

# MAINE STATE LEGISLATURE

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**PUBLIC DOCUMENTS**

OF THE

**STATE OF MAINE**

BEING THE

**REPORTS**

OF THE VARIOUS

**PUBLIC OFFICERS  
DEPARTMENTS AND  
INSTITUTIONS**

FOR THE TWO YEARS

**JULY 1, 1928 - JUNE 30, 1930**

STATE OF MAINE

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REPORT

OF THE

ATTORNEY GENERAL

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for the calendar years

1929-1930

WORKMEN'S COMPENSATION  
FORM LETTER

Dear Mr. ....:

I am writing you as head of the Department of ..... with reference to the working out of the Workmen's Compensation Act in your department. The administration of this statute in its application to state employees has not been definitely organized. I am anxious that my department, which now has charge of the procedure in all State compensation cases, should do everything possible to systematize proceedings for the benefit of all concerned.

Any employee of your department who meets with an accident in the course of his duties and in the scope of his employment is entitled to all the benefits of the Act as if he were employed by a private industrial concern. This means, of course, that he is entitled to the payment of proper medical and surgical expense resulting from the accident, and to compensation on the statutory basis up to a maximum of \$18.00 per week for the period of any actual disability at and subsequent to the seventh day after the injury, in addition to specific payments in accordance with the statute for permanent disability or death.

At one time the payments to and for state employees in such cases came from the contingent fund, but under the present law these payments are charged against the appropriation for your department with the implication, of course, that the contingent fund must meet any deficit due to unforeseen payments in excess of the total department appropriation.

To your natural personal interest in favor of an employee of your department who is injured is therefore added your official interest by reason of the fact that payments are from your department appropriation.

On the other hand, the administration of the Workmen's Compensation Act is, necessarily somewhat technical, and a systematic handling of the details of all workmen's compensation cases through one department should obviously save time and give beneficial results to all concerned.

My department is anxious to be of every service possible to you in working out this result. We bear toward your department in this respect much the same relation which an insurance company and its representatives bear toward an individual employer with the difference that the ultimate payments are made not by an outside insurance company, but out of the state treasury and against the department appropriation.

The following practical suggestions are made after consultation with the Chairman of the Industrial Commission and will, I trust, prove workable.

Immediately on learning that any employee in your department has met with an accident which appears to come within the protection of the Act, please make out a first report on the regular Industrial Accident Commission form. If this is made on typewriter please make it in duplicate. If you will forward the original and the duplicate to us we will forward the original for you to the Industrial Commission; but if you prefer to file the original direct please send us the duplicate, noting on it that original has been filed with the Commission.

If the accident is serious we would appreciate learning of it over the telephone.

If there is any doubt but that the employee is receiving adequate medical and surgical attention please let us know at once.

If you need any assistance in preparing the report let us know and we will be glad to help you draw it up.

If the employee is absent from work on or after the seventh day after the accident we will arrange for the drawing up of compensation agreements, and will obtain council orders so that compensation checks will be duly received by him. If medical or hospital bills are forwarded to you refer them to us for checking and payment.

If the employee is not disabled from work, or is absent less than seven days, please so state on the first report, or fill out and send us a supplemental report on the regular Industrial Accident Commission form; this also in duplicate. This enables us to compute any compensation due.

We should appreciate word from you from time to time as to the progress toward recovery of any disabled employees, and definite word when they return to work.

If it is the policy of your department to retain injured employees on the payroll in certain cases, and particularly where the exact extent of disability is doubtful, that of course is a matter within your own department and not for me to interfere with; but it should be borne in mind that this liberal interpretation of statutory compensation provisions is apt to make complications. For instance, the employee may subsequently claim permanent impairment and ask for the statutory specific allowance for a definite number of weeks. In such case when an employee has had temporary compensation under the Workmen's Compensation Act for an actual lay-off, either partial or total, the compensation payments are credited on the specific payment for permanent impairment, thus reducing the sum coming to him for permanent impairment; but if he has received no compensation as such under the Workmen's Compensation Act, he is in a position to receive over again the full allowance for his specific disability without any deduction for payments already received as wages.

Complications also come up with reference to hospital bills. If a disabled employee is actually receiving full pay, that part of his pay which is in excess of the workmen's compensation allowance should be applied toward his medical and hospital bills. The working out of this difference in figures may cause friction and misunderstanding.

The active administration of the details of the Act for my department is at present in charge of Richard Small, Esq., whose home office is 85 Exchange Street, Portland, but who will be frequently in Augusta to give assistance on and to work out the cases. Either Mr. Small or myself would be very glad indeed to talk with you at any time with regard to general problems or any particular questions arising under the Act to the end that it may be administered with my department cooperating with yours to the best interests of all concerned.

Very truly yours,

CLEMENT F. ROBINSON

Attorney General

#### REFERENDA

November 25, 1929

Dr. Ernest H. Gruening,  
Portland, Maine

My Dear Dr. Gruening:

Because of the interest taken by the public during the last few weeks in the action of the Governor on the referendum petitions, I am glad to carry out your suggestion and set forth in a public letter my understanding of the principles of law which rule the action of the Executive in such cases, which I studied out when advising with him on the petitions. Letters that I have received recently and the discussion in the newspapers indicate that there may be some current misunderstanding of the law.

*Fundamentally, the Executive must follow the law*

First and fundamentally, the Governor in passing on the validity of referendum petitions, must be governed by law. His conclusion is final; no court or legislature can review or reverse it. But he must be guided in reaching his conclusion by the rules enunciated by the courts for testing and finding the facts.

Any other principle would lead to anarchy. To criticize the Executive for carrying out the law as defined by the courts would show a misapprehension of our system of government, thoughtless, careless or misinformed; or else would be Bolshevism.

*Lapse of time after law is settled is legally immaterial*

It is a well settled corollary to this fundamental constitutional principle that mere lapse of time after the announcement of a positive principle of law by a court does not change the principle. Chief Justice Marshall's ruling in the famous cases of *Marbury v. Madison*, the *Dartmouth College* case and other landmarks of Federal Constitutional law stand as the law of the nation, although they were put forth a century ago. A court's positive statement of constitutional law whenever made stands effective. No good citizen will set himself above this