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Chapter 30.

Department of Labor and Industry.

Sections 21-A to 21-J. Arbitration Pursuant to Collective Bargaining Contracts.
Section 56-A. Leave of Absence for Military Training.
Sections 88-A to 88-E. Board of Construction Safety Rules and Regulations.
Section 164. Appeals.

Organization.

Sec. 1. Commissioner; deputy; assistants; salaries; expenses.—A state department of labor and industry, as heretofore established and hereinafter in this chapter called the "department", shall be maintained under the direction of an officer whose title shall be commissioner of labor and industry and state factory inspector, hereinafter in this chapter called the "commissioner". He shall be appointed by the governor, with the advice and consent of the council, for a term of 3 years, and shall hold office until his successor is appointed and qualified. He shall have an office in the state capitol. He shall appoint, subject to the provisions of the personnel law, such employees as may be necessary and a deputy who shall be clerk of the department and deputy state factory inspector. The commissioner shall receive an annual salary of $6,750, and in addition $1,000 annually for his services as a member of the industrial accident commission and his actual, necessary cash expenses while away from his office on official business of the industrial accident commission. The commissioner and deputy state factory inspector shall also receive their actual traveling expenses. The commissioner shall also appoint a woman factory inspector. All expenses of the department shall be audited and paid as provided by law. (R. S. c. 25, § 1. 1945, c. 369 1951, c. 412, § 8. 1955, c. 473, § 8. 1957, c. 418, § 9.)

Effect of amendments. — The 1955 amendment increased the annual salary of the commissioner from $5,000 to $6,000. The 1957 amendment, effective July 1, 1957, increased his annual salary from $6,000 to $6,750.

Powers and Duties.

Sec. 4. Powers to enter manufacturing establishment.—The commissioner as state factory inspector, and any authorized agent of the department, may enter any factory or mill, construction activity, workshop, private works or state institutions which have shops or factories, when the same are open or in operation, for the purpose of gathering facts and statistics such as are contemplated by this section and the 2 preceding sections, and may examine into the methods of protection from danger to employees and the sanitary conditions in and around such buildings and places, and may make a record of such inspection. (R. S. c. 25, § 4. 1955, c. 466, § 1.)

Effect of amendment.—The 1955 amendment inserted the words "construction activity" in line three.

Sec. 5. Duty when conditions are found insanitary, unsafe or injurious to health.

If the commissioner or any authorized agent of the department shall find, upon inspection of construction activities, that conditions of the activity are in violation of the rules and regulations and so as to be dangerous to employees working at or near them, he shall notify immediately the contractor or person in charge of such activity to make alterations or additions consistent with the rules and regulations by him deemed necessary for the safety and protection of the employee. Such notice shall be served personally upon the contractor or the person in charge of the activity, or in cases of obvious or extreme hazard where immediate action is necessary to preserve life and limb and where the contractor or person in charge

of such activity is not readily accessible, he may conspicuously affix a written notice or tag to the object or device or to the part thereof declared to be unsafe. After such notice has been served or affixed, all persons shall cease using until the object or device, or part thereof, is altered or strengthened in such a manner as to provide safe conditions. The inspector shall make every effort to notify immediately the contractor or person in charge of such activity before undertaking such action. (R. S. c. 25, § 5. 1947, c. 208. 1955, c. 466, § 2.)

Effect of amendment.—The 1955 amendment added the above paragraph at the end of this section. As the rest of the section was not changed, it is not set out.

Reports of Accidents, Deaths and Injuries.

Sec. 8. Reports of deaths, accidents and injuries.—The person in charge of any factory, workshop, construction activity or other industrial establishment shall, within 10 days after the occurrence, report in writing to the commissioner all deaths, accidents or serious physical injuries sustained by any person therein or on the premises, stating as fully as possible the cause of the death or the extent and cause of the injury, and the place where the injured person has been sent, with such other or further information relative thereto as may be required by said commissioner, who may investigate the causes thereof and require such precautions to be taken as will prevent the recurrence of similar happenings. No statement contained in any such report shall be admissible in evidence in any action arising out of the death or accident therein reported. The term "serious physical injuries," as used in this section, shall be construed to mean every accident which results in the death of the employee or causes his absence from work for at least 6 days thereafter. The provisions of this section shall not apply to persons, firms or corporations obliged by law to report such deaths, accidents and injuries to the Maine industrial accident commission. (R. S. c. 25, § 8. 1955, c. 466, § 3.)

Effect of amendment.—The 1955 amendment inserted the words "construction activity" near the beginning of the first sentence.

Penalties.

Sec. 9. Penalties.

Whoever refuses to admit or unreasonably delays the commissioner or any authorized agent of the department in entering any factory, mill, workshop, construction activity, private works or state institution referred to in section 4 for the purpose of carrying out the provisions of said section 4, or refuses to give the information required by said commissioner or authorized agent, shall be punished by a fine of not more than $100, or by imprisonment for not more than 90 days, or by both such fine and imprisonment.

Any proprietor, owner or agent of any factory, mill, workshop, construction activity, private works or state institution, described in section 4, who fails to make the alterations or additions required by the commissioner as state factory inspector or any authorized agent of the department within 30 days from the date of the written notice specified in section 5 or within such time as said alterations or additions can be made with proper diligence, shall be punished by a fine of not less than $25, nor more than $200, or by imprisonment for not more than 30 days, or by both such fine and imprisonment.

(1955, c. 466, § 4.)

Effect of amendment.—The 1955 amendment inserted the words "construction activity" in the second and third paragraphs. As the rest of the section was not changed by the amendment, only the second and third paragraphs are set out.

Panel of Mediators.

Sec. 11. Panel of mediators.—A panel of mediators as heretofore established, shall consist of 5 impartial members appointed by the governor, with the

advice and consent of the council, from time to time upon the expiration of the terms of the several members, for terms of 3 years. One member of the panel shall be appointed chairman thereof by the governor with the advice and consent of the council. Vacancies occurring during a term shall be filled for the unexpired term. Members of the panel shall each receive $25 a day for their services, for the time actually employed in the discharge of their official duties and shall also receive their traveling and all other necessary expenses. Neither the commissioner nor any official of the department of labor and industry nor any member of the board of arbitration and conciliation shall be eligible to serve as a member of the panel nor have any jurisdiction or authority over the panel in the performance of its duties. (1951, c. 353. 1953, c. 308, § 30. 1955, c. 468.)

Effect of amendment.—The 1955 amendment substituted "$25" for "$20" in the fourth sentence.

State Board of Arbitration and Conciliation.

Sec. 15. Appointment and qualification of board; salaries and expenses; duties; rules; report; rights of workers.—The state board of arbitration and conciliation, as heretofore established, shall consist of 3 members appointed by the governor, with the advice and consent of the council, from time to time upon the expiration of the terms of the several members, for terms of 3 years. One member shall be an employer of labor or selected from some association representing employers of labor, and another shall be an employee or an employee selected from some bona fide trade or labor union. The 3rd member shall be chairman of the board and shall represent the public interests of the state. Vacancies occurring during a term shall be filled for the unexpired term. The board shall hold a meeting on the 3rd Wednesday of September in each year and shall organize by choosing from its members a secretary. Members of the board shall each receive $25 a day, for their services, for the time actually employed in the discharge of their official duties; they shall also receive their traveling and all other necessary expenses. The board shall from time to time make such rules of procedure as it deems necessary, and shall annually, on or before the 1st day of July, make a report to the governor and council, which shall be incorporated in and printed with the biennial report of the department of labor and industry.

Three alternate members, having the same qualifications as members, shall be appointed in the same manner and for the same terms as members; and shall, when serving as members of the board, have the same responsibilities and duties and be entitled to the same privileges and emoluments, as members.

Workers shall have full freedom of association, self organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection, free from interference, restraint or coercion by their employers or other persons, and it shall be the duty of the board to endeavor to settle disputes, strikes and lockouts between employers and employees. (R. S. c. 25, § 10. 1945, c. 282, § 1. 1949, c. 51. 1955, c. 462, § 1.)

Effect of amendment.—The 1955 amendment deleted from the end of the second sentence the words "and not an employer of labor." It changed the compensation of board members from $20 to $25 a day, and transferred the former seventh sentence to become the third paragraph. The second paragraph is new with the amendment.

A strike for organizational purposes is unlawful for it is by its very nature destructive of the protection for the employees provided by this section. Pappas v. Stacey, 151 Me. 36, 116 A. (2d) 497.

And this section prohibits picketing for organizational purposes.—This section is a solemn declaration of the public policy of the state against peaceful picketing at the place of business for organizational purposes. Furthermore, the restraint of such picketing does not abridge the right of free speech under the decisions of the supreme court. Pappas v. Stacey, 151 Me. 36, 116 A. (2d) 497.

Peaceful picketing for organizational purposes is at least an act of interference with the employee in the exercise of his personal rights. It violates the language and the purpose of this section and it is unlawful. Pappas v. Stacey, 151 Me. 36, 116 A. (2d) 497.

Under this section the worker must be left free from interference by employer or other persons in reaching a decision whether to join or refrain from joining a union. It follows necessarily that pressure cannot lawfully be directed against the employer to force him to interfere with the free choice of his employees. The employer cannot lawfully be placed in a position where compliance with the strikers' demands requires action in violation of the law of the state. Pappas v. Stacey, 151 Me. 36, 116 A. (2d) 497.

Labor union officials are included within the definition of "other persons." Pappas v. Stacey, 151 Me. 36, 116 A. (2d) 497.

Sec. 15-A. Duties of the board.—The board's responsibility is to further harmonious labor-management relations in this state. They may serve as a board of inquiry, as a board of conciliation or as a board of arbitration. (1955, c. 462, § 2.)

Sec. 15-B. Powers of the board.—The board shall have the power to inquire and investigate. It shall have the authority to subpœna either party to a dispute. (1955, c. 462, § 2.)

Sec. 15-C. Authority to summon witnesses and require production of books.—The board may summon as witness any operative or any person who keeps records of wages earned in the department of business in which the controversy exists and may require the production of books which contain the record of wages paid. Summonses may be signed and oaths administered by any member of the board. Witnesses summoned by the board shall be allowed the same fees as are paid to witnesses in the superior court of the state of Maine; these fees together with all necessary expenses of the board shall be paid by the treasurer of the state on warrants drawn by the controller. (1955, c. 462, § 2.)

Sec. 15-D. The board may recess any negotiations.—When the board has taken jurisdiction of a case where a dispute exists, it may, at its discretion, recess the hearings for any reasonable purpose and may call a subsequent meeting as soon as practical at any appropriate place or time which it may designate for a continuation of the proceedings. (1955, c. 462, § 2.)

Sec. 15-E. Board to be notified of strike or threatened strike; proceedings in settlement of strike.—Whenever it appears to the employer or employees concerned in a dispute that a strike is threatened, or actually occurs, he or they may request the services of the state board of arbitration and conciliation and notification may be given by the mayor of a city or the selectmen of a town or any citizen of the state directly involved.

If, when such request or notification is received, it appears that as many as 10 employees are directly concerned therein, the state board of arbitration and conciliation shall endeavor, by conciliation, to obtain an amicable settlement; failing that, endeavor to persuade such employer and employees to submit the matter to arbitration by the state board, or a local board of arbitration.

Except in cases in which the public welfare is involved, a minimum of 3 working days notice shall be required before the board will convene.

The board may, at its discretion, in any particular case, designate a local board established by the parties as set forth in section 15-J as the board for the particular case.

When for any reason a member of the state board does not serve in any particular case, the alternate member having the same qualifications shall act as a member of the board in such case.

No member of the board shall act as such in any case in which his personal interest is involved. (1955, c. 462, § 2.)

Sec. 15-F. Board may make inquiry into cause of controversy, hear the parties and serve as conciliators of the disputes.—In any controversy where not less than 10 employees are directly concerned, the board shall, upon notification as herein provided, as soon as practicable, visit the place where the controversy exists or arrange a meeting of the interested parties at a convenient place, and shall make careful inquiry into the cause of the dispute or controversy, and the board may, with the consent of the governor, conduct such inquiry beyond the limits of the state.

The board shall hear all interested persons who come before it, advise the respective parties what ought to be done by either or both to adjust such controversy, and shall, when the case is finally settled, make a written report to the governor and the commissioner of labor and industry. (1955, c. 462, § 2.)

Sec. 15-G. Application for inquiry; secretary to give notice of time and place of hearing.—In cases of controversy, where conciliation, mediation or arbitration is refused by one of the parties, either party may request the board to make inquiry. The application for such inquiry may be signed by the employer or by a majority of the employees in the department of the business in which the controversy exists or by their agent or by both parties, and, if signed by an agent claiming to represent a majority of the employees, the board shall satisfy itself that he is duly authorized to do so.

Upon receipt of the application for such inquiry, the secretary shall give notice of time and place of hearing, and may, at the board's discretion, give public notice by publishing in at least one newspaper the time and place of the hearing.

The state board shall, upon request of the governor or the mayor of a city or the selectmen of a town, investigate and report upon any controversy if, in his opinion, it threatens to affect the public welfare.

The board, after such inquiry, may make and publish a report of its findings. (1955, c. 462, § 2.)

Sec. 15-H. Controversy may be submitted to arbitration; decision.—If the case cannot be settled through the process of conciliation, the interested parties may submit the case to arbitration by filing an arbitration application with the secretary or chairman of the state board.

The secretary of the board shall forthwith after such filing give notice of the time and place of hearing to both parties. (1955, c. 462, § 2.)

Sec. 15-I. Procedure in arbitration.—In cases of arbitration, the parties concerned must submit in writing to the board the matters to which they mutually agree to submit to arbitration; the time limit that they agree to abide by the decision of the board; and such other details pertinent to the issues involved as they may agree upon, and a promise to continue in business or at work without any strike or lockout until the decision of the board is handed down if such decision is made within 3 weeks after the date of filing the application for arbitration. The contract of arbitration shall be signed by the responsible parties and witnessed by the board. When the matter is submitted to arbitration by the board, said board shall investigate the matters in controversy, shall hear all interested persons who come before it, and make a written decision thereof which shall be recorded by the secretary of the board; said decisions shall be for 6 months, unless in the contract of arbitration a different time limit is specified, and shall be binding on the parties who join in the agreement as specified above or until the expiration of 60 days after either party has given notice to the other in writing of his decision not to be bound thereby; such notice may be given to the employees by posting it in 3 conspicuous places in the shop, factory, yard, or other place where they work, and copy of such notice shall be filed with the secretary or chairman of the board. (1955, c. 462, § 2.)

Sec. 15-J. Controversy may be submitted to local board of arbitration; decision.—On agreement of both parties in any controversy described in

section 15-E, the state board may submit such controversy to a local board of arbitration selected by the state board and composed of 3 persons, one member shall be an employer of labor or selected from some association representing employers of labor, and another shall be an employee or an employee selected from some bona fide trade or labor union and not an employer of labor. The 3rd member shall be chairman of the board and shall represent the public interests of the state. Such board shall have all the powers exercised by the state board and the same requirements as to contract of arbitration must be met, and its decision shall have the same effect as that of the state board. The decision of said board shall be rendered within 10 days after the close of any hearing held by it and copies of the decision shall at once be forwarded to the parties to the contract of arbitration and a copy thereof shall be filed with the secretary of the state board. If the case is delegated to a local board by the state board, each of the members of the local board shall be entitled to receive $15 for each day of actual service, to be paid by the treasurer of state on a warrant drawn by the controller after approval by the chairman of the state board of arbitration and conciliation.

Whenever the parties to a dispute have submitted their case to either private mediators or arbitrators, or to a state or federal mediator, the state board of arbitration and conciliation shall not take jurisdiction until requested to do so by the parties involved. (1955, c. 462, § 2.)

Sec. 15-K. Advertising or solicitation during strike or disturbance, regulated; exceptions; penalty.—If any employer, during the continuance of a strike among his employees, or during the continuance of a lockout or other labor trouble among his employees, publicly advertises in newspapers, or by posters or otherwise, for employees, or by himself or his agents solicits persons to work for him to fill the places of strikers, he shall plainly and explicitly mention in such advertisements or oral or written solicitations that a strike, lockout or other labor disturbance exists. If any employee, during the continuance of a strike, lockout or other labor trouble who advertises for or solicits business for a competitor of the employers engaged in the labor dispute, he shall plainly and explicitly mention in such advertisement or oral or written solicitations that a strike, lockout or other labor disturbance exists. The provisions of this section shall cease to be operative when the state board of arbitration and conciliation shall determine that the business of the employer, in respect to which the strike or other labor trouble occurred, is being carried on in the normal and usual manner and to the normal and usual extent. Said board shall determine this question as soon as may be, upon the application of the employer. Any person, firm, association or corporation who violates the provisions of this section shall be punished by a fine of not less than $250 nor more than $500. (1955, c. 462, § 2.)

Secs. 16-21. Repealed by Public Laws 1955, c. 462, § 3.

Arbitration Pursuant to Collective Bargaining Contracts.

Sec. 21-A. Collective bargaining agreements to arbitrate.—A written provision in any collective bargaining contract to settle by arbitration a controversy thereafter arising out of such contract or out of the refusal to perform the whole or any part thereof, or an agreement in writing to submit to arbitration an existing controversy arising out of such a contract, or such refusal, herein designated in sections 21-A to 21-J, inclusive, as "a written submission agreement," shall be valid, irrevocable and enforceable, save upon such grounds, independent of the provisions for arbitration, as exist at law or in equity for the revocation of any contract. (1957, c. 409.)

Sec. 21-B. Stay of proceedings where issue therein referable to arbitration.—If any suit or proceeding be brought in any court upon any issue or controversy referable to arbitration under a written provision in any collective bargaining contract or under an agreement in writing for submission to arbitra-

tion of an existing controversy arising out of such collective bargaining contract, the court in which such suit or proceeding is pending, upon being satisfied that the issue involved in such suit or proceeding is thus referable to arbitration, shall on application of one of the parties stay the trial of the suit or proceeding until such arbitration has been had in accordance with the terms of the collective bargaining contract or the written agreement for submission to arbitration, provided the applicant for the stay is not in default in proceeding with such arbitration. (1957, c. 409.)

Sec. 21-C. Failure to arbitrate under agreement.—A party aggrieved by the alleged failure, neglect or refusal of another to arbitrate in accordance with any agreement embraced within the provisions of section 21-A may institute proceedings in any court having jurisdiction in equity. Such proceedings shall be for an order directing that such arbitration proceed in the manner provided in the collective bargaining agreement or written submission agreement.

Five days' notice in writing of such application shall be served upon the party in default. Service thereof shall be made in the manner provided by law for the service of process in equity cases. The court shall hear the parties, and upon being satisfied that the making of the collective bargaining contract or the written submission agreement for arbitration or the failure to comply therewith is not in issue, the court shall make an order directing the parties to proceed to arbitration in accordance with the terms of the collective bargaining contract or the written submission agreement. If the making of the collective bargaining contract or of the written submission agreement for arbitration or the failure, neglect or refusal to perform the same be in issue, the court shall proceed summarily to the trial thereof. If no jury trial be demanded by the party alleged to be in default, the court shall hear and determine such issue. Where such an issue is raised, the party alleged to be in default may, on or before the return day of the notice of application, demand a jury trial of such issue, and upon such demand the court shall make an order referring the issue or issues to a jury in the manner provided by law for referring to a jury issues in an equity action or may specially call a jury for that purpose. If the jury find that no collective bargaining contract or written submission agreement for arbitration was made or that there is no default in proceeding thereunder, the proceeding shall be dismissed. If the jury find that a collective bargaining contract or written submission agreement for arbitration was made and that there is a default in proceeding thereunder, the court shall make an order summarily directing the parties to proceed with the arbitration in accordance with the terms thereof. (1957, c. 409.)

Sec. 21-D. Appointment of arbitrators or umpires.—If in the agreement provision be made for a method of naming or appointing an arbitrator or arbitrators or an umpire, such method shall be followed; but if no method be provided therein, or if a method be provided and any party thereto shall fail to avail himself of such method, or if for any other reason there shall be a lapse in the naming of an arbitrator or arbitrators or umpire, or in filling a vacancy, then upon the application of either party to the controversy the court shall designate and appoint an arbitrator or arbitrators or umpire, as the case may require, who shall act under the said agreement with the same force and effect as if he or they had been specifically named therein; and unless otherwise provided in agreement the arbitration shall be by a single arbitrator. (1957, c. 409.)

Sec. 21-E. Application heard as motion.—Any application to the court under the provisions of sections 21-A to 21-J, inclusive, shall be made and heard in the manner provided by law for the making and hearing of motions, except as otherwise expressly provided. (1957, c. 409.)

Sec. 21-F. Witnesses before arbitrators; fees; compelling attendance.—The arbitrators selected either as prescribed in sections 21-A to 21-J, inclusive, or otherwise, or a majority of them, may summon in writing any person to attend before them, or any of them, as a witness and in a proper case to bring with him or them any book, record, document or paper which may be deemed material as evidence in the case. The fees for such attendance shall be the same as the fees of witnesses before the superior court. Said summons shall issue in the name of the arbitrator or arbitrators, or a majority of them, and shall be signed by the arbitrators, or a majority of them, and shall be directed to the said person and shall be served in the same manner as subpoenas to appear and testify before the superior court. If any person or persons so summoned to testify shall refuse or neglect to obey said summons, upon petition, any justice of the superior court may compel the attendance of such person or persons before said arbitrator or arbitrators, or punish said person or persons for contempt in the same manner provided by law for securing the attendance of witnesses or their punishment for neglect or refusal to attend in the courts of the state of Maine. (1957, c. 409.)

Sec. 21-G. Award of arbitrators; confirmation; jurisdiction; procedure.—If the parties in their collective bargaining contract or written submission agreement have agreed that a judgment of the court shall be entered upon the award made pursuant to the arbitration, and shall specify the court, then at any time within one year after the award is made any party to the arbitration may apply to the court so specified for an order confirming the award, and thereupon the court must grant such an order unless the award is vacated, modified or corrected as prescribed in sections 21-H and 21-I. In the absence of such provision in the collective bargaining contract or written submission agreement of the parties, such application to have judgment entered upon the award may be made to the superior court or supreme judicial court sitting in equity in the county within which such award was made. Notice of application shall be served upon the adverse party. If the adverse party is a resident of the state, such service shall be made upon the adverse party or his attorney as prescribed by law for service of motion in an action in the same court. If the adverse party shall be a nonresident, then the notice of the application shall be served in like manner as other process of the court is served upon nonresidents. (1957, c. 409.)

Sec. 21-H. Vacation; grounds; rehearing. — In any of the following cases the superior court or supreme judicial court, sitting in equity in and for the county wherein the award was made, may make an order vacating the award upon the application of any party to the arbitration:

I. Where the award was procured by corruption, fraud or undue means;

II. Where there was obvious partiality or corruption in the arbitrators, or any of them;

III. Where the arbitrators were guilty of abuse of discretion by which the rights of any party have been prejudiced;

IV. Where the arbitrators exceeded their powers, or so imperfectly executed them that a mutual, final and definite award upon the subject matter submitted was not made.

Where an award is vacated and the time within which the agreement required the award to be made has not expired, the court may, in its discretion, direct a rehearing by the arbitrators. (1957, c. 409.)

Sec. 21-I. Modification or correction; grounds; order.—The superior court or supreme judicial court, sitting in equity in and for the county wherein the award was made, may make an order modifying or correcting the award upon the application of any party to the arbitration where there was an evident ma-

terial miscalculation of figures or an evident material mistake in the description of any person, thing or property referred to in the award. (1957, c. 409.)

Sec. 21-J. Application limited.—The provisions of sections 21-A to 21-I, inclusive, shall not apply to any provision or agreement relative to arbitration contained in a collective bargaining contract entered into prior to the effective date of said sections, or to any agreement to submit to arbitration an existing controversy entered into prior to the effective date of said sections. (1957, c. 409.)

Editor's note.—The effective date of the act inserting sections 21-A to 21-J of this chapter is August 28, 1957.

Labor of Women and Children.

Sec. 23. Employment of minors under 16 years of age prohibited in certain establishments.—No minor under 16 years of age shall be employed, permitted or suffered to work in, about or in connection with any manufacturing or mechanical establishment, hotel, rooming house, laundry, dry cleaning establishment, bakery, bowling alley, poolroom, commercial places of amusement, including traveling shows and circuses, or in any theater or moving picture house. The provisions of this section pertaining to theaters shall not apply to minors under 16 years of age who are employed or in training as theatrical actors. (1949, c. 290, § 2. 1955, c. 335, § 1.)

Effect of amendment.—The 1955 amendment deleted the words "as usher or attendant, nor in or about a projection booth" formerly appearing at the end of the first sentence. It also added the second sentence.

Sec. 30. Females not to be employed more than 9 hours a day.—No female shall knowingly be employed or accept employment in any of one or more workshops, factories, manufacturing, mechanical or mercantile establishments, beauty parlors, hotels, commercial places of amusement, restaurants, dairies, bakeries, laundries, dry cleaning establishments, telegraph offices, in any telephone exchange which has more than 750 stations or by any of one or more express or transportation companies in the state more than a total of 9 hours in any one day; except when a different apportionment of the hours of labor is made for the sole purpose of making a shorter day's work for one day of the week; and in no case shall the hours of labor exceed a total of 10 hours in any one day or a total of 54 hours in any one week. (R. S. c. 25, § 22. 1949, c. 290, § 6. 1955, c. 348, § 1. 1957, c. 29.)

Effect of amendments. — The 1955 amendment inserted the word "knowingly" near the beginning of the section, added "commercial places of amusement" to the list of places of employment, and substituted after telephone exchange the words "which has more than 750 stations" for the words "employing more than 3 operators."

The 1957 amendment inserted the words "or accept employment" near the beginning of the section.

Sec. 31. Fifty hours a week in certain establishments for females.—No female shall knowingly be employed or accept employment as a production worker in any of one or more workshops, factories, manufacturing or mechanical establishments more than a total of 50 hours in any one week. (1949, c. 290, § 7. 1955, c. 348, § 2.)

Effect of amendment.—The 1955 amendment inserted the words "knowingly" and "or accept employment" in line two and made other changes.

Sec. 32. Females not to be employed more than 54 hours in any 1 week.—No female shall knowingly be employed or accept employment in any of one or more mercantile establishments, beauty parlors, hotels, commercial places of amusement, restaurants, dairies, bakeries, laundries, dry cleaning establish-

ments, telegraph offices, in any telephone exchange which has more than 750 stations or by any of one or more express or transportation companies in the state more than a total of 54 hours in any one week.

(1955, c. 348, § 3.)

Effect of amendment.—The 1955 amendment rewrote the first paragraph. As the second paragraph was not changed, it is not set out.

Sec. 33. Application of sections 30-38.—The provisions of sections 30 to 38, inclusive, shall not apply to any female working in an executive, administrative, professional or supervisory capacity, or to any female employed as personal office assistant to any person working in an executive, administrative, professional or supervisory capacity and who receives remuneration on an annual salary basis of more than $1,560, or to any female employed in offices of common carriers which are subject to the federal railway labor act. (1949, c. 290, § 9. 1953, c. 42. 1957, c. 70.)

Effect of amendment. — The 1957 amendment changed the sections referred to from "sections 30 to 37" to "sections 30 to 38."

Sec. 42. Penalty for employer.—Any person, firm or corporation, agent or manager of any firm or corporation, who, either for himself or for some firm or corporation, or by himself, or through his agents, servants or foremen, employs, permits or suffers any child to be employed, or to work in violation of any of the provisions of sections 22 to 29, inclusive, and sections 40 or 41, or otherwise fails to comply with any of the provisions of said sections, shall be punished by a fine of not less than $25, nor more than $200.

(1955, c. 335, § 2.)

Effect of amendment.—The 1955 amendment made the first paragraph of this section also applicable to sections 23, 24 and 25 of this chapter. As the second paragraph was not changed, it is not set out.

Wages.

Sec. 50. Wages, time of payment; records; penalty.—Every corporation, person or partnership engaged in a manufacturing, mechanical, mining, quarrying, mercantile, restaurant, hotel, summer camp, beauty parlor, amusement, street railway, telegraph or telephone business; in any of the building trades; in logging or lumbering operations; upon public works, or in the construction or repair of street railroads, roads, bridges, sewers, gas, water or electric light works, pipes or lines; every incorporated express company or water company; and every steam railroad company or corporation shall pay weekly each employee engaged in his or its business the wages earned by him to within 8 days of the date of such payment. Any employee, leaving his or her employment, shall be paid in full within a reasonable time after demand at the office of the employer where payrolls are kept and wages are paid, and every county and city shall so pay every employee who is engaged in its business the wages or salary earned by him, unless such mechanic, workman, laborer or employee requests in writing to be paid in a different manner. Every town shall so pay each employee in its business if so required by him. An employee who is absent from his regular place of labor at a time fixed for payment shall be paid thereafter on demand. A true record shall be kept showing the date and amount paid to each person engaged in any of the above occupations. There shall also be kept a daily record of the time worked by such person, excepting such employees as are paid a fixed weekly salary regardless of the number of hours worked, the same to be accessible at any reasonable hour to any representative of the department. Nothing contained in this section shall excuse any employer mentioned in section 38 from keeping the records required by said section 38. The provisions of this section shall not apply to an employee of a cooperative corporation or association

if he is a stockholder therein unless he requests such corporation to pay him weekly. The provision for weekly payment of wages shall not apply to an employee engaged in cutting and hauling logs and lumber, nor the driving of the same until it reaches its place of destination for sale or manufacture. No corporation, contractor, person or partnership shall by a special contract with an employee or by any other means exempt himself or itself from the provisions of this section. Whenever the terms of employment include provisions for paid vacations, vacation pay on cessation of employment shall have the same status as wages earned. Whoever violates any of the provisions of this section shall be punished by a fine of not less than $25 nor more than $50. (R. S. c. 25, § 38. 1951, c. 94. 1955, c. 278. 1957, c. 94, §§ 1, 2.)

Effect of amendments. — The 1955 amendment inserted the sentence which appears as the present seventh sentence. The 1957 amendment rewrote the portions of this section which now appear as the first four sentences and the last five sentences.

Leave of Absence for Military Training.

Sec. 56-A. Leave of absence for military training.—Any member of an organized unit or control group of the ready reserve of the armed forces, who, in order to receive military training with the armed forces of the United States not exceeding 17 days in any one calendar year, leaves a position other than a temporary position in the employ of any employer, and who shall give notice to his employer of the date of departure and date of return for the purposes of military training, and of the satisfactory completion of such training immediately thereafter, and who is still qualified to perform the duties of such position, shall be entitled to be restored to his previous, or a similar, position with the same status, pay and seniority, and such period of absence for military training shall be construed as an absence with leave and, within the discretion of the employer, said leave may be with or without pay.

Such absence for military training shall not affect the employee's right to receive normal vacation, sick leave, bonus, advancement and other advantages of his employment normally to be anticipated in his particular position.

If any employer fails to comply with any of the provisions of this section, the employee may, at his election, bring an action at law for damages for such noncompliance or apply to the courts for such equitable relief as may be just and proper under the circumstances. (1957, c. 205.)

Boilers and Unfired Steam Pressure Vessels.

Sec. 66. Definitions.

The term "schoolhouse" as used in this chapter shall include, but shall not be limited to, any structure used by schools or colleges, public or private, for the purpose of housing classrooms, gymnasiums, auditoriums or dormitories. (R. S. c. 25, § 53. 1955, c. 404, § 1.)

Effect of amendment.—The 1955 amendment added the above paragraph at the end of this section. As the rest of the section was not changed, it is not set out.

Sec. 68. Chief and deputy inspectors.—The commissioner shall appoint, with the approval of the governor and council, and may remove for cause when so appointed, a citizen of this state who shall have had, at the time of such appointment, not less than 5 years' practical experience with steam boilers as a steam engineer, mechanical engineer, boiler maker or boiler inspector, and who has passed the same kind of an examination as that prescribed for deputy and special inspectors in section 71 to be chief inspector of boilers at any time the office may become vacant.

The commissioner may likewise appoint such deputy inspectors as are necessary to carry out the provisions of sections 64 to 84, inclusive, from among applicants who have successfully passed the examination provided for in section 71. (R. S. c. 25, § 55. 1957, c. 272, § 1; c. 397, § 25.)

Effect of amendments.—The first 1957 amendment inserted the words "of boilers" following the words "chief inspector" in the first sentence and deleted the words "as above provided" which formerly appeared at the end of the last sentence of the first paragraph. It also changed a former reference to "sections 64 to 79" to read "sections 64 to 84" and deleted the requirement that applicants hold certificates of competency to be eligible for appointment as deputy inspectors in the last paragraph. The second 1957 amendment, which did not refer to or give effect to the first amendment, deleted all of the former last sentence of the first paragraph, which sentence pertained to the term of the present incumbent.

Sec. 71. Deputy and special inspectors to be examined.—The examination for deputy inspectors and special inspectors shall be given by the chief inspector of boilers, or by at least 2 examiners to be appointed by said chief inspector. The person to be examined must pay an examination fee of $10. Such examination must be written or part written and part oral, recorded in writing, and must be confined to questions the answers to which will aid in determining the fitness and competency of the applicant for the intended service and must be of uniform grade throughout the state. The chief inspector shall certify to the commissioner the names of applicants who have successfully passed the examination. In case an applicant for an inspector's certificate of authority fails to pass this examination, he may appeal to the board of boiler rules for a 2nd examination, which shall be given by said board, or, by examiners other than those by whom the first examination was given and these examiners shall be appointed forthwith to give said 2nd examination. Upon the result of this examination on appeal, the board shall determine whether the applicant be qualified. The record of an applicant's examination, whether original or on appeal, shall be accessible to him and to his employer.

The fee for issuing a certificate of authority as special inspector shall be $10 when such certificate is granted under the provisions of section 70, to a person who holds a certificate as an inspector of steam boilers for a state that has a standard of examination equal to that of this state or a certificate from the national board of boiler and pressure vessel inspectors, and whose examination has been waived in accordance with the provisions of section 70.

A certificate of authority may be revoked by the commissioner for incompetence or untrustworthiness of the holder thereof or for willful falsification of any matter or statement contained in his application or in a report of any inspection. A person whose certificate is revoked may appeal from the revocation to the board of boiler rules which shall hear the appeal and either set aside or affirm the revocation and its decision shall be final. The person whose certificate has been revoked shall be entitled to be present in person and by counsel on the hearing of the appeal. If a certificate is lost or destroyed a new certificate shall be issued in its place without another examination. A person, who has failed to pass the examination or whose certificate of authority has been revoked, shall be entitled to apply for a new examination and certificate after 90 days from such failure or revocation. (R. S. c. 25, § 58. 1947, c. 277, § 1. 1957, c. 272, § 2.)

Effect of amendment. — The 1957 amendment substituted the words "certificate of authority" for the words "certificate of competency" throughout this section, inserted the third sentence of the first paragraph and all of the second paragraph, substituted "commissioner" for "chief inspector" in the first sentence of the last paragraph, and made other minor changes.

Sec. 72. Inspection of boilers; certificates issued.—Each steam boiler used or proposed to be used within this state and all hot water supply and hot

water heating boilers located in schoolhouses, and all boilers owned by municipalities, except boilers exempt under the provisions of section 78, shall be thoroughly inspected while not under pressure by the chief inspector or by one of the deputy inspectors or special inspectors provided for herein, as to its design, construction, installation, condition and operation. Each steel boiler shall be inspected internally and externally; and all normally accessible surfaces of cast iron boilers shall be cleaned for inspection but need not be dismantled unless in the opinion of the inspector it is necessary. If it shall be found to be suitable and to conform to the rules of the board of boiler rules, upon payment by the owner or user of such a boiler of the sum of $2 to the chief inspector, the latter shall issue to such owner or user an inspection certificate for each such boiler. Inspection certificates shall specify the maximum pressure that the boiler inspected may be allowed to carry. Such inspection certificate shall be valid for not more than 14 months from its date and it shall be posted under glass in the engine or boiler room containing such boiler or an engine operated by it, or, in the case of portable boiler, in the office of the plant where it is located for the time being. The chief inspector or any deputy inspector may at any time suspend an inspection certificate when, in his opinion, the boiler for which it was issued may not continue to be operated without menace to the public safety or when the boiler is found not to comply with the rules herein provided for, and a special inspector shall have corresponding powers with respect to inspection certificates for boilers insured by the company employing him. Such suspension of an inspection certificate shall continue in effect until said boiler shall have been made to conform to the rules of the board and until said inspection certificate shall have been reinstated by a state inspector, if the inspection certificate was suspended by a state inspector, or by a special inspector if it was suspended by a special inspector. Not more than 14 months shall elapse between such inspections and there shall be at least 4 such inspections in 37 consecutive months. Each such boiler, except miniatures, shall also be inspected externally while under pressure with at least the same frequency and at no greater intervals. (R. S. c. 25, § 59. 1947, c. 277, § 2. 1951, c. 299. 1953, c. 319, § 1. 1955, c. 404, § 2.)

Effect of amendment.—The 1955 amendment rewrote the former first sentence to appear as the present first three sentences, inserting in the first sentence the references to "hot water supply" boilers and "all boilers owned by municipalities." The second sentence is new with the amendment.

Sec. 73. Temporary inspection certificates. — Whenever it shall appear to the commissioner that an emergency affecting public safety and welfare exists, the commissioner may authorize the chief inspector to issue a temporary inspection certificate for a period not exceeding 6 months after an inspection certificate shall have expired. A temporary inspection certificate may be issued without an internal inspection being made. If the boiler is insured, the temporary inspection certificate shall not be issued until recommended in writing by the authorized special inspector of the company insuring the boiler and by the chief inspector or one of his deputies; or, if the boiler is not insured, the temporary inspection certificate shall be recommended in writing by at least 2 authorized state inspectors. The provisions as to posting of the inspection certificate shall apply to the temporary inspection certificate. (1953, c. 305. 1957, c. 272, § 3.)

Effect of amendment. — The 1957 amendment made the former second sentence into two sentences and inserted the word "special" preceding the word "inspector" in the present third sentence.

Sec. 74. Inspection certificate.—It shall be unlawful for any person, firm, partnership or corporation to operate under pressure in this state a steam boiler to which sections 64 to 84, inclusive, apply without a valid inspection certificate as provided for in said sections. The operation of a steam boiler without an inspection certificate shall constitute a misdemeanor on the part of the owner or

user thereof and be punishable by a fine of not more than $100 or by imprisonment for not more than 30 days, or by both. (R. S. c. 25, § 60. 1957, c. 272, § 4.)

Effect of amendment. — The 1957 amendment changed a former reference to "sections 64 to 79" to read "sections 64 to 84" in the first sentence, and deleted the words "such fine and imprisonment" which formerly appeared at the end of the last sentence.

Sec. 77. Application of sections 64-84 to boilers now in use.—The provisions of sections 64 to 84, inclusive, shall not be construed as in any way preventing the use or sale of steam boilers in this state which shall have been installed or in use in this state prior to July 6, 1935, and which shall have been made to conform to the rules of the board of boiler rules governing existing installations and which shall have been inspected as provided for in section 72. (R. S. c. 25, § 63. 1957, c. 272, § 5.)

Effect of amendment. — The 1957 amendment changed a former reference to "sections 64 to 79" to read "sections 64 to 84".

Sec. 78. Exemptions.—The provisions of sections 64 to 84, inclusive, shall not apply to boilers which are under federal control; or those under the control of the public utilities commission; or to boilers used solely for propelling motor road vehicles; or to boilers of steam fire engines brought into the state for temporary use in times of emergency to check conflagrations; or to boilers used for agricultural purposes only; or to steam heating boilers, except boilers located in schoolhouses or boilers owned by municipalities, which carry pressures not exceeding 15 pounds per square inch, constructed and installed in accordance with the rules adopted by the board of boiler rules; or to miniature boilers exempt by the provisions of section 76. (R. S. c. 25, § 64. 1953, c. 319, § 2. 1957, c. 272, § 6.)

Effect of amendment. — The 1957 amendment changed a former reference to "sections 64 to 79" to read "sections 64 to 84" and inserted the words "or boilers owned by municipalities" following the word "schoolhouses".

Sec. 83. Operation of condemned vessels.—No steam boiler or unfired steam pressure vessel that has been condemned for further use in this or any other state by an authorized boiler inspector employed by an insurance company or by an inspector authorized to inspect boilers by a state or the federal government shall be operated in this state at a gauge pressure of over 15 pounds. Each steam boiler or unfired steam pressure vessel located in a schoolhouse or owned by a municipality, if condemned, shall not be operated.

Whoever operates a boiler in violation of the provisions of this section shall be punished by a fine of not less than $100. (R. S. c. 25, § 69. 1955, c. 404, § 3. 1957, c. 272, § 7.)

Effect of amendments. — The 1955 amendment added the proviso to the first paragraph.

The 1957 amendment made such proviso into a separate sentence, deleted hot water heating boilers from the enumeration in such sentence and inserted the words "or owned by a municipality" therein.

Board of Construction Safety Rules and Regulations.

Sec. 88-A. Establishment and purpose.—There is hereby created and established the board of construction safety rules and regulations for the purpose of formulating and adopting reasonable safety regulations and codes in order to provide for personal, material and public safety in connection with construction, and such other activities usually associated with the construction industry. The said board shall consist of 8 members of which 6 shall be appointed to membership by the commissioner of labor and industry, subject to the approval of the governor and council. Of the 6 appointed members of the board, 2 shall represent the con-

struction contractors within the state; 2 shall represent the construction workers within the state; and one shall represent the insurance companies licensed to insure workmen's compensation within the state; one shall represent the public. The 7th member of the board shall be the commissioner of labor and industry and the 8th member shall be the insurance commissioner. The chairman shall be elected annually by the members of the board. The board shall meet at least twice yearly at the state capitol, or at any other place designated by the chairman. Of the 6 appointed members, 2 shall be appointed for a term of 2 years; 2 shall be appointed for a term of 3 years; and 2 shall be appointed for a term of 4 years. Each member shall hold office until his successor is duly appointed and qualified. At the expiration of each member's term his successor shall be appointed by the commissioner of labor and industry, subject to the approval of the governor and council, from the same classification in accordance with the provisions of this section for a term of 4 years. In case of a vacancy in board membership, the commissioner of labor and industry, with the approval of the governor and council, shall appoint a member of the proper classification to serve the unexpired term of the absent member.

The 6 appointed members of the board shall serve without salary and shall receive their actual expenses while engaged in the performance of their duties as members of said board. The chairman of said board shall approve and countersign all vouchers for expenditures under the provisions of this section. (1955, c. 466, § 5.)

Sec. 88-B. Definitions.—Under the provisions of sections 88-A to 88-E, inclusive, the following words shall have the following meanings:

"Approved" shall mean as approved by the board of construction safety rules and regulations;

"Board" shall mean the board of construction safety rules and regulations;

"Commissioner" shall mean the commissioner of labor and industry;

"Construction" shall mean and include forming, erection, demolition, dismantling, alteration, repair and moving of buildings and all other structures and all operations in connection therewith; and shall also include all excavation, roadways, sewers, trenches, tunnels, pipe lines and all other operations pertaining thereto. The term "construction" shall only apply to persons and corporations engaged for hire, or by virtue of a contract, who have 5 or more employees, and shall not apply to construction for self use. (1955, c. 466, § 5.)

Sec. 88-C. Duties and powers of the board.—The board shall formulate and adopt reasonable rules and regulations for safe and proper operations in construction within the state. The rules and regulations so formulated shall conform as far as practicable to the standard safety codes for construction. Such rules and regulations shall become effective 90 days after the date they are adopted; provided, however, that before any rules and regulations are adopted a public hearing shall be held after suitable notice has been published in at least 3 daily newspapers within the state. (1955, c. 466, § 5.)

Sec. 88-D. Appeals.—Any person aggrieved by an order or act of the inspector or the department under the provisions of sections 88-A to 88-E, inclusive, may, within 15 days after notice thereof, appeal from such order or act to the board which shall hold a hearing thereon, and said board shall, after such hearing, issue an appropriate order either approving or disapproving said order or act.

Any such order of said board or any rule or regulation formulated by said board shall be subject to review by a justice of the superior court in term time or vacation by an appeal taken within 30 days after the date of such order to the superior court held in and for the county in which the operation is located at the instance of any party in interest and aggrieved by said order or decision. Such appeal shall be prosecuted by petition to which such party shall annex the order of the board and in which the appellant shall set out the substance of and the reasons for the

appeal. Upon the filing thereof the court in term time or a justice thereof in vacation shall order notice thereof. Upon the evidence and after hearing which shall be held not less than 7 days after notice thereof, the court or a justice thereof may modify, affirm or reverse the order of the board and the rule or regulation on which it is based in whole or in part in accordance with law and the weight of the evidence. The court or a justice thereof shall, upon hearing, determine whether the filing of the appeal shall operate as a stay of any order pending the final determination of the appeal, and may impose such terms and conditions as may be deemed proper. (1955, c. 466, § 5.)

Sec. 88-E. Exceptions.—The provisions relating to safety in the construction industry shall not apply to construction for self use providing not more than 5 persons are employed for wages in such construction or that such construction is not performed by a party for hire under a verbal or written contract. (1955, c. 466, § 5.)

Board of Elevator Rules and Regulations.

Sec. 116. Definitions.

"Elevator" shall mean a hoisting and lowering mechanism equipped with a car or platform which moves in guides in a substantially vertical direction, and shall include the doors, well, enclosures, means and appurtenances required by these regulations. The term "elevator" shall not include a dumb-waiter, endless belt, conveyor, chain or bucket hoist or temporary devices used for the primary purpose of elevating or lowering building materials, nor shall it include tiering, piling, feeding or other machines or devices giving service within only 1 story. (1955, c. 3.)

Effect of amendment.—The 1955 amendment changed the first sentence of the paragraph of the sixth paragraph by extending the definition of "elevator" to include "doors, well, enclosures, means and appurtenances." As the rest of the section was not changed, only the sixth paragraph is set out.

Bedding and Upholstered Furniture.

Sec. 155. Definitions.—

I. "Article of bedding" in sections 155 to 162, inclusive, shall mean any mattress, upholstered box spring, pillow, comforter, cushion, muff, bed quilt or similar article designed for use for sleeping purposes. "Article of bedding" in sections 155 to 162, inclusive, shall also mean any glider, hammock, chaise lounge or other substantially similar article which is wholly or partly upholstered. (1955, c. 151, § 1)

II-A. "Cushion" in sections 155 to 162, inclusive, shall mean any bag or case made of leather, cotton or other textile or plastic material, which is filled in whole or in part with concealed material, capable of use for sitting, sleeping, resting or reclining purposes but does not include any seat or cushion which is used as an integral part of any automobile, truck, bus, airplane, railroad equipment or on any mechanized equipment used generally in the construction industry or in agriculture. (1955, c. 151, § 2)

Effect of amendment.—The 1955 amendment added the second sentence of subsection I. It also added subsection II-A. As the rest of the section was not changed by the amendment, only subsections I and II-A are set out.

Sec. 160. Administration and enforcement.—The department is charged with the administration and enforcement of the provisions of sections 155 to 162, inclusive; and may make and enforce reasonable rules and regulations for the enforcement of said sections, and shall have the power through its officers or agents to inspect the manufacture and sale or delivery of all articles or materials subject to the provisions of sections 155 to 162, inclusive, to open and examine the contents thereof and to seize and hold for evidence any article in whole or in

part which he has reason to believe is made or offered for sale in violation of the provisions of sections 155 to 162, inclusive, or the rules and regulations of the department; and any places where any articles covered by said sections are made, remade or offered for sale, or where sterilization or disinfecting is performed under the provisions of said sections, shall be subject to inspection by the department through its officers or agents. (1947, c. 330. 1953, cc. 35, 333. 1955, c. 151, § 3.)

Effect of amendment.—The 1955 amendment inserted the provision empowering the department to inspect the manufacture, sale or delivery of articles, etc., and to open and examine the contents thereof. It also inserted the words "in whole or in part which he has reason to believe is" near the middle of the section.

Appeals.

Sec. 164. Appeals.—Any order by a board created and established under this chapter, or any rule, regulation, determination or declaration formulated by such board or by the commissioner, shall be subject to review by a justice of the superior court, in term time or vacation, by an appeal taken within 30 days after the effective date of such rule, regulation, determination or declaration to the superior court, held in or for the county in which the operation is located, at the instance of any party in interest and aggrieved by said rule, regulation, determination or declaration. Such appeal shall be prosecuted by petition. Upon the filing thereof the court in term time or a justice thereof in vacation shall order notice thereof. Upon the evidence and after hearing, which shall be held not less than 7 days after notice thereof, the court or a justice thereof may modify, affirm or reverse the rule, regulation, determination or declaration in whole or in part in accordance with law and the weight of the evidence. The court or a justice thereof shall, upon hearing, determine whether the filing of the appeal shall operate as a stay of any rule, regulation, determination or declaration pending the final determination of the appeal, and may impose such terms and conditions as may be deemed proper. (1957, c. 28.)

Chapter 31.

Industrial Accidents.

The Workmen's Compensation Act.

Sec. 2. Definitions.

II. Employee. "Employee" shall include officials of the state, counties, cities, towns which have accepted the provisions of this act, water districts and all other quasi-municipal corporations of a similar character and every person in the service of another under any contract of hire, express or implied, oral or written, except: (1955, c. 282.)

Effect of amendment.—The 1955 amendment inserted in the introductory paragraph of subsection II the words "officials of the state, counties, cities, towns which have accepted the provisions of this act, water districts and all other quasi-municipal corporations of a similar character and." As the rest of the section was not changed only the introductory paragraph of subsection II is set out.

Sec. 3. Employers lose common law defenses.

A non-assenting employer has no duty to anticipate an employee's negligence. Lyle v. Bangor & Aroostook R. R. Co., 150 Me. 327, 110 A. (2d) 584.

Employee cannot recover where his negligence is sole proximate cause of injury.—Even though the defense that the employee was negligent is not available to a non-assenting employer under the Workmen's Compensation Act, where the employee's negligence is not only contributory but is the sole proximate cause of in-