

MAINE STATE LEGISLATURE

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SEVENTY-SIXTH LEGISLATURE

HOUSE

NO. 162

House of Representatives, Feb. 5, 1913.

*Tabled pending reference to a committee, by Mr. Smith of
Auburn, and ordered printed.*

W. R. ROIX, Clerk.

STATE OF MAINE

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

AN ACT relative to the compensation of workmen by their
employers for accidents arising out of and in the course of
employment.

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

Section 1. In an action to recover damages for personal
injuries sustained by an employee and arising out of and
in the course of his employment, or for death sustained or
resulting from injuries so sustained, it shall not be a de-
fense:

(a) That the employee was negligent, unless and except
it shall appear that such negligence was wilful;

(b) That the injury was caused by the negligence of a
fellow employee;

(c) That the employee had assumed the risks inherent
11 in or incidental to, or arising out of his employment, or
12 arising from the failure of the employer to provide and
13 maintain safe premises and suitable appliances.

Sect. 2. The provisions of section one shall not apply to
2 actions to recover damages for personal injuries sustained
3 by household domestic servants and farm laborers.

Sect. 3. The provisions of section one shall not apply to
2 actions to recover damages for the death of, or for per-
3 sonal injuries sustained by employees of any employer who
4 has elected, with the approval of the compensation com-
5 missioner hereinafter provided, to pay compensation in the
6 manner and to the extent hereinafter provided.

Sect. 4. Any employer who has elected, with the approval
2 of the compensation commissioner hereinafter provided, to
3 pay compensation as hereinafter provided, shall not be sub-
4 ject to the provisions of section one; nor shall such em-
5 ployer be subject to any other liability whatsoever, save as
6 herein provided for the death of or personal injury to any
7 employee, for which death or injury, compensation is re-
8 coverable under this act, except as to employees who have
9 elected in the manner herinafter provided not to become
10 subject to the provisions of this act.

Sect. 5. The following shall constitute employers subject
2 to the provisions of this act:

The state, and each county, city, town, and village corpo-
4 ration therein; every person, firm and private corporation,

5 including any public service corporation, who has any per-
6 son in service under any contract of hire, express or im-
7 plied, oral or written, and who, at or prior to the time of
8 the accident to the employee for which compensation under
9 this act may be claimed, shall in the manner provided in
10 the next section, have elected to become subject to the pro-
11 visions of this act, and who shall not, prior to such acci-
12 dent, have effected a withdrawal of such election, in the
13 manner provided in the next section.

Sect. 6. Such election on the part of the employers men-
2 tioned in the preceding section excepting the state, and each
3 county, city, town and village corporation therein, shall be
4 made by filing with the compensation commissioner herein-
5 after provided, a written statement to the effect that such
6 employer accepts the provisions of this act, and that he
7 adopts, subject to the approval of said commissioner, the
8 method provided for the payment of the compensation here-
9 inafter specified. The filing of such statement and the
10 approval of said commissioner, shall operate, within the
11 meaning of the preceding section, to subject such employer
12 to the provisions of this act and all acts amendatory there-
13 of for the term of one year from the date of the filing of
14 such statement, and thereafter, without further act on his
15 part, for successive terms of one year each, unless such
16 employer shall, at least thirty days prior to the expiration
17 of such first or any succeeding year, file in the office of
18 said commissioner a notice in writing to the effect that he

19 desires to withdraw his election to be subject to the pro-
20 visions of this act: Provided, however, that such employer
21 so electing to become subject to the provisions of this act
22 shall, within ten days after the approval by said commis-
23 sioner of his election filed as aforesaid, post in a conspicu-
24 ous place in his plant, mill, quarry, or place of work, or if
25 such employer be a transportation company, at its several
26 stations and docks, notice in the form as prescribed and
27 furnished by the commissioner to the effect that he accepts
28 and will be bound by the provisions of this act.

Sect. 7. The term "employee" as used in this act shall
2 be construed to mean:

1. Every person in the service of the state, or of any
4 county, city, town or village corporation therein, under any
5 appointment, or contract of hire, express or imply, oral
6 or written, except any official of the state, or of any county,
7 city, town or village corporation therein: Provided, that
8 one employed by a contractor who has contracted with the
9 state, county, city, town or village corporation, through its
10 representatives, shall not be considered an employee of the
11 state, county, city, town or village corporation which made
12 the contract;

2. Every person in the service of another under any con-
14 tract of hire, express or implied, oral or written, including
15 aliens, and also including minors who are legally permitted
16 to work under the laws of the state who, for the purposes
17 of this act, shall be considered the same and have the same

18 power to contract as adult employees, but not including any
19 person whose employment is but casual or is not in the
20 usual course of the trade, business, profession or occupa-
21 tion of his employer.

Sect. 8. Any employee as defined in subdivision one of
2 the preceding section shall be subject to the provisions of
3 this act and of any act amendatory thereof. Any employee
4 as defined in subdivision two of the preceding section shall
5 be deemed to have accepted and shall be subject to the pro-
6 visions of this act and of any act amendatory thereof if,
7 at the time of the accident upon which liability is claimed:

1. The employer charged with such liability is subject
9 to the provisions of this act, whether the employee has
10 actual notice thereof or not; and

2. Such employee shall not at the time of entering into
12 his contract of hire, express or implied, with such employer,
13 have given to his employer notice in writing that he elects
14 not to be subject to the provisions of this act; or, in the
15 event that such contract of hire was made before such
16 employer became subject to the provisions of this act, such
17 employee shall have given to his employer notice in writing
18 that he elects not to be subject to such provisions, or with-
19 out giving either of such notices shall have remained in the
20 service of such employer for thirty days after the employer
21 has filed with said compensation commissioner an election
22 to be subject to the terms of this act. An employee who
23 has given notice to his employer in writing as aforesaid

24 that he elects not to be subject to the provisions of this
25 act, may waive such claim by a notice in writing, which
26 shall take effect five days after it is delivered to the em-
27 ployer or his agents.

Sect. 9. If an employee who has not given notice of his
2 reservation of his common law rights of action, according
3 to the provisions of subsection two of section eight of this
4 act, or who has given such notice and has waived the same,
5 receives personal injury arising out of and in the course
6 of his employment, he shall be paid compensation by his
7 employer as hereinafter specified, provided said employer
8 has filed proper notice with the compensation commissioner
9 of his intention to be bound by the terms of this act.

Sect. 10. If the employee is injured by reason of his
2 intentional or wilful misconduct, he shall not receive any
3 compensation under the terms of this act.

Sect. 11. No compensation shall be paid under this act
2 for any injury which does not incapacitate the employee
3 for a period of at least two weeks, but if incapacity extends
4 beyond the period of two weeks, compensation shall begin
5 on the fifteenth day after the injury.

Sect. 12. During the first two weeks after the injury, the
2 employer electing to be bound by the terms of this act, shall
3 furnish the injured employee also bound with reasonable
4 medical and hospital services, and with medicines when they
5 are needed.

Sect. 13. If death results from the injury the employer shall pay to the dependents of the deceased employee, wholly dependent upon his earnings for support at the time of the injury, a weekly payment equal to one-half of his average weekly wages, but not more than ten dollars nor less than four dollars a week, for a period of three hundred weeks from the date of the injury. If the employee leaves dependents only partly dependent upon his earnings for support at the time of his injury, the employer shall pay such dependents a weekly compensation equal to the same proportion of the weekly payments for the benefit of persons wholly dependent as the amount contributed by the employee to such partial dependents bears to the annual earnings of the deceased at the time of his injury. When weekly payments have been made to an injured employee before his death, the compensation to dependents shall begin from the date of the last of such payments, but shall not continue more than three hundred weeks from the date of the injury.

Sect. 14. The following persons shall be conclusively presumed to be wholly dependent for support upon a deceased employee:

(a) A wife upon a husband with whom she lives at the time of his death.

(b) A husband upon a wife with whom he lives at the time of her death.

(c) A child or children under the age of eighteen years, (or over said age, but physically or mentally incapacitated

10 from earning) upon the parent with whom he is or they are
11 living at the time of the death of such parent, there being
12 no surviving dependent parent. In case there is more than
13 one child thus dependent, the death benefit shall be divided
14 equally among them. In all other cases questions of de-
15 pendency, in whole or in part, shall be determined in ac-
16 cordance with the fact, as the fact may be at the time of
17 the injury; and in such other cases, if there is more than
18 one person wholly dependent, the death benefit shall be
19 divided equally among them, and persons partly dependent,
20 if any, shall receive no part thereof; if there is no one
21 wholly dependent and more than one person partly depend-
22 ent, the death benefit shall be equally divided among them
23 according to the relative extent of their dependency.

Sect. 15. If the employee leaves no dependents the em-
2 ployer shall pay the reasonable expense of his last sickness
3 and burial, which shall not exceed two hundred dollars.

Sect. 16. When the incapacity for work resulting from
2 the injury is total, the employer shall pay the injured em-
3 ployee a weekly compensation equal to one-half his average
4 weekly wages, but not more than ten dollars nor less than
5 four dollars a week; and in no case shall the period covered
6 by such compensation be greater than five hundred weeks.
7 nor the amount more than three thousand dollars.

Sect. 17. When the incapacity for work resulting from
2 the injury is partial, the employer shall pay the injured em-
3 ployee a weekly compensation equal to one-half the differ-

4 ence between his average weekly wages before the injury
5 and the average weekly wages which he is able to earn
6 thereafter, but not more than five dollars a week; and in
7 no case shall the period covered by such compensation for
8 partial disability be greater than three hundred weeks from
9 the date of the injury.

Sect. 18. The term "average weekly wages" as used in
2 this act is defined to be one fifty-second part of the average
3 annual earnings of the employee. If the injured employee
4 has not worked in the employment in which he was work-
5 ing at the time of the accident, whether for the employer
6 or not, during substantially the whole of the year immedi-
7 ately preceding his injury, his average annual earnings shall
8 consist of three hundred times the average daily wage or
9 salary which he has earned in such employment during the
10 days so employed. If the injured employee has not worked
11 in such employment during substantially the whole of such
12 immediately preceding year, his average annual earnings shall
13 consist of three hundred times the average daily wage or
14 salary which an employee of the same class working sub-
15 stantially the whole of such immediately preceding year in
16 the same or a similar employment in the same or a neighbor-
17 ing place, shall have earned in such employment during the
18 days when so employed. In cases where the foregoing meth-
19 ods of arriving at the average annual earnings of the in-
20 jured employee cannot reasonably and fairly be applied, such
21 annual earnings shall be taken at such sum as, having regard

22 to the previous earnings of the injured employee, and of
23 other employees of the same or most similar class working
24 in the same or most similar employment, in the same or
25 neighboring locality, shall reasonably represent the annual
26 earning capacity of the injured employee at the time of the
27 accident in the employment in which he was working at such
28 time. The fact that an employee has suffered a previous
29 disability, or received compensation therefor, shall not pre-
30 clude compensation for a later injury, or for death, but in
31 determining compensation for the later injury, or death, his
32 average annual earnings shall be such sum as will reason-
33 ably represent his annual earning capacity at the time of the
34 later injury in the employment in which he was working at
35 such time, and shall be arrived at according to and subject
36 to the limitations of the provisions of this section. The
37 weekly loss in wages referred to in this act shall consist of
38 such percentage of the average weekly earnings of the in-
39 jured employee, computed according to the provisions of this
40 section, as shall fairly represent the proportionate extent of
41 the impairment of his earning capacity in the employment
42 in which he was working at the time of the accident, the
43 same to be fixed as of the time of the accident, but to be de-
44 termined in view of the nature and extent of the injury.

Sect. 19. In case of the following specified injuries the
2 amounts hereinafter named shall be paid in addition to all
3 other compensation: (a) For the loss by severance of both
4 hands at the wrist, or both feet at or above the ankle, or the

5 loss of one hand and one foot, or the reduction to one-tenth
6 of normal vision in both eyes with glasses, one-half of the
7 average weekly wages of the injured person, but not more
8 than ten dollars nor less than four dollars a week, for a
9 period of one hundred weeks. (b) For the loss by sev-
10 erance of either hand at or above the wrist, or either foot at
11 or above the ankle, or the reduction to one-tenth of normal
12 vision in either eye, with glasses, one-half the average week-
13 ly wages of the injured person, but not more than ten dol-
14 lars nor less than four dollars a week for a period of fifty
15 weeks. (c) For the loss by severance at or above the sec-
16 ond joint of two or more fingers, including thumbs, or toes,
17 one-half the average weekly wages of the injured person,
18 but not more than ten dollars nor less than four dollars a
19 week for a period of twenty-five weeks. (d) For the loss
20 by severance of at least one phalange of a finger, thumb, or
21 toe, one-half the average weekly wages of the injured per-
22 son, but not more than ten dollars nor less than four dollars
23 a week, for a period of twelve weeks.

Sect. 20. The compensation payable under this act in case
2 of the death of the injured employee shall be paid to his legal
3 representative; or, if he has no legal representative, to his
4 dependents; or, if he leaves no dependents, to the persons to
5 whom payment of the expenses for the last sickness and
6 burial are due. If the payment is made to the legal repre-
7 sentative of the deceased employee, it shall be paid by him to
8 the dependents or other persons entitled thereto under this
9 act.

Sect. 21. If an injured employee is mentally incompetent
2 or is a minor at the time when any right or privilege accrues
3 to him under this act, his guardian or next friend may in
4 his behalf claim and exercise such right or privilege.

Sect. 22. No proceedings for compensation for an injury
2 coming within the provisions of this act shall be maintained
3 unless a notice of the accident and resulting injury shall have
4 been given to the employer as soon as practicable after the
5 happening thereof, and unless the claim for compensation
6 with respect to such injury shall have been made within six
7 months after the happening of the accident; or, in the event
8 of the death of the employee, or of his physical or mental
9 incapacity, within six months after death or the removal
10 of such physical or mental incapacity.

Sect. 23. The said notice shall be in writing, and shall state
2 in ordinary language the time, place and cause of the injury;
3 and shall be signed by the person injured, or by a person in
4 his behalf, or, in the event of his death, by his legal repre-
5 sentative or by a person in his behalf, or by a person to whom
6 payments may be due under this act, or by a person in his
7 behalf. Any form of written communication signed by any
8 person who may give the notice as above provided which
9 contains the information that the person has been so in-
10 jured, giving the time, place and cause of the injury shall be
11 sufficient notice.

Sect. 24. The notice shall be served upon the employer
2 or an agent thereof. Such service may be made by deliv-

3 ering said notice to the person on whom it is to be served,
4 or leaving it at his residence or place of business, or by send-
5 ing it by registered mail addressed to the person or corpo-
6 ration on whom it is to be served, at his last known residence
7 or place of business.

Sect. 25. A notice given under the provisions of this act
2 shall not be held invalid or insufficient by reason of any in-
3 accuracy in stating the time, place or cause of the accident
4 and injury, unless it is shown that it was the intention to
5 mislead, and the employer was in fact misled thereby. Want
6 of such written notice shall not be a bar to proceedings un-
7 der this act, if it be shown that the employer or agent had
8 notice or knowledge of the injury.

Sect. 26. After an employee has given notice of an injury,
2 or an employer has received actual notice of said injury, as
3 provided by this act, and from time to time thereafter during
4 the continuance of his disability he shall, if so requested by
5 the employer, submit himself to an examination by a phy-
6 sician or surgeon certified by the Compensation Commission-
7 er as an Examiner under this act, the fee for said examina-
8 tion to be paid by the employer. The employee shall have
9 the right to have a physician provided and paid for by him-
10 self present at the examination. If he refuses to submit
11 himself for the examination, or in any way obstructs the
12 same, his right to compensation shall be suspended, and his
13 compensation during the period of suspension may be for-
14 feited in the discretion of the Compensation Commissioner.

Sect. 27. No agreement by an employee to waive his rights
2 to compensation under this act shall be valid.

Sect. 28. No payment under this act shall be assignable or
2 subject to attachment, or be liable in any way for any debts.
3 In case of the insolvency of the employee, every liability for
4 compensation under this act shall be a first lien upon all the
5 property of the employer liable therefor, paramount to all
6 other claims or liens except for wages and taxes, and such
7 liens shall be enforced by order of the court.

§ect. 29. If an injury is sustained by any employee in
2 such manner as to make his employer liable under the terms
3 of this act, but such injury is caused by the negligence of a
4 third party, the injured employee may pursue his common
5 law or statutory rights against the person or persons causing
6 such injuries, and recovery in any such claim or suit shall bar
7 any compensation payable under this act. All compensation
8 payments shall be suspended during the pendency of any such
9 claims or suits. The employer paying compensation in any
10 such cases shall be subrogated to the extent of the payments
11 to any rights that the injured employee might have against
12 the person or persons causing the injury, and the injured
13 employee may be at liberty to pursue his rights for further
14 damages against the person or persons responsible for such
15 injuries. In event of death sustained, or resulting from such
16 injuries so sustained, the dependents under this act shall
17 have the same rights against such third parties that the de-
18 ceased would have had if death had not occurred.

Sect. 30. No contract of indemnity or of insurance, assuming the liability imposed on an employer who has accepted the terms of this act, issued by any company authorized to do business in this state, shall assume any less than the whole liability of the employer under this act. The injured employee shall be subrogated to all of the rights of his employer against any such insurance company, and a discharge of its obligations by the insurance company shall discharge the employer. Any insurance company assuming the obligations of the employer shall have the same rights as examination of the injured and procedure that are given to the employer by this act, and shall also be subrogated to any right that the employer may have against third parties responsible for such injuries.

Sect. 31. Whenever any weekly payments have been continued for not less than six months, the liability therefor may be redeemed by the payment of a lump sum upon agreement of the parties, subject to the approval of the Compensation Commissioner. The Compensation Commissioner may at any time direct in any case, if special circumstances be found which in his judgment require the same, that the deferred payments be commuted on the present worth thereof at five per cent per annum, to one or more lump sum payments, and that such payments shall be made by the employer or by the insurance company that has assumed his obligations, or by any insurance company that may assume this particular obligation.

Sect. 32. The Governor shall, with the advice and consent
2 of the Council, appoint a Compensation Commissioner for a
3 term of four years, who shall be an attorney at law. The
4 Compensation Commissioner shall receive a salary of twenty-
5 five hundred dollars per annum, and actual traveling ex-
6 penses incurred in the performance of his duties. He shall
7 have an office in the State House at Augusta.

Sect. 33. The Governor, with the advice and consent of
2 the Council, may appoint a Deputy Commissioner, or more,
3 if necessary, who shall in the absence of the Commissioner,
4 act in his place, and who may be specially deputized by the
5 Commissioner to act in his stead in particular instances. A
6 Deputy Commissioner shall receive a salary of fifteen hun-
7 dred dollars per annum, together with actual travelling ex-
8 penses, and shall hold office at the pleasure of the Governor
9 and Council.

Sect. 34. The Compensation Commissioner shall, subject
2 to the approval of the Chief Justice of the Supreme Judicial
3 Court, make suitable rules for the execution of the provis-
4 ions of this act. He shall have the power to administer oaths,
5 subpoena witnesses, and to examine such parts of the books
6 and records of the parties to a proceeding under this act as
7 relate to questions in dispute. He shall also prepare suit-
8 able blanks for all reports that he may require, and for all
9 controversies that may be submitted to him.

Sect. 35. Any employer, excepting the State, counties, cit-
2 ies, towns, and village corporations, who may elect to be

3 bound by the terms of this act, shall file notice of election
4 with the Compensation Commissioner, who may make such
5 inquiries as he chooses as to the ability of the employer to
6 make the payments required, or the insurance carried by him
7 for that purpose. The Commissioner shall then certify as
8 to the election of the employer if he is satisfied that proper
9 provisions have been made to secure the payment of the ob-
10 ligations imposed by this act. He shall furnish the em-
11 ployer with the notices to be posted in accordance with the
12 terms of Section 6 of this act, and he may give any directions
13 regarding the posting of said notices that he may deem nec-
14 essary. The Commissioner or Deputy shall have authority
15 to visit at any time the working places of any employer who
16 has become bound by the terms of this act.

Sect. 36. The Compensation Commissioner shall certify
2 as many physicians and surgeons in good standing as he
3 chooses, to be Examiners under this act. On request, he
4 shall inform either an employer or an employee as to the
5 Examiners in any particular locality. The fee for making
6 an examination under this act shall be three dollars, pro-
7 vided, that in special instances the Commissioner may, for
8 sufficient cause shown, allow a fee of not exceeding ten dol-
9 lars for an examination made by a specialist.

Sect. 37. The fees for attending as a witness before the
2 Compensation Commissioner shall be one dollar and fifty
3 cents per day and six cents a mile for travel out and home.

The Supreme Judicial or Superior Court shall have power
5 to enforce by proper proceedings the provisions of this act
6 relating to the attendance and testimony of witnesses and
7 the examination of books and records.

Sect. 38. If the employer and the injured employee reach
2 an agreement in regard to compensation under this act, a
3 memorandum of the agreement shall be filed with the Com-
4 pensation Commissioner and, if approved by him, thereupon
5 the memorandum shall for all purposes be enforceable under
6 the provisions of Section 41. Such agreements shall be ap-
7 proved by said commissioner only when the terms conform
8 to the provisions of this act.

If the settlement does not conform to the requirements of
10 this act, he shall make such orders as he deems necessary to
11 carry out the provisions hereof.

Sect. 39. If the employer and injured employee or his legal
2 representatives fail to reach a proper agreement in regard
3 to compensation under this act either party may petition the
4 Compensation Commissioner for an adjudication, or he may
5 on his own initiative summon both the parties before him for
6 hearing, upon the merits of the case.

The Commissioner shall give due notice to both parties of
8 the time and place of all such hearings. If both parties
9 agree, he may render a decision upon written affidavits sub-
10 mitted after due notice, to both parties. Notice of any de-
11 cision made by the commissioner shall be recorded by him
12 and copies sent at once to both parties.

Hearings under this section shall be held at the city or town
14 where the accident occurred or at the County Seat of that
15 county.

Sect. 40. If either party is aggrieved by the decision he
2 may, within ten days after the decision is made, file notice
3 of an appeal with the Commissioner, stating the grounds
4 thereof. If an appeal is taken the Commission shall at once
5 notify the other party and certify the whole record in the
6 case to the next term of the Supreme Judicial or Superior
7 Court for the county in which the accident happened.

The Court shall at the return term thereof hear and decide
9 the appeal, and if any issues of fact are involved, the Court
10 may in its discretion, or upon motion of either party, submit
11 the issue to a jury.

Questions of law, or motion for a new trial may be carried
13 to the Law Court by any of the methods prescribed for such
14 appeals.

Notice of the decision of any such appeal shall be sent
16 by the Clerk of Courts to the Compensation Commissioner,
17 who shall enter the same upon his records.

Sect. 41. Any party in interest may present certified copies
2 of an order or decision of the Compensation Commissioner
3 from which no claim for appeal has been filed within the
4 time allowed therefor, or a memorandum of agreement filed
5 with said Commissioner and approved by him, and all papers
6 in connection therewith to the Supreme Judicial or Superior
7 Court for the County in which the accident happened, where-

8 upon said court shall render a decree or judgment in ac-
9 cordance therewith and notify the parties. Such decree or
10 judgment shall have the same effect and all proceedings in
11 relation thereto shall thereafter be the same as though duly
12 rendered in a suit duly heard by said court, except there shall
13 be no appeal therefrom upon questions of facts. There shall
14 be no appeal of a decree or judgment based on a decision of
15 said Commissioner which has not been presented to the Court
16 within ten days after the notice of the filing thereof by the
17 Commissioner. Upon the presentation to it of a certified
18 copy of a decision of the Compensation Commissioner end-
19 ing, diminishing or increasing a weekly payment under the
20 provisions of the following section, the Court shall revoke
21 or modify its decree or judgment to conform to such de-
22 cision.

Sect. 42. Any weekly payment under this act may be re-
2 viewed by the Compensation Commissioner upon the petition
3 of the employer or injured employee; and upon such review
4 it may be either ended, diminished or increased, subject to
5 the minimum amounts above provided, if the Commissioner
6 finds the condition of the employee warrants such action.

Sect. 43. Fees of attorneys and physicians for services un-
2 der this act shall be subject to the approval of the Compensa-
3 tion Commissioner.

Section 44. If the Compensation Commissioner or any
2 court before whom any proceedings are brought under this
3 act determines that such proceedings have been brought,

4 prosecuted, or defended without reasonable grounds he or
5 the court shall assess the whole cost of the proceedings upon
6 the party who has so brought, prosecuted or defended them.

Sect. 45. All questions arising under this act, if not settled
2 by agreement by the parties interested therein, shall, except
3 as otherwise herein provided, be determined by the Compen-
4 sation Commissioner. The decisions of the Compensation
5 Commissioner shall for all purposes be enforceable under the
6 provisions of section forty-one.

Sect. 46. If an employer enters into a contract, written or
2 oral, with an independent contractor to do such employer's
3 work or if such contractor enters into a contract with a sub-
4 contractor to do all or any part of the work comprised in
5 such contract with the employer, and the employer would, if
6 such work were executed by employees immediately em-
7 ployed by the employee, be liable to pay compensation under
8 this act to those employees, the employer shall pay to such
9 employees any compensation which would be payable to them
10 under this act if the independent or sub-contractors were em-
11 ployers. The employer, however, shall be entitled to recover
12 indemnity from any other person who would have been lia-
13 ble to such employees independently of this section, and if
14 the employer has paid compensation under the terms of this
15 section it may enforce in the name of the employee, or in its
16 own name and for its own benefit, the liability of such other
17 person. This section shall not apply to any contract of an
18 independent or sub-contractor which is merely ancillary and

19 incidental to, and is no part of or process in, the trade or
20 business carried on by the employer, nor to any case where
21 the injury occurred elsewhere then on, in, or about the prem-
22 ises on which the contractor has undertaken to execute the
23 work for the employer, or which are under the control or
24 management of the employer.

Sect. 47. Every employer shall hereafter keep a record of
2 all injuries, fatal or otherwise, received by his employees in
3 the course of their employment. Within forty-eight hours,
4 not counting Sundays and legal holiday, after the occurrence
5 of an accident resulting in personal injury a report thereof
6 shall be made in writing to the Compensation Commissioner
7 on blanks to be procured from him for the purpose. Upon
8 the termination of the disability of the injured employee or,
9 if such disability extends beyond a period of sixty days, at
10 the expiration of such period the employer shall make a sup-
11 plemental report on blanks to be procured from the com-
12 missioner for that purpose. The said reports shall contain
13 the name and nature of the business of the employer, the
14 location of the establishment, the name, age, sex and occupa-
15 tion of the injured employee, and shall state the date and
16 hour of the accident, the nature and cause of the injury and
17 such other information as may be required by the Compen-
18 sation Commissioner. Any employer who refuses or neg-
19 lects to make the report required by this section shall be pun-
20 ished by a fine of not more than fifty dollars for each of-
21 fence.

Sect. 48. The Compensation Commissioner shall have the
2 power to employ the necessary clerical assistance, and for
3 that purpose, and for the purpose of defraying the salary,
4 traveling expenses of the Commissioner and Deputy Com-
5 missioners, and for the incidental expenses of the office, the
6 sum of ten thousand dollars, or as much thereof as shall be
7 necessary, shall be annually appropriated.