

MAINE STATE LEGISLATURE

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NEW DRAFT.

SEVENTY-SEVENTH LEGISLATURE

SENATE

NO. 388

In Senate, March 18, 1915.

Reported by eight members from Committee on Workmen's Compensation, and ordered printed under joint rules.

W. E. LAWRY, Secretary.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND FIFTEEN

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:

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

I. "Employer" shall include corporations, partnerships,
5 natural persons, the state, counties, water districts and all
6 other quasi municipal corporations of a similar nature, cities
7 and also such towns as vote to accept the provisions of this

8 act, and if employer is insured, it includes the insurer un-
9 less the contrary intent is apparent from the context or it
10 is inconsistent with the purposes of this act.

11 II. "Employee" shall include every person in the service
12 of another under any contract of hire, express or implied,
13 oral or written, except: (a) farm laborers; (b) domestic
14 servants; (c) masters of and seamen on vessels engaged in
15 interstate or foreign commerce; (d) persons whose employ-
16 ment is but casual, or is not in the usual course of the trade,
17 business, profession or occupation of his employer; (e) offi-
18 cials of the state, counties, cities, towns or water districts and
19 other quasi municipal corporations of a similar character.
20 Policemen and firemen shall be deemed employees within the
21 meaning of this act. If, however, any policeman or fireman
22 claims compensation under this act, there shall be deducted
23 from such compensation any sum which such policeman, fire-
24 man or other person may be entitled to receive for any pen-
25 sion or other benefit fund to which the state or municipal
26 body may contribute. Any reference to an employee who has
27 been injured shall, when the employee is dead, also include
28 his legal representatives, dependents and other persons to
29 whom compensation may be payable.

30 III. "Assenting employer" shall include all employers who
31 have complied with the provisions of Section 6 hereof, and
32 to whom a certificate authorized by said section has been
33 issued, but only so long as such certificate remains in force.

34 IV. "Commissioner" shall mean the Commissioner of La-

35 bor and Industry of the State of Maine. "Commission"
36 shall mean the Industrial Accident Commission created by
37 Section 29 hereof.

V. "Industrial Accident Insurance Policy" shall mean a
39 policy in such form as the Insurance Commissioner of the
40 State of Maine approves, issued by any stock or mutual cas-
41 ualty insurance company that may be now or hereafter au-
42 thorized to do business in this state, which in substance and
43 effect guarantees the payment of the compensation, medical
44 and hospital services, and expense of sickness and burial
45 herein provided for, in such installments, at such time or
46 times, and to such person or persons and upon such condi-
47 tions as in this act provided. Whenever a policy or certifi-
48 cate of renewal thereof is filed as herein provided, a copy
49 of such policy certified by the Insurance Commissioner of
50 the State of Maine or his deputy, shall be admissible as evi-
51 dence in any legal proceeding wherein the original would be
52 admissible.

VI. "Insurance Company" shall mean any casualty insur-
54 ance company authorized to do business in the State of
55 Maine, which may issue policies conforming to the pro-
56 visions of the paragraph next preceding. Whenever in this
57 act relating to procedure the word "Insurance Company" is
58 used, it shall be held to apply only to cases in which the
59 employer has elected to file such policy, instead of furnish-
60 ing satisfactory proof of his ability to pay compensations
61 and benefits hereinafter provided direct to his employees.

VII. "Representatives" may include executors, administrators, and the dependents of deceased employees. Payments may be made to dependents directly, or to executors or administrators. If payments are made to the latter, they shall forthwith pay the same to the dependents as the same are hereinafter defined.

VIII. "Dependents" shall mean members of the employee's family or next of kin, who are wholly or partly dependent upon the earnings of the employee for support at the time of the injury. The following persons shall be conclusively presumed to be wholly dependent for support upon a deceased employee:

(a) A wife upon a husband with whom she lives, or from whom she was living apart for a justifiable cause, or because he had deserted her or upon whom she is dependent at the time of the accident.

(b) A husband upon a wife with whom he lives, or upon whom he is dependent at the time of the accident.

(c) A child or children, including, adopted and stepchildren under the age of eighteen years (or over said age, but physically or mentally incapacitated from earning) upon the parent with whom he is or they are living, or upon whom he is or they are dependent at the time of the death of said parent, there being no surviving dependent parent. In case there is more than one child thus dependent, the compensation shall be divided equally among them.

In all cases questions of entire or partial dependency shall
89 be determined in accordance with the fact, as the fact may
90 have been at the time of the injury. In such other cases, if
91 there is more than one person wholly dependent the compen-
92 sation shall be divided equally among them, and persons
93 partly dependent, if any, shall receive no part thereof dur-
94 ing the period in which compensation is paid to persons
95 wholly dependent. If there is anyone wholly dependent and
96 more than one person partly dependent, the compensation
97 shall be divided among them according to the relative ex-
98 tent of their dependency. If a dependent is an alien resid-
99 siding outside of the United States, or of the Dominion of
100 Canada, the compensation paid to any such dependent shall
101 be one-half that hereinafter provided in case of the death
102 of an employee.

IX. "Average weekly wages, earnings or salary" of an
104 injured employee shall be computed as follows:

(a) If the injured employee has worked in the same em-
106 ployment in which he was working at the time of the acci-
107 dent, whether for the same employer or not, during sub-
108 stantially the whole of the year immediately preceding his
109 injury, his "average weekly wages" shall be three hundred
110 times the average daily wages, earnings or salary which he
111 has earned in such employment during the days when so
112 employed and working the number of hours constituting
113 a full working day in such employment, divided by fifty-
114 two. But where the employee is employed regularly during

115 the ordinary working hours concurrently by two or more
116 employers, for one of whom he works at one time and for
117 another he works at another time, his "average weekly
118 wages" shall be computed as if the wages, earnings or sal-
119 ary received by him from all such employers were wages,
120 earnings or salary earned in the employment of the em-
121 ployer for whom he was working at the time of the acci-
122 dent.

(b) If the injured employee has not so worked in such
124 employment during substantially the whole of such imme-
125 diately preceding year, his "average weekly wages" shall be
126 three hundred times the average weekly wages, earnings
127 or salary which an employee of the same class working
128 substantially the whole of such immediately preceding year
129 in the same or a similar employment, in the same or a
130 neighboring place, has earned in such employment during
131 the days when so employed and working the number of
132 hours constituting a full working day in such employment,
133 divided by fifty-two.

(c) In cases where the foregoing methods of arriving at
135 the "average weekly wages, earnings or salary" of the in-
136 jured employee cannot reasonably and fairly be applied,
137 such "average weekly wages" shall be taken at such sum
138 as, having regard to the previous wages, earnings or salary
139 of the injured employee and of other employees of the same
140 or most similar class, working in the same or most similar
141 employment in the same or a neighboring locality, shall

142 reasonably represent the weekly earning capacity of the in-
143 jured employee at the time of the accident in the employ-
144 ment in which he was working at such time.

(d) Where the employer has been accustomed to pay to
146 the employee a sum to cover any special expense incurred
147 by said employee by the nature of his employment, the
148 sum so paid shall not be reckoned as part of the employee's
149 wages, earnings or salary.

(e) The fact that an employee has suffered a previous
151 injury or received compensation therefor, shall not pre-
152 clude compensation for a later injury or for death; but in
153 determining the compensation for the later injury or death,
154 his "average weekly wages" shall be such sum as will rea-
155 sonably represent his weekly earning capacity at the time
156 of the later injury, in the employment in which he was
157 working at such time, and shall be arrived at according to
158 and subject to the limitations of the previous provisions of
159 this section.

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

Sect. 2. In an action to recover damages for personal in-
2 juries sustained by an employee in the course of his employ-
3 ment, or for death, resulting from personal injury so sus-

4 tained, it shall not be a defense (a) that the employee was
5 negligent; (b) that the injury was caused by the negligence
6 of a fellow employee; (c) that the employee had assumed
7 the risk of the injury.

Sect. 3. The provisions of section 2 shall not apply to em-
2 ployers who employ five or less workmen or operatives reg-
3 ularly in the same business, and in case of the employer be-
4 ing engaged in more than one kind of business, in one of
5 which he employs five or more workmen or operatives regu-
6 larly, and in another employs five or less workmen or oper-
7 atives, the fact that he elects to become subject to the pro-
8 visions of this act shall not bring him within the provisions
9 of it as to any such business in which he employs five or less
10 workmen or operatives, and at the time of electing to be-
11 come subject to the provisions of this act, if engaged in
12 more than one kind of business, he shall specify the business
13 or businesses in which he is engaged and concerning which
14 he desires to come under the provisions hereof.

Sect. 4. The provisions of this act shall not apply to ac-
2 tions to recover damages for personal injuries or for death
3 resulting from personal injuries sustained by employees en-
4 gaged in domestic service or agriculture, or in the work of
5 cutting, hauling, rafting or driving logs.

Sect. 5. The provisions of Section 2 shall not apply to ac-
2 tions to recover damages for personal injuries or for death
3 resulting from personal injuries sustained by employees of
4 an employer who has elected to become subject to this act

5 in the manner provided in Section 6 hereof. In the case of
6 personal injury sustained by an employee in the course of
7 his employment or of death resulting from personal injury
8 so sustained, assenting employers shall be exempt from suits
9 either at common law or under Section 9, Chapter 89, of the
10 Revised Statutes, or Chapter 258 of the Public Laws of
11 1909.

Sect. 6. I. Any employer desiring to become an assent-
2 ing employer as herein provided, may file with the Com-
3 mission at its office in Augusta, his written assent in such
4 form as the Commission approves and also file with said
5 Commission a copy of an industrial accident insurance pol-
6 icy in any stock or mutual insurance company or association
7 authorized to do business in the State of Maine, said policy
8 being stamped with the approval of the insurance commis-
9 sioner of said State of Maine.

Any insurance company issuing policies covering the pay-
11 ment of compensation provided for in this Act shall file with
12 the Insurance Commissioner a copy of the form thereof, and
13 no such policy shall be issued until said Insurance Commis-
14 sioner has approved the same. Every such insurance com-
15 pany shall file with the Insurance Department its classifica-
16 tion of risks and premiums relating thereto, and any sub-
17 sequent proposed classifications or premiums, none of which
18 shall take effect until the Insurance Commissioner has ap-
19 proved the same as adequate for the risks to which they re-
20 spectively apply. The Insurance Commissioner may with-

21 draw his approval of any classification of risks or premium
22 rates relating thereto, and he may at any time approve a re-
23 vised classification of risks and premium rates relating
24 thereto.

II. Any employer desiring to become an assenting em-
26 ployer as herein provided, may file with the Commission his
27 written assent in such form as said Commission approves,
28 after furnishing satisfactory proof to the Commission of his
29 solvency and financial ability to pay the compensation and
30 benefits herein provided, and upon the deposit of cash, sat-
31 isfactory securities or a bond, as the Commission may de-
32 termine, such bond to run to the state treasurer and his suc-
33 cessor in office in such sum as said Commission may deter-
34 mine and shall be conditional upon the faithful performance
35 of all the provisions of this act relating to the payment of
36 compensations and benefits to any injured employee. In case
37 of cash being deposited it shall be placed at interest by the
38 state treasurer and the accumulation of interest on said cash
39 or securities so deposited shall be paid to the employer de-
40 positing the same. Provided, however, that the Commission
41 may at any time in their discretion deny to an assenting em-
42 ployer the right to continue in the exercise of the option
43 granted by this paragraph.

III. Upon the filing of such assent and complying with
45 the provisions of paragraphs I or II of this section, the
46 Commissioner shall issue to such employer a certificate stat-
47 ing that such employer has conformed to the provisions of

48 this act and setting forth the date on which the policy filed
49 under paragraph I expires. The certificate thus issued shall
50 remain in full force until the date of the expiration of such
51 policy, or until withdrawn as provided in paragraph II, or
52 until the employer assenting under paragraph II shall no-
53 tify the Commissioner that he withdraws his assent, or files
54 an industrial accident policy in place of the securities so de-
55 posited by him.

IV. Subject to the approval of the Commission any em-
57 ployer may continue with his employees in lieu of the com-
58 pensation and insurance provided by this act the system of
59 compensation, benefit or insurance which was used by such
60 employer on the first day of January, A. D., 1915. No such
61 substitute system shall be approved unless it confers bene-
62 fits upon injured employees at least equivalent to the bene-
63 fits provided by this act, nor if it requires contributions from
64 the employees, unless it confers benefits in addition to those
65 provided under this act at least commensurate with such
66 contributions. Such substitute system may be terminated by
67 the Commission on reasonable notice and hearing to the in-
68 terested parties if it shall appear that the same is not fairly
69 administered, or if its operation shall disclose latent defects
70 threatening its solvency, or if for any substantial reason it
71 fails to accomplish the purposes of this act. An employer
72 who is authorized to substitute a plan under the provisions
73 of this section shall give his employees notice thereof in a
74 form to be prescribed by the Commission, and a statement

75 of the plan approved shall be filed with the Commission.

V. A notice in such form as the Commission approves, stat-
77 ing that the employer has conformed to the provisions of
78 this act and the date of the expiration of the policy filed, to-
79 gether with such further matters as the Commission deter-
80 mines, shall be posted by the employer and kept posted by
81 him at some place in each of his mills, factories or place of
82 business, conspicuous and accessible to his employees. For
83 wilful failure to post such notices, the employer shall be
84 subject to a penalty of ten dollars per day for every day of
85 such wilful neglect, to be recovered by complaint or indict-
86 ment. Such failure to so post notices shall not, however,
87 affect the rights or liabilities of the employer or the em-
88 ployee hereunder.

Sect. 7. An employee of an employer who shall have
2 elected to become subject to the provisions of this act as
3 provided in section 6 of this act shall be held to have waived
4 his right of action at common law to recover damages for
5 personal injuries; also under section 9 of chapter 89, R. S.,
6 or chapter 258 of the public laws of 1909, if he shall not
7 have given his employer at the time of his contract of hire
8 notice in writing that he claimed such right, and within ten
9 days thereafter have filed a copy thereof with the
10 commission or, if the contract of hire was made be-
11 fore the employer so elected, if the employee shall
12 not have given the said notice and filed the same with
13 said commission within ten days after notice by the em-

14 ployer, as above provided, of such election, and such waiver
15 shall continue in force for the term of one year, and there-
16 after without further act on his part, for successive terms
17 of one year, each, unless such employee shall at least sixty
18 days prior to the expiration of such first or any succeeding
19 year, file with the said commissioner a notice in writing to
20 the effect that he desires to claim his said right of action at
21 common law and within ten days thereafter shall give notice
22 thereof to his employer. A minor working at an age legally
23 permitted under the laws of this state shall be deemed *sui*
24 *juris* for the purpose of this act and no other person shall
25 have any cause of action or right to compensation for an
26 injury to such minor employee except as expressly provided
27 in this act; but if said minor shall have a parent living or
28 a guardian, such parent or guardian, as the case may be,
29 may give the notice and file a copy of the same as herein
30 provided by this section, and such notice shall bind the minor
31 in the same manner that adult employees are bound under
32 the provisions of this act. In case no such notice is given,
33 such minor shall be held to have waived his right of action
34 at common law, or under the statutes above referred to, to
35 recover damages for personal injuries. Any employee, or
36 the parent or guardian of any minor employee, who has
37 given notice to the employer that he claimed his right of
38 action at common law, or under the statutes above referred
39 to, may waive such claim by a notice in writing which shall
40 take effect five days after the delivery to the employer or
41 his agent.

Sect. 8. No compensation shall be allowed for the injury
2 or death of an employee where it is proved that his injury
3 or death was occasioned by his wilful intention to bring
4 about the injury or death of himself or of another, or that
5 the same resulted from his intoxication while on duty. This
6 provision as to intoxication shall not apply, if the employer
7 knew or in the exercise of ordinary care might have known
8 that the employee was intoxicated or that he was in the
9 habit of becoming intoxicated while on duty.

Sect. 9. No compensation except as provided by section
2 10 of this act shall be paid under this act for any injury
3 which does not incapacitate the employee for a period of at
4 least two weeks from earning full wages, but, if such in-
5 capacity extends beyond the period of two weeks, compen-
6 sation shall begin on the fifteenth day after the injury.

Sect. 10. During the first two weeks after the injury the
2 employer shall furnish reasonable medical and hospital serv-
3 ices, and medicines when they are needed, but the amount
4 of the charge for such services and medicines shall not ex-
5 ceed the sum of thirty dollars, unless in case of major sur-
6 gical operations being required, and the employer and em-
7 ployee being unable to agree upon the same, the amount to
8 be allowed for such medical services or medicines shall be
9 fixed by the Commission upon petition by either party set-
10 ting forth the facts.

Sect. 11. If an employee who has not given notice of his
2 claim of common law or statutory rights or action, or who

3 has given such notice and has waived the same, as provided
4 in section 7 of this act, receives a personal injury by acci-
5 dent arising out of and in the course of his employment,
6 he shall be paid compensation as hereinafter provided, by
7 the employer who shall have elected to become subject to
8 the provisions of this act.

Sect. 12. If death results from the injury, the employer
2 shall pay the dependents of the employee wholly dependent
3 upon his earnings for support at the time of his injury a
4 weekly payment equal to one-half his average weekly wages,
5 earnings, or salary, but not more than ten dollars nor less
6 than four dollars a week, for a period of three hundred
7 weeks from the date of the injury; Provided, however, that
8 if the dependent of the employee to whom the compensation
9 shall be payable upon his death is the widow of such em-
10 ployee, upon her death the compensation thereafter payable
11 under this act shall be paid to the child or children of the de-
12 ceased employee, including adopter and step-children, under
13 the age of eighteen years, or over said age but physically or
14 mentally incapacitated from earning, are dependent upon the
15 widow at the time of her death. In case there is more than
16 one child thus dependent, the compensation shall be divided
17 equally among them. If the employee leaves dependents
18 only partly dependent upon his earnings for support at the
19 time of his injury, the employer shall pay such dependents
20 for a period of three hundred weeks from the date of the
21 injury a weekly compensation equal to the same proportion

22 of the weekly payments herein provided for the benefit of
23 persons wholly dependent as the amount contributed annu-
24 ally by the employee to such partial dependents bears to the
25 annual earnings of the deceased at the time of injury. When
26 weekly payments have been made to an injured employee
27 before his death, the compensation to dependents shall begin
28 from the date of the last of such payments, but shall not
29 continue more than three hundred weeks from the date of
30 the injury. Provided, however, that if the deceased leaves
31 no dependents at the time of the injury, the employer shall
32 not be liable to pay compensation under this act except as
33 specifically provided in section 13 of this act.

Sect. 13. If the employee dies as a result of the injury
2 leaving no dependents at the time of the injury, the em-
3 ployer shall pay, in addition to any compensation provided
4 for in this act, the reasonable expense of his last sickness
5 and burial, which shall not exceed two hundred dollars.

Sect. 14. While 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, earnings or salary, but not more than ten
5 dollars nor less than four dollars a week; and in no case
6 shall the period covered by such compensation be greater
7 than five hundred weeks from the date of the injury, nor
8 the amount more than three thousand dollars. In the fol-
9 lowing cases it shall, for the purposes of this act, be con-
10 clusively presumed that the injury resulted in permanent

11 total disability, to wit: The total and irrevocable loss of
12 sight in both eyes, the loss of both feet at or above the
13 ankle, the loss of both hands at or above the wrist, the loss
14 of one hand and one foot, an injury to the spine resulting
15 in permanent and complete paralysis of the legs or arms,
16 and an injury to the skull resulting in incurable imbecility
17 or insanity.

Sect. 15. While 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, earnings or salary,
5 before the injury and the average weekly wages, earnings
6 or salary which he is able to earn thereafter, but not more
7 than ten dollars a week; and in no case shall the period
8 covered by such compensation be greater than three hun-
9 dred weeks from the date of the injury.

Sect. 16. In cases included in the following schedule
2 the disability in each such case shall be deemed to be total
3 for the period specified and after such specified period, if
4 there be a partial incapacity for work resulting from the
5 injury specified, the employee shall receive compensation
6 while such partial incapacity continues under the provisions
7 of section 15, but in no case shall compensation continue
8 more than three hundred weeks after the injury. The com-
9 pensation to be paid for the injuries hereinafter specified
10 shall be as follows, to wit:

For the loss of a thumb, one-half the average weekly wages
12 during fifty weeks.

For the loss of the first finger, commonly called the index
14 finger, one-half the average weekly wages during thirty
15 weeks.

For the loss of the second finger, one-half the average
17 weekly wages during twenty-five weeks.

For the loss of the third finger, one-half the average weekly
19 wages during eighteen weeks.

For the loss of the fourth finger, commonly called the little
21 finger, one-half the average weekly wages during fifteen
22 weeks.

The loss of the first phalange of the thumb or of any finger,
24 shall be considered to be equal to the loss of one-half of
25 said thumb or finger, and the compensation shall be one-
26 half the amount above specified. The loss of more than
27 one phalange shall be considered as a loss of the entire
28 thumb or finger; provided, however, that in no case shall
29 the amount received for the loss of more than one finger
30 exceed the amount specified in this schedule for the loss of
31 a hand.

For the loss of the great toe, one-half the average weekly
33 wages during twenty-five weeks.

For the loss of one of the toes other than the great toe,
35 one-half the average weekly wages during ten weeks.

The loss of the first phalange of any toe shall be consid-
37 ered to be equal to the loss of one-half of said toe and the

38 compensation shall be one-half of the amount above speci-
39 fied.

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

For the loss of a hand, one-half the average weekly wages
43 during one hundred and twenty-five weeks.

For the loss of an arm, or any part above the wrist, one-
45 half the average weekly wages during one hundred and fifty
46 weeks.

For the loss of a leg, or any part above the ankle, one-half
48 the average weekly wages during one hundred and fifty
49 weeks.

For the loss of a foot, one-half the average weekly wages
51 for one hundred and twenty-five weeks.

For the loss of an eye or the reduction of the sight of an
53 eye, with glasses, to one-tenth of the normal vision, one-
54 half the average weekly wages during one hundred weeks.

The amounts specified in this section are all subject to the
56 same limitations as to maximum and minimum amounts,
57 that is, of not more than ten and not less than four dollars
58 a week, as provided for total or partial disability.

Sect. 17. No proceedings for compensation for an injury
2 under this act shall be maintained unless a notice of the
3 accident shall have been given to the employer within thirty
4 days after the happening thereof; and unless the claim for
5 compensation with respect to such injury shall have been
6 made within one year after the occurrence of the same, or,

7 in case of his physical or mental incapacity, within one year
8 after death or the removal of such physical or mental inca-
9 pacity.

Sect. 18. Such notice shall be in writing and shall state
2 in ordinary language the nature, time, place and cause of
3 the injury, and the name and address of the person injured
4 and shall be signed by the person injured, or by a person in
5 his behalf, or, in the event of his death, by his legal repre-
6 sentatives, or by a dependent, or by a person in behalf of
7 either.

Sect. 19. Such notice shall be served upon the employer,
2 or upon one employer, if there are more employers than
3 one, or, if the employer is a corporation, upon any officer
4 or agent upon whom process may be served, or by leaving
5 it at his last known residence or place of business, or by
6 sending it by registered mail addressed to the person to be
7 served, or in the case of a corporation, to the corporation
8 itself, at his or its last known residence or place of busi-
9 ness; and such mailing of the notice shall constitute a com-
10 pleted service.

Sect. 20. A notice given under the provisions of this act
2 shall not be held invalid or insufficient by reason of any
3 inaccuracy in stating the nature, time, place or cause of the
4 injury, or the name and address of the person injured, un-
5 less it is shown that it was the intention to mislead and the
6 employer was in fact misled thereby. Want of notice shall

7 not be a bar to proceedings under this act, if it be shown
8 that the employer or his agent had knowledge of the injury,
9 or that failure to give such notice was due to accident, mis-
10 take or unforeseen cause.

Sect. 21. The employee shall after the injury, at all rea-
2 sonable times during the continuance of his disability, if so
3 requested by his employer, submit himself to an examina-
4 tion by a physician or surgeon authorized to practice medi-
5 cine under the laws of this state, to be selected and paid for
6 by the employer. The employee shall have the right to have
7 a physician or surgeon selected and paid for by himself,
8 present at such examination of which right the employer
9 shall give him notice when requesting such examination.

The chairman of the Commission may at any time after
11 the injury appoint a competent and impartial physician or
12 surgeon to act as a medical examiner, and the reasonable
13 fees of such medical examiner shall be fixed and paid by
14 the Commission.

Such medical examiner being first duly sworn to the faith-
16 ful performance of his duties before any justice of the peace,
17 or any clerk of the Supreme Judicial Court, shall thereupon
18 and as often as the chairman of the Commission may direct,
19 examine such injured employee in order to determine the
20 nature, extent and probable duration of the injury. Such
21 medical examiner shall file a report of every examination
22 made of such employee in the office of the Commission, and
23 a copy thereof certified by the clerk of said Commission may

24 be produced in evidence in any hearing or proceedings to
25 determine the amount of compensation due said employee
26 under the provisions of this act. If such employee refuses
27 to submit himself to examination provided for in this act,
28 or in any way obstruct any such examination, his rights to
29 compensation shall be suspended and his compensation dur-
30 ing such period of suspension may be forfeited.

Sect. 22. No savings or insurance of the injured employee,
2 independent of this act, shall be taken into consideration
3 in determining the compensation to be paid hereunder, nor
4 shall benefits derived from any other source than the em-
5 ployer be considered in fixing the compensation under this
6 act.

Sect. 23. In case an injured employee is mentally incom-
2 petent, or, where death results from the injury, in case any
3 of his dependents entitled to compensation hereunder are
4 mentally incompetent or minors at the time when any right,
5 privilege or election accrues to him or them under this act,
6 his guardian, or next friend may, in his behalf, claim and
7 exercise such right, privilege or election, and no limitation
8 of time in this act provided shall run so long as such incom-
9 petent or minor has no guardian.

Sect. 24. No agreement by an employee, except as pro-
2 vided in section 30, to waive his rights to compensation un-
3 der this act shall be valid. No claims for compensation un-
4 der this act shall be assignable, or subject to attachment, or
5 liable in any way for debts.

Sect. 25. Employers who hire workmen within this state
2 to work outside of the state, may agree with such workmen
3 that the remedies under this act shall be exclusive as re-
4 gards injuries received outside this state by accident aris-
5 ing out of and in the course of such employment; and all
6 contracts of hiring in this state shall be presumed to include
7 such an agreement.

Sect. 26. When any injury for which compensation is
2 payable under this act shall have been sustained under cir-
3 cumstances creating in some other person than the em-
4 ployer a legal liability to pay damages in respect thereto, the
5 injured employee may, at his option, either claim compen-
6 sation under this act or obtain damages from or proceed at
7 law against such other person to recover damages; and if
8 compensation is claimed and awarded under this act, any
9 employer having paid the compensation or having become
10 liable therefor shall be subrogated to the rights of the in-
11 jured employee to recover against that person, provided,
12 if the employer shall recover from such other person dam-
13 ages in excess of the compensation already paid or award-
14 ed to be paid under this act, then any such excess shall be
15 paid to the injured employee less the employer's expenses
16 and costs of action.

Sect. 27. The claim for compensation under this act, and
2 any decree on any such claim, shall be entitled to a prefer-
3 ence over the unsecured debts of the employer hereafter con-
4 tracted to the same amount as the wages of labor are now

5 preferred by the laws of this state, but nothing herein shall
6 be construed as impairing any lien which the employee may
7 have acquired.

Sect. 28. In case payments have continued for not less
2 than six months either party may, upon due notice to the
3 other party, petition the Commission for an order commut-
4 ing the future payments to a lump sum. Such petition shall
5 be considered by the Commission and may be summarily
6 granted where it is shown to the satisfaction of the Com-
7 mission that the payment of a lump sum in lieu of future
8 weekly payments will be for the best interest of the person
9 or persons receiving or dependent upon such compensa-
10 tion, or that the continuance of weekly payments will, as
11 compared with lump sum payments, entail undue expense
12 or undue hardship upon the employer liable therefor, or
13 that the person entitled to compensation has removed or is
14 about to remove from the United States. Where the com-
15 mutation is ordered, the Commission shall fix the lump sum
16 to be paid at an amount which will equal the total sum of
17 the probable future payments, capitalized at their present
18 value upon the basis of interest calculated at five per centum
19 per annum with annual rests. Upon payment of such
20 amount the employer shall be discharged from all further
21 liability on account of the injury or death, and be entitled to
22 a duly executed release, upon filing which, or other due
23 proof of payment, the liability of such employer under any

24 agreement, award, findings, or decree shall be discharged
25 of record.

Sect. 29. A Commission is hereby created to be known as
2 The Industrial Accident Commission of the State of Maine
3 and it shall consist of three members. The Insurance Com-
4 missioner and the Commissioner of Labor and Industry
5 shall be ex-officio members of this Commission. The Gov-
6 ernor shall appoint a chairman of this Commission, who
7 shall be learned in the law and a member of the bar in good
8 standing and who shall hold office for three years from
9 date of appointment and unless removed, as hereunder pro-
10 vided, shall hold office until his successor is appointed and
11 qualified. Such chairman shall be sworn, and for ineffi-
12 ciency, wilful neglect of duty or for malfeasance in office,
13 may after notice and hearing be removed from office by the
14 Governor and Council. In case of vacancy occurring
15 through death, resignation or removal, the Governor shall
16 appoint a successor for the whole term of three years, sub-
17 ject to removal as aforesaid. Such chairman shall receive
18 a salary of twenty-five hundred dollars per annum. The
19 other members of the Commission shall receive a salary of
20 five hundred dollars per annum in addition to compensa-
21 tion received by them under existing law. The members of
22 the Commission shall also receive their actual necessary
23 cash expenses while away from their office on official busi-
24 ness.

The Commission shall have a secretary appointed and re-
26 movable by it, whose salary shall be fifteen hundred dollars
27 per annum. It shall be allowed the sum of two thousand
28 dollars, or so much thereof as is necessary, for expert and
29 clerical assistance and other expenses in organizing a suit-
30 able system of administration. From and after January
31 first, 1916, there shall be appropriated the sum of seven
32 thousand five hundred dollars per annum, or such part
33 thereof as is necessary, for clerical and other assistance,
34 traveling expenses, physicians' and witness fees and other
35 necessary expenses.

The Commission shall have a seal bearing the words "In-
37 dustrial Accident Commission Maine." It shall have its of-
38 fice and keep its records in the State House in Augusta, but
39 may hold sessions at any place within the state. The Com-
40 mission shall have general supervision over the administra-
41 tion of this act and shall have the following powers:

I. To make rules and regulations not inconsistent with
43 this act or other laws of the state for the purpose of carry-
44 ing out the provisions hereof.

II. To issue subpoenas for witnesses and subpoenas
46 duces tecum to compel the production of books and papers
47 relating to any questions in dispute before it.

III. The chairman of said Commission at any hearing be-
49 fore him under the provisions of this act, shall also have
50 power to issue subpoenas for witnesses and subpoenas duces
51 tecum to compel the production of books and papers relat-

52 ing to any matters in dispute before him. Witness fees in
53 all proceedings under this act shall be the same as witnesses
54 before Supreme Judicial Courts.

Sect. 30. If the employer and employee reach an agree-
2 ment in regard to compensation under this act, a memoran-
3 dum of such agreement signed by the parties shall be filed
4 in the office of the Commission. If the Commissioner finds
5 that such agreement is in conformity with the provisions of
6 this act, he shall approve the same and the clerk of the
7 Commission shall record it in a book kept for that purpose.
8 In case the Commissioner shall find that any such agreement
9 is not in conformity with the provisions of this act and shall
10 refuse to approve the same, or if the employer and employee
11 fail to reach an agreement in regard to compensation under
12 this act, either employer or employee; and when death has
13 resulted from the injury and the dependents of the deceased
14 employee entitled to compensation are, or the apportionment
15 thereof among them is in dispute, any person in interest,
16 may file in the office of the Commission a petition setting
17 forth the names and residences of the parties, the facts re-
18 lating to the employment at the time of the injury, the
19 cause, extent and character of the injury and the knowl-
20 edge of the employer or notice of the occurrence of the in-
21 jury, and, if an agreement had been reached between the
22 parties which had not been approved by the Commissioner,
23 the form of such agreement and such other facts as may be
24 necessary and proper for the determination of the matter

25 in dispute, and shall state the matter in dispute and the
26 claims of the petitioner with reference thereto.

Sect. 31. Within four days after the filing of the peti-
2 tion, a copy thereof attested by the clerk of the Commis-
3 sion shall be mailed by said clerk, postage prepaid, to the
4 other parties named in the petition, or notice be given in
5 such other manner as the Commission may determine.

Sect. 32. Within ten days after the filing of such petition,
2 all the other parties interested in opposition to the petition
3 shall file an answer to said petition and furnish a copy
4 thereof to the petitioner, which answer shall state the claims
5 of the opponents with reference to the matter in dispute
6 as disclosed by the petition. The Chairman of said Com-
7 mission may grant further time for filing answer and allow
8 amendments to said petition and answer at any stage of the
9 proceedings. If any party opposing such petition does not
10 file an answer within the time limited, the hearing shall pro-
11 ceed upon the petition. If any party be an infant or person
12 under disability, either parent or a guardian, or a guarcian
13 ad litem for such infant or person under disability may file
14 the petition or answer required by this section.

Sect. 33. The whole matter shall then be referred to the
2 Chairman of said Commission, who shall fix a time for hear-
3 ing upon the request of either party, upon a three days' no-
4 tice given to the other party. All hearings shall be held in
5 the town where the accident occurred, unless the claimant
6 shall in writing request that it be held in some other place.

Sect. 34. If from the petition and answer there appear to
2 be facts in dispute, the Chairman of the Commission shall
3 then hear such witnesses as may be presented by each party,
4 or by agreement the claims of both parties as to the facts in
5 dispute may be presented by affidavits. From the evidence
6 thus furnished the Chairman shall, in a summary manner,
7 decide the merits of the controversy. His decision, together
8 with a statement of the facts submitted, his findings of fact
9 and rulings of law, and any other matters pertinent to the
10 questions raised at the hearing, shall be filed in the office of
11 the Commission, and a copy thereof certified by the Clerk
12 of the Commission mailed forthwith to all parties interested.
13 His decision, in the absence of fraud, upon all questions of
14 fact shall be final.

Any party in interest may present copies certified by the
16 Clerk of said Commission of any order or decision of the
17 Commission or of its Chairman, or of any memorandum of
18 agreements approved by the Commissioner, together with all
19 papers in connection therewith, to the Clerk of Courts for
20 the County in which the injury occurred; whereupon any
21 Justice of the Supreme Judicial Court shall render a decree
22 in accordance therewith and notify all the parties. Such
23 decree shall have the same effect and all proceedings in rela-
24 tion thereto shall thereafter be the same as though rendered
25 in a suit in equity duly heard and determined by said Court,
26 except there shall be no appeal therefrom upon questions
27 of fact found by said Commission or its Chairman, or where
28 the decree is based upon a memorandum of agreement ap-

29 proved by the Commissioner. Upon any appeal therefrom
30 the proceedings shall be the same as in appeals in equity
31 procedure and the law court may, after consideration, re-
32 verse or modify any decree made by a justice, based upon
33 an erroneous ruling or finding of law. There shall be no
34 appeal from a decree based upon any order or decision of
35 the Commission or of its Chairman, or upon any memoran-
36 dum of agreement approved by the Commissioner, which
37 has not been certified and presented to the Court within ten
38 days after the notice of the filing thereof by the Commis-
39 sion or its Chairman. Upon the presentation to it of a cer-
40 tified copy of any decision of the Chairman of the Com-
41 mission terminating, diminishing, increasing or modifying
42 any payments under the provisions of section 36, or under
43 any decision of said Chairman or any agreement approved
44 by the Commissioner the Court shall revoke or modify its
45 decree, if any has been based thereon, to conform to such
46 decision.

Sect. 35. Any agreement between employer and employee
2 filed with the Commission and approved by the Commis-
3 sioner or any decision of the Chairman of said Commission
4 under the provisions of Section 34, shall have the same
5 effect as the judgment of a Court, and a copy thereof certi-
6 fied to by the Clerk of said Commission and filed with the
7 Clerk of the Court of the County in which either the em-
8 ployer or employee resides, or where the business of the em-
9 ployer is located, shall be enforceable by the Supreme Judi-

10 cial Court by any suitable process including execution
11 against the goods, chattels and real estate, and including
12 proceedings for contempt for wilful failure or neglect to
13 obey the orders or decrees of the Court, or in any other
14 manner that decrees in equity may be enforced.

Sect. 36. At any time before the expiration of two years
2 from the date of the approval of an agreement by the Com-
3 missioner, or the entry of a decree fixing compensation, but
4 not afterwards, and before the expiration of the period for
5 which compensation has been fixed by such agreement or
6 decree, but not afterwards, any agreement, award, findings
7 or decree may be from time to time reviewed by the Chair-
8 man of said Commission upon the application of either
9 party, after due notice to the other party, upon the ground
10 that the incapacity of the injured employee has subsequent-
11 ly ended, increased or diminished. Upon such review the
12 said Chairman may increase, diminish, or discontinue the
13 compensation from the date of the application for review,
14 in accordance with the facts, or make such other order as
15 the justice of the case may require, but shall order no
16 change of the status existing prior to the application for
17 review. The finding of the said Chairman upon such review
18 shall be served on the parties and filed with the Clerk of
19 the Commission and may be certified to the Court in like
20 time and manner and subject to like disposition as in the
21 case of original decrees; provided that an agreement for
22 compensation may be modified at any time by a subsequent

23 agreement between the parties approved by the Commis-
24 sioner in the same manner as original agreements in regard
25 to compensation are required to be approved by the pro-
26 visions of Section 30 of this act.

Sect. 37. The Commission may prescribe forms and make
2 suitable orders as to procedure adapted to secure a speedy,
3 efficient and inexpensive disposition of all proceedings un-
4 der this act; and in interpreting this act it shall construe it
5 liberally and with a view to carrying out its general purpose.
6 The rule that statutes in derogation of the common law are
7 to be strictly construed shall have no application to this
8 act.

Sect. 38. No proceedings under this act shall abate be-
2 cause of the death of the petitioner, but may be prosecuted
3 by his legal representative or by any person entitled to com-
4 pensation by reason of said death, under the provisions of
5 this act.

Sect. 39. An employee's claim for compensation under
2 this act shall be barred unless an agreement or a petition,
3 as provided in section 30 shall be filed within two years after
4 the occurrence of the injury, or, in case of the death of the
5 employee, or in the event of his physical or mental incapac-
6 ity, within two years after the death of the employee or the
7 removal of such physical or mental incapacity.

Sect. 40. This act shall be compulsory as to the state,
2 counties, cities, water districts and other quasi municipal
3 corporations of a similar nature. The provisions of section

4 6 of this act shall not apply to the state, counties, cities, wa-
5 ter districts and other quasi municipal corporations of a
6 similar nature or to any towns voting to accept the provi-
7 sions of this act.

Sect. 41. All assenting employers shall make prompt re-
2 ports to the Commission of all accidents to their employees
3 in the course of employment, with the average weekly wages
4 or earnings of such employees, and together with such other
5 particulars as the Commisison may require and shall also
6 report whenever the injured employee shall resume his em-
7 ployment and the amount of his wages or earnings.

Whenever any final settlement is made with any injured
9 employee, either by the employer or insurance company, a
10 copy of the receipt or final agreement showing the total
11 amount of money paid to such injured employee, shall be
12 filed with the Commission, but shall not be binding without
13 the approval of the Commission or of its Chairman. Any
14 employer or insurance company that shall wilfully neglect
15 or refuse to make such reports or file any receipts or agree-
16 ments required to be filed under this act, shall be liable to
17 a forfeiture of ten dollars for each day of such wilful
18 neglect or refusal, to be enforced by the Commission in an
19 action of debt in the name of the state. All sums so recov-
20 ered shall be paid into the state treasury and be credited to
21 the appropriation made for the administration of this act.

Sect. 42. Any insurance company insuring employers un-
2 der this act shall fill out any blanks and answer all ques-

3 tions submitted to them that may relate to policies, premi-
4 ums, amount of compensations paid, and such other infor-
5 mation as the Commission or the insurance commissioner
6 may deem important, either for the proper administration
7 of this act or for statistical purposes. Any insurance com-
8 pany which shall refuse to fill out such blanks or answer
9 such questions shall be liable to a forfeiture of ten dollars
10 for each day of such refusal, to be enforced by the Commis-
11 sion in an action of debt in the name of the State. All money
12 so recovered shall be paid into the state treasury and cred-
13 ited to the appropriation for the administration of this
14 act.

Sect. 43. The Commission shall make an annual report
2 giving full statistical information as may be contained in
3 their department in relation to the administration of this
4 act, particularly with reference to the number of employees
5 effected, the number injured, the amount of compensations
6 received and the cost of the same to the employers.

Sect. 44. This act shall effect the liability of employers
2 to employees engaged in interstate or foreign commerce
3 or otherwise only so far as the same is permissible under the
4 laws of the United States.

Sect. 45. If an employee receiving a weekly payment un-
2 der this act shall cease to reside in the state, or, if his resi-
3 dence at the time of the accident is in an adjoining state,
4 the Commission upon application of either party may, in its
5 discretion, having regard to the welfare of the employee

6 and the convenience of the employer, order such payment
7 to be made monthly or quarterly instead of weekly.

Sect. 46. If any part or section of this act be decided
2 by the courts to be unconstitutional or invalid, the same shall
3 not affect the validity of the act as a whole, or any part
4 thereof, which can be given effect without the part so de-
5 cided to be unconstitutional or invalid.

Sect. 47. If for the purpose of obtaining any benefit or
2 payment under the provisions of this act, either for himself
3 or for any other person, any one wilfully makes a false
4 statement or representation, he shall be guilty of a misde-
5 meanor and liable to a fine of not exceeding fifty dollars,
6 and he shall forfeit all right to compensation under this act
7 after conviction for such offense.

Sect. 48. The duties of the Commission shall begin on the
2 first day of October, A. D., nineteen hundred and fifteen, but
3 the provisions of this act shall not apply to injuries sus-
4 tained, or accidents which occur prior to January one A. D.,
5 nineteen hundred and sixteen.

Sect. 49. The Commission shall have authority to provide
2 blank forms of notices, agreements and other forms re-
3 quired in its department under this act.

Sect. 50. All acts and parts of acts inconsistent with this
2 act are hereby repealed.

Sect. 51. This act may be cited as the Workmen's Com-
2 pensation Act.