignments, attachments, etc., law as to—Concluded.		
Maryland.....	560-563	65, 66	Kansas.....	493, 494	
Massachusetts.....	570-573	70, 71	Kentucky.....	507	
Michigan.....	590-593	73	Louisiana.....	531	
Minnesota.....	607-612	78-83	Maine.....	543	
Missouri.....	625-629		Manitoba.....	1090	208
Montana.....	619-651	105	Maryland.....	565	
Nebraska.....	672-674		Massachusetts.....	574	
Nevada.....	694-699	107	Michigan.....	595	
New Brunswick.....	1114, 1115	224	Minnesota.....	916	87
New Hampshire.....	705, 706		Missouri.....	629	
New Jersey.....	709-712		Montana.....	651	
New Mexico.....	729		Nebraska.....	682	
	735-738		Nevada.....	698	
New York.....	746-748	120-122	New Brunswick.....	1112	
North Dakota.....	767-769	142	New Hampshire.....	707	
Nova Scotia.....	1129, 1132	227, 228	New Jersey.....	716	
	1133		New York.....	754	128
Ohio.....	789-791	151	North Dakota.....	775	
	793		Nova Scotia.....	1128	
Oklahoma.....	798-800		Ohio.....	791	
Ontario.....	1149, 1150	230, 231	Oklahoma.....	803	
Oregon.....	819-823	156, 157	Ontario.....	1146	
Pennsylvania.....	831-833	160	Oregon.....	824	
Philippine Islands.....	855		Pennsylvania.....	837	
Porto Rico.....	856, 857	161-163	Porto Rico.....	863	
Quebec.....	1163, 1169	232	Quebec.....	1169	
Rhode Island.....	866-871	169	Rhode Island.....	870	
South Dakota.....	882-886	171	South Dakota.....	881	
Tennessee.....	896-901		Tennessee.....	896	
Texas.....	909-913		Texas.....	907	
Utah.....	936-938	175-177	Utah.....	938	
Vermont.....	946-949	179	Vermont.....	952, 953	
Virginia.....	961-964	182	Virginia.....	960	
Washington.....	979-983		Washington.....	984	
West Virginia.....	1006-1011		West Virginia.....	1011	
Wisconsin.....	1017-1022	189	Wisconsin.....	1028	
Wyoming.....	1038-1040	193, 194	Wyoming.....	1041	
Yukon Territory.....	1175-1176		Yukon Territory.....	1174, 1177	
United States, civil employees.....	1043-1046		United States, civil employees.....	1047	
(See also Schedule rates.)			Attachments. (See Assignments, etc.)		
Analysis of Canadian laws. (See under name of Province.)			Attorneys' fees, law as to:		
Analysis of State laws. (See under name of State.)			Alabama.....	263, 296	
Appeals, decisions as to.....	251, 252		Arizona.....	305	
Appeals. (See Suits.)			California.....	323	
"Arising out of and in course of employment?".....	170-188	16, 17	Colorado.....	360	
Arizona:			Connecticut.....	381	
Analysis of law of.....	23		Delaware.....	399	
Constitutionality of law of.....	69, 70, 82, 83, 89, 90, 98	2, 14	Georgia.....		45
			Hawaii.....	411	
Provision of constitution of.....	301		Illinois.....	443	
Text of law of.....	301-306		Indiana.....	464	
Assignments, attachments, etc., law as to:			Iowa.....	478, 483	
Alabama.....	280, 286		Kansas.....	498	
Alaska.....	300		Kentucky.....	513	
Alberta.....	1057		Louisiana.....	531	60
Arizona.....	305, 306		Maryland.....	566	
British Columbia.....	1071		Massachusetts.....	576	
California.....	323		Michigan.....	597	
Colorado.....	359		Minnesota.....	606	76, 77, 98
Connecticut.....	381		Missouri.....	629	
Delaware.....	399		Nebraska.....	670	
Georgia.....		34	New Hampshire.....	707	
Hawaii.....	411		New Jersey.....	708, 715	
Idaho.....	426			725, 726	
Illinois.....	447, 448		New Mexico.....	738	
Indiana.....	455		New York.....	751	124
			North Dakota.....	775	
			Ohio.....	793	
			Oklahoma.....	802	
			Pennsylvania.....	844	
			Porto Rico.....	864	
			Rhode Island.....	866	

	Bulletin No.—			Bulletin No.—	
	272	332		272	332
	Page.	Page.		Page.	Page.
Attorneys' fees, law as to—			Awards, determination of, law		
Concluded.			as to—Concluded.		
South Dakota	889		Tennessee	897	
Tennessee	903		Texas	901-906	
Texas	909		Utah	913-917	
Utah		177	Utah	934, 935	
Vermont	953		Vermont	938	
Virginia	968		Virginia	944	
Washington	988		Virginia	950-952	
West Virginia	1012		Washington	960	
Wisconsin	1028		Washington	965-968	
Wyoming	1041		Washington	983	
Average weekly wages. (See			Washington	985-988	
Earnings, determination of,			West Virginia	1011-1014	190, 191
as basis of awards.)			Wisconsin	1024-1031	
Awards, amount of. (See			Wyoming	1035-1037	
Amount of compensation.)			Yukon Territory	1173, 1174	
Awards, decisions as to.	223-231		United States, civil em-		
	248-249		ployees	1048, 1049	
			(See also Agreements.)		
Awards, determination of,			Awards payable to benefici-		
law as to:			aries dying, etc., during		
Alabama	278-281		compensation period, law		
Alaska	294-297		as to:		
Alberta	1052, 1053		Alabama	273, 276	
Arizona	1056, 1057		Alberta	1059	200
British Columbia	1074, 1084		Arizona	303	
California	1085		British Columbia	1072	
Colorado	319-323		California	314, 318	
Connecticut	333-339		Colorado	352, 353	
Delaware	361-365	24, 25	Connecticut	374	
Georgia	378-384	27, 28	Delaware	391, 392	
	393-395	34, 40, 42	Georgia		35
		43	Hawaii	404, 406	
Hawaii	409-411		Idaho	416-418	
Idaho	424-426	50	Illinois	436, 437	
Illinois	444-449		Illinois	439, 440	
Indiana	462-464		Indiana	458	
Iowa	479-484		Iowa	473, 474	
Kansas	494-498		Kansas	490, 492	
Kentucky	510-513		Kentucky	503, 504	
Louisiana	529-531	59, 60	Louisiana	527	
Maine	544-548	62	Maine	540, 541	
Manitoba	1090, 1093	206, 212	Manitoba	1094	210, 211
		213	Maryland	564	
Maryland	563-565		Massachusetts	571	
Massachusetts	575-577		Michigan	590, 591	
Michigan	596-600	73, 74	Michigan	593	
Minnesota	613-616	92-97	Minnesota	610, 611	81, 83
Missouri	632-635		Missouri	627	
Montana	651-656		Montana	646	
Nebraska	677-682	106	Nebraska	675, 676	
Nevada	699-703		Nevada	695	
New Brunswick	1113, 1114		New Brunswick	1115	
New Hampshire	1116		New Jersey	711	
New Jersey	704-707		New Mexico	731	
New Mexico	713-716	108-112	New York	754, 755	128
New York	723-726		North Dakota	763, 769	
New Hampshire	732-735		Nova Scotia	1132, 1133	228
New Jersey	749-754	123-126	Ohio	791	
New Mexico	758, 759	128, 137	Ontario	1150	
New York	774, 775		Oregon	820, 821	
North Dakota	1128-1132		Pennsylvania	833, 834	
Nova Scotia	787-789	151-153	Rhode Island	867	
Ohio	791-795		South Dakota	885	
Oklahoma	800-803		Tennessee	900, 901	
Ontario	1153, 1154		Texas	910	
Oregon	821-827		Utah	938	176
Pennsylvania	833-835		Vermont	947	
	837-844		Virginia	964	
	852, 854		Washington	981	
Porto Rico	856-860	165	Washington	981	
Quebec	1170, 1171		West Virginia	1010	
Rhode Island	871-874		Wisconsin	1023	
South Dakota	888-891	171	Wyoming	1040	
			United States, civil em-		
			ployees	1045	

	Bulletin No.—			Bulletin No.—	
	272	332		272	332
	Page.	Page.		Page.	Page.
Awards payable to State when no beneficiary, law as to:					
California.....	341				
Massachusetts.....	586				
New Jersey.....		112			
New York.....	747, 748	121			
Utah.....	937				
Awards, schedule of, for specific disabilities. (See Schedule.)					
Beneficiaries, who are, law as to:					
Alabama.....	274, 275				
Alaska.....	239-292				
Alberta.....	1051, 1056				
	1053, 1059				
Arizona.....	303				
British Columbia.....	1067, 1071				
	1072				
California.....	314, 315				
	318				
Colorado.....	352, 353				
Connecticut.....	374				
Delaware.....	391, 394				
	400				
Georgia.....		38, 39			
Hawaii.....	404, 405				
Idaho.....	416-418				
Illinois.....	436-438				
Indiana.....	459				
Iowa.....	472, 473				
	477				
Kansas.....	489, 490				
Kentucky.....	503, 504				
Louisiana.....	526, 527	58			
Maine.....	536	61			
Manitoba.....	1087, 1093	203, 204			
	1094				
Maryland.....	562, 568				
Massachusetts.....	571, 572	69			
	580				
Michigan.....	590, 591				
Minnesota.....	610, 611	81, 82			
	619				
Missouri.....	628				
Montana.....	645-647				
Nebraska.....	674-676	106			
Nevada.....	694, 695				
	697, 698				
New Brunswick.....	1009, 1110	224			
	1114, 1115				
New Hampshire.....	705, 706				
New Jersey.....	711, 712				
New Mexico.....	730, 731				
	735, 736				
	739				
New York.....	744, 748	120-122			
North Dakota.....	767-769				
Nova Scotia.....	1123, 1132	226			
	1133				
Ohio.....	790, 791	151			
Ontario.....	1142, 1145	230, 231			
	1149, 1150				
Oregon.....	814, 819				
	822				
Pennsylvania.....	833, 834				
Philippine Islands.....	855				
Porto Rico.....	857				
Quebec.....	1163, 1169				
Rhode Island.....	866, 867				
South Dakota.....	882, 883				
Tennessee.....	900, 901				
Texas.....	909, 910				
	922				
Utah.....	937, 938				
Beneficiaries, who are, law as to—Concluded.					
Vermont.....	943, 946				
	947				
Virginia.....	964				
Washington.....	975, 979				
	980, 983				
West Virginia.....	1010, 1011				
Wisconsin.....	1019, 1023				
Wyoming.....	1034, 1040				
Yukon Territory.....	1172, 1176				
Dominion of Canada.....	1178				
United States, civil employees.....	1044, 1045				
Benefit funds, status of, decisions as to.....	99-102				
Benefits, amount of. (See Amount of compensation.)					
Boards, administrative. (See Commissions, administrative.)					
British Columbia:					
Analysis of law of.....	260				
Text of law of.....	1067-1086	20			
California:					
Amendment of constitution of.....	307				
Analysis of law of.....	24				
Constitutionality of law of.....	87, 88, 93	15, 16			
Text of law of.....	307-342	23			
Canada:					
Compensation laws of.....	257-266				
	1051-1173				
Progress of legislation in.....	257, 258	19			
Text of Dominion law of.....	1178	233			
Canal Zone.....	1050				
Casual employment, decisions as to.....	140-146				
Chart map.....	20				
Children unlawfully employed, decisions as to.....	153-155				
Claim, submission of. (See Accidents, notice and claim for, by employees.)					
Colorado:					
Analysis of law of.....	25				
Text of law of.....	343-370	23			
Commissions, administrative, law as to:					
Alabama.....	284				
Alberta.....	1051-1054	197			
British Columbia.....	1067				
California.....	1083-1085				
	307, 310				
	334-340				
Colorado.....	343, 349				
	350				
	365-370				
Connecticut.....	376, 377				
	381, 383				
	384				
Delaware.....	395, 396				
Georgia.....		41-43			
Hawaii.....	408-410				
	413				
Idaho.....	422-424				
Illinois.....	442-446	53			
Indiana.....	460-463				
Iowa.....	478-484				
Kentucky.....	508-512	56, 57			
Maine.....	544-548				
Manitoba.....	1095-1098	211-214			
		219			
Maryland.....	549-553				
Massachusetts.....	574-578	71			
	583				

	Bulletin No.—			Bulletin No.—	
	272	332		272	332
	Page.	Page.		Page.	Page.
Commission, administrative, law as to—Concluded.			Constitutions, provisions of—Concluded.		
Michigan.....	595-600	72, 73	Ohio.....	777	
Minnesota.....	615	92-99	Pennsylvania.....	828	
Missouri.....	632-638		Vermont.....	942	
Montana.....	639-641	105	Wyoming.....	1032	
Nebraska.....	645		Constitutionality and construction of statutes (see also under specific States).....	69-256	14-18
Nevada.....	683-685	106	Contractors and subcontractors, liability of, law as to:		
New Brunswick.....	689-694		Alabama.....	283	
New Hampshire.....	704, 705		Alaska.....	292	
New Jersey.....	723-726	111, 112	British Columbia.....	1078, 1079	
New York.....	757-759	138-141	California.....	324	
North Dakota.....	761, 765		Colorado.....	351	
Nova Scotia.....	760-772	142	Connecticut.....	372	
Ohio.....	1130-1132	145	Delaware.....	399	
Oklahoma.....	777-782		Georgia.....		34
Oklahoma.....	805, 809		Idaho.....		52
Ontario.....	1152-1159		Illinois.....	451	
Oregon.....	810-812		Indiana.....	454, 455	
Pennsylvania.....	829	160	Iowa.....	477	
Porto Rico.....	851-854		Kansas.....	487	
Rhode Island.....	858-862	163, 164	Kentucky.....	502	56
South Dakota.....	877		Louisiana.....	525	
Tennessee.....	887-899	171	Manitoba.....	1089, 1090	206, 217
Texas.....	906		Maryland.....	1100	
Texas.....	916-922		Massachusetts.....	567	
Utah.....	925-929		Michigan.....	577	
Vermont.....	940		Minnesota.....	589	72, 73
Virginia.....	942, 944		Missouri.....	617, 618	89
Washington.....	966-969	183	Montana.....	624	
Washington.....	988, 989	186	Nebraska.....	646, 647	
West Virginia.....	992-996		Nevada.....	671, 672	
Wisconsin.....	997-1003		New Brunswick.....	688, 689	
United States, civil employees.....	1024-1031		New Jersey.....	1119	
United States, civil employees.....	1047-1049		New Mexico.....	708	
Commissions, investigative, list of States having.....	9, 10		New York.....	731	
Commutation of payments. (See Payments, mode of, law as to.)			New Mexico.....	765	132
Compensation. (See Amount of compensation.)			Nova Scotia.....	1139	229
Compulsory system, law as to:			Ohio.....	783	
Alberta.....	1054		Oklahoma.....	797	
Arizona.....	301		Ontario.....	1144, 1145	
British Columbia.....	1069		Pennsylvania.....	828-830	
California.....	307		Porto Rico.....	851	
Hawaii.....	403		South Dakota.....	864	167
Idaho.....	415		Tennessee.....	881	
Illinois.....	434, 435		Texas.....	895	
Manitoba.....	1088	204	Utah.....	918	
Maryland.....	552		Virginia.....	930	
New Brunswick.....	1110, 1111		Washington.....	960	
New York.....	740, 744	118	Washington.....	986	185, 186
North Dakota.....	745		West Virginia.....	999	
Nova Scotia.....	766		Wisconsin.....	1016	
Ohio.....	1125		Yukon Territory.....	1174	
Oklahoma.....	797		Contract of employment, status of. (See Election, mode of, etc.)		
Oklahoma.....	797		Contracts of waiver. (See Substitute schemes; waivers.)		
Ontario.....	1143		Contracts providing different benefits. (See, Substitute schemes.)		
Porto Rico.....	856		Contributions. (See Premiums.)		
Quebec.....	1168		Contributions by employees, law as to:		
Utah.....	931		Alabama.....	282	
Washington.....	973		Alberta.....	1056	201
Wyoming.....	1032		British Columbia.....	1071, 1076	
Yukon Territory.....	1173		California.....	327	
United States, civil employees.....	1043		Connecticut.....	380	
Connecticut:			Delaware.....	398	
Analysis of law of.....	28	4	Georgia.....		46
Text of law of.....	371-387	24, 25	Hawaii.....	412	
Constitutions, provisions of:					
Arizona.....	301				
California.....	307				
New York.....	740				

	Bulletin No.—			Bulletin No.—	
	272	332		272	332
	Page.	Page.		Page.	Page.
Contributions by employees, law as to—Concluded.			Defenses, abrogation of, law as to—Concluded.		
Idaho.....	419, 427		Louisiana.....	523, 524	
Illinois.....	450		Maine.....	537	
Iowa.....	475, 478		Massachusetts.....	570	
Kansas.....	498		Michigan.....	588	
Kentucky.....	514, 515		Minnesota.....	606	76
Louisiana.....	534		Missouri.....	622	
Manitoba.....	1080	206, 207	Montana.....	641	
Michigan.....	593		Nebraska.....	669, 670	
Minnesota.....	617	88	Nevada.....	686	
Missouri.....	630		New Hampshire.....	704	
Montana.....	648, 652		New Jersey.....	708	
Nebraska.....	677, 681		New Mexico.....	729	
Nevada.....	687, 693		New York.....	745	118
	694		North Dakota.....	773	
New Brunswick.....	1112		Ohio.....	787, 788	
New York.....	754	128	Oklahoma.....	798	
North Dakota.....	775		Oregon.....	814	
Nova Scotia.....	1128-130		Pennsylvania.....	829	
Ohio.....	793		Porto Rico.....	863	
Oklahoma.....	803		Rhode Island.....	865	
Ontario.....	1146, 1152		South Dakota.....	880, 881	
Oregon.....	817		Tennessee.....	895	
Porto Rico.....	862		Texas.....	907	
Quebec.....	1169, 1171		Utah.....	934	
Rhode Island.....	874		Vermont.....	944, 945	
Tennessee.....	905		Virginia.....	960	
Texas.....	914		West Virginia.....	1006	
Utah.....	932, 933		Wisconsin.....	1015	
Vermont.....	954		Yukon Territory.....	1174	
Washington.....	977, 978		Delaware:		
Wisconsin.....	991		Analysis of law of.....	27	4
(See also Wages, law as to deductions from.)	1025		Text of law of.....	388-401	26-28
Courts, administration of law by:			Delinquent payments. (See Payments, enforcement of delinquent.)		
Alabama.....	269, 270		Dependence, decisions as to.....	214-222	
Alaska.....	278, 279		Dependents. (See Beneficiaries, who are, law as to.)		
Arizona.....	295-297		Disability, decisions as to (see also Amount of compensation: Schedule rates)	199, 214	
Kansas.....	304, 305		Disability, total, when presumed, law as to:		
Louisiana.....	497, 498		Alabama.....	272	
Louisiana.....	530, 531		Alaska.....	291	
Minnesota.....	616		Alberta.....	1059	
New Hampshire.....	706, 707		California.....	314	
New Mexico.....	732-734		Colorado.....	357	
Quebec.....	1171		Connecticut.....	375	
Rhode Island.....	871-874		Delaware.....	390	
Tennessee.....	902		Georgia.....		37
Wyoming.....	1035-1037		Hawaii.....	405, 406	
Yukon Territory.....	1173, 1177		Idaho.....	419	
Courts, appeal to. (See Suits.)			Illinois.....	439	
Coverage, decisions as to.....	135-170		Iowa.....	474	
Coverage. (See Employments and persons included and excluded.)			Kansas.....	491	
Dangerous employments. (See Employments, classification of; also Hazardous employments.)			Kentucky.....	504	
Defenses, abrogation of, decisions as to.....	90, 91		Louisiana.....	525	
Defenses, abrogation of, law as to:			Maine.....	541	65
Alabama.....	267		Maryland.....	561	
Alaska.....	298, 299		Minnesota.....	610	81
California.....	307, 311		Missouri.....	627	
Colorado.....	345		Montana.....	651	
Connecticut.....	371		Nebraska.....	673	
Delaware.....	388		Nevada.....	696	
Georgia.....		33, 34	New Jersey.....	710	
Indiana.....	454		New Mexico.....	737	
Iowa.....	468		New York.....	746	119
Kansas.....	499		Ohio.....	790	
Kentucky.....	517		Oklahoma.....	799	
			Oregon.....	819, 820	
			Pennsylvania.....	832	
			Porto Rico.....	857	
			Rhode Island.....	867, 868	

	Bulletin No.—			Bulletin No.—	
	272	332		272	332
	Page.	Page.		Page.	Page.
Disability, total, when presumed, law as to—Concl'd.					
South Dakota.....	885				
Tennessee.....	900				
Texas.....	910				
Utah.....	937				
Vermont.....	948				
Virginia.....	963				
Washington.....	980				
West Virginia.....	1010				
Wisconsin.....	1018				
Wyoming.....	1039				
Yukon Territory.....	1175				
Disease as accident, decisions as to.....	111-114	16			
Disease, occupational, decisions as to (see also Occupational diseases, law as to)					
Disfigurement, decisions as to.....	113-125				
Disputes. (See Awards.)					
Disputes, decisions as to.....	248, 249				
District of Columbia:					
Analysis of law of.....	28				
Text of law of.....	402				
(See also under United States.)					
Domestic and farm labor, decisions as to.....	135-137				
Dominion of Canada. (See Canada.)					
Due process of law, decisions as to.....	72-79				
Earnings, determination of, as basis of awards, law as to:					
Alabama.....	273, 274				
Alberta.....	1060	200, 201			
Arizona.....	302				
British Columbia.....	1074				
California.....	317, 318				
Colorado.....	350, 351				
Connecticut.....	376				
Delaware.....	392, 400				
Georgia.....	401				
Hawaii.....	405, 407				
Idaho.....	414				
Illinois.....	420, 433				
Indiana.....	441				
Iowa.....	549, 467				
Kansas.....	476				
Kentucky.....	492, 493				
Louisiana.....	506				
Maine.....	527				
Manitoba.....	536, 537				
Maryland.....	1094, 1095	211			
Massachusetts.....	568				
Michigan.....	580				
Minnesota.....	592, 593				
Missouri.....	618	99			
Montana.....	628, 629				
Nebraska.....	645				
New Brunswick.....	672, 676				
Nevada.....	1109	224			
New Jersey.....	695				
New Mexico.....	716, 717				
New York.....	731				
North Dakota.....	744-746	113, 119			
Nova Scotia.....	766, 767				
Ohio.....	769				
Oklahoma.....	1133				
Ontario.....	791				
Oregon.....	796, 798				
Pennsylvania.....	1150, 1151				
Porto Rico.....	814				
Quebec.....	834, 835				
Rhode Island.....	856, 857				
	1169	232			
	868, 869				
Earnings, determination of, as basis of awards, law as to—Concluded.					
South Dakota.....	886, 891				
Tennessee.....	893				
Texas.....	922, 923				
Utah.....	938	174, 176			
Vermont.....	943, 947				
Virginia.....	949				
West Virginia.....	957				
Wisconsin.....	1011				
United States, civil employees.....	1022, 1023	190			
	1043, 1045				
	1049				
Election, decisions as to.....	241				
Election, mode of, etc., law as to:					
Alabama.....	267-269				
Alaska.....	298-300				
Alberta.....		197			
Arizona.....	302				
British Columbia.....	1069				
California.....	340				
Colorado.....	345, 346				
Connecticut.....	371, 372				
Delaware.....	388, 389				
Georgia.....		30-32			
Idaho.....		52			
Illinois.....	434				
Indiana.....	453, 454				
Iowa.....	468-471				
Kansas.....	498, 499				
Kentucky.....	516	56, 57			
Louisiana.....	523, 524				
Maine.....	538				
Manitoba.....	1105				
Maryland.....	559, 560				
Massachusetts.....	570				
Michigan.....	588, 589				
Minnesota.....	607	77, 78			
Missouri.....	622				
Montana.....	641, 642				
Nebraska.....	657				
Nevada.....	669, 670				
	686-688				
	702, 703				
New Brunswick.....	1110, 1111				
New Hampshire.....	704, 705				
New Jersey.....	709, 717				
New Mexico.....	728				
New York.....	743	116			
North Dakota.....	773				
Nova Scotia.....	1124, 1125				
Oregon.....	812, 814	154			
	815				
Pennsylvania.....	829-831				
Rhode Island.....	865, 866	168			
	875				
South Dakota.....	880				
Tennessee.....	893, 894				
Texas.....	907, 908				
Vermont.....	944				
Virginia.....	958				
Washington.....	987				
West Virginia.....	1003, 1004				
Wisconsin.....	1015, 1016				
Yukon Territory.....	1173				
Dominion of Canada.....	1178				
Employee's fault. (See Willful misconduct.)					
Employees, who are, decisions as to.....	135-170				
Employers, joint. (See Joint employers.)					
Employment, public, law as to:					
Alabama.....	268				

	Bulletin No.—			Bulletin No.—	
	272	332		272	332
	Page.	Page.		Page.	Page.
Employment, public, law as to—Concluded.			Employments and persons included and excluded, law as to—Continued.		
Alberta.....	1051	201	Arizona.....	301, 302	
British Columbia.....	1067-1069		British Columbia.....	1067-1069	
California.....	311, 340		California.....	1086	
Colorado.....	344		California.....	311, 312	
Connecticut.....	384, 387		Colorado.....	339, 340	
Delaware.....	401		Colorado.....	344-346	
District of Columbia (see also under United States).....	402		Connecticut.....	371, 384	25
Dominion of Canada.....		233	Delaware.....	400, 401	
Georgia.....		29	Georgia.....		29, 33
Hawaii.....	403, 412		Hawaii.....	403, 413	
Idaho.....	415		Idaho.....	415, 432	49, 52
Illinois.....	434-436		Illinois.....	434-436	53
Indiana.....	455, 467		Indiana.....	453-455	
Iowa.....	468, 476		Iowa.....	467	
Kansas.....	488, 489		Iowa.....	468, 476	
Kentucky.....	500		Iowa.....	478	
Louisiana.....	522		Kansas.....	488, 489	
Maine.....	535, 547		Kentucky.....	500, 502	56
Manitoba.....	1087, 1088	203	Kentucky.....	503	
Maryland.....	560	64	Louisiana.....	522, 523	60
Massachusetts.....	581-584		Louisiana.....	532	
Michigan.....	588, 589		Maine.....	535, 537	
Minnesota.....	595, 605		Maine.....	548	
Missouri.....		99, 100	Manitoba.....	1087, 1088	203, 204
Missouri.....	623	103, 104	Manitoba.....	1105-1108	206, 217
Montana.....	641	105	Maryland.....		220-223
Nebraska.....	669, 671	106	Maryland.....	557-560	69
Nevada.....	686, 688	107	Massachusetts.....	570, 568	
New Brunswick.....	1109, 1110		Massachusetts.....	570, 580	
New Jersey.....	718		Michigan.....	588, 589	72
New York.....	744, 755	113, 116	Michigan.....	601, 605	
North Dakota.....	765	130, 131	Minnesota.....	607, 619	77
Nova Scotia.....	766		Missouri.....	622, 623	
Ohio.....	783, 784		Montana.....	642-644	
Oklahoma.....	796		Montana.....	646	
Ontario.....	1143		Nebraska.....	669, 671	106
Oregon.....	826		Nebraska.....	686, 688	107
Pennsylvania.....	828, 830		Nebraska.....	689, 702	
Philippine Islands.....	851		New Brunswick.....	1109, 1110	225
Porto Rico.....	856		New Brunswick.....	1122	
Quebec.....		232	New Brunswick.....	704	
Rhode Island.....	877-879		New Hampshire.....		
South Dakota.....	881, 891		New Jersey.....	716, 722	
Tennessee.....	894		New Jersey.....	727, 729	
Utah.....	929, 930		New Mexico.....	730	
Vermont.....	942, 943		New York.....	740-744	113-116
Virginia.....	957, 959	181	New York.....	756, 763	132, 136
Washington.....	998	185	New York.....	766	142
West Virginia.....	999		Nova Scotia.....	1123, 1124	226, 229
Wisconsin.....	1015-1017		Nova Scotia.....	1141	
Wyoming.....	1041	193	Ohio.....	782, 783	
Yukon Territory.....	1172		Ohio.....	786, 794	
Dominion of Canada.....	1178		Oklahoma.....	796, 797	
United States, civil employees.....	1043-1050		Ontario.....	1142, 1143	
Employments and persons included, decisions as to.	135-170	17, 18	Ontario.....	1145, 1164	
Employments and persons included and excluded, law as to:			Oregon.....	811-813	154, 157
Alabama.....	267, 268		Oregon.....	816, 817	
Alaska.....	289, 300		Oregon.....	826	
Alberta.....	1051, 1052		Pennsylvania.....	828, 830	
	1062-1065		Pennsylvania.....	850	
			Pennsylvania.....	855	
			Philippine Islands.....	856, 864	161
			Porto Rico.....	1165, 1170	
			Quebec.....	885, 879	170
			Quebec.....	880, 891	172
			Quebec.....	892	
			Rhode Island.....	893, 894	
			Rhode Island.....	907, 922	173
			South Dakota.....	929, 930	
			South Dakota.....	940	
			Tennessee.....	942, 943	
			Tennessee.....	945	
			Texas.....	957, 959	181
			Texas.....		
			Utah.....		
			Utah.....		
			Vermont.....		
			Vermont.....		
			Virginia.....		
			Virginia.....		

	Bulletin No.—			Bulletin No.—	
	272	332		272	332
	Page.	Page.		Page.	Page.
Employments and persons included and excluded, law as to—Concluded.			Exclusiveness of remedy, law as to—Concluded.		
Washington.....	973, 974 986, 987	184	Minnesota.....	607	77
West Virginia.....	999, 1013		Missouri.....	622	
Wisconsin.....	1015-1017	189	Montana.....	641	
Wyoming.....	1032-1034	193	Nebraska.....	670	
Yukon Territory.....	1172		Nevada.....	687	
United States, civil employees.....	1049		New Brunswick.....	1112	
Employments, classification of, for insurance, etc., law as to:			New Jersey.....	709, 725	
Alberta.....	1063-1065	197	New Mexico.....	728, 729	
Arizona.....	301, 302		New York.....	740, 745	118
British Columbia.....	1075		North Dakota.....	766	
California.....	331		Nova Scotia.....	1128	226
Colorado.....	366		Ohio.....	777	
Idaho.....	429		Oklahoma.....	797	
Kentucky.....	520		Ontario.....	1145, 1146	
Manitoba.....	1098	215	Pennsylvania.....	831	
Maryland.....	1105-1107	220-223	Quebec.....	1170	
Massachusetts.....	554		Rhode Island.....	866, 879	
Michigan.....	679		South Dakota.....	880, 886	
Montana.....	660-663		Tennessee.....	894	
New Brunswick.....	1116, 1117		Texas.....	907	
New Jersey.....	721, 722		Utah.....	934, 935	175
New York.....	740-743 760-762	114-116 134	Vermont.....	945	
North Dakota.....	771, 772		Virginia.....	959	181
Nova Scotia.....	1135		Washington.....	973	
Ohio.....	777, 780		West Virginia.....	1014	
Ontario.....	1155-1157 1164-1167		Wisconsin.....	1015	
Oregon.....	816, 817		Wyoming.....	1032	
Pennsylvania.....	846		Yukon Territory.....	1173	
Porto Rico.....	860	166	United States.....	1043	
Texas.....	920		Exemption of payments from attachment, etc. (See Assignments.)		
Utah.....	927		Extraterritorial effects of laws, decisions as to.....	155-160	
Washington.....	978-976 978, 979		Extraterritoriality, law as to:		
West Virginia.....	1001, 1002		Alabama.....	267	
Enforcement of payments. (See Payments, enforcement of.)			Alberta.....	1057	
Equal protection of the law, decisions as to.....	79-83		British Columbia.....	1070	
Evidence, decisions as to.....	249-251		California.....	334	
Exclusions from coverage, miscellaneous decisions as to.....	146-149		Delaware.....	388	
Exclusive operation of laws, decisions as to.....	242-244		Georgia.....		38
Exclusiveness of remedy, law as to:			Hawaii.....	403, 411	
Alabama.....	268, 269		Idaho.....	416, 425	
Alaska.....	292		Indiana.....	455	
Alberta.....	1057		Iowa.....	480	
British Columbia.....	1071		Kentucky.....	502	
California.....	311		Maine.....	543	
Colorado.....	345, 346		Manitoba.....	1088	204, 205
Georgia.....		33	Maryland.....	568	
Hawaii.....	403		Michigan.....		74
Idaho.....	416		Missouri.....	625	
Illinois.....	436		Nevada.....	702	
Indiana.....	454		New Brunswick.....	1111	224
Iowa.....	469		New York.....	741	
Kansas.....	492		North Dakota.....	773	
Kentucky.....	500		Nova Scotia.....	1125-1128	
Louisiana.....	533		Ohio.....	784, 792	
Maine.....	537, 538		Ontario.....	1143, 1144	230
Manitoba.....	1090	206	Pennsylvania.....	828	
Maryland.....	552		South Dakota.....	881	
Massachusetts.....	580		Tennessee.....	896	
Michigan.....	588, 604 605		Texas.....	915	
			Utah.....	933, 934	
			Vermont.....	945	
			Virginia.....	963	
			West Virginia.....	999	
			Farm labor, decisions as to.....	135-137	
			Fees, attorneys'. (See Attorneys' fees.)		
			Fees, medical, decisions as to.....	232-240	
			Freedom of contract, decisions as to.....	95-99	
			Georgia:		
			Analysis of law of.....		4
			Text of law of.....		29-48

	Bulletin No.—			Bulletin No.—	
	272	332		272	332
	Page.	Page.		Page.	Page.
Hawaii:					
Analysis of law of.....	29				
Constitutionality of law of.....	80				
Text of law of.....	403-414				
Hazardous employments, decisions as to.....	137-140				
Hernia as accident, decisions as to.....	115-118				
Hernia as accident, law as to:					
Alabama.....	273				
Colorado.....	358				
Georgia.....	420	30			
Idaho.....	501				
Kentucky.....	627				
Missouri.....	651				
Montana.....	710, 711				
New Jersey.....	737				
New Mexico.....	820				
Oregon.....	912				
Texas.....	957, 958				
Virginia.....	1006				
West Virginia.....					
Idaho:					
Analysis of law of.....	30	5			
Text of law of.....	415-433	49-52			
Illinois:					
Analysis of law of.....	31	5			
Constitutionality of law of.....	85, 93, 96	55			
Text of law of.....	105				
Text of law of.....	434-452	53-55			
Indiana:					
Analysis of law of.....	32				
Text of law of.....	453-467				
Industrial commissions. (See Commissions, administrative.)					
Industrial rehabilitation. (See Rehabilitation of injured men.)					
Injuries compensated, decisions as to.....	106-135				
Injuries compensated, law as to:					
Alabama.....	287				
Alaska.....	289-291				
Alberta.....	1051, 1056				
Arizona.....	1061, 1066				
British Columbia.....	302				
California.....	1067-1069				
Colorado.....	308, 311				
Connecticut.....	345				
Delaware.....	354-358				
Georgia.....	375, 384	24			
Hawaii.....	400				
Illinois.....	432				
Indiana.....	434				
Iowa.....	453, 467				
Kansas.....	468, 469				
Kentucky.....	477, 478				
Louisiana.....	487, 490				
Maine.....	500, 501				
Manitoba.....	523				
Maryland.....	532-534				
Massachusetts.....	539, 540				
Michigan.....	1087, 1088	203, 204			
Minnesota.....	1104, 1105				
Missouri.....	1108				
Montana.....	552, 564				
Nebraska.....	565, 568				
Nevada.....	570				
New Hampshire.....	590				
New Jersey.....	607, 619	77, 81, 100			
New Mexico.....	620				
New York.....	623				
North Dakota.....					
Ohio.....					
Oklahoma.....					
Oregon.....					
Pennsylvania.....					
Porto Rico.....					
Quebec.....					
Rhode Island.....					
South Dakota.....					
Tennessee.....					
Texas.....					
United States, civil employees.....					
Utah.....					
Vermont.....					
Virginia.....					
Washington.....					
West Virginia.....					
Wisconsin.....					
Wyoming.....					
Yukon Territory.....					
Dominion of Canada.....					
United States, civil employees.....					
Injuries compensated, law as to—Concluded.					
Alabama.....	645				
Montana.....	660, 682				
Nebraska.....	686, 687				
Nevada.....	1109, 1111				
New Brunswick.....	1121				
New Hampshire.....	705				
New Jersey.....	708, 709				
New Mexico.....	716				
New York.....	727, 729				
North Dakota.....	731, 735				
Nova Scotia.....	740, 744				
Ohio.....					113
Oklahoma.....					116-118
Ontario.....					128-130
Oregon.....	766				
Pennsylvania.....	1123, 1125				226
Porto Rico.....	1140, 1141				
Quebec.....	777, 785				
Rhode Island.....	796, 797				
South Dakota.....	809				
Tennessee.....	1142, 1143				
Texas.....	1162, 1163				
United States, civil employees.....	1167				
Utah.....	812				
Vermont.....	828-830				
Virginia.....	855				
Washington.....	856, 857				
West Virginia.....	1168, 1169				
Wisconsin.....	865, 866				
Wyoming.....	880, 883				
Yukon Territory.....	891				
Dominion of Canada.....	893, 895				
United States, civil employees.....	907, 908				
Alabama.....	923				
California.....	930, 931				
Colorado.....	942, 943				
Georgia.....	957-959				182
Illinois.....	975, 983				
Indiana.....	1006, 1007				
Iowa.....	1015, 1031				
Kansas.....	1032, 1034				
Kentucky.....	1172, 1173				
Louisiana.....	1178				
Maine.....					
Manitoba.....					
Maryland.....					
Massachusetts.....					
Michigan.....					
Minnesota.....					
Missouri.....					
Montana.....					
Nebraska.....					
Nevada.....					
New Hampshire.....					
New Jersey.....					
New Mexico.....					
New York.....					
North Dakota.....					
Ohio.....					
Oklahoma.....					
Oregon.....					
Pennsylvania.....					
Porto Rico.....					
Quebec.....					
Rhode Island.....					
South Dakota.....					
Tennessee.....					
Texas.....					
United States, civil employees.....					
Utah.....					
Vermont.....					
Virginia.....					
Washington.....					
West Virginia.....					
Wisconsin.....					
Wyoming.....					
Yukon Territory.....					
Dominion of Canada.....					
United States, civil employees.....					
Injuries, second, decisions as to.....					15
Injuries, second, law as to:					
Alabama.....	272, 273				
California.....	316				
Colorado.....	351, 356				
Georgia.....					37, 38
Illinois.....	441				
Indiana.....	458				
Iowa.....	476				
Kansas.....	492, 493				
Kentucky.....	506				
Maine.....	537				
Maryland.....	564				
Massachusetts.....	586				
Michigan.....	590, 593				
Minnesota.....	612, 621				83, 84
Missouri.....	627				
Montana.....	651				
Nebraska.....	676				
Nevada.....	697				
New York.....	747				121
North Dakota.....	772				
Ohio.....	785				
Oklahoma.....	800				
Oregon.....	818, 822				155
Pennsylvania.....	1168				
Porto Rico.....					
Quebec.....					
Rhode Island.....					
South Dakota.....					
Tennessee.....					
Texas.....					
United States, civil employees.....					
Utah.....					
Vermont.....					
Virginia.....					
Washington.....					
West Virginia.....					
Wisconsin.....					
Wyoming.....					
Yukon Territory.....					
Dominion of Canada.....					
United States, civil employees.....					

	Bulletin No.—			Bulletin No.—	
	272	332		272	332
	Page.	Page.		Page.	Page.
Injuries, second, law as to—			Insurance policies, provisions		
Concluded.			of, law as to—Concluded.		
Utah.....	938		Montana.....	659, 660	
Virginia.....	963		Nebraska.....	681	
Washington.....	982		New Jersey.....	720	
Wisconsin.....	1021, 1023		New Mexico.....	728	
Insurance, decisions as to.....	252-256		New York.....	756	132
Insurance, law as to:			Oklahoma.....	804	
Alabama.....	281-283		Pennsylvania.....	840, 850	
California.....	307		Rhode Island.....	875, 876	169, 170
Colorado.....	327-329		South Dakota.....	890	
Connecticut.....	346-348		Tennessee.....	905, 906	
Delaware.....	360		Utah.....	932	174
Georgia.....	380		Vermont.....	954	
Hawaii.....	384-387		Virginia.....	970	
Idaho.....	397, 398		Wisconsin.....	1030	
Illinois.....	411, 412	33, 45-47	Insurance, requirement as		
Indiana.....	426, 427		to. (See Security for pay-		
Iowa.....	449, 450		ments.)		
Kentucky.....	453		Insurance, State fund for,		
Louisiana.....	464-467		law as to:		
Maine.....	484-486		Alberta.....	1054-1056	
Manitoba.....	514-521	56	British Columbia.....	1069	
Maryland.....	538, 539	60	California.....	1075-1079	
Massachusetts.....	1092, 1093	214-218	Colorado.....	307	23
Michigan.....	1101, 1102		Idaho.....	329-333	
Minnesota.....	552-590		Kentucky.....	346	23
Missouri.....	578-581		Louisiana.....	365-369	
Montana.....	585, 586		Maine.....	426-431	52
Nebraska.....	600-605		Manitoba.....	519-521	
New Brunswick.....	616, 617	87-89	Maryland.....	1098-1103	214-218
New Jersey.....	629-632		Michigan.....	553-557	64
New Mexico.....	637, 638		Minnesota.....	602-605	74, 75
New York.....	658-665		Missouri.....	660-665	105
North Dakota.....	680, 681		Montana.....	686	
Ohio.....	1116-1118		Nevada.....	691-694	
Oklahoma.....	719-723	109	New Brunswick.....	701-703	
Ontario.....	727, 728		New York.....	1116-1121	
Pennsylvania.....	755, 756	130-136	North Dakota.....	740	130-136
Quebec.....	771-773		Nova Scotia.....	755-757	
Rhode Island.....	785, 786	149, 150	Ohio.....	759-764	
South Dakota.....	794		Ontario.....	771-774	142, 143
Tennessee.....	803, 804		Nova Scotia.....	1135-1140	
Texas.....	1148, 1149		Ohio.....	777	146, 149
Utah.....	831	160	Ontario.....	779-784	
Vermont.....	1169, 1170		Oregon.....	1155-1164	
Virginia.....	874-876		Pennsylvania.....	815-818	156
Wisconsin.....	879		Porto Rico.....	831	
Insurance policies, provisions			Porto Rico.....	844-849	
of, law as to:			Utah.....	860-864	161
Alabama.....	281-283		Washington.....	926-929	174
California.....	328		West Virginia.....	975, 979	184, 185
Colorado.....	347		Wyoming.....	981	
Connecticut.....	380, 385		Interstate commerce, deci-	1003-1006	
Delaware.....	398		sions as to.....	1032, 1037	193, 195
Georgia.....	465, 466	46, 47	Iowa:	1038	
Hawaii.....	412		Analysis of law of.....	81, 82	
Idaho.....	426, 427		Constitutionality of law of.....	164-169	
Indiana.....	465, 466		Text of law of.....	83	
Iowa.....	485		Isthmian Canal, law relating.....	69, 73, 85	
Kentucky.....	515		Joint employers, liability of,	86, 91, 93	
Louisiana.....	531, 532		law as to:	94, 96, 102	
Maine.....	538		Alabama.....	468-486	
Maryland.....	556, 557	64	Alberta.....	1049, 1050	
Massachusetts.....	584		Delaware.....	276, 277	
Michigan.....	600, 601		Georgia.....	1060	
Minnesota.....	617	88	Indiana.....	399	
Missouri.....	630		Louisiana.....	41	
			Minnesota.....	460	
			Missouri.....	533	
			Nebraska.....	612	84
			Tennessee.....	624	
			Virginia.....	676, 677	
				900	
				966	

	Bulletin No.—			Bulletin No.—	
	272	332		272	332
	Page.	Page.		Page.	Page.
Judicial powers, exercise of, by administrative officials, decisions as to.....	91-95		Medical examinations, provisions for, law as to—Concl'd.		
Jury trial, decisions as to.....	83-86		Louisiana.....	528, 529	
Kansas:			Maine.....	542, 543	
Analysis of law of.....	34		Manitoba.....	1091	208
Constitutionality of law of.....	73	15	Maryland.....	564	
Text of law of.....	487-499		Massachusetts.....	573, 574	71
Kentucky:			Michigan.....	594, 597	
Analysis of law of.....	35	5	Minnesota.....	613, 614	86
Constitutionality of law of.....	73, 78, 79		Missouri.....	634, 635	
Text of law of.....	500-521	56, 57	Montana.....	648	
Laws, list of States, etc., enacting.....	9		Nebraska.....	677	
Laws, progress in enactment of.....	9-14	2, 3	Nevada.....	698	
Liability of third parties. (See Third parties.)			New Brunswick.....	1115, 1116	
Liability without fault, decisions as to.....	86-90		New Hampshire.....	706	
Liability without fault, law as to. (See Defenses, abrogation of.)			New Jersey.....	713	112
Louisiana:			New Mexico.....	738, 739	
Analysis of law of.....	36	5	New York.....	749	123
Constitutionality of law of.....		14, 15	North Dakota.....	774	
Text of law of.....	522-534	58-60	Nova Scotia.....	1134, 1135	
Lump-sum payments, decisions as to.....	226, 231		Ohio.....	793	
Lump-sum payments. (See Payments, mode of, law as to.)			Oklahoma.....	800	
Maimings, schedule of compensation for. (See Schedule, etc.)			Ontario.....	1147	
Maine:			Oregon.....	825	
Analysis of law of.....	37	6	Pennsylvania.....	836	
Constitutionality of law of.....	73, 81		Porto Rico.....	857	
Text of law of.....	535-548	61, 62	Quebec.....	1170	
Manitoba:			Rhode Island.....	870	
Analysis of law of.....	261	21	South Dakota.....	887	
Text of law of.....	1087-1108	203-223	Tennessee.....	897	
Maritime workers. (See Admiralty.)			Texas.....	916	
Maryland:			Utah.....	939	
Analysis of law of.....	38	6	Vermont.....	950, 951	179
Constitutionality of law of.....	85		Virginia.....	961, 962	
Text of law of.....	549-569	63-69	Washington.....	985	
Massachusetts:			Wisconsin.....	1024	
Analysis of law of.....	39	7	Wyoming.....	1042	
Constitutionality of law of.....	73, 84, 90		Yukon Territory.....	1176, 1177	
Text of law of.....	93, 95, 97		United States, civil employees.....	1046	
Text of law of.....	570-587	70, 71	Medical treatment, rejection of, law as to:		
Medical aid board, law as to:			Alabama.....	277	
Washington.....	992		British Columbia.....	1080	
Medical and surgical services, decisions as to.....	232-240		California.....	316	
Medical examinations, provisions for, law as to:			Colorado.....	358	
Alabama.....	277, 278		Connecticut.....	373, 374	
Alaska.....	297		Delaware.....	389	26
Alberta.....	1058		Georgia.....		35, 36
Arizona.....	303, 304		Hawaii.....	405	
British Columbia.....	1080		Illinois.....	445	53
California.....	319		Indiana.....	456	
Colorado.....	358		Kentucky.....	502	
Connecticut.....	378		Manitoba.....		208
Delaware.....	392, 393		Missouri.....	625	
Georgia.....		35, 36, 44	Nebraska.....	672	
Hawaii.....	407, 409		Nevada.....	698	
Idaho.....	421, 424	50	New Jersey.....	714	
Illinois.....	442	53	New Mexico.....	738	
Indiana.....	456, 463		Oregon.....	825	
Iowa.....	464		Pennsylvania.....	833	
Kansas.....	481		Porto Rico.....	858	
Kentucky.....	494		Tennessee.....	897	
	508, 513		Texas.....	913, 914	
			Virginia.....	916	
			Washington.....	958, 961	
			Wisconsin.....	985	
			Wyoming.....	1018	
			Yukon Territory.....	1040, 1041	
			United States, civil employees.....	1176	
			Medical treatment to be furnished, law requiring:		
			Alabama.....	277	
			Alberta.....	1053, 1059	201
				1061	

	Bulletin No.—			Bulletin No.—	
	272	332		272	332
	Page.	Page.		Page.	Page.
Medical treatment to be furnished, law requiring—Con.					
British Columbia.....	1073, 1074				
California.....	312, 313				
Colorado.....	352, 355				
Connecticut.....	373	24			
Delaware.....	389	26			
Georgia.....		35			
Hawaii.....	405				
Idaho.....	418, 419	49			
Illinois.....	438				
Indiana.....	456				
Iowa.....	472				
Kansas.....	490				
Kentucky.....	501, 502	56			
Louisiana.....	528				
Maine.....	540				
Manitoba.....	1091, 1093	209, 210			
Maryland.....	563	67, 68			
Massachusetts.....	571	70			
Michigan.....	590				
Minnesota.....	612	84			
Missouri.....	625				
Montana.....	649, 650				
Nebraska.....	672	106			
Nevada.....	693				
New Brunswick.....	1115	224, 225			
New Jersey.....	712	108			
New Mexico.....	737, 738	112			
New York.....	745	118, 119			
North Dakota.....	767				
Nova Scotia.....	1129, 1130	226, 227			
Ohio.....	1134				
Oklahoma.....	791				
Ontario.....	798				
	1147, 1151	231			
Oregon.....	1152				
Pennsylvania.....	822, 823				
Porto Rico.....	832, 833				
Quebec.....	856				
Rhode Island.....	1168	169			
South Dakota.....	866				
Tennessee.....	883				
Texas.....	896, 897				
	908, 909				
	913, 914				
Utah.....	938	177			
Vermont.....	947				
Virginia.....	961	182			
Washington.....	990-996	186-188			
West Virginia.....	1006, 1007				
Wisconsin.....	1017, 1018	189			
Wyoming.....	1025				
Yukon Territory.....	1040	194			
United States, civil employees.....	1175, 1176				
Michigan:	1044				
Analysis of law of.....	40	7			
Constitutionality of law of.....	93, 97				
Text of law of.....	588-605	72-75			
Minnesota:					
Analysis of law of.....	41	8			
Constitutionality of law of.....	73, 96, 97				
Text of law of.....	606-621	76-104			
Missouri:					
Analysis of law of.....	42				
Text of law of.....	622-638	105			
Montana:					
Analysis of law of.....	43	9			
Constitutionality of law of.....	70, 74, 82				
	84, 92				
	100, 103				
Text of law of.....	639-668	105			
Nebraska:					
Analysis of law of.....	44	9			
Text of law of.....	669-685	106			
Nevada:					
Analysis of law of.....	45	9			
Text of law of.....	686-703	107			
New Brunswick:					
Analysis of law of.....	262	21			
Text of law of.....	1109-1122	224, 225			
New Hampshire:					
Analysis of law of.....	46				
Constitutionality of law of.....	90, 105				
Text of law of.....	704-707	107			
New Jersey:					
Analysis of law of.....	47	9			
Constitutionality of law of.....	73, 83, 96				
Text of law of.....	708-726	108-112			
New Mexico:					
Analysis of law of.....	48	9			
Text of law of.....	727-739	112			
New York:					
Amendment of constitution of.....	749				
Analysis of law of.....	49	10			
Constitutionality of law of.....	69, 71	15, 16			
	74-79				
	85-91				
	94, 95, 97				
	102, 103				
	740-765	113-141			
Text of law of.....					
North Dakota:					
Analysis of law of.....	50	11			
Constitutionality of law of.....	71				
Text of law of.....	766-776	142-144			
Notice and claim, decisions as to.....	244-248				
Notice of accident. (See Accidents.)					
Nova Scotia:					
Analysis of law of.....	263	22			
Text of law of.....	1123-1141	226-226			
Occupational diseases, decisions as to.....	118-125				
Occupational diseases, law as to:					
Alabama.....	287				
Alberta.....	1051, 1061				
	1066				
British Columbia.....	1067, 1069				
	1086				
California.....	308				
Connecticut.....	384				
Delaware.....	400				
Hawaii.....	403				
Idaho.....	432				
Illinois.....		54, 55			
Indiana.....	467				
Iowa.....	478				
Kentucky.....	500				
Louisiana.....	533				
Manitoba.....	1104, 1105	203, 207			
	1108	219, 220			
		223			
Maryland.....	568				
Minnesota.....		100-103			
Missouri.....	623				
Montana.....	645				
Nebraska.....	682				
New Brunswick.....	1109, 1121				
New York.....	744	116-118			
		128-130			
Nova Scotia.....	1123, 1140				
	1141				

	Bulletin No.—			Bulletin No.—	
	272	332		272	332
	Page.	Page.		Page.	Page.
Occupational diseases, law as to—Concluded.					
Ohio.....	777	145-149	1160, 1161		
Oklahoma.....	796	153	824		
Ontario.....	1142, 1162		842		
	1163, 1167		860, 861		
Pennsylvania.....	828, 829		871, 875		
Porto Rico.....		162, 163	889		
South Dakota.....	891		901, 902		
Tennessee.....	893		917, 922		
Texas.....	923		935		
Utah.....	931		952		
Vermont.....	943		968		
Virginia.....	957		984		
Washington.....	975		1006, 1013		
Wyoming.....	1031		1014		
United States, civil employees.....	1034		1026, 1027		
Ohio:			1177		
Amendment of constitution of.....	777		279-281		
Analysis of law of.....	51	11	296		
Constitutionality of law of.....	72, 73, 86		1057, 1058		
	92, 96		1060, 1061		
	101, 103		305		
Text of law of.....	777-795	145-153	1072, 1074		
Oklahoma:			1075		
Analysis of law of.....	52		316, 318		
Text of law of.....	796-809		325-327		
Ontario:			354, 355		
Analysis of law of.....	264	22	358, 359		
Text of law of.....	1142-1167	230, 231	381		
Oregon:			398, 399		
Analysis of law of.....	53	11	405, 407		
Constitutionality of law of.....	73, 94		421		
Text of law of.....	810-827	154-159	437, 440		54
			441		
Panama Canal, law relating to. (See Isthmian Canal.)			459, 460		
Partial disabilities. (See Schedule rates.)			475, 476		
Partial disability, decisions as to.....	201-210		486		
Payments, enforcement of delinquent, law as to:			493		
Alabama.....	280		506, 507		
Arizona.....	305		528		59
British Columbia.....	1078		544, 548		
Colorado.....	367		1090, 1092	208, 209	
Georgia.....		44	1095, 1103		
Hawaii.....	410		564, 565		68
Idaho.....	425	51	573, 574		
Indiana.....	463		595		
Iowa.....	481		598-600		
Kansas.....	497, 498		604		
Kentucky.....	512, 518		615, 616	86, 87	
	519		625, 634		
Louisiana.....	531-533		646, 647		
Maine.....	546		650, 651		
Manitoba.....	1099, 1100	216, 217	676, 679		
Maryland.....	554, 555		680		
Michigan.....	603		695, 698		
Minnesota.....	614	97	1111, 1115		
Missouri.....	633		1116		
Montana.....	658, 664		707		
New Brunswick.....	1119		711-715	108	
New Jersey.....	718		718		
New Mexico.....	734		732, 733		
New York.....	752, 753	126	738		
North Dakota.....	772, 773		750-753	124-126	
Nova Scotia.....	1136	228	769, 773		
Ohio.....	788		1132-1134		
Oklahoma.....	802		786, 787		
			791		
			802		
			1143, 1145		
			1147, 1148		
			1161		
Payments, enforcement of delinquent, law as to—Con.					
Ontario.....					
Oregon.....					
Pennsylvania.....					
Porto Rico.....					
Rhode Island.....					
South Dakota.....					
Tennessee.....					
Texas.....					
Utah.....					
Vermont.....					
Virginia.....					
Washington.....					
West Virginia.....					
Wisconsin.....					
Yukon Territory.....					
Payments, mode of, law as to:					
Alabama.....			279-281		
Alaska.....			296		
Alberta.....			1057, 1058		
Arizona.....			1060, 1061		
British Columbia.....			305		
California.....			1072, 1074		
Colorado.....			1075		
Connecticut.....			316, 318		
Delaware.....			325-327		
Georgia.....			354, 355		
Hawaii.....			358, 359		
Idaho.....			381		
Illinois.....			398, 399		
Indiana.....			405, 407		
Iowa.....			421		
Kansas.....			437, 440		54
Kentucky.....			441		
Louisiana.....			459, 460		
Maine.....			475, 476		
Manitoba.....			486		
Maryland.....			493		
Massachusetts.....			506, 507		
Michigan.....			528		59
Minnesota.....			544, 548		
Mississippi.....			1090, 1092	208, 209	
Missouri.....			1095, 1103		
Montana.....			564, 565		68
New Brunswick.....			573, 574		
New Hampshire.....			595		
New Jersey.....			598-600		
New Mexico.....			604		
New York.....			615, 616	86, 87	
North Dakota.....			625, 634		
Nova Scotia.....			646, 647		
Ohio.....			650, 651		
Oklahoma.....			676, 679		
Ontario.....			680		
			695, 698		
			1111, 1115		
			1116		
			707		
			711-715	108	
			718		
			732, 733		
			738		
			750-753	124-126	
			769, 773		
			1132-1134		
			786, 787		
			791		
			802		
			1143, 1145		
			1147, 1148		
			1161		

	Bulletin No.—			Bulletin No.—	
	272	332		272	332
	Page.	Page.		Page.	Page.
Payments, mode of, law as to—					
Concluded.					
Oregon.....	812, 822	157			
Pennsylvania.....	833, 834 836, 837 849				
Porto Rico.....	856, 857				
Quebec.....	1169, 1170				
Rhode Island.....	866				
South Dakota.....	869-871 873				
Tennessee.....	883, 885 886				
Texas.....	894, 903 904				
Utah.....	915, 922				
Vermont.....	932, 938				
Virginia.....	949, 950				
Washington.....	964, 965	182			
West Virginia.....	983				
Wisconsin.....	1011				
Wyoming.....	1021, 1028 1030, 1031				
Yukon Territory.....	1040				
Dominion of Canada.....	1176				
United States, civil employees.....	1178				
Pennsylvania:	1043, 1045				
Amendment to constitution of.....	1046				
Analysis of law of.....	828				
Constitutionality of law of.....	54	11			
Text of law of.....	85, 98	15			
Text of law of.....	828-854	160			
Period disability must continue to secure compensation. (See Waiting time.)					
Philippine Islands, text of law of.....	855				
Police power, decisions as to.....	102-106				
Porto Rico:					
Analysis of law of.....	55	11			
Text of law of.....	856-864	161-167			
Premium rates, law as to:					
Alabama.....	282				
Alberta.....	1053, 1054				
British Columbia.....	1076, 1077				
California.....	331-333				
Colorado.....	366-368				
Connecticut.....	385				
Georgia.....		47			
Idaho.....	428-430				
Kentucky.....	515-521				
Maine.....	538				
Manitoba.....	1099-1102	215-217			
Maryland.....	553				
Massachusetts.....	579, 581				
Michigan.....	583				
Missouri.....	602, 603				
Montana.....	630, 631				
Nevada.....	660-663				
New Brunswick.....	668				
New Hampshire.....	692, 693				
New Jersey.....	1116-1118				
New York.....		107			
North Dakota.....	721, 722				
Nova Scotia.....	760-762	134, 135			
Ohio.....	764				
Ontario.....	772				
Oregon.....	1135-1138				
Pennsylvania.....	777, 780				
Porto Rico.....	781				
Wisconsin.....	1153-1164				
Wyoming.....	816-818	155			
Yukon Territory.....	845, 846				
United States, civil employees.....	850				
Pennsylvania.....	860, 861				
Porto Rico.....	864				
Premium rates, law as to—					
Concluded.					
South Dakota.....					172
Texas.....	920, 921				
Utah.....	928				
Vermont.....	956				179, 180
Virginia.....	970				183
Washington.....	975-977				186, 187
West Virginia.....	1002-1005				
Wyoming.....	1037, 1038				
Premiums, collection of, law as to:					
Alberta.....	1054, 1056	197-199			
British Columbia.....	1077, 1078				
Colorado.....	367				
Idaho.....	430				
Manitoba.....	1099, 1100	215-217			
Maryland.....	554				
Massachusetts.....	579				
Michigan.....	602				
Montana.....	663, 664				
Nevada.....	687, 688				
New Brunswick.....	691, 692				
New York.....	1118-1120				
North Dakota.....	762	134, 135			
Nova Scotia.....	771-773	143, 144			
Ohio.....	1135-1138	228, 229			
Ontario.....	781, 783	150			
Oregon.....	1158, 1161	230			
Pennsylvania.....	818, 823	157, 158			
Porto Rico.....	847, 849				
Texas.....	860, 861	166, 167			
Utah.....	863				
Vermont.....	921, 922				
Washington.....	927, 933				
West Virginia.....	940				
Wyoming.....	956				
Wyoming.....	976, 977				
Wyoming.....	999, 1005				
Wyoming.....	1037, 1038				
Wyoming.....	1042				
Principal features of American laws, analysis of.....					21-68
Principal-features of the laws of Canada.....					259-266
Progress in enactment of laws of Canada.....					257, 258
Progress in enactment of laws of United States.....					10-14
Proximate cause. (See Accidental injury.)					
Public employees, decisions as to.....					149-153
(See also Employment, public.)					
Quebec:					
Analysis of law of.....					265
Text of law of.....	1168-1171				232
Railroad employees. (See Interstate commerce.)					
Rates, supervision over. (See State supervision.)					
Rehabilitation, decisions as to.....					15, 16
Rehabilitation, law as to:					
California.....	341, 342				
Massachusetts.....	585, 587				
Minnesota.....		81			
New York.....		121			
North Dakota.....	770	158, 159			
Oregon.....	823				
Wisconsin.....		189, 190			
Reports of accidents, law as to. (See Accidents, reports of.)					
Representation of aliens by consuls:					
Delaware.....	394				
Iowa.....	475				
Maryland.....	562, 563				
Minnesota.....	614, 615				85

	Bulletin No.—			Bulletin No.—	
	272	332		272	332
	Page.	Page.		Page.	Page.
Representatives of aliens by consuls—Concluded.					
Montana.....	646, 647				
Nebraska.....	674				
Ohio.....	795				
Oregon.....	824				
Pennsylvania.....	835				
Tennessee.....	903				
Texas.....	915				
West Virginia.....	1011				
Wisconsin.....	1026				
Revision of payments. (See Awards, determination of.)					
Rhode Island:					
Analysis of law of.....	56	11			
Constitutionality of law of.....	35, 94				
Text of law of.....	365-879	168-170			
Safety devices, duty of employers to provide, law as to:					
California.....	333				
Maryland.....	565				
Montana.....	665-668				
Nevada.....	701				
Ohio.....	777				
Oregon.....	824				
Pennsylvania.....	847				
Washington.....	984, 990				
Wisconsin.....	1021				
Wyoming.....	1041				
Safety devices, power of administrative commissions, etc., over, law as to:					
Alberta.....	1055	193			
British Columbia.....	1081, 1082				
California.....	307, 333				
Colorado.....	348, 349				
Connecticut.....	385				
Hawaii.....	412				
Idaho.....	431				
Kentucky.....	521				
Montana.....	665-668				
New Brunswick.....	1120				
New York.....	762	135			
North Dakota.....	770				
Nova Scotia.....	1139				
Oregon.....	824	155			
Pennsylvania.....	847				
Texas.....	921				
Vermont.....	942, 956				
West Virginia.....	1007				
Schedule rates for specific injuries, law as to:					
Alabama.....	270-272				
Alaska.....	290, 291				
Alberta.....	1059, 1060				
California.....	314				
Colorado.....	355, 356				
Connecticut.....	375, 376	24			
Delaware.....	390, 391	26, 27			
Georgia.....		36, 37			
Hawaii.....	406, 407				
Idaho.....	419, 420	50			
Illinois.....	438, 439				
Indiana.....	457, 458				
Iowa.....	473, 474				
Kansas.....	491, 492				
Kentucky.....	505, 506				
Louisiana.....	525, 526				
Maine.....	541, 542	61, 62			
Maryland.....	561, 562	65, 66			
Massachusetts.....	572, 573				
Michigan.....	592				
Minnesota.....	608, 609	78-80			
Missouri.....	626, 627				
Montana.....	650, 651				
Nebraska.....	673, 674	106			
Nevada.....	696, 697				
Schedule rates for specific injuries, law as to—Concluded.					
New Jersey.....	709-711				
New Mexico.....	736, 737	112			
New York.....	746, 747	119, 120			
North Dakota.....	767				
Ohio.....	789, 790				
Oklahoma.....	799, 800				
Oregon.....	820, 821				
Pennsylvania.....	832				
Rhode Island.....	863				
South Dakota.....	884, 885				
Tennessee.....	893, 899				
Texas.....	911, 912				
Utah.....	936, 937				
Vermont.....	948, 949				
Virginia.....	962, 963	182			
Washington.....	982				
West Virginia.....	1008, 1009				
Wisconsin.....	1019, 1020				
Wyoming.....	1039				
Yukon Territory.....	1175				
Second injuries. (See Injuries, second.)					
Security of payments, law as to:					
Alabama.....	279, 280				
Alaska.....	294				
Alberta.....	1054				
Arizona.....	305, 306				
British Columbia.....	1070, 1080				
California.....	323, 326				
Colorado.....	327				
Colorado.....	346-348				
Connecticut.....	360				
Delaware.....	380-387				
Georgia.....	394, 399	33, 34, 46			
Hawaii.....	411				
Idaho.....	425, 426	51			
Illinois.....	447-449				
Indiana.....	455				
Iowa.....	484-486				
Kansas.....	493, 494				
Kentucky.....	507				
Louisiana.....	512-521				
Maine.....	531, 532	60			
Massachusetts.....	543, 544				
Manitoba.....	1090, 1093	208, 216			
Maryland.....	1103				
Massachusetts.....	552, 553	63, 64			
Michigan.....	578-580				
Michigan.....	585, 586				
Minnesota.....	595				
Minnesota.....	600-602				
Missouri.....	616, 617	87, 88			
Montana.....	629-632				
Nebraska.....	651				
Nevada.....	657-665				
New Brunswick.....	682				
New Hampshire.....	691-694				
New Jersey.....	698				
New Mexico.....	1112				
New York.....	704, 705				
North Dakota.....	707				
Ohio.....	714-716				
Oklahoma.....	719-722				
Oregon.....	727, 728				
Pennsylvania.....	738, 739				
Rhode Island.....	753	128			
South Dakota.....	755-757	130-133			
Tennessee.....	772, 774				
Texas.....	1128, 1139				
Utah.....	785, 786	148, 149			
Vermont.....	789, 791				
Virginia.....	803				

	Bulletin No.—			Bulletin No.—	
	272	332		272	332 ^d
	Page.	Page.		Page.	Page.
Texas—Concluded.					
Constitutionality of law of.	69, 79	.....		
	81, 85				
	98, 102				
Text of law of.	907-924	173			
Third parties, liability of, decisions as to.	193-199	.....		
Third parties, liability of, law as to:					
Alabama.....	283, 284	.....		
Alaska.....	297, 298	.....		
British Columbia.....	1070	.....		
California.....	324, 325	.....		
Colorado.....	359, 360	.....		
Connecticut.....	372, 373	.....		
Delaware.....	399	.....		
Georgia.....		29, 30			
Hawaii.....	403	.....		
Idaho.....	416	.....		
Illinois.....	450, 451	.....		
Indiana.....	454	.....		
Iowa.....	471	.....		
Kansas.....	487, 488	.....		
Kentucky.....	502	56			
Louisiana.....	525	58			
Maine.....	543	.....		
Manitoba.....	1089	205, 206			
Maryland.....	566	68, 69			
Massachusetts.....	577	.....		
Michigan.....	597	.....		
Minnesota.....	618, 619	89, 90			
Missouri.....	624	.....		
Montana.....	644, 645	.....		
Nebraska.....	672	.....		
Nevada.....	688	.....		
New Brunswick.....	1111	.....		
New Jersey.....	716	.....		
New Mexico.....	739	.....		
New York.....	754	127			
North Dakota.....	775	.....		
Nova Scotia.....	1128	.....		
Oklahoma.....	802, 803	.....		
Ontario.....	1144	.....		
Oregon.....	812	.....		
Pennsylvania.....	837	.....		
Porto Rico.....	863	.....		
Quebec.....	1170	.....		
Rhode Island.....	874	.....		
South Dakota.....	881	171			
Tennessee.....	895	.....		
Texas.....	918	.....		
Utah.....	935, 936	175			
Vermont.....	946	.....		
Virginia.....		181, 182			
Washington.....	974	.....		
Wisconsin.....	1029	.....		
Wyoming.....	1035	.....		
Yukon Territory.....	1174	.....		
United States, civil employees.....	1047	.....		
Total disability. (See Disability, total.)					
Types of laws.....	14-19	.....		
United States:					
Analysis of law relating to civil employees.....	67	.....		
Analysis of law relating to war risk.....	68	.....		
District of Columbia.....	402	.....		
Executive orders relating to administration of laws of.....	1050	.....		
Text of law relating to civil employees.....	1043-1050	196			
Utah:					
Analysis of law of.....	60	12			
Constitutionality of law of.....	15	.....		
Text of law of.....	925-941	174-178			
Vermont:					
Amendment of constitution of.....	942	12			
Analysis of law of.....	61	.....		
Text of law of.....	942-956	179, 180			
Virginia:					
Analysis of law of.....	62	12			
Text of law of.....	957-972	181-183			
Vocational rehabilitation. (See Rehabilitation of injured men.)					
Wages, average. (See Earnings, determination of, as basis of awards.)					
Wages, deductions from. (See Contributions by employees.)					
Waiting time, law as to:					
Alabama.....	277	.....		
Alaska.....	292	.....		
Alberta.....	1056	.....		
Arizona.....	302	.....		
British Columbia.....	1069	.....		
California.....	313	.....		
Colorado.....	355	.....		
Connecticut.....	374	.....		
Delaware.....	389	26			
Georgia.....		36			
Hawaii.....	405, 406	.....		
Idaho.....	419	.....		
Illinois.....	438	.....		
Indiana.....	456-458	.....		
Iowa.....	473	.....		
Kansas.....	487	.....		
Kentucky.....	502	.....		
Louisiana.....	528	.....		
Maine.....	540	61			
Manitoba.....	1088	204			
Maryland.....	565	68			
Massachusetts.....	570, 571	.....		
Michigan.....	590	.....		
Minnesota.....	612	84			
Missouri.....	625	.....		
Montana.....	650	.....		
Nebraska.....	672	.....		
Nevada.....	698	.....		
New Brunswick.....	1114	.....		
New Hampshire.....	705	.....		
New Jersey.....	712	.....		
New Mexico.....	735, 737	112			
New York.....	745	118			
North Dakota.....	767	.....		
Nova Scotia.....	1125	.....		
Ohio.....	789	.....		
Oklahoma.....	798	.....		
Ontario.....	1143	.....		
Pennsylvania.....	832	.....		
Quebec.....	1168	.....		
Rhode Island.....	866	168			
South Dakota.....	883	.....		
Tennessee.....	897	.....		
Texas.....	908	.....		
Utah.....	936	.....		
Vermont.....	947	.....		
Virginia.....	962	182			
Washington.....	983	.....		
West Virginia.....	1007	.....		
Wisconsin.....	1018	.....		
Wyoming.....	1040	.....		
Yukon Territory.....	1173	.....		
United States, civil employees.....	1043	.....		
Waivers, law as to:					
Alabama.....	280, 283	.....		
Alaska.....	297, 300	.....		
Alberta.....	1057	.....		
British Columbia.....	1071	.....		
California.....	325	.....		
Connecticut.....	380, 383	.....		

	Bulletin No.—			Bulletin No.—	
	272	332		272	332
	Page.	Page		Page.	Page.
Waivers, law as to—Concl'd.			Willful misconduct, law as to—Concluded.		
Delaware.....	389		Maryland.....	552, 564	
Georgia.....		32, 33	Massachusetts.....	565	
Hawaii.....	403		Michigan.....	570	
Idaho.....	416		Minnesota.....	590	
Illinois.....	448		Missouri.....	600	77
Indiana.....	455		Montana.....	622	
Iowa.....	471, 478		Nebraska.....	641	
Kansas.....	499			670, 676	
Kentucky.....	502			682	
Louisiana.....	533		Nevada.....	687, 688	
Maine.....	543		New Hampshire.....	704, 705	
Manitoba.....	1090	206	New Jersey.....	708, 716	
Maryland.....	565		New Mexico.....	729	
Massachusetts.....	574		New York.....	744, 751	118, 123
Michigan.....	595	73	North Dakota.....	766	
Montana.....	652		Nova Scotia.....	1125, 1126	
Nebraska.....	677		Ohio.....	785, 788	
Nevada.....	698		Oklahoma.....	797, 801	
New Brunswick.....	1112		Ontario.....	1143	
New Jersey.....	716		Oregon.....	822	
New York.....	754	128, 132	Pennsylvania.....	829, 847	
North Dakota.....	775		Porto Rico.....	857, 863	
Nova Scotia.....	1128		Quebec.....	1169	
Ohio.....	793		Rhode Island.....	866	
Oklahoma.....	803		South Dakota.....	880	171
Ontario.....	1146		Tennessee.....	895	
Oregon.....	816		Texas.....	907, 908	
Pennsylvania.....	829		Utah.....	931, 934	174
Quebec.....	1170		Vermont.....	949	
Rhode Island.....	870		Virginia.....	959	
South Dakota.....	881		Washington.....	983, 984	
Tennessee.....	895		West Virginia.....	1007	
Texas.....	915		Wisconsin.....	1015, 1021	
Utah.....	939			1022	
Vermont.....	946		Wyoming.....	1032	
Virginia.....	958		Yukon Territory.....	1173	
Washington.....	985		United States.....	1043	
West Virginia.....	1004		Wisconsin:		
Wisconsin.....	1015		Analysis of law of.....	65	13
Wyoming.....	1032, 1035		Constitutionality of law of.....	73, 87	
Yukon Territory.....	1174		Text of law of.....	92-95, 101	189-192
Washington:				1015-1031	
Analysis of law of.....	63	13	Wyoming:		
Constitutionality of law of.....	69, 74-78		Amendment of constitution of.....	1032	
	80, 83-87		Analysis of law of.....	66	13
	91, 95		Text of law of.....	1032-1042	193-195
	97-100		Young persons, computing payments to. (See Age to be considered.)		
	103-105	184-188	Yukon Territory:		
Text of law of.....	973-996		Analysis of law of.....	266	
West Virginia:			Text of law of.....	1172-1177	
Analysis of law.....	64				
Constitutionality of law of.....	90		CASES CITED.		
Text of law of.....	997-1014		Acklin Stamping Co. v. Kutz.....	155	
Willful misconduct, decisions as to.	188-193		Adams v. Acme White Lead & Color Works.....	122	
Willful misconduct, law as to:			Adams v. Iten Biscuit Co.....	126, 243	
Alabama.....	268		Adams & Westlake Co. v. Industrial Commission.....	182	
Alaska.....	292, 298		Adleman v. Ocean Ac. & G. Corp.....	229	
	299		Albert A. Albrecht Co. v. Whitehead & Kales Iron Works.....	195	
Alberta.....	1051			247	
Arizona.....	301, 302		Allen v. Millville.....	149	
British Columbia.....	1069		Allen v. State.....		
California.....	311		American Radiator Co. v. Rogge.....	157	
Colorado.....	359		Am. Smelting & Refining Co. v. Cassil (Nebr.).....	177, 231	
Connecticut.....	371		American Woodenware Mfg. Co. v. Schorning.....	193	
Delaware.....	399		Anderson v. Carnegie Steel Co.....	85, 98	
Georgia.....		33			
Hawaii.....	406				
Idaho.....	413				
Indiana.....	454				
Iowa.....	469, 470				
Kansas.....	487, 499				
Kentucky.....	500, 501				
	507				
Louisiana.....	532				
Maine.....	539				
Manitoba.....	1088	204			

	Bulletin No.—			Bulletin No.—	
	272	332		272	332
	Page.	Page.		Page.	Page.
Anderson v. Hawaii Dredging Co.	80		Cahill, In re.	199	
Anderson v. Miller Scrap Co.	160		Camden & Suburban R. Co. v. Stetson.	232	
Anderson v. North Alaska Salmon Co.	155		Campbell v. Clausen-Flanagan Brewery.	110	
Archibald v. Ott.	184		Carroll v. Knickerbocker Ice Co.	249	
Arizona Copper Co. v. Hammer.	69, 82		Carsten v. Pillsbury (two cases).	93, 94, 197	
Arizona S. Co. v. Ujack.	82		Centlivre Beverage Co. v. Ross.	127	
Assaria State Bank v. Dolley.	103, 243		Cheevers, In re.	145	
Aurora Brewing Co. v. Industrial Board.	144		Chicago, B. & Q. R. R. Co. v. Harrington.	169	
Aylesworth v. Phoenix Cheese Co.	137		Chicago Cleaning Co. v. Industrial Board.	139	
Baltimore Car Foundry Co. v. Ruzicka.	191		Chicago G. W. R. Co. v. Industrial Commission.	144	
Barber v. Jones Shoe Co.	184		Chludzinski v. Standard Oil Co.	251	
Bargey v. Massaro Macaroni Co.	141, 142		City of Milwaukee v. Althoff.	173	
Barnhart v. Am. Concrete Steel Co.	158, 244		City of Milwaukee v. Miller.	87, 237	
Barrett v. Grays Harbor Commercial Co.	242			239, 240	
Barry v. Bay State Street Ry. Co.	193		City of Milwaukee v. Ritzow.	214	
Bateman Mfg. Co. v. Smith.	214		Clark v. Clark.	181	
Batista v. West Jersey & S. R. Co.	216		Clarkson v. N. W. Consol. Milling Co.	230	
Bay Shore Laundry Co. v. Ind. Acc. Com.	191		Cline v. Studebaker Corp.	202	
Bayer v. Bayer.	256		Clyde Steamboat Co. v. Walker.	161	
Bayon v. Buckley.	241		Coakley v. Coakley.	218	
Beckman v. J. W. Oelerich & Son.	148		J. & P. Coats (R. I.) Inc., In re.	211	
Behan v. John B. Honor Co.	130		Colorado v. Iron Works.	243	
Behringer v. Copper Co.	99, 243		Connors v. Electric Co.	220	
Beideck v. Acme Amusement Co.	243		Connole v. Norfolk & Western Railway Co.	165	
Bell v. Hayes-Ionia Co.	116		Connors v. Semet-Solvay Co.	127, 243	
Belle City Malleable Iron Co. v. Industrial Commission.	183		Cook v. Hoertz & Son.	133	
Bimel Spoke & Auto Co. v. Loper.	179		Cooke v. Holland Furnace Co.	238, 245	
Bischoff v. American Car & Foundry Co.	183		Cooper v. Industrial Commission.	147	
Blanz v. Erie R. R.	215		Coppage v. Kansas.	97	
Bloess v. Dolph.	113		Coronado Beach Co. v. Pillsbury.	179	
Bloom, In re.	246		Craft v. Gulf Lumber Co.		15
Bloom v. Jaffe.	237		Crockett v. International Ry. Co.	215	
Bloomfield v. November.	245		Crockett v. State Insurance Fund.	249	
Bloomington, D. & C. R. Co. v. Industrial Board.	250		Crowley v. City of Lowell.	129	
Blynn v. City of Pontiac.	152		Cummings v. Underwood Silk Fabric Co.	143	
Book v. Henderson.	197		Cunningham v. Northwestern Improvement Co.	74, 82	
Borgnis v. Falk.	73, 92			84, 92	
	96, 101			100, 103	
Borin, In re.	190		Dane v. Michigan United Traction Co.	244	
Boscarino v. Carfagno & Dragomette.	207		Davison v. Walla Walla.	104	
Boszek v. Banerle & Stark Co.	155		Dazy v. Apponaug Co.	218, 221	
Bowman Dairy Co. v. Noyes.	146		DeFillipis v. Falkenburg.	180	
Bowne v. S. W. Bowne Co.	147		De Francesco v. Piney Mining Co.	90	
Boyd v. Pratt.	221		Deibeikis v. Link-Belt Co.	73, 85, 90	
Boyer v. Crescent Paper Box Factory.	126, 243			93, 105	
Boyle v. Piano Action Co.	154		DeLa Gardelle v. Hampton Co.	138	
Brady v. Holbrook, etc., Corp.	133		Dennis v. Cafferty.	201	
Branconnier, In re.	211		Denton, In re.	205	
Brenner v. Heruben.	154		Detloff v. Hammond, Standish & Co.	196	
Brightman, In re.	129		Devney v. City of Boston.	151	
Brooker v. Industrial Accident Commission.	132		Dietz v. Solomonwitz.	195	
Brooks v. Peerless Oil Co.	211		Dillon v. Trustees of St. Patrick's Cathedral.		18
Bryant v. Fissell.	170, 198		Dirken v. Great Northern Paper Co.	81	
Bryant v. Lindsay.	213		Diskon v. Bubb.	249	
Buchanan v. Warley.	156		Doey v. Howland Co.	80	
Burbage v. Lee.	208				
Burns, In re.	192				

	Bulletin No.—			Bulletin No.—	
	272	332		272	332
	Page.	Page.		Page	Page.
Donovan, In re.....	186				
Dose v. Moehle Lithographic Co.....	143				
Douthwright v. Champlin.....	159				
Dove v. Alpha Hide & Leather Co.....	113				
Dragobich v. Iroquois Iron Co.....	181, 183				
Dulac v. Proctor & Bowie.....		17			
Duprey v. Maryland Casualty Co.....	214				
Durney, In re.....	209, 226				
Dziengelowsky v. Turner & Blanchard.....	162				
Ehrhart v. Industrial Accident Commission.....	246				
Eldridge v. Endicott, Johnson & Co.....	125				
Elks v. Conn.....	241				
Ellingson Lumber Co. v. Industrial Commission.....	110				
Employers' Liability Assurance Corp., In re.....	171, 218				
Englebretson v. Industrial Accident Commission.....	249				
Enterprise Fence & Foundry Co. v. Majors.....	235				
Epsten v. Hancock-Epsten Co.....	207				
Erickson v. Preuss.....	127				
Erie R. Co. v. Callaway.....	228				
Estabrook Co. v. Industrial Accident Commission.....	156				
Evanhoff v. Industrial Commission.....	73, 94				
Fassig v. State.....	86, 174				
Federal Rubber Mfg. Co. v. Havolic.....	181				
Feldman v. Braunstein (two cases).....	203, 233				
Fidelity & Casualty Co. v. Industrial Commission.....	120				
Fidelity & Deposit Co. v. Industrial Accident Commission.....	188				
Fierro, In re.....	217, 246				
Fineman v. Albert Mfg. Co.....	248				
Finn v. Detroit, etc. Ry.....	208				
Fisher, In re.....	217				
Fishing v. Pillsbury.....	129				
Flocher v. Fidelity & Deposit Co.....	179				
Foley v. Detroit United Ry.....	233				
Foth v. Macomber & Whyte Rope Co.....	210, 230				
Francisco v. Oakland Golf Club.....	154				
Frankfort General Ins. Co. v. Pillsbury.....		18			
Frank v. Schollhorn Co.....	208				
Fredenburg v. Empire United Railways Co.....	206				
Freedman v. Spicer Mfg. Corp.....	210				
Friebel v. Chicago City Ry. Co.....		17			
Frings v. Pierce-Arrow Motorcar Co.....	197				
Print Motorcar Co. v. Industrial Commission (Wis.).....	203				
Frisbie v. United States.....	185				
Galley v. Feet Bros. Mfg. Co.....	95				
Gardner v. Horseheads Construction Co.....	204, 247				
George W. Helme Co. v. Middlesex Common Pleas.....	157				
German Alliance Ins. Co. v. Kansas.....	206				
	255				
Gignac v. Studebaker Corporation.....			189		
Gillen v. Ocean Accident & Guarantee Corporation.....			224		
Goelitz Co. v. Industrial Board.....			231		
Gooding v. Ott.....			157		
Correll v. Battelle.....			200, 241		
Gould's case.....			159		
Grammici v. Zinn.....			207		
Grand Rapids Lumber Co. v. Blair.....			196		
Grand Trunk Railway v. Knapp.....			164		
Gray v. Board of County Commissioners.....			194		
Great Western Power Co. v. Pillsbury.....			189		
Green v. Appleton Woolen Mills.....			241		
Greene v. Caldwell.....			73, 79, 92		
Gregutis v. Waclark Wire Works.....			170		
Griffith v. Cole Bros.....			186		
Grinnel v. Wilkinson.....			157		
Griswold v. City of Wichita.....			152		
Grove v. Royal Indemnity Co.....			220		
Guerrieri v. Industrial Insurance Commission.....			146		
Hagenback v. Leppert.....			155		
Hahnemann Hospital v. Industrial Board.....			140		
Halberhout v. S. W. Milling Co.....			248		
Hansen v. Brann & Stewart Co.....			229		
Hansen v. Northwestern Fuel Co.....			172, 194		
Harbroe, In re.....			177		
Harraden, In re.....			175		
Hartnett v. Thomas J. Steen Co.....			178		
Haskell & Barker Car Co. v. Kay.....			191		
Hasselmann v. Travelers' Ins. Co.....			219		
Hawkins v. Bleakley.....			69, 85, 86, 93, 94		
Hayden v. Great Northern Power Co.....			221		
Hayden v. Keown.....			177		
Hercules Powder Co. v. Morris County Court of Common Pleas.....			127		
Hetzel v. Wasson Piston Ring Co.....			154		
Hewitt v. Casualty Co. of America.....			176		
Hiers v. John A. Hall & Co.....			125		
Hills v. Blair.....			184		
Hills v. Oval Wood Dish Co.....			130		
Hillstead v. Industrial Commission.....			154		
Hines v. Henry I. Stetler (Inc.).....				17	
Hirschhorn v. Fiege Desk Co.....			202		
Hoeng v. Industrial Commission.....			173		
Hogan v. Bula.....			162		
Holbrook v. Olympia Hotel Co.....			142		
Holden v. Hardy.....			75, 94		
Holmen Creamery Assn. v. Industrial Commission.....			144		
Holnagle v. Lansing Fuel & Gas Co.....			113		

	Bulletin No.—			Bulletin No.—	
	272	332		272	332
	Page.	Page.		Page.	Page.
Holt Lumber Co. v. Industrial Commission.....	186		Kricnovitch v. American Car & Foundry Co.....	234	
Hood v. Transit Co.....	204		Kromer v. Sargent & Co.....	206	
Horrigan v. Post-Standard Co.....	125		Kuetbach v. Industrial Commission.....	215	
Howard, In re.....	145		Lahoma Oil Co. v. Industrial Commission.....	230	
Hulley v. Moosebrugger.....	173, 180		Landers v. City of Muskegon.....	113	
Hunter v. Colfax Coal Co.....	73, 85 93, 94		Lane v. Horn & Hardart Baking Co.....	108	
Hurle, In re.....	121		Larke v. Insurance Co.....	110	
Ide v. Paul & Timmins.....	153		Larsen v. Paine Drug Co. (two cases).....	138, 143	
Indian Creek Coal & Mining Co. v. Calvert.....	131		La Veck v. Parke, Davis & Co.....	109	
Industrial Commission v. Aetna Life Ins. Co.....	157		Lehmann v. Ramo Films (Inc.).....	158	
Industrial Commission v. Brown.....	122		Lesh v. Illinois Steel Co.....	235	
Industrial Commission v. Crisman.....		2, 14	Lesuer v. City of Lowell.....	152	
Industrial Commission v. Daly Mining Co.....	255		Lewis and Clark County v. Industrial Accident Board.....	151	
Industrial Commission v. London Guarantee & Accident Co.....	248		Liberato case.....		15
Industrial Commission v. Newman.....	79, 102 212		Lindstrom v. Mutual S. S. Co.....	167	
Industrial Commission v. Roth.....	123		Linnane v. Aetna Brewing Co.....	114	
International Harvester Co. v. Industrial Commission.....	203		Liondale Bleach, Dye & Paint Works v. Riker.....	124	
Irvin v. William M. Frost & Co.....	222		Littler v. Geo. A. Fuller Co.....	186, 223	
Ives v. South Buffalo R. Co.....	71, 87, 90 95, 103 105		Lower Vein Coal Co. v. Industrial Board.....		17
Iwanicki v. Industrial Accident Commission.....		16	Lumaghi Coal Co. v. Industrial Commission.....		16
Jeffrey Mfg. Co. v. Blagg.....	80		Lund v. Griffiths & Sprague Stevedoring Co.....	162	
Jendrus v. Detroit Steel Products Co.....	234		McCarthy, In re.....	228	
Jenkins v. Carman Mfg Co.....	193		McCarthy v. McAllister Steamboat Co.....	158	
Jensen v. Southern Pacific Co.....	71, 76, 85 127, 161 166		McCaskey, In re.....	238	
Jerner v. Imperial Furniture Co.....	113		McCauley v. Imperial Woolen Co.....	125	
Johnsen v. Union Stockyards Co.....	245		McCracken v. Missouri Valley Bridge & Iron Co.....	231	
Johnson v. London Guarantee & Accident Co.....	120		McDonald v. Industrial Commission.....	211	
Johnston v. Kennecott Copper Corporation, C. C. A.....	80		McGarvey v. Independent Oil & Grease Co.....	196	
Joliet Motor Co. v. Industrial Board.....	232		McKenna, In re.....	238	
Karny v. N. W. Malleable Iron Co.....	241		McLaughlin v. Industrial Board of Illinois.....	142, 149	
Keigher v. General Electric Co.....	238		McMullen & Gavette Const. Co. (two cases).....	231, 238	
Kelley, In re.....	238		McNally v. Hudson, etc., R. Co.....	234	
Kennesson v. Thames Towboat Co.....	157, 160 167		McPhee, In re.....	114	
Kenney v. Boston.....	221		McQueeney v. Sutphen & Hyer.....	138	
Kenny v. Union R. Co.....	153		McWeeney v. Standard Boiler & Plate Co.....	192	
Kentucky State Journal Co. v. Workmen's Compensation Board (two cases).....	78, 212		Mackin v. Detroit-Timkin Axle Co.....	93, 97	
Keyes v. New York, O. & W. R. Co.....	173		Madden, In re.....	129	
Kiernan v. Portland.....	105		Magalet, In re.....	122	
Kilberg v. Vitch.....	225		Mahowald v. Thompson-Starratt Co.....	171	
Kill v. Industrial Commission.....	133		Mallman v. Record Foundry & Mach. Co. (Me.).....	73, 81	
King, In re.....	225		Maranovitch, In re.....	205	
King v. Viscoloid Co.....	227		Marhoffer v. Marhoffer.....	206	
Klawinski v. Lake Shore & M. S. Ry.....	173		Markley v. City of St. Paul.....	152	
Knickerbocker Ice Co. v. Stewart.....	163		Marsh v. Groner.....	145	
Knoll v. City of Salina.....	245		Martin v. Matson Navigation Co.....	242	
Kohler v. Frohmann.....	138		Marvin, In re.....	225	
Kolasynski v. Klie.....	190		Mathison v. Minneapolis St. Ry. Co.....	73, 81, 90 97, 193	
			Matthelsen & Heglers Zinc Co. v. Industrial Board.....	123	
			Matwieczuk v. American Car & Foundry Co.....	247	

	Bulletin No.—			Bulletin No.—	
	272	332		272	332
	Page.	Page.		Page.	Page.
Mayor, etc., of Jersey City v. Borst.....	151	.....	Nitram Co. v. Creagh.....	206	.....
Mechanics' Furniture Co. v. Industrial Board.....	218	.....	Noble State Bank v. Haskell.....	76, 100, 103	.....
Mellen Lumber Co. v. Industrial Commission.....	210	.....	North Alaska Salmon Co. v. Pillsbury.....	155	.....
Menominee Bay Shore Lumber Co. v. Industrial Commission.....	92	.....	Northern Pac. S. S. Co. v. Industrial Accident Commission (two cases).....	160, 251	.....
Mepham v. Industrial Commission.....	185	.....	Northern Pac. Ry. Co. v. Meese Northwestern Fuel Co. v. Leipus.....	198, 242	.....
Mercer v. Ott.....	196	.....	Northwestern Iron Co. v. Industrial Com. of Wisc. (two cases).....	208	.....
Merlino v. Connecticut Quarries Co.....	191	.....	O'Brien v. A. A. Albrecht Co. O'Connell v. Simms Magneto Co.....	175, 216, 225, 234	.....
Michigan Central Railway Co. v. Vreeland.....	81, 164	.....	Ohio Building Safety Vault Co. v. Industrial Board.....	209	.....
Middleton v. Texas Power & Light Co. (two cases).....	69, 79, 81, 82, 85, 90, 92, 98, 102, 123, 156, 138	.....	Oliver v. Christopher.....	176	.....
Mihm v. Hussey.....	.....	16	Olmstead v. Lamphier.....	204, 251	.....
Milford Copper Co. v. Industrial Commission.....	.....	.....	O'Neil v. Carley Heater Co., Otis Elevator Co. v. Miller & Payne.....	206, 240, 185	.....
Miller v. American Steel & Wire Co.....	120	.....	Pacific Coast Casualty Co. v. Pillsbury.....	195	.....
Miller v. Beil.....	131	.....	Pacific States Telephone & Tel. Co. v. Oregon.....	188	.....
Miller v. New York Rys. Co.....	194	.....	Panasuk, In re.....	105	.....
Miller v. Public Service R. R. Co.....	215	.....	Papinaw v. Grand Trunk Ry. Pawlak v. Hayes.....	236	.....
Miller v. Taylor.....	172	.....	Peabody Coal Co. v. Industrial Board.....	187	.....
Milwaukee Coke & Gas Co. v. Industrial Commission.....	230	.....	Peet v. Mills.....	239	.....
Milwaukee Western Fuel Co. v. Industrial Commission.....	250	.....	Pellet v. Industrial Commission.....	218, 199, 242	.....
Minneapolis & St. Louis R. Co. v. Bombolis.....	86	.....	Pendar v. H. B. Am. Mach. Co.....	247	.....
Modra v. Little.....	207	.....	Perry v. Industrial Accident Commission.....	244	.....
Moll v. Industrial Commission Mono County v. Industrial Accident Commission.....	153	.....	Philadelphia & R. Ry. Co. v. Hancock.....	197	.....
Montana Co. v. St. Louis Min. Co.....	84	.....	Pierce v. Bekins Van & Storage Co.....	169	.....
Moore v. Lehigh Valley R. R. Co.....	175	.....	Pierce v. Lumber & Coal Co. Pigeon v. Employers' Liab. Assurance Corp.....	157, 180	.....
Moore v. Peet Bros. Mfg. Co. Mountain Timber Co. v. Washington.....	69, 70, 77, 99, 254	.....	Pimental's case.....	93	.....
Mueller Const. Co. v. Industrial Board.....	172	.....	Pinel v. Rapid Ry. System.....	121	.....
Murphy, In re.....	220, 227	.....	Pintar v. Morton Mining Co. Plass v. Central New England Ry. Co. (two cases).....	221, 129, 134	.....
Naud v. King Sewing Machine Co.....	123	.....	Poccardi v. Commissioner.....	132, 168	.....
Nelson v. Kentucky River Stone & Sand Co.....	203	.....	Poccardi v. Ott.....	218	.....
Nevada Industrial Commission v. Washoe Co.....	150	.....	Poccardi v. Public Service Commission.....	218	.....
New Albany Box & Basket Co. v. Davidson.....	155	.....	Post v. Burger & Gohlke.....	157, 158	.....
Newark Paving Co. v. Klotz.....	195	.....	Purchase v. Grand Rapids Refrigerator Co.....	134	.....
Newcomb v. Albertson.....	134	.....	Puritan Bed Spring Co. v. Wolfe.....	117	.....
New Dells Lumber Co. v. Industrial Commission.....	251	.....	Putnam v. Murray.....	172	.....
Newman, In re.....	217	.....	Quong Ham Wah Co. v. Industrial Accident Commission.....	156	.....
Newman v. Newman.....	138, 172	.....	Rakiec v. D. L. & W. R. Co. Rakovich v. Agnew Bros.....	205	.....
Newton v. Rhode Island Co. New York Central R. R. Co. v. Blanc.....	227, 127	.....	Ramlow v. Moon Lake Ice Co. Ray v. Industrial Insurance Commission.....	118, 133	.....
New York Central R. R. Co. v. White.....	69, 77, 81, 85, 88, 94, 97, 100, 105, 167, 255	.....	Raymond v. Chicago, Milwaukee & St. Paul Railway Co. Rayner v. Sligh Furniture Co. Reardon v. P. & R. R. Co. Reimers v. Proctor Publishing Co.....	229	.....
New York Central R. R. Co. v. Winfield.....	167	.....	Reinholz v. Industrial Commission.....	84, 187, 219	.....
Nichols, In re.....	230	.....		190	.....
Nickerson, In re.....	190	.....		251	.....

	Bulletin No.—			Bulletin No.—	
	272	332		272	332
	Page.	Page.		Page.	Page.
Reisner v. Gross & Herbener	138		Solvuca v. Ryan & Reilly Co.	85, 92	
Reynolds v. Day	244		Southern Cotton Oil Co., In re		15
Richards v. Central Iowa Fuel Co.	226		Southern Pac. Co. v. Ind. Acc. Com.	168	
Richards v. Indianapolis Abattoir Co.	175		Southern Pac. Co. v. Jensen	161	
Richardson v. Greenberg	133		Staley v. I. C. R. Co.	165	
Riley v. Standard Accident Ins. Co.	192		Standard Cabinet Co. v. Landgrave		16
Rist v. Larkin & Sangster	114		State v. Buchanan	95	
Roach v. Kelsey Wheel Co.	109, 116		State v. Clausen	242	
Robbins v. Original Gas Engine Co.	116		State v. Creamer	72, 90, 92	
Roberts v. Whaley	219			96, 101	
Robilotto v. Bartholdi Realty Co.	153		State v. Daggett	161	
Rockford Hotel Co. v. Industrial Commission		16	State v. District Court of Koochiching Co.	180	
Rockwell v. Lewis	209		State v. District Court of Ramsey County	222	
Rohde v. Grant Smith Porter Co.	162		State v. District Court of Rice County (Minn.)	144	
Roma v. Industrial Commission	251		State v. District Court of St. Louis Co.	152	
Rosenbaum v. Hartford News Co.	195		State v. Employers' Liability Assurance Corp.	253	
Ross v. Construction Co.	242		State v. McDowell	101	
Ross v. Erickson Construction Co.	256		State v. Mountain Timber Co.	104	
Rounsaville v. Central R. Co. (two cases)	157, 165		State v. Postal Telegraph Co.	139, 169	
Ruth v. Witherspoon-Englar Co.	134, 187, 213, 251		State v. United States Fidelity & Guaranty Co.	253	
Sabella v. Brasileiro	146		State ex rel. Albert Lea Packing Co. v. District Court of Freeborn Co.	207	
Safety Insulated Wire & Cable Co. v. Court of Common Pleas	211		State ex rel. Bykle v. District Court	137	
Salt Lake City v. Industrial Commission		15	State ex rel. Chambers v. District Court	157	
Santacroce v. Sag Harbor Brick Works	132		State ex rel. Davis-Smith Co. v. Clausen	74, 83, 87, 95, 99, 103, 104	
Sauvain v. Battelle	210			242	
Sayles v. Foley	85, 94, 105		State ex rel. Faribault Woolen Mills Co. v. District Court of Rice County	113	
Schild v. R. Co.	168		State ex rel. Garvin v. District Court of Cass County	212	
Schmidt v. Baking Co.	246		State ex rel. Jacobson v. District Court	186	
Schmoll v. Weisbrod & Hess Brewing Co.	177		State ex rel. Kennedy v. District Court of Clay County	209	
Schumaker Co. v. Kendrew	238		State ex rel. London, etc. Indemnity Co. v. Dist. Court	216	
Schwab v. Emporium Forestry Co.	212		State ex rel. Munding v. Industrial Commission	228	
Scott v. Nashville Bridge Co.		15	State ex rel. Nelson v. District Court of Ramsey Co.	111	
Scranton Leasing Co. v. Industrial Commission	255		State ex rel. Nienaber v. District Court	142	
Scully v. Industrial Commission	140		State ex rel. People's Coal & Ice Co. v. District Court of Ramsey County	173	
Semmen v. Butterick Publishing Co.	235		State ex rel. Rau v. District Court of Ramsey County	108	
Septimo, In re	200		State ex rel. Virginia & Rainy Lake Co. v. District Court of St. Louis Co.	111	
Sexton v. Newark Dist. Tel. Co.	73, 83, 96		State Journal Co. v. Workmen's Compensation Board	70	
Shade v. Ash Grove Lime etc. Co.	73, 244		State Treasurer v. West Side Trucking Co.		15
Shafer v. Parke, Davis & Co.	136		Steel Sales Corp. v. Industrial Commission	184	
Shanahan v. Monarch Engineering Co.	243		Stempfler v. Rheinfrank & Co.	213	
Shea v. North Butte Mining Co. (Mont.)	73, 85, 92		Stertz v. Industrial Insurance Commission	76, 99, 118, 188, 242	
Shinnick v. Clover Farms Co.	127			154	
Sibley v. State	152		Stetz v. Boot & Shoe Co.	154	
Simmons, In re	248		Stewart v. Knickerbocker Ice Co.	163	
Simpson v. Atlantic Coast Shipping Co.	162				
Slyoord v. Horn	137				
Smith v. Corson	190				
Smith v. F. & B. Construction Co.	203				
Smith v. Heine Safety Boiler Co.	157				
Smith v. Price	182				

	Bulletin No.—			Bulletin No.—	
	272	332		272	332
	Page.	Page		Page.	Page.
Stickley, In re.....	209	.....	Walther v. American Paper Co.....	177	.....
Stoll v. Pacific Coast S. S. Co....	166	.....	Wangler B. & S. Metal Works Co. v. Industrial Commission.....	229	..... 17
Stubbs v. Industrial Board.....	126	.....	Ward & Gow v. Krinsky.....	.....	.....
Sudden and Christenson v. Industrial Accident Commission.....	163	.....	Waterman Lumber Co. v. Beatty (Texas).....	153	.....
Sundine, In re.....	183	.....	Waters v. Guile.....	165	.....
Sullivan, In re.....	200	.....	Waters v. William J. Taylor Co.....	181, 183	.....
Surety Ins. Co. v. Vickstrom.....	170	.....	Watkinson v. Hotel Pennsylvania.....	.....	..... 16
Swanson v. Latham & Crane.....	186	.....	Weaver v. Maxwell Motor Co.....	212	.....
Sweeting v. American Knife Co.....	127	.....	Weis Paper Mill Co. v. Industrial Comm. (Ill).....	175	.....
Tackles v. Bryant & Detwiler Co.....	116	.....	Wendt v. Industrial Insurance Commission.....	146	.....
Tarpper v. Weston-Mott Co.....	179	.....	Western Grain & Sugar Products Co. v. Pillsbury.....	250	.....
Taylor v. Seabrook.....	189	.....	Western Indemnity Co. v. Pillsbury (two cases).....	88, 118, 177	.....
Terlecki v. Strauss.....	187	.....	Western Metal Supply Co. v. Pillsbury.....	93, 118, 170, 176, 224	.....
Texas Employers' Ins. Assn. v. Downing.....	232	.....	Western States Gas & Elec. v. Rayside Lumber Coal.....	198	.....
Thompson v. Twiss.....	144	.....	Wheeler v. Contoocook Mills.....	90, 105	.....
Thornton v. Duffy.....	254	.....	White v. City of Boston.....	152	.....
Truax v. Raich.....	97	.....	White v. Kansas City Stock Yards Co.....	179	.....
Turnquist v. Hannon.....	193	.....	White v. Loades.....	134	.....
Uhl v. Hartwood Club.....	.....	18	Whiting-Mead Commercial Co. v. Ind. Com.....	184	.....
Underhill v. Central Hospital for the Insane.....	227	.....	Wick v. Gunn.....	191	.....
Union Pac. Ry. v. Botsford.....	232	.....	Wilson v. Dorflinger Sons.....	139	.....
Union Sanitary Mfg. Co. v. Davis.....	252	.....	Winfield v. Erie R. Co.....	165	.....
United Paper Board v. Lewis.....	114	.....	Winfield v. N. Y. C. & H. R. R. Co.....	166	.....
United States Fidelity & Guaranty v. Salsar.....	229	.....	Winter v. Peter Doelger Brewing Co.....	199	.....
Uphoff v. Industrial Board.....	135, 140	.....	Wolf v. Fulton Bag & Cotton Mills.....	153	.....
Vandalia Coal Co. v. Holtz.....	243	.....	Wood v. Camden Works.....	233	.....
Van Gorder v. Packard Motor Car Co.....	131	.....	Wood v. City of Detroit.....	150	.....
Vennen v. New Dells Lumber Co.....	112	.....	Woodward v. E. W. Conklin & Son.....	194	.....
Victor Chemical Works v. Industrial Board.....	170	.....	Yosemite Lumber Co. v. Industrial Accident Commission.....	.....	..... 15
Vietti v. Fuel Co.....	239	..... 15	Young v. Duncan.....	84, 97	.....
Viita v. Dolan.....	239	.....	Young v. Western Furniture & Mfg. Co.....	108	.....
Village of Kiel v. Industrial Commission.....	176	.....	Zabriskie v. Erie R. Co.....	171, 183	.....
Village of West Salem v. Industrial Commission.....	176, 224	.....	Zappala v. Industrial Insurance Commission.....	116	.....
Vishney v. Empire Steel & Iron Co.....	203	.....		
Von Ette, In re.....	183	.....		
Voorhees v. Smith Schoonmaker Co.....	131	.....		
Wabash R. Co. v. Indus. Com.....	211	.....		
Wagner v. American Bridge Co.....	204	.....		
Walsh v. River Spinning Co.....	108	.....		

