

MAINE STATE LEGISLATURE

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SEVENTY-SIXTH LEGISLATURE

SENATE

NO. 165

In Senate, Feb. 1, 1913.

Presented by Senator Stearns of Oxford, and on motion by same Senator laid on the table for printing pending reference to a committee, and 1000 extra copies ordered printed.

W. E. LAWRY, Secretary.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND THIRTEEN.

AN ACT relative to compensation to employees for personal injuries received in the course of their employment and to the prevention of such injuries.

Be it enacted by the People of the State of Maine, as follows:

Sect. 1. The following words and phrases as used in this act shall, unless a different meaning is plainly required by the context, have the following meaning:

I. "Employer" shall include corporations, partnerships, natural persons, the state, counties, water districts, cities and also such towns as vote to accept the provisions of this act.

II. "Employee" shall include every person in the service
8 of another under any contract of hire, express or implied,
9 oral or written, except: (a) farm laborers, (b) domestic
10 servants, (c) persons whose employment by corporations,
11 partnerships and natural persons is not in the usual course
12 of the trade, business, profession or occupation of their em-
13 ployers, (d) officials of the state, counties, cities, towns or
14 water districts.

III. "Assenting Employer" shall include all employers who
16 have complied with the provisions of section 13 hereof and
17 to whom a certificate authorized by such section has been
18 issued, so long as such certificate remains in force.

IV. "Commission" shall mean The Industrial Accident
20 Commission of the State of Maine created by section 11
21 hereof.

V. "Industrial Accident Insurance Policy" shall mean a
23 policy in such form as the Commission approves, issued by
24 any stock or mutual casualty insurance company, that may
25 be now or hereafter authorized to do business in this state,
26 which in substance and effect guarantees the payment of the
27 compensation, medical and hospital services and expenses
28 of sickness and burial hereby required, in such installments,
29 at such time or times, to such person or persons and upon
30 such conditions as in this act provided. Whenever a policy
31 or certificate of renewal thereof is filed as herein provided
32 a copy of such policy, certified by the secretary of the Com-
33 mission, shall be admissible as evidence in any legal pro-

34 ceeding wherein the original would be admissible.

VI. "Insurance Company" shall mean any casualty insur-
36 ance company authorized to do business in the state of
37 Maine, which may issue policies conforming to the pro-
38 visions of the next preceding paragraph. Whenever in the
39 sections hereof relating to procedure the word "Insurance
40 Company" is used it shall be held to apply only to cases in
41 which the employer has elected to file such policy instead
42 of paying premiums to the industrial accident fund.

VII. "Representatives" may include executors, adminis-
44 trators, or dependents of deceased employees. Payments
45 may be made to dependents directly or to executors or ad-
46 ministrators. If payments are made to the latter they shall
47 pay the same to dependents as herein provided.

VIII. "Dependents" shall mean members of the em-
49 ployee's family or next of kin who were wholly or partly
50 dependent upon the earnings of the employee for support at
51 the time of the injury. The following persons shall be
52 conclusively presumed to be wholly dependent for support
53 upon a deceased employee:—(a) A wife upon a husband,
54 (b) A husband upon a wife, (c) A child, or children under
55 the age of eighteen years (or over said age, but physically
56 or mentally incapacitated from earning) upon the parent
57 with whom he is, or they are, living at the time of the death
58 of such parent, there being no surviving dependent parent.
59 In case there is more than one child thus dependent, the
60 death benefit shall be divided equally among them. In all

61 other cases questions of dependency, in whole or in part,
62 shall be determined in accordance with the fact, as the fact
63 may be at the time of the injury; and in such other cases,
64 if there is more than one person wholly dependent, the death
65 benefit shall be divided among them, and persons partly de-
66 pendent, if any, shall receive no part thereof; if there is
67 no one wholly dependent and more than one person partly
68 dependent, the death benefit shall be divided among them
69 according to the relative extent of their dependency.

IX. "Average Weekly Wages" shall mean the earnings
71 of the injured employee during the period of fifty-two
72 weeks immediately preceding the date of the injury divided
73 by fifty-two; but if the injured employee lost more than
74 two weeks' time during such period, then the earnings for
75 the remainder of such fifty-two weeks shall be divided by
76 the number of weeks remaining after the time so lost has
77 been deducted. Where, by reason of the shortness of time
78 during which the employee has been in the employment of
79 his employer, or the nature or terms of the employment, it
80 is impracticable to compute the average weekly wages as
81 above defined, regard may be had to the average weekly
82 amount which during the fifty-two weeks previous to the
83 injury was being earned by a person in the same grade of
84 employment, at the same work, by the same employer; or,
85 if there is no person so employed, by a person in the same
86 grade employed in the same class of employment and in
87 the same county.

X. In the sections of this act relating to notices and procedure all powers and rights granted to, or duties and obligations imposed upon, employers or employees shall enure to the benefit of and may be exercised by guardians of minors or other incapacitated persons and representatives of deceased persons.

Sect. 2. In an action against an employer to recover damages for personal injury sustained by an employee in the course of his employment, or for death resulting from personal injury so sustained, it shall not be a defence (a) that the employee was negligent, (b) that the injury was caused by the negligence of a fellow employee, (c) that the employee has assumed the risk of injury.

Sect. 3. The provisions of section 2 hereof shall not apply to assenting employers. In the case of personal injury sustained by an employee in the course of his employment or of death resulting from personal injury so sustained, assenting employers shall be exempt from suits either at common law or under Revised Statutes, chapter 89, section 9, or the Act of 1909, chapter 258.

Sect. 4. An employee who receives a personal injury arising out of, and in the course of, his employment by an assenting employer, or the representatives of an employee who has died as the result of such personal injury arising out of and in the course of his employment by an assenting employer, shall, without regard to the negligence of any person be paid compensation as in this section provided.

8 I—No compensation shall be paid under this act for the
9 first two weeks after the injury. Compensation shall begin
10 at the expiration of said period. II—During the first two
11 weeks after the injury there shall be paid the cost of rea-
12 sonable medical and hospital services and medicines when
13 they are needed, but not exceeding thirty dollars in amount.
14 In severe cases requiring surgical operations, the Commis-
15 sion may, in its discretion, allow larger fees. III—If death
16 results from the injury, the compensation to the dependents
17 of the employee, wholly dependent on his earnings for sup-
18 port at the time of the injury, shall be a weekly payment
19 equal to one-half his average weekly wages but not more
20 than \$10.00 per week nor less than \$5.00 per week for a
21 period of three hundred weeks from date of injury. If
22 the employee leaves dependents only partly dependent upon
23 his earnings for support at the time of his injury, the com-
24 pensation shall be a weekly payment, equal to the same
25 proportion of the weekly payments for the benefit of per-
26 sons wholly dependent as the amount contributed by the
27 employee to such partial dependents bears to the annual
28 earnings of the deceased at the time of his injury. When
29 weekly payments have been made to an injured employee
30 before his death, the compensation to dependents shall be-
31 gin from the date of the last of such payments but shall not
32 continue more than three hundred weeks from the date of
33 the injury. IV—If the employee leaves no dependents,
34 there shall be paid to his representatives the reasonable ex-

35 penses of his last sickness and burial, which shall not ex-
36 ceed two hundred dollars. V—When the incapacity for
37 work resulting from injury is total the compensation shall
38 be a weekly payment equal to one-half his average weekly
39 wages but not more than ten dollars per week nor less than
40 four dollars per week for five hundred weeks. Thereafter,
41 so long as such incapacity continues, the compensation shall
42 be equal to one-third of such average weekly wages, but not
43 more than six dollars per week nor less than three dollars
44 per week. VI—When the incapacity for work resulting
45 from the injury is partial the compensation shall be a week-
46 ly payment equal to one-half the difference between his
47 average weekly wages before the injury and the average
48 weekly wages he is able to earn thereafter, but not more
49 than ten dollars per week and in no case shall the period
50 covered by such compensation be greater than three hun-
51 dred weeks from date of injury. VII—In case of the fol-
52 lowing specified injuries, the amounts hereinafter named
53 shall be paid in addition to all other compensations: (a)
54 For loss by severance of both hands at, or above, the wrists
55 or the permanent total loss of the use thereof, or both feet
56 at, or above the ankle, or the permanent total loss of the
57 use thereof, or the loss of one hand and one foot, or the
58 permanent total loss of the use thereof, or the reduction
59 to one-tenth of normal, vision in both eyes with glasses,
60 one-half the average weekly wages of the injured person
61 but not more than ten dollars per week, nor less than four

62 dollars per week, for a period of one hundred weeks. (b)
63 For loss by severance of either hand at or above the wrist
64 or the permanent total loss of the use thereof, or either foot
65 at or above the ankle, or the permanent total loss of the
66 use thereof, or the reduction to one-tenth of normal vision
67 in either eye with glasses, one-half the average weekly wages
68 of the injured person, but not more than ten dollars per
69 week, and not less than four dollars per week, for a period
70 of fifty weeks. (c) For loss by severance at, or above,
71 the second joint of two or more fingers, thumbs or toes,
72 one-half the average weekly wages of the injured person
73 but not more than ten dollars per week nor less than four
74 dollars per week for a period of twenty-five weeks. (d)
75 For loss by severance of at least one phalanx of a finger,
76 thumb or toe, one-half the average weekly wages of the
77 injured person, but not more than ten dollars per week nor
78 less than four dollars per week for a period of twelve weeks.

Sect. 5. No savings or insurance of the injured employee
2 independent of this act shall be taken into consideration in
3 determining the compensation to be paid hereunder; nor
4 shall benefits derived from any other source be considered
5 in fixing the compensation under this act.

Sect. 6. An employee who claims compensation hereun-
2 der, or some person in his behalf, shall notify his employer
3 or the Commission, of the time, place and cause of the in-
4 jury. The notice shall be in writing and shall not be in-
5 validated by any informality or any inaccuracy unless in-

6 tended to mislead the employer or the Commission and un-
7 less the employer or the Commission is actually misled. The
8 notice shall within fourteen days after the injury be served
9 on the employer personally or by sending same by regis-
10 tered mail directed to the usual post-office address of the
11 employer, or by sending same to the Commission by regis-
12 tered mail directed to Augusta. Failure to give notice as
13 above shall not bar recovery if due to accident, mistake or
14 misfortune. The notice required by this section shall not
15 be necessary if the Commission, or any member thereof,
16 has within fourteen days after the injury actual knowledge
17 thereof. Except as herein specified such failure to give
18 notice shall bar recovery of compensation. In case notice
19 as required by this section shall be served upon the em-
20 ployer, it shall be his duty forthwith to forward the same,
21 or a copy thereof, to the Commission.

Sect. 7. No agreement by an employee to waive his rights
2 to compensation under this act shall be valid. No payment
3 under this act shall be assignable or subject to attachment,
4 or be liable in any way for any debts. The Commission
5 may in unusual cases, if the parties agree, approve the re-
6 demption of the liability hereby created by the payment of
7 a sum equivalent to the present worth thereof. But except
8 in the case of the special injuries described in Section 4,
9 Paragraph VII, such redemption shall not be approved until
10 the expiration of six months after the injury.

Sect. 8. After an employee has received an injury and

2 from time to time thereafter during the continuance of his
3 disability he shall, if so requested by the Commission, sub-
4 mit himself to an examination by a physician or surgeon
5 authorized to practice medicine under the laws of this state,
6 furnished and paid for by the Commission, or by the In-
7 surance Company. The employee shall have the right to
8 have a physician provided and paid for by himself present
9 at the examination. If he refuses to submit himself for
10 the examination or in any way obstructs the same, his right
11 to compensation shall be suspended, and his compensation,
12 during the period of suspension may be forfeited. The
13 Commission may appoint a duly qualified, impartial physi-
14 cian to examine the injured employee and to report. The
15 fee for this service shall not exceed five dollars and travel-
16 ling expenses for each such examination, which shall be
17 paid for by the Commission.

Sect. 9. In case the injury to the employee is purposely
2 self inflicted his right to compensation hereunder shall be for-
3 feited. If the injury to the employee resulting in disability
4 or death shall be caused by the employer's wilful negligence
5 or violation of any law requiring the use of safety devices,
6 such employer shall be liable to pay for the benefit of said
7 employee and the state a sum equal to the present worth
8 of such compensation as such employee is entitled to here-
9 under. Such liability shall be enforced by the Commission
10 by an action on the case in the supreme judicial or any
11 superior court in the name of such employee. No settle-

12 ment of such liability shall be valid unless approved by the
13 Commission. Any sum so recovered shall be disposed of
14 as follows: One half of such sum shall be paid to the state
15 treasurer for the benefit of the state; one half shall be paid
16 to the state treasurer to be by him added to the Industrial
17 Accident Fund and paid to such employee in addition to
18 his other compensation in monthly payments or otherwise
19 as the Commission may determine. The finding by the
20 Commission of such present worth shall be prima facie evi-
21 dence thereof, but shall be subject to review by the court.

Sect. 10. Where the injury for which compensation is
2 payable under this act was caused under circumstances cre-
3 ating a liability in some person other than the assenting
4 employer to pay damages in respect thereof the employee
5 may at his option proceed by suit at law to recover dam-
6 ages or may proceed under this act to recover compensation,
7 but shall not have both remedies. In case the employee
8 shall elect to take compensation the Commission may main-
9 tain an action at law in the name of such employee to en-
10 force such liability. Any sum recovered in such suit shall
11 be paid to the state treasurer and be by him added to the
12 Industrial Accident Fund.

Sect. 11. A Commission is hereby created to be known
2 as The Industrial Accident Commission of the State of
3 Maine and it shall consist of three members. The Insur-
4 ance Commissioner and the Commissioner of Labor and
5 Industry shall be ex-officio members of this Commission.

6 The Governor shall appoint a chairman of this Commission
7 who shall hold office for three years from date of appoint-
8 ment and unless removed, as hereunder provided, shall hold
9 office until his successor is appointed and qualified. Such
10 chairman shall be sworn and for inefficiency, wilful neglect
11 of duty or for malfeasance in office, may after notice and
12 hearing be removed from office by the Governor and Coun-
13 cil. In case of vacancy occurring through death, resigna-
14 tion or removal, the Governor shall appoint a successor for
15 the whole term of three years, subject to removal as afore-
16 said. Such chairman shall receive a salary of twenty-five
17 hundred dollars per annum. The other members of the
18 Commission shall receive a salary of five hundred dollars
19 per annum in addition to compensation received by them
20 under existing law. The members of the Commission shall
21 also receive their actual necessary travelling and other ex-
22 penses.

The Commission shall have a secretary appointed and re-
24 movable by it whose salary shall be fifteen hundred dollars
25 per annum. It shall be allowed the sum of ten thousand
26 dollars, or so much thereof as is necessary, for expert and
27 clerical assistance and other expenses in organizing a suit-
28 able system of administration. From and after January
29 first, 1914, it shall be allowed the sum of ten thousand dol-
30 lars per annum, or such part thereof as is necessary, for
31 clerical and other assistance, travelling expenses, physicians'
32 and witness fees and other necessary expenses.

The Commission shall have a seal bearing the words "Industrial Accident Commission Maine." It shall have its office and keep its records at the State House in Augusta but may hold its sessions at any place within the state. The Commission shall have and exercise the following powers:

I. To make rules and regulations not inconsistent with this act or other laws of the state for the purpose of carrying out the provisions hereof.

II. To establish rules for determining and to determine the amount of premiums to be paid by assenting employers; such amounts to have reference to the number of employees, amount of pay-roll, hazard of employment; the sums necessary for segregation as provided herein and for the establishment of a reasonable reserve.

Sect. 12. The Commission in addition to the powers and duties herein otherwise granted and imposed shall have the following powers and be subject to the following duties:

I. To issue subpoenas for witnesses and subpoenas duces tecum to compel the production of books and papers relating to questions in dispute before it or before any member of it. Witness fees shall be the same as in the case of witnesses before probate courts.

II. To approve any settlement made in accordance with the provisions hereof between an Insurance Company and any injured employee of an assenting employer. No such settlement shall be valid unless in writing, filed with the Commission and approved by it.

III. To determine the amount of compensation to be paid
15 any injured employee; and the amount to be paid for medi-
16 cal and hospital services or for sickness and burial under
17 Paragraphs II and IV of Section 4 hereof.

For the purpose of determining the amount of compensa-
19 tion in cases where no settlement has been made and ap-
20 proved, hearing shall be held in the town where the acci-
21 dent occurred, causing the injury or death, unless the claim-
22 ant requests in writing that such hearing shall be elsewhere.
23 Such hearing may be before the chairman of the board or
24 one of the members, designated by the chairman for that
25 purpose, or it may be before the Commission. If the hear-
26 ing shall be held before the chairman, or one member, either
27 party within seven days from the time findings are filed,
28 shall have the right to appeal to the Commission. Hearings
29 on appeal before the Commission shall be held at Augusta,
30 unless the Commission otherwise determines. Such find-
31 ings, original or on appeal, shall be filed in the office of the
32 Commission. Reasonable notice of hearings and findings
33 shall be given the claimant and Insurance Company. Such
34 notice may be given by sending same by mail post paid di-
35 rected to such post office address as the person to be notified
36 has given to the Commission. Otherwise, the Commission
37 may give notice in any manner that it deems proper.

IV. If aggravation, diminution or termination of disa-
39 bility takes place, or is discovered after the right of com-
40 pensation shall have been established, the Commission may

41 upon application of the beneficiary, or upon its own motion,
42 readjust for future application the rate of compensation in
43 accordance with the rules in this act provided, or in a proper
44 case, terminate payments. Before taking such action, how-
45 ever, the Commission shall give all parties interested reason-
46 able opportunity to be heard.

V. To determine and make return to the state treasurer
48 of the amount necessary to be set apart to pay such adju-
49 dicated claims upon the Industrial Accident Fund as in the
50 opinion of the Commission will continue more than a year.
51 In making such determination they shall assume interest at
52 three and one-half per cent. per annum with annual rests,
53 and shall use where applicable the American Mortality
54 Table.

VI. To require employers to make prompt reports of all
56 accidents to their employees in the course of their employ-
57 ment with the average weekly wages or earnings of such
58 employee and such other particulars as the Commission
59 deems important; also to report whenever an injured em-
60 ployee shall resume his employment and the amount of his
61 wages or earnings, and from time to time make such other
62 reports as they may deem necessary. Any employer who
63 shall wilfully neglect or refuse to make such reports shall
64 be liable to a forfeiture of ten dollars for each day's such
65 wilful neglect or refusal to be enforced by the Commission
66 in an action of debt in the name of the state for the benefit
67 of the Industrial Accident Fund.

VII. To make annual return to the Governor and Council with full statistical information and such recommendations as it deems wise.

Sect. 13. I. Any employer desiring to become an assenting employer as herein provided may file with the Commission his written assent in such form as the Commission approves and pay to the Commission such premium as the Commission determines.

II. Any employer desiring to become an assenting employer as herein provided may file with the Commission his written assent in such form as the Commission approves and file with the Commission an Industrial Accident Insurance Policy in such form as the Commission determines.

III. Thereupon, the Commission shall issue to such employer a certificate stating that such employer has conformed to the provisions of this act and setting forth the date to which the premium has been paid, or at which the policy expires. The certificate shall remain in force until such date.

A notice in such form as the Commission approves, stating that the employer has conformed to the provisions of this act and the date to which the premium has been paid, or date of expiration of policy, together with such further matters as the Commission determines shall be posted by the employer and kept posted by him at some place in each of his mills, factories or places of business conspicuous and accessible to his employees. For wilful failure to so post such notices the

25 employer shall be subject to a forfeiture of ten dollars per
26 day for every day of such wilful neglect, which forfeiture
27 may be enforced by the Commission in an action of debt in
28 the name of the state for the benefit of the Industrial Acci-
29 dent Fund. Such failure to so post notices shall not, how-
30 ever, affect the rights or liabilities of the employer hereunder.

IV. The Commission may require payment of further
32 premium by any employer in case of mistake or changed
33 conditions, or in case it shall be necessary for the purpose
34 of meeting claims for compensation according to the terms
35 hereof. Any employer who assents to this act and pays
36 premiums to the Industrial Accident Fund as provided by
37 the first paragraph of this section, shall be held to have
38 promised to make such further payment. In case the pre-
39 mium collected shall be more than is necessary to satisfy
40 claims for compensation hereunder, the Commission may
41 in its discretion order a rebate to employers who have paid
42 such excessive premiums. The additional premium to be
43 paid by any employer, as provided in this paragraph, may
44 be recovered by the Commission in an action of debt, in
45 behalf of the state, for the benefit of the Industrial Acci-
46 dent Fund.

Sect. 14. There is hereby created a fund to be known as
2 The Industrial Accident Fund, which shall be held by the
3 state treasurer and be by him deposited in such banks or
4 otherwise, as may be authorized by the laws of the state.
5 All moneys received by the Commission shall be paid over

6 forthwith to the state treasurer and become a part of the
7 Industrial Accident Fund.

The state treasurer shall set apart the sum of twenty-five
9 thousand dollars, which shall become a part of the fund.
10 The sum so set apart shall be repaid to the state out of the
11 fund in five equal annual installments, with interest at three
12 and one-half per cent per annum, payable annually.

The state treasurer, with the approval of the Governor,
14 is authorized to invest such fund, or any part thereof, in
15 any securities which are a legal investment for savings banks,
16 under the laws of the state of Maine, and with such ap-
17 proval may sell such securities and apply the proceeds to
18 meet current disbursements as provided hereby.

Payments from such fund shall be made as follows:

At each regular meeting of the Governor and Council the
21 Commission shall present an estimate of the amount neces-
22 sary to pay compensation to become payable before the reg-
23 ular meeting of the Governor and Council, to be held in the
24 next following month.

Whereupon the Governor and Council shall issue its war-
26 rant for such amount, payable to the Industrial Accident
27 Commission. Such estimates and warrants shall specify
28 separately the amounts to be paid from segregated and
29 unsegregated moneys.

The sums received upon such warrants shall be disbursed
31 by the Commission to employees entitled thereto, under this
32 act and shall be accounted for on a monthly account cur-

33 rent, to be filed with the state auditor. Any unused balance
34 shall be covered into the state treasury whenever directed
35 by the Governor and shall become a part of the Industrial
36 Accident Fund.

The state treasurer shall set apart such part of the funds
38 as is necessary to be segregated under the provisions of
39 Section 12, Paragraph V, and shall keep a separate account
40 of segregated and unsegregated moneys, crediting each with
41 its increment and charging it with the disbursements made
42 on account of it.

Sect. 15. In all legal proceedings herein authorized to be
2 brought by the Commission the attorney general shall rep-
3 resent the state.

Sect. 16. Any employee entitled to compensation or other
2 relief from an Insurance Company, as herein provided, may
3 within one year from time of injury file with the clerk of
4 the supreme judicial court of the county where the claimant
5 resides a copy certified by the secretary of the Commission
6 of (a) A written agreement fixing the amount and time or
7 times of payment of compensation or other relief, signed
8 by the Insurance Company and approved by the Commis-
9 sion, or (b) A finding of such amount and time or times
10 by one member of the Commission, no appeal having been
11 claimed, and the time herein fixed for appealing having
12 elapsed, or (c) A finding of such amounts and time or times
13 by the Commission.

Whereupon the court may issue its decree ordering pay-

15 ment in accordance with such findings and may enforce
16 same by execution, by contempt proceedings or by other
17 appropriate process.

The agreement or finding shall be conclusive as to questions
19 of fact. Questions of law appearing on the record or shown
20 otherwise may be reviewed by the supreme judicial court
21 upon certiorari. In cases where review on legal grounds
22 is asked by the Insurance Company any weekly compensa-
23 tion ordered by the Commission shall not be suspended but
24 shall be paid until the court renders its final decision and
25 thereafter continued, modified or terminated as required by
26 the court's final judgment.

Sect. 17. Any employee of an assenting employer shall be
2 subject to the provisions of this act and shall be conclusively
3 presumed to have waived and surrendered all rights and
4 remedies against such assenting employer either at common
5 law or under any act other than this act and amendments
6 thereof and additions thereto, unless at the beginning of
7 his employment, or before the injury is received, for which
8 compensation is claimed and within fifteen days after the
9 posting of notices, as provided by section 13 of this act, in
10 cases where such posting is required, he voluntarily and
11 without being influenced thereto directly or indirectly by
12 the employer, notifies his employer in writing that he elects
13 not to be subject to the provisions hereof. Employees of
14 a non-assenting contractor or sub-contractor shall for pur-
15 poses of this act be considered the employees of the person

16 (being an assenting employer) in the prosecution of whose
17 trade, business, profession or occupation they are employed.
18 Nothing herein, however, shall release or in any way affect
19 the liability at common law or under any statute of any
20 such non-assenting contractor or sub-contractor.

Sect. 18. An employee of an assenting employer who has
2 given the notice specified in Section 15 hereof shall have
3 no right to compensation under this act, but may maintain
4 an action for damages at common law or under Revised
5 Statutes, Chapter 89, Section 9, or under the act of 1909,
6 Chapter 258, but such action shall be subject to all defenses
7 to which it would be subject if this act had not been passed.

Sect. 19. This act is intended to be compulsory as to the
2 state, counties and cities. It shall be the duty of the Gov-
3 ernor and Council in behalf of the state, county commis-
4 sioners in behalf of their respective counties, and in behalf
5 of their respective municipalities the mayor and aldermen
6 of cities and the selectmen of such towns as vote to accept
7 the provisions of this act to direct the taking of such action
8 and the payment of such premiums as is necessary to con-
9 form to Section 13 hereof. And it shall be the duty of the
10 treasurers of the state, counties, cities and such towns to
11 take such action and make such payments. The state, coun-
12 ties and cities shall be exempt from the duty of posting
13 notices required by Section 13 hereof.

Sect. 20. This act shall not apply to any injury received
2 by any employee prior to January first, 1914. The rights

3 and remedies existing under any law other than this act
4 shall remain in full force with reference to such injury.

Sect. 21. All acts and parts of acts inconsistent herewith
2 are hereby repealed.

Sect. 22. This act shall, subject to the provisions of the
2 Constitution of Maine, take effect as follows:

Section 11 shall take effect ninety days after the recess of
4 the Legislature.

Section 14 and Paragraph I of Section 13 shall take effect
6 any time on or after January first, 1914, upon the following
7 conditions:

Whenever five or more employers, regularly employing
9 three thousand or more employees, shall file with the Gov-
10 ernor their request that the state assume the administration
11 of the Industrial Accident Fund hereby created, the Gov-
12 ernor, if satisfied that such request conforms to this con-
13 dition, shall issue his proclamation therein fixing a date for
14 such provisions to become operative and at the date thus
15 fixed said Section 14 and Paragraph I of Section 13 shall
16 go into effect.

The other sections and paragraphs hereof shall take effect
18 on January first, 1914.

SYNOPSIS AND COMMENTS ACCOMPANYING
DRAFT OF WORKMAN'S COMPENSATION LAW.

During the past forty years workman's compensation laws have replaced employer's liability laws in most enlightened countries. This is true of nearly all European countries, most of the self-governing English colonies and fifteen of the American states.

These laws provide a moderate and fixed compensation for workmen injured in the course of their employment, without regard to the negligence of any person.

The theory upon which these laws rest is that the loss of life and limb caused by industrial accidents should be borne by the industry of which they are an inevitable incident.

The accompanying draft is not precisely like that of any country or state, but includes the best and most humane features of several such laws.

This draft embodies the following important features: negligence.

It provides compensation for all employees except farm laborers, domestic servants and persons who are not employed in the course of the employer's ordinary business. In this respect the draft is the same as the Massachusetts law and that of several other states.

The compensation which it insures is to be paid in weekly payments and not in a lump sum. This feature is found in nearly all compensation laws.

Section 4, which substantially embodies provisions of the Massachusetts law, establishes rules for determining the compensation which an injured workman may be entitled to.

The administration of law, including determination of amount of compensation to which any injured workman is entitled, is left with an Industrial Accident Commission. The delays and expense incident to jury trials are eliminated.

The source of compensation provided by the act is the employer. The employee loses nearly half his wages but pays no part of the compensation for loss of the other half. In this respect the draft follows the example of nearly all the states.

The medium through which the compensation reaches the

injured workman is either an Insurance Company or a State Insurance Fund.

The employer at his option pays his premium to either. In this particular the draft resembles somewhat the laws of Massachusetts and Michigan.

This proposed law is elective, not compulsory. No state but Washington has passed a compulsory law. It is generally believed that such a law cannot be made compulsory because of the limitations of the constitution.

The employer elects to be subject to the law by paying his premium.

The workman elects to be so subject by working for an assenting employer without giving a notice in writing that he wishes to preserve his right to sue for damages. The employer who pays his premium is relieved from all suits for damages, except by a non-assenting employee.

It takes away from a non-assenting employer who is sued for damages the defences of contributory negligence and the fellow servant and assumption of risk rules. The non-assenting employee, however, takes his right to sue subject to these defences.

This feature of the law is like that of Massachusetts.

Several states have established new boards of three or five to administer the law. This draft, however, provides for a board of three, of which the Insurance Commissioner and the Commissioner of Labor shall be ex-officio members. The chairman of the Commission is the only new officer provided for.