

of any district court of any county in the state, on application of the Commission or of a Commissioner, shall compel obedience by attachment proceedings as for contempt, as in the case of the disobedience of a subpoena issued by such court.

(5) To adopt reasonable and proper rules and regulations relative to the exercise of its powers and duties, and proper rules to govern its proceedings and to regulate the mode and manner of all investigations and hearings. But such rules and regulations shall not be effective until ten days after their adoption. A copy of such rules and regulations shall be delivered to every citizen making application therefor.

(6) To collect, collate and publish statistical and other information relating to the work under its jurisdiction and to make public reports in its judgment necessary. On or before the first Monday in January of each year the Commission shall report its doings, conclusions and recommendations to the Governor, which report shall be printed and distributed biennially to the members of the Legislature and otherwise as the Commission may direct.

(7) To establish and maintain branch offices as needed for the conduct of its affairs.

Sec. 16. **Inconsistent acts repealed.**—All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Sec. 17. **Effective Mar. 15, 1921.**—This act shall take effect from and after the fifteenth day of March, 1921.

Approved March 14, 1921.

CHAPTER 82—H. F. No. 350.

An act prescribing the liability of an employer to make compensation by way of damages for injuries due to accident or occupational disease received by an employe arising out of and in the course of employment, modifying common law and statutory remedies, in such cases; establishing an alternative elective schedule of compensation, regulating procedure for the determination of liability and compensation thereunder in certain cases, repealing Chapter 467, General Laws of Minnesota for 1913, and acts amendatory thereof; and all acts and parts of acts inconsistent with this act, and defining terms used therein and prescribing penalties and forfeitures for the violation thereof.

Be it enacted by the Legislature of the State of Minnesota:

Part 1.

COMPENSATION BY ACTION AT LAW—MODIFICATION OF REMEDIES.

Section 1. **Injury or death of employe—Liability of employer—Compensation by action at law—Modification of reme-**

dies.—When personal injury or death is caused to an employe by accident arising out of and in the course of his employment, of which injury the actual or lawfully imputed negligence of the employer is the natural and proximate cause, he, or, in case of death, his personal representative, for the exclusive benefit of the surviving spouse and next of kin, shall receive compensation by way of damages therefor from his employer, provided the employe was himself not wilfully negligent at the time of receiving such injury; and the question of whether the employe was wilfully negligent shall be one of fact to be submitted to the jury, subject to the usual powers of the court over verdicts rendered contrary to the evidence, or to law.

Sec. 2. Certain defenses excluded.—In all cases brought under part 1 of this act, it shall not be a defense (a) that the employe was negligent, unless and except it shall also appear that such negligence was willful; (b) that the injury was caused by the negligence of a fellow employe; (c) that the employe has assumed the risks inherent in, or incidental to the work, or arising out of and in the course of his employment from the failure of the employer to provide and maintain safe premises and suitable appliances, which grounds of defense are hereby abolished except as provided in section 4.

Sec. 3. Defenses—When excluded.—If the employer elects not to come under part 2 of this act, he loses the right to interpose the three defenses named in section 2 in any action brought against him for personal injury or death of an employe provided that this section shall not be held to apply to any employer of farm labor, whether or not he has elected to accept part 2 of this act.

Sec. 4. Defenses—When available.—If the employer becomes subject to part 2 of this act and the employe does not, then the employer may set up such defenses as are available at the time of the passage of this act.

Sec. 5. Death claimed.—The provisions of Sections 1, 2, 3, and 4 shall apply to any claim for the death of an employe arising under section 4503 of chapter 84, Revised Laws of Minnesota 1905, and the acts or parts of acts amendatory thereof, concerning death by wrongful act.

Sec. 6. Burden of proof.—In all actions at law brought pursuant to part 1 of this act, the burden of proof to establish wilful negligence of the injured employe shall be upon the defendant.

Sec. 7. Legal services and disbursements when lien—Medical services, etc.—No claim for legal services or disbursements pertaining to any demand made or suit or proceeding brought under the provisions of this act shall be an enforceable lien against the amount paid as compensation, or be valid or binding in any other respect, unless the same be approved in writing by

the judge presiding at the trial, or in case of settlement without trial, by a judge of the district court, or in cases arising under part 2 of this act by the Industrial Commission. Provided, that if notice in writing be given the defendant of such claims for legal services or disbursements, the same shall be a lien against the amount paid as compensation, subject to determination of the amount and approval hereinbefore provided. All sums allowed as liens against such compensation or paid for legal, medical and hospital services and other disbursements arising under part 2 of this act, shall be reported by the employe to the Industrial Commission in writing within ten days after such payment.

PART II.

ELECTIVE COMPENSATION.

Sec. 8. **Not applicable to certain employments.**—This act shall not be construed or held to apply to any common carrier by steam railroad, domestic servants, farm laborers or persons whose employment at the time of the injury is casual, and not in the usual course of the trade, business, profession or occupation of his employer. Provided, that part 2 of this act shall apply to Farm Labor if the employer shall have elected to accept the provisions of such part 2 by posting a written or printed statement of his election and filing a duplicate thereof with the Industrial Commission as provided by section II of this act, not less than thirty (30) days before the accident occurs to an employe, for which damages or compensation may be claimed, unless the employe shall signify his election, as provided by section II of this act, not to accept or be bound by the provisions of this act, in which case said part 2 shall not apply, and provided further that either party may terminate his acceptance or election not to accept the provisions of part 2 of this act as provided by section 12 hereof.

Sec. 9. **Agreement to be subject to provisions of part 2.**—If both employer and employe, shall, by agreement expressed or implied, or otherwise, as herein provided, become subject to part 2 of this act, compensation according to the schedules hereinafter contained shall be paid by every such employer, in every case of personal injury or death of his employe, caused by accident, arising out of and in the course of employment, without regard to the question of negligence, except accidents which are intentionally self-inflicted or when the intoxication of such employe is the natural or proximate cause of the injury, and the burden of proof of such fact shall be upon the employer. It is hereby made the duty of all such employers to commence payment of compensation at the time and in the manner prescribed by part 2 of this act without the necessity of any agreement or order of the Commission, payments to be made at the intervals when the

wage was payable as nearly as may be. No agreement by any employe or dependent to take as compensation an amount less than that prescribed by law shall be valid.

Sec. 10. Surrender of other rights.—Such agreement or the election hereinafter provided for shall be a surrender by the parties thereto of their rights to any other method, form or amount of compensation or determination thereof than as provided in part 2 of this act, and an acceptance of all the provisions of part 2 of this act, and shall bind the employe himself, and for compensation for his death shall bind his personal representative, the surviving spouse and the next of kin, as well as the employer, and those conducting his business during bankruptcy or insolvency, for compensation for death or injury, as provided for by part 2 of this act.

Sec. 11. Presumption as to acceptance of provisions of part 2—Election not to accept—Notice.—All contracts of employment made after the taking effect of this act shall be presumed to have been made with reference, and subject to the provisions of part 2, unless otherwise expressly stated in the contract, in writing, or unless written or printed notice has been given by either party to the other, as hereinafter provided, that he does not accept the provisions of part 2. Every employer and every employe is presumed to have accepted and come under part 2 hereof, unless thirty (30) days prior to accident, he shall have signified his election not to accept or be bound by the provisions of part 2. This election not to accept part 2 shall be by notice as follows:

The employer shall post and keep posted in his shop or place of business a written or printed notice of his election not to be bound by part 2 hereof and file a duplicate thereof with the Industrial Commission.

The employe shall give written or printed notice to the employer of his election not to be bound by part 2, and file a duplicate with affidavit of service attached thereto with the Industrial Commission.

Sec. 12. Termination of acceptance or election—Notice.—Either party may terminate his acceptance, or his election not to accept the provisions of part 2 by thirty (30) days' written notice to the other, such notice to be given as provided in Section 11. A duplicate of such notice with affidavit of service attached thereto shall be filed with the Industrial Commission and the time shall not begin to run until the notice is so filed.

Sec. 13. Minors have power to contract, etc.—Minors who are permitted to work by the laws of this state shall, for the purpose of part 2 of this act, have the same power to contract, make election of remedy, make settlements, and receive compensation as adult employes; subject, however, to the power of

the Industrial Commission, in its discretion at any time to require the appointment of a guardian to make such settlement and to receive moneys thereunder or under an award.

Sec. 14. Schedule of compensation.—Following is the schedule of compensation: (a) for injury producing temporary total disability, sixty-six and two-thirds per centum of the daily wage at the time of injury subject to a maximum compensation of eighteen (\$18.00) dollars per week and a minimum of eight (\$8.00) dollars per week; provided, that if at the time of injury the employe receives wages of eight (\$8.00) dollars or less per week, then he shall receive the full amount of such wages per week. This compensation shall be paid during the period of such disability not, however, beyond three hundred (300) weeks, payment to be made at the intervals when the wage was payable, as nearly as may be.

(b) In all cases of temporary partial disability the compensation shall be sixty-six and two-thirds per centum of the difference between the daily wage of the workman at the time of injury and the wage he is able to earn in his partially disabled condition. This compensation shall be paid during the period of such disability, not, however, beyond three hundred (300) weeks, payment to be made at the intervals when the wage was payable as nearly as may be and subject to the same maximum as stated in clause (a).

(c) For the permanent partial disability from the loss of a member, the compensation during the healing period to be determined by the Commission but not exceeding fifteen weeks shall be sixty-six and two-thirds per centum of the difference between the daily wage of the workman at the time of injury and the wages he shall be able to earn, if any, in his partially disabled condition, unless on application to the Industrial Commission, made in the same manner as provided in section 19 for additional medical service, the period is extended by the Commission for not to exceed an additional ten weeks; and thereafter, and in addition thereto, compensation shall be that named in the following schedule:

For the loss of a thumb, sixty-six and two-thirds per centum of the daily wage at the time of injury during sixty (60) weeks.

For the loss of a first finger, commonly called index finger, sixty-six and two-thirds per centum of the daily wage at the time of injury during thirty-five (35) weeks.

For the loss of a second finger, sixty-six and two-thirds per centum of the daily wage at the time of the injury during thirty (30) weeks.

For the loss of a third finger, sixty-six and two-thirds per centum of the daily wage at the time of the injury during twenty (20) weeks.

For the loss of a fourth finger, commonly called the little finger, sixty-six and two-thirds per centum of the daily wage at the time of injury during fifteen (15) weeks.

The loss of the first phalange of the thumb, or of any finger, shall be considered equal to the loss of one-half of such thumb, or finger, and compensation shall be paid at the prescribed rate during one-half the time specified above for such thumb or finger.

The loss of one and one-half or more phalanges shall be considered as the loss of the entire finger or thumb, provided, however, that in no case shall the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand.

For the loss of a great toe, sixty-six and two-thirds per centum of the daily wage at the time of injury during thirty (30) weeks.

For the loss of one of the toes other than a great toe, sixty-six and two-thirds per centum of the daily wage at the time of injury during ten (10) weeks.

The loss of the first phalange of any toe shall be considered to be equal to the loss of one-half of such toe, and compensation shall be paid at the prescribed rate during one-half the time specified above for such toe.

The loss of one and one-half or more phalanges shall be considered as the loss of the entire toe.

For the loss of a hand, not including the wrist movement, sixty-six and two-thirds per centum of the daily wage at the time of injury during one hundred and fifty (150) weeks.

For the loss of a hand, including the wrist movement, sixty-six and two-thirds per centum of the daily wage at the time of injury during one hundred and seventy-five (175) weeks.

For the loss of an arm, sixty-six and two-thirds per centum of the daily wage at the time of injury during two hundred (200) weeks.

Amputation of the arm below the elbow shall be considered as the loss of a hand including wrist movement, if enough of the forearm remains to permit the use of an effective artificial member, otherwise it shall be considered as the loss of an arm.

For the loss of a foot, not including the ankle movement, sixty-six and two-thirds per centum of the daily wage at the time of injury during one hundred and twenty-five (125) weeks.

For the loss of a foot including ankle movement, sixty-six and two-thirds per centum of the daily wage at the time of injury during one hundred and fifty (150) weeks.

For the loss of a leg, if enough of the leg remains to permit the use of an effective artificial member, sixty-six and two-thirds

per centum of the daily wage at the time of injury during one hundred and seventy-five (175) weeks.

For the loss of a leg so close to the hip that no effective artificial member can be used, sixty-six and two-thirds per centum of the daily wage at the time of injury during two hundred (200) weeks.

Amputation of the leg below the knee shall be considered as loss of foot including ankle movement, if enough of the lower leg remains to permit the use of an effective artificial member; otherwise it shall be considered as loss of leg.

For the loss of an eye, sixty-six and two-thirds per centum of the daily wage at the time of injury during one hundred (100) weeks.

For complete permanent loss of hearing in one ear, sixty-six and two-thirds per centum of the daily wage at the time of injury during fifty-two (52) weeks.

For the complete permanent loss of hearing in both ears, sixty-six and two-thirds per centum of the daily wage at the time of injury during one hundred and fifty-six (156) weeks.

For serious disfigurement other than the loss of a member materially affecting the employability of the injured person, sixty-six and two-thirds per centum of the daily wage at the time of injury during fifty (50) weeks.

For the loss of an eye and a leg, sixty-six and two-thirds per centum of the daily wage at the time of injury during three hundred and fifty (350) weeks.

For the loss of an eye and arm, sixty-six and two-thirds per centum of the daily wage at the time of injury during three hundred and fifty (350) weeks.

For the loss of an eye and a hand, sixty-six and two-thirds per centum of the daily wage at the time of injury during three hundred and twenty-five (325) weeks.

For the loss of an eye and a foot, sixty-six and two-thirds per centum of the daily wage at the time of injury during three hundred (300) weeks.

For the loss of two arms other than at the shoulder, sixty-six and two-thirds per centum of the daily wage at the time of injury during four hundred (400) weeks.

For the loss of two hands, sixty-six and two-thirds per centum of the daily wage at the time of injury during four hundred (400) weeks.

For the loss of two legs, other than so close to the hips that no effective artificial members can be used, sixty-six and two-thirds per centum of the daily wage at the time of injury during four hundred (400) weeks.

For the loss of two feet, sixty-six and two-thirds per centum

of the daily wage at the time of injury during four hundred (400) weeks.

For the loss of one arm and the other hand, sixty-six and two-thirds per centum of the daily wage at the time of injury during four hundred (400) weeks.

For the loss of one hand and one foot, sixty-six and two-thirds per centum of the daily wage at the time of injury during four hundred (400) weeks.

For the loss of one leg and the other foot, sixty-six and two-thirds per centum of the daily wage at the time of injury during four hundred (400) weeks.

For the loss of one leg and one hand, sixty-six and two-thirds per centum of the daily wage at the time of injury during four hundred (400) weeks.

For the loss of one arm and one foot, sixty-six and two-thirds per centum of the daily wage at the time of injury during four hundred (400) weeks.

For the loss of one arm and one leg, sixty-six and two-thirds per centum of the daily wage at the time of injury during four hundred (400) weeks.

Where an employe sustains concurrent injuries resulting in concurrent disabilities, he shall receive compensation only for the injury which entitles him to the largest amount of compensation; but this section shall not affect liability for serious disfigurement materially affecting the employability of the injured person or liability for the concurrent loss of more than one member, for which members compensations are provided in the specific schedule and in subsection (e) below.

In all cases of permanent partial disability it shall be considered that the permanent loss of the use of a member shall be equivalent to and draw the same compensation as the loss of that member; but the compensation in and by said schedule provided, shall be in lieu of all other compensation in such cases, except as otherwise provided by this section.

In cases of permanent partial disability due to injury to a member, resulting in less than total loss of such member, not otherwise compensated in this schedule, compensation shall be paid at the prescribed rate during that part of the time specified in the schedule for the total loss of the respective member, which the extent of injury to the member bears to its total loss.

All the compensations provided in clause (c) of this section for loss of members or loss of the use of members are subject to the same limitations as to maximum and minimum as are stated in clause (a).

In addition to the compensation provided in the foregoing schedule for loss or loss of the use of a member, the compensation during the period of retraining for a new occupation as cer-

tified by the division of re-education, operating under Chapter 365, Laws of Minnesota 1919, shall be sixty-six and two-thirds per centum of the daily wage at the time of the injury, not exceeding twenty-five (25) weeks, provided the injury is such as to entitle the workman to compensation for at least seventy-five (75) weeks in the schedule of indemnities for permanent impairments and provided the Industrial Commission on application thereto shall find that such retraining is necessary and make an order for such compensation.

In all other cases of permanent partial disability not above enumerated the compensation shall be sixty-six and two-thirds per centum of the difference between the wage of the workman at the time of the injury and the wage he is able to earn in his partially disabled condition subject to a maximum of eighteen (\$18.00) dollars per week. Compensation shall continue during disability, not however beyond three hundred (300) weeks.

(d) For permanent total disability as defined in subsection (e) below, sixty-six and two-thirds per centum of the daily wage at the time of the injury, subject to a maximum compensation of eighteen (\$18.00) dollars per week, and a minimum compensation of eight (\$8.00) dollars per week, provided, that if at the time of the injury the employe was receiving wages of eight (\$8.00) dollars or less per week, then he shall receive the full amount of his wages per week. This compensation shall be paid during the permanent total disability of the injured person, but the total amount payable under this subsection shall not exceed ten thousand (\$10,000.) dollars in any case; payments to be made at the intervals when the wage was payable as nearly as may be. Provided, however, that in case an employe who is permanently and totally disabled becomes an inmate of a public institution, then no compensation shall be payable during the period of his confinement in such institution, unless he has wholly dependent on him for support a person or persons named in subsections (1), (2) and (3) of section 15 (whose dependency shall be determined as if the employe were deceased); in which case the compensation provided for in this subsection shall during the period of such employe's confinement, as aforesaid, be paid for the benefit of said persons so dependent during dependency.

(e) The total and permanent loss of the sight of both eyes or the loss of both arms at the shoulder, or the loss of both legs so close to the hips that no effective artificial members can be used, or complete and permanent paralysis, or total and permanent loss of mental faculties, or any other injury which totally incapacitates the employe from working at an occupation which brings him an income, shall constitute total disability.

(f) In case a workman sustains an injury due to accident aris-

ing out of and in the course of his employment, and during the period of disability caused thereby, death results proximately therefrom, all payments previously made as compensation for such injury shall be deducted from the compensation, if any, due on account of the death.

Sec. 15. Dependents and allowances.—(1) For the purpose of this act, the following described persons shall be conclusively presumed to be wholly dependent: (a) wife, unless it be shown that she was voluntarily living apart from her husband at the time of his injury or death. (b) Minor children under the age of sixteen years.

(2) Children between sixteen and eighteen years of age, or those over eighteen if physically or mentally incapacitated from earning, shall prima facie, be considered dependent.

(3) Wife, child, husband, mother, father, grandmother, grandfather, grandchild, sister, brother, mother-in-law, father-in-law, who were wholly supported by the deceased workman at the time of his death and for a reasonable period of time immediately prior thereto, shall be considered his actual dependents, and payment of compensation shall be made to them in the order named.

(4) Any member of a class named in subdivision (3), who regularly derived part of his support from the wages of the deceased workman at the time of his death and for a reasonable period of time immediately prior thereto, shall be considered his partial dependent, and payment of compensation shall be made to such dependents in the order named.

(5) In death cases, compensation payable to dependents shall be computed on the following basis, and shall be paid to the persons entitled thereto, without administration.

(6) If the deceased employe leave a widow and no dependent child, there shall be paid to the widow forty per centum of the daily wage at the time of the injury of the deceased.

(7) If the deceased employe leave a widow or widower and one dependent child, there shall be paid to the widow or widower for the benefit of herself or himself and such child, fifty per centum of the daily wage at the time of injury of the deceased.

(8) If the deceased employe leave a widow or widower and either two or three dependent children, there shall be paid to the widow or widower for the benefit of herself or himself and such children, sixty per centum of the daily wage at the time of injury of the deceased.

(9) If the deceased employe leave a widow or widower and four or more dependent children, there shall be paid to the widow or widower for the benefit of herself or himself and such children, sixty-six and two-thirds per centum of the daily wage at the time of injury of the deceased.

(10) In all cases where compensation is payable to the wid-

ow or widower for the benefit of herself or himself and dependent child or children, the Industrial Commission shall have power to determine in its discretion what portion of the compensation shall be applied for the benefit of any such child or children and may order the same paid to a guardian.

(11) In the case of re-marriage of a widow without children, she shall receive a lump sum settlement equal to one-half of the amount of the compensation remaining unpaid. This sum shall be paid to her within sixty (60) days after written notice to the employer of such re-marriage. In case of re-marriage of a widow who has dependent children, the unpaid balance of compensation which would otherwise become due to her shall be paid to such children.

(12) If the deceased employe leave a dependent orphan, there shall be paid forty-five per centum of the daily wage at the time of injury of the deceased, with ten per centum additional for each additional orphan with a maximum of sixty-six and two-thirds per centum of such wages.

(13) If the deceased employe leave a dependent husband and no dependent child, there shall be paid to the husband thirty per centum of the daily wage at the time of injury of the deceased.

(14) If the deceased employe should leave no widow or child or husband entitled to any payment hereunder, but should leave a parent or parents, either or both of whom are wholly dependent on the deceased, there shall be paid, if only one parent, thirty-five per centum of the daily wage at the time of injury of the deceased, and if both parents, forty-five per centum of the daily wage at the time of injury of the deceased to such parent or parents.

(15) If the deceased should leave no widow or child or husband or parent entitled to any payment hereunder, but should leave a grand-parent, grandchild, brother, sister, mother-in-law, or father-in-law wholly dependent on him for support, there shall be paid to such dependent, if but one, thirty per centum of the daily wage at the time of injury of the deceased, or if more than one, thirty-five per centum of the daily wage at the time of injury of the deceased, divided between or among them share and share alike.

(16) If compensation is being paid under part 2 of this act to any dependent, such compensation shall cease upon the death or marriage of such dependent, unless otherwise provided herein.

(17) Partial dependents shall be entitled to receive only that proportion of the benefits provided for actual dependents which the average amount of wages regularly contributed by the deceased to such partial dependent at, and for a reasonable time immediately prior to the injury, bore to the total income of the dependent during the same time.

(18) In all cases where death results to an employe caused by accident arising out of and in the course of employment, the employer shall pay in addition to the expenses provided for in section 19, the expense of burial, not exceeding in amount one hundred and fifty (\$150.00) dollars, except in cases where an insurer of the deceased or a benefit association is liable therefor, or for a part thereof; in which case the employer shall not be required to pay any part of such expense, for which such insurer or a benefit association is liable, unless such non-payment by the employer would diminish the benefits received by the dependents of the deceased from any such insurer or a benefit association. In case any dispute arises as to the reasonable value of the services rendered in connection with the burial, the same shall be determined and approved by the Industrial Commission before payment, after such reasonable notice to interested parties as the Industrial Commission shall require. If the deceased leave no dependents, no compensation shall be payable except as provided by this subsection or section 16 hereof.

(19) The compensation payable in case of death to persons wholly dependent shall be subject to a maximum compensation of eighteen (\$18.00) dollars per week and a minimum of eight (\$8.00) dollars per week; provided that if at the time of injury the employe receives wages of eight (\$8.00) dollars or less per week, then the compensation shall be the full amount of such wages per week. The compensation payable to partial dependents shall be subject to a maximum of eighteen (\$18.00) dollars per week and a minimum of eight (\$8.00) dollars per week; provided that if the income loss of the said partial dependents by such death is eight (\$8.00) dollars or less per week, then the dependents shall receive the full amount of their income loss. This compensation shall be paid during dependency, but shall not exceed seventy-five hundred (\$7500.00) dollars in case of a dependent wife, child, children or orphan, and shall not exceed three hundred (300) weeks in case of any other dependent, payments to be made at the intervals when the wage was payable as nearly as may be.

(20) Actual dependents shall be entitled to take compensation in the order named in subsection (3) above, during dependency, until sixty-six and two-thirds per centum of the daily wage of the deceased at the time of injury shall have been exhausted, provided that such compensation shall not exceed seventy-five hundred (\$7500.00) dollars in case of a dependent wife, child, children or orphan, or continue beyond three hundred (300) weeks in case of any other dependent; but the total compensation to be paid to all actual dependents of a deceased employe shall not exceed in the aggregate eighteen (\$18.00) dollars per week.

Sec. 16. Injury increasing disability.—If an employe receive an injury, which of itself, would only cause permanent partial disability, but which combined with a previous disability does in fact cause permanent total disability, the employer shall only be liable for the permanent partial disability caused by the subsequent injury.

Provided, however, that in addition to compensation for such permanent partial disability and after the cessation of the payments for the prescribed period of weeks, the employe shall be paid by the state the remainder of the compensation that would be due for permanent total disability, out of a special fund created for such purpose in the following manner:

Every employer shall pay to the state treasurer for every case of injury occurring in his employ and causing death in which there are no persons entitled to compensation the sum of one hundred (\$100.00) dollars. The State Treasurer shall be the custodian of this special fund and the Industrial Commission shall direct the distribution thereof, the same to be paid as other payments of compensation are paid. In case deposit is or has been made under the provisions of this section, and dependency later is shown, the State Treasurer is hereby authorized to refund such deposit.

Sec. 17. Liability of joint employers.—In case any employe for whose injury or death compensation is payable under part 2 of this act shall, at the time of the injury, be employed and paid jointly by two or more employers subject to this act, such employers shall contribute the payment of such compensation in the proportion of their several wage liability to such employe. If one or more but not all of such employers should be subject to part 2 of this act, and otherwise subject to liability for compensation hereunder, then the liability of such of them as are so subject, shall be to pay the proportion of the entire compensation which their proportionate wage liability bears to the entire wages of the employe; provided, however, that nothing in this section shall prevent any arrangement between such employers for a different distribution, as between themselves, of the ultimate burden of such compensation.

Sec. 18. When compensation begins.—In cases of temporary total or temporary partial disability no compensation shall be allowed for the first week after the disability commenced except as provided by section 19, nor in any case unless the employer has actual knowledge of the injury or is notified thereof within the period specified in section 20. Provided, however, that if such disability continues for four weeks or longer, such compensation shall be computed from the commencement of such disability.

Sec. 19. Medical and surgical treatment.—Such medical, sur-

gical and hospital treatment, including nursing, medicines, medical and surgical supplies, crutches and apparatus, including artificial members, as may reasonably be required at the time of the injury, and during the disability for not exceeding ninety (90) days and not exceeding one hundred (\$100.00) dollars in value, to cure and relieve from the effects of the injury, shall be provided by the employer and in case of his inability or refusal seasonably to do so, the employer shall be liable for the reasonable expense incurred by or on behalf of the employe in providing the same; provided, however, that upon request by the employe made during or after said period of ninety (90) days and necessity being shown therefor the Industrial Commission may require the above treatment, articles and supplies for the cure and relief from the effects of such injury for such further time and amount as is just under the facts shown.

The Commission may upon the petition of an employe and a proper showing of cause therefor order a change of physicians and designate a physician suggested by the injured employe or by the Commission itself and in such case the expense thereof shall be borne by the employer upon the same terms and conditions as hereinbefore provided in this section for medical and surgical treatment and attendance.

The pecuniary liability of the employer for the treatment, articles and supplies herein required, shall be limited to such charges therefor as prevail in the same community for similar treatment, articles and supplies furnished to injured persons of a like standard of living, when the same are paid for by the injured persons; and in all cases of dispute as to the value of the treatment, articles or supplies furnished to or for an injured employe, either party may require that the same, before payment, shall be determined and approved by the Industrial Commission upon such reasonable notice to interested parties as the Industrial Commission shall require.

Sec. 20. **Notice of injury, etc.**—Unless the employer shall have actual knowledge of the occurrence of the injury, or unless the injured workman, or a dependent, or someone in behalf of either, shall give notice thereof to the employer in writing, within fourteen (14) days after the occurrence of the injury, then no compensation shall be due until such notice is given or knowledge obtained. If the notice is given, or the knowledge obtained within thirty (30) days from the occurrence of the injury, no want, failure, or inaccuracy of a notice shall be a bar to obtaining compensation, unless the employer shall show that he was prejudiced by such want, defect or inaccuracy, and then only to the extent of such prejudice. If the notice is given, or the knowledge obtained within ninety (90) days, and if the employe, or other beneficiary, shall show that his failure to give

prior notice was due to his mistake, inadvertence, ignorance of fact or law, or inability, or to the fraud, misrepresentation or deceit of the employer or his agent, then compensation may be allowed, unless the employer shall show that he was prejudiced by failure to receive such notice, in which case the amount of compensation shall be reduced by such sum, as shall fairly represent the prejudice shown. Unless knowledge be obtained or notice given, within ninety (90) days after the occurrence of the injury, no compensation shall be allowed.

- Sec. 21. **Service and form of notice.**—The notice referred to in section 20 may be served personally upon the employer, or upon any agent of the employer upon whom a summons may be served in a civil action, or by sending it by registered mail to the employer at the last known residence or business place thereof within the state, and shall be substantially in the following form:

NOTICE.

“You are hereby notified that an injury was received by (name)who was in your employment at (place)while engaged as (kind of work).....on or about theday of19.., and who is now located at (give town, street and number)that so far as now known, the nature of the injury wasand that compensation may be claimed therefor.

(Signed)

(giving address)

Dated19.....”

But no variation from this form shall be material if the notice is sufficient to advise the employer that a certain employe, by name, received a specified injury in the course of his employment on or about a specified time, at or near a certain place specified.

Sec. 22. **Limit of actions.**—The time within which the following acts shall be performed under part 2 of this act shall be limited to the following periods, respectively:

(1) Actions or proceedings by an injured employe to determine or recover compensation; two years after the employer has made written report of the injury to the Industrial Commission.

(2) Actions or proceedings by dependents to determine or recover compensation two years after the receipt by the Industrial Commission of notice in writing of death given by the employer. Provided, that in any such case, if a dependent of the deceased, or anyone in his behalf, shall give notice of such death to the Industrial Commission, said Commission shall forthwith

notify in writing the employer of the time and place of such death. In case the deceased was a native of a foreign country, and leaves no known dependent or dependents within the United States, it shall be the duty of the Industrial Commission to give written notice of said death to the consul or other representative of said foreign country forthwith.

(3) In case of physical or mental incapacity, other than minority, of the injured person or his dependents to perform or cause to be performed any act required within the time by this section specified, the period of limitation in any such case shall be extended for two years from the date when such incapacity ceases.

Sec. 23. Examination and verification of injury.—(1) The injured employe must submit himself to examination by the employer's physician, if requested by the employer, and at reasonable times thereafter upon the employer's request. The employe shall be entitled upon request to have his own physician present at any such examination. Each party shall defray the cost of his own physician.

(2) In case of dispute as to the injury, the Industrial Commission, or the Commissioner or referee conducting the hearing may, of its or his own motion, or upon request of any interested party provide a neutral physician of good standing and ability to make an examination of the injured person, and report his findings to the Industrial Commission, a Commissioner or Referee as the case may be. The expense of such examination shall be borne by the said parties, or as ordered by the Commission, or Commissioner or Referee.

(3) If the injured employe refuses to comply with any reasonable request for examination, his right to compensation may be suspended by order of the Commissioner and, in such case, no compensation shall be paid while he continues in such refusal.

(4) In all death claims where the cause of death is obscure or disputed, any interested party may request an autopsy and if denied, the Commission may upon petition order the same; the cost of such autopsy shall be borne by the party demanding the same.

(5) Any physician designated by the Commission, Commissioner or Referee, or whose services are furnished or paid for by the employer, who treats, or who makes or is present at any examination, of an injured employe, may be required to testify as to any knowledge acquired by him in the course of such treatment or examination, relative to the injury or the disability resulting therefrom.

Sec. 24. Compensation to alien dependents.—In case a deceased employe, for whose injury or death compensation is payable, leaves surviving him an alien dependent or dependents re-

siding outside of the United States, the Industrial Commission shall direct payment of all compensation due to the deceased or to his dependents, to be made to the duly accredited consular officer of the country of which the beneficiaries are citizens, if such consular officer resides within the State of Minnesota, or if not, to his designated representative residing within the state, and such consular officer or his representative shall be the sole representative of such deceased employe and of such dependents to settle all claims for compensation and to receive for distribution to the persons entitled thereto, all compensation arising hereunder. The settlement and distribution of said funds shall be made only on order of the Commission. Such consular officer or his representative shall furnish, if required by the commission, a good and sufficient bond, satisfactory to the commission, conditioned upon the proper application of the moneys received by him. Before such bond is discharged, such consular officer or representative shall file with the commission a verified account of the items of his receipts and disbursements of such compensation.

Such consular officer or his representative shall, before receiving the first payment of such compensation, and thereafter, when so ordered so to do by the commission, furnish to the commission a sworn statement containing a list of the dependents with the name, age, residence, extent of dependency and relationship to the deceased of each dependent.

Sec. 25. Payment in lump sum.—The amounts of compensation payable periodically hereunder may be commuted to one or more lump sum payments only by order of the commission and on such terms and conditions as the commission may prescribe.

In making such commutations the lump sum payments shall, in the aggregate, amount to a sum equal to the present value of all future installments of compensation calculated on a six percent basis.

Sec. 26. Payment to trustee.—At any time after the amount of any award or commutation has been finally determined by the commission, a sum equal to the present value of all future installments of the compensation calculated on a six percent basis may (where death or the nature of the injury renders the amount of future payments certain) by leave of the commission, be paid by the employer to any savings bank or trust company of this state to be approved and designated by the commission, and such sum, together with all interest thereon, shall, thereafter, be held in trust for the employe or the dependents of the employe, who shall have no further recourse against the employer. The payment of such sum by the employer, evidenced by receipt of the trustee, filed with the Industrial Commission, shall operate as a satisfaction of the compensation liability as to the

employer. Payments from said fund shall be made by the trustee in the same amounts and at the same time as are herein required of the employer until said fund and interest shall be exhausted, excepting as the Commission shall otherwise order. In the appointment of the trustee, preference shall be given, in the discretion of the Industrial Commission, to the choice of the injured employe or the dependents of the deceased employe, as the case may be.

Sec. 27. Compensation preferred claim—Assignment—Exemption.—The right to compensation and all compensation awarded any injured employe or for death claims to his dependents, shall have the same preference against the assets of the employer as other unpaid wages for labor; but such compensation shall not become a lien on the property of third persons by reason of such preference.

Claims for compensation owned by an injured employe or his dependents, shall not be assignable and shall be exempt from seizure or sale for the payment of any debt or liability except as otherwise provided herein.

Sec. 28—Employer to insure employes—Exceptions—Violations—Penalties.—An employer except the state and the municipal subdivision thereof liable under this act to pay compensation shall insure payment of such compensation in some insurance carrier authorized to insure such liability in this state unless such employer shall be exempted in whole or in part from such insurance by the Industrial Commission. An employer desiring to be exempted in whole or in part from insuring his liability for compensation, shall make application to the Industrial Commission, showing his financial ability to pay such compensation, whereupon the Commission, by written order, may make such exemption, as it deems proper. The Commission may, from time to time, require further statement of financial ability of such employer to pay compensation and may, upon ten days' notice in writing, revoke its order granting such exemption, in which case such employer shall immediately insure his liability. As a condition for the granting of an exemption, the Commission shall have authority to require the employer to furnish such security as it may consider sufficient to insure payment of all claims under compensation. Where the security is in the form of a bond or other personal guaranty, the Commission may, at any time, either before or after the entry of an award, upon at least ten days' notice, and opportunity to be heard, require the surety to pay the amount of the award, the same to be enforced in like manner as the award itself may be enforced.

An employer who shall fail to comply with any provision of this section shall be liable to the State of Minnesota for a pen-

alty of fifty (\$50.00) dollars for each such failure and each such penalty shall be recovered in a civil action brought in the name of the state by the Attorney General in any court having jurisdiction thereof, and it shall be the duty of the Industrial Commission, whenever any such failure occurs, to immediately certify the fact thereof to the Attorney General and upon receipt of any such certification the Attorney General shall forthwith commence and prosecute such action. All penalties recovered by the state hereunder shall be paid into the State Treasury.

Sec. 29. Who may insure—Policies, etc.—Any employer who is responsible for compensation as provided under Part 2 of this act may insure the risk in any manner then authorized by law. But those writing such insurance shall, in every case, be subject to the conditions in this section hereinafter named.

If the risk of the employer is carried by any insurer doing business for profit, or by an insurance association or corporation formed of employers, or of employers and workmen, to insure the risks under part 2 of this act, operating by the mutual assessment or other plan or otherwise, then insofar as policies are issued on such risks they shall provide for compensation for injuries or death, according to the full benefits of part 2 of this act. Nothing herein contained shall prevent any employer, with the approval of the Commission, from insuring only a particular class or classes of employes or of risks.

Such policies shall contain a clause to the effect that as between the workman and the insurer, that notice to and knowledge by the employer of the occurrence of the injury shall be deemed notice and knowledge on the part of the insurer; that jurisdiction of the employer for any purpose shall be jurisdiction of the insurer, and that the insurer will, in all things, be bound by and subject to the awards rendered against such employer upon the risk so insured.

Such policies must provide that the workman shall have an equitable lien upon any amount which shall become owing on account of such policy to the employer from the insurer, and in case of the legal incapacity or inability of the employer to receive the said amount and pay it over to the workman or dependents, the said insurer will pay the same direct to said workman or dependents, thereby discharging all obligations under the policy to the employer, and all of the obligations of the employer and insurer to the workman; but such policies shall contain no provisions relieving the insurance company from payment when the employer becomes insolvent or discharged in bankruptcy or otherwise, during the period the policy is in force, if the compensation remains owing.

The insurer must be one authorized by law to conduct such business in the state of Minnesota, and authority is hereby grant-

ed to all insurance companies writing such insurance to include in their policies in addition to the requirements now provided by law; the additional requirements, terms and conditions in this section provided.

No agreement by an employe to pay to an employer any portion of the cost of insuring his risk under this act shall be valid. But it shall be lawful for the employer and the workman to agree to carry the risk covered by part 2 of this act in conjunction with other and greater risks and providing other and greater benefits such as additional compensation, accident, sickness or old age insurance or benefits, and the fact that such plan involves a contribution by the workman shall not prevent its validity if such plan has been approved in writing by the Industrial Commission. Any employer who shall make any charge or deduction prohibited by this section shall be guilty of a misdemeanor.

If the employer shall insure to his employes the payment of the compensation provided by part 2 of this act in a corporation or association authorized to do business in the State of Minnesota, and approved by the insurance commissioner of the State of Minnesota, and if the employer shall post a notice or notices in a conspicuous place or in conspicuous places about his place of employment, stating that he is so insured and stating by whom insured, and if the employer shall further file copy of such notice with the Industrial Commission, then, and in such case, any proceedings brought by an injured employe or his dependents shall be brought directly against the insurer, and the employer or insured shall be released from any further liability.

Provided that in case of insolvency or bankruptcy of such insurance company the employer shall not be released from liability under the provisions of this act.

The return of any execution upon any judgment of an employe against any such insurance company unsatisfied in whole or in part, shall be conclusive evidence of the insolvency of such insurance company, and in case of the adjudication of bankruptcy or insolvency of any such insurance company by any court of competent jurisdiction proceedings may be brought by the employe against the employer in the first instance, or against such employer and insurance company jointly or severally or in any pending proceedings against any insurance company, the employer may be joined at any time after such adjudication.

Sec. 30. Certain persons liable as employers—Contractors—Sub-contractors, etc.—(1) Any person who creates or carries into operation any fraudulent scheme, artifice or device to enable him to execute work without himself being responsible to the workman for the provisions of this act, shall himself be included in the term "employer" and be subject to all the liabilities of the

employers under this act. But this section shall not be construed to cover or mean an owner who lets a contract to a contractor in good faith nor a contractor, who, in good faith, lets to a subcontractor a portion of his contract. Provided, however, that no person shall be deemed a contractor or subcontractor, so as to make him liable to pay compensation within the meaning of this section, who performs his work upon the employers' premises and with the employers' tools or appliances and under the employers' directions; nor one who does what is commonly known as "piece work" or in any way where the system of employment used merely provides a method of fixing the workman's wages.

(2) Where compensation is claimed from, or proceedings taken against a person under subdivision 1 of this section, the compensation shall be calculated with reference to the wage the workman was receiving from the person by whom he was immediately employed at the time of the injury.

(3) The employer shall not be liable or required to pay compensation for injuries due to the acts or omissions of third persons not at the time in the service of the employer, nor engaged in the work in which the injury occurs, except as provided in Section 31, or under the conditions set forth in Section 66-J.

Sec. 31. (1) Liability of party other than employer. Procedure. Third party under part 2. (2) Third party not under part 2.—(1) Where an injury or death for which compensation is payable under part 2 of this act is caused under circumstances also creating a legal liability for damages on the part of any party other than the employer, such party also being subject to the provisions of part 2 of this act, the employe, in case of injury, or his dependents, in case of death may, at his or their option, proceed either at law against such party to recover damages, or against the employer for compensation under part 2 of this act, but not against both.

If the employe in case of injury, or his dependents in case of death, shall bring an action for the recovery of damages against such party other than the employer, the amount thereof, manner in which, and the persons to whom the same are payable, shall be as provided for in part 2 of this act, and not otherwise; provided that in no case shall such party be liable to any person other than the employe or his dependents for any damages growing out of or resulting from such injury or death.

If the employe or his dependents shall elect to receive compensation from the employer, then the latter shall be subrogated to the right of the employe or his dependents to recover against such other party, and may bring legal proceedings against such party and recover the aggregate amount of compensation payable by him to such employe or his dependents hereunder, to-

gether with the costs and disbursements of such action and reasonable attorney's fees expended by him therein.

(2) Where an injury or death for which compensation is payable under part 2 of this act is caused under circumstances also creating a legal liability for damages on the part of any party other than the employer, such party not being subject to the provisions of part 2 of this act, legal proceedings may be taken by the employe or dependents against such other party to recover damages, notwithstanding the payment by the employer or his liability to pay compensation hereunder. But in such case if the action against such other party is brought by the injured employe, or in case of his death, by his dependents, and judgment is obtained and paid or settlement is made with such other party either with or without suit, the employer shall be entitled to deduct from the compensation payable by him, the amount actually received by such employe or dependents after deducting costs, reasonable attorney's fees and reasonable expenses incurred by such employe or dependents in making such collection or enforcing such liability; provided that if the injured employe or in case of his death, his dependents shall agree to receive compensation from the employer or shall institute proceedings to recover the same or accept from the employer any payment on account of such compensation, such employer shall be subrogated to all the rights of such employe or his dependents and may maintain or, in case an action has already been instituted, may continue the action either in the name of the employe or dependents or in his own name, against such other party for the recovery of damages but such employer shall nevertheless pay over to the injured employe or dependents all sums collected from such other party or parties, by judgment or otherwise, in excess of such compensation payable by the employer under part 2 of this act, and costs, reasonable attorney's fees and reasonable expenses incurred by such employer in making such collection and enforcing such liability provided that in no case shall such party be liable to any person other than the employe or his dependents for any damages growing out of or resulting from such injury or death.

Sec. 32. Penalties for unreasonable delay.—In any case where any proceeding has been instituted or carried on or any defense interposed by any employer or insurer liable to pay compensation hereunder, which does not present a real controversy but is merely frivolous or for delay, or where there has been any unreasonable or vexatious delay of payment, or neglect or refusal to pay, or intentional underpayment of any compensation due to any employe or dependent under part 2 of this act, the industrial commission or the Supreme Court on appeal may, after reasonable notice and hearing or opportunity to be heard, as in

cases of dispute arising under part 2 of this act, award, in addition to the compensation payable or to become payable, an amount equal to not more than twenty-five per centum of the compensation payable or to become payable as aforesaid. To secure information as to any act or omission specified in this section the Industrial Commission, by itself or employes, may examine from time to time the books and records of any employer or insurance carrier, relative to the payment of compensation hereunder, or require any such employer or insurance carrier to furnish any other information relating to the payment of compensation hereunder. In case of an insurer persisting in any act or omission hereinbefore specified in this section, or refusing or failing to allow the Industrial Commission to examine its books and records or to furnish such information, the Industrial Commission shall make complaint in writing to the insurance commissioner, setting forth the facts and recommending the revocation of the license of such insurer to do business in this state, whereupon the commissioner of insurance shall hear and determine the matter as provided in chapter 508 of the General Laws of Minnesota for 1919; and if any such charge is found true, the commissioner of insurance shall revoke the license of such insurer and thereafter it shall be unlawful for such insurer to write or effect insurance in this state.

Sec. 33. Employers must report accidents—Reports—Duty of physicians—Penalties.—It is hereby made the duty of every employer subject to the provisions of part 2 of this act to make or cause to be made a report to the Industrial Commission of any accident to any employe which occurs in the course of his employment, and which causes death or serious injury within forty-eight (48) hours of the occurrence of such accident, and of all other accidents which occur to any employe in the course of his employment, and of which the employer or his foreman has knowledge within seven days after the occurrence of such accident, provided that such injuries are sufficient wholly or partially to incapacitate the person injured from labor or service for more than the remainder of the day, shift or turn on which the injury was sustained, which reports shall be made upon a form to be prescribed by the Industrial Commission.

The Industrial Commission shall include in the form of report prepared by it a statement that the employer will pay the compensation as required by law, to be signed by the employer, or his representative, where a liability to pay compensation is admitted.

Accidents required by this section to be reported within 48 hours may be reported by telephone, telegraph or personal notice and a written report of such accident shall then be made within seven days, or at such time as the Industrial Commission shall

designate, and the Commission may require such supplementary reports of any accident as it may deem necessary for the securing of the information required by law, provided that when an accident has been reported which subsequently terminates fatally, a supplemental report shall be filed with the Industrial Commission within forty-eight (48) hours after receipt of knowledge of such death, stating that the injury has proved fatal and any other facts in connection with such death or as to the dependents of such deceased employe which the Industrial Commission may require.

Every physician or surgeon who shall examine, treat or have special knowledge of any injury to any employe compensable under part 2 of this act shall within ten days after receipt of any request therefor, in writing, made by the Industrial Commission, report to the Commission all facts within his knowledge relative to the nature and extent of any such injury and the extent of any disability resulting therefrom, upon a form to be prescribed by the Commission.

It is hereby made the duty of the Industrial Commission from time to time and as often as may be necessary, to keep itself fully informed as to the nature and extent of any injury to any employe compensable under part 2 of this act and the extent of any disability resulting therefrom and the rights of such employe to compensation, to request in writing and procure from any physician or surgeon examining, treating or having special knowledge of any such injury, a report of the facts within his knowledge relative thereto.

Any employer or physician or surgeon who shall fail to make any report required by this section, in the manner and within the time herein specified, shall be liable to the state of Minnesota for a penalty of fifty (\$50.00) dollars for each such failure and such penalty shall be recovered in a civil action brought in the name of the State by the Attorney General in any court having jurisdiction thereof, and it shall be the duty of the Industrial Commission, whenever any such failure to report occurs, to immediately certify the fact thereof to the Attorney General, and upon receipt of any such certification the Attorney General shall forthwith commence and prosecute such action. All penalties recovered by the State hereunder shall be paid into the state treasury.

No such report nor part thereof, nor any copy of the same or part thereof shall be open to the public, nor shall any of the contents thereof be disclosed in any manner by any official or clerk or other employe or person having access thereto, but the same may be used upon the hearings under this act or for state investigations and for statistics only, and any such disclosure is hereby declared to be a misdemeanor and punishable as such.

Sec. 34. Duties of commission when employe is injured.—On receipt of notice or information that an employe governed by part 2 of this act has sustained an injury which may be compensable, the Industrial Commission shall forthwith mail to such employe, if his postoffice address be known or ascertainable, a written or printed notice in the form of a letter, giving a brief statement in simple language of such employe's general rights and duties under this act. In addition to such other matters as in the discretion of the Commission may be incorporated in this notice, it shall summarize the employer's duty to furnish medical and hospital treatment, and to pay compensation, and shall, also, invite such employe to ask the advice of the Commission in case any doubt or dispute arises concerning his rights under this act on account of such injury. The notice shall be accompanied by an envelope addressed to the Industrial Commission, for use by the employe in making any reply.

Sec. 35. Employer shall notify commission of discontinuance of payments.—Before discontinuing the payment of compensation in any case coming under part 2 of this act, the employer shall, if it is claimed by or on behalf of the injured person or his dependents that his right to compensation still continues, or if such employe or dependents shall refuse to sign or object to signing a final receipt, notify the Industrial Commission, in writing, of such proposed discontinuance of payment, with the date of the discontinuance and the reason therefor, and that the employe or dependent, as the case may be, objects thereto, and until such notice is given as aforesaid, the liability for and the making of such payments shall continue unless otherwise ordered by the Commission; provided that the receipt of any such notice of discontinuance by the Commission, as herein provided, shall operate as a suspension of payment of compensation until the right thereto can be investigated, heard and determined, as herein provided. It is hereby made the duty of the Industrial Commission forthwith, upon receipt of any such notice of discontinuance, to notify the employe of the receipt thereof and mail him a copy of the same at his last known place of residence, and to make such investigations and inquiries as may be necessary to ascertain and determine whether the right to compensation in any such case has terminated in accordance with law, and if upon investigation, it shall appear that the right to compensation in any such case has not terminated, or will not terminate upon the date specified in any such notice of discontinuance, the Industrial Commission shall set down for hearing before the Commission or some Commissioner or referee, the question of the right of the employe, or dependent, as the case may be, to further compensation, such hearing to be held within twenty-five (25) days of the receipt by the commission of any such notice of discon-

tinuance, and eight (8) days' notice of such hearing shall be given by the Commission to the interested parties.

After the hearing by the Commission, commissioner or referee, and due consideration of all the evidence submitted, the Commission, commissioner or referee, shall promptly enter an order or award for such further amount of compensation to be paid by the employer, if any, as may be due and payable. If upon investigation it shall appear that the right to compensation in any such case has terminated, the Commission shall forthwith notify the employer in writing of such fact and the receipt of such notice by the employer shall operate to relieve him and the insurance carrier, as of the date when payment of compensation became suspended as provided by this section, from any further liability for payment of compensation in such case, subject to the right of review provided by this act.

In addition to the filing of the reports required by law, all employers subject to part 2 of this act shall promptly file or cause to be filed with the Industrial Commission all current interim and final receipts for the payments of compensation made, and it is hereby made the duty of the Industrial Commission periodically to check the records of such commission in each case, and require such employers to file or cause to be filed all such receipts for compensation payments as and when due, it being the intention of this section that the Industrial Commission shall definitely supervise and require prompt and full compliance with all provisions for the payment of compensation as required by law. Any insurance carrier insuring any employer in this State against liability imposed by this Act shall be and hereby is authorized and empowered for and on behalf of said employer to perform any and all acts required of the employer under the provisions of this Act; provided, that the employer shall be responsible for all authorized acts of an insurer in his behalf and for any omission or delay or any failure, refusal or neglect of any such insurer to perform any such act, and nothing herein contained shall be construed to relieve the employer from any penalty or forfeiture provided by this Act.

Sec. 36. Commission may advise—Shall report to legislature.—The Industrial Commission may, upon demand of an employer or an employe or his dependent designate one or more of its employes who shall advise such party or parties of his or their rights under this act, and shall assist so far as possible in adjusting the differences between the employe or his dependents and the employer under part 2 hereof and the employe or employes of the Commission so designated are hereby empowered to appear in person before the Commission, Commissioner or referee in any proceeding under part 2 of this act, as the representative or advisor of any such party; and in any such case,

such party shall not be required to be also represented by an attorney at law.

The Industrial Commission shall observe in detail the operation of the act throughout the state and shall make report thereof to each session of the legislature, together with such suggestions and recommendations as to changes as it may deem necessary or advisable for the improvement thereof.

Sec. 37. Proceeding begun by petition.—All proceedings before the Industrial Commission shall be by petition addressed to the Commission. All petitions shall be in writing and in such form as may be prescribed by the commission, except as otherwise provided by this act.

Sec. 38. Papers filed in main office.—All papers to be filed or acted upon by the Industrial Commission shall be delivered to it at its principal office, except as the Commission may otherwise order.

Sec. 39. Papers shall be filed immediately.—All papers delivered to the Industrial Commission for filing under the provisions of this act or the rules and regulations of the Commission shall be immediately filed.

Sec. 40. Orders and decisions filed.—Every order, decision or award made by any commissioner or referee shall be forthwith filed with the Industrial Commission, and the Commission shall immediately serve or cause to be served upon every party in interest a copy of every order, decision or award made by it or him, together with a notification of the time when the same was filed.

Sec. 41. Service by mail.—All papers and notices to which any party shall be entitled under part 2 of this act shall be served by mail, or in such other manner as the Industrial Commission may direct. Any such paper or notice shall be deemed served on the date when mailed, properly stamped and addressed, and shall be presumed to have reached the party to be served; but any party may show by competent evidence that any paper or notice was not received, or that there was an unusual or unreasonable delay in its transmission through the mails. In such case proper allowance shall be made for the party's failure within the prescribed time to assert any right given him by this act. The Industrial Commission, its secretary, and any commissioner or referee, serving or causing to be served any such paper or notice shall keep a careful record of such service.

Sec. 42. Procedure in case of dispute.—In cases of dispute as to any question of law or fact in connection with any claim for compensation, either party, or in case of default for a period of at least ten (10) days, in payment of compensation due and payable, the person or persons entitled thereto may present a

verified petition to the Industrial Commission setting forth in addition to such other facts as the rules of the Commission may require, the names and residences of the parties and the facts relating to employment at the time of injury, the injury, its extent and character, the amount of wages being received, the knowledge of the employer or notice of the occurrence of said injury, and such other facts as may be necessary and proper for the information of the Commission, and shall state the matter or matters in dispute and the contention of the petitioner with reference thereto.

Sec. 43. Commission to give hearing on claim petition.—

When a claim-petition or other petition is presented to the Industrial Commission, the Commission shall, by general rules or special order, either direct it to be heard by the Commission or assign it to a commissioner or a referee for hearing: Provided, that petitions to commute further compensation payments shall be heard by the Commission.

The Secretary of the Commission shall within ten days after the same is presented serve upon each adverse party a copy of the petition, together with a notice that the petition will be heard by the Commission or the commissioner or referee to whom it has been assigned (giving his name and address) as the case may be, and if the petition shall be assigned to a commissioner or a referee, shall deliver the original petition to him with copies of the notices served on the adverse parties.

Sec. 44. Rehearing.—Any time before an award or disallowance of compensation or order has been made by a commissioner or referee to whom a petition has been assigned, the Commission may order such petition heard before it or may reassign it to another commissioner or referee. Unless the Commission shall otherwise order, the testimony taken before the original commissioner or referee shall be considered as though taken before the Commission or substituted commissioner or referee.

Sec. 45. Answer to petition.—Within ten days after a copy of any petition has been served on the adverse party, he may file with the Industrial Commission and serve upon the petitioner or his attorney, a verified answer to the petition, which shall admit or deny the substantial averments of the petition and shall state the contention of such adverse party with reference to the matter in dispute as disclosed by the petition. Within five days after the service of the answer, the petitioner may file with the Commission and serve on the adverse party or his attorney, a verified reply, admitting or denying the matter set forth in the answer.

Every fact alleged in a petition not specifically denied by an answer so filed by an adverse party shall be deemed to be admitted by him. But the failure of any adverse party or of all

of them to deny a fact so alleged shall not preclude the Commission, commissioner or referee before whom the petition is heard from requiring, of its or his own motion, proof of such fact.

Sec. 46. Commission to fix time and place of hearing.—As soon as may be after the twelfth day after notice that a petition has been directed to be heard by the Industrial Commission has been served upon the adverse parties thereto, the Commission shall fix a time not less than five days nor more than twenty days thereafter and a place for hearing the petition. If a petition be assigned to a commissioner or referee he shall, as soon as may be after the twelfth day after notice that such petition has been assigned to him has been served upon the adverse parties, fix a time, not less than five days nor more than twenty days thereafter, and a place for hearing the petition. All hearings shall be held in the county where the injury occurred unless otherwise ordered by the Commission or the commissioner or referee conducting the hearing. The secretary, if the petition has been directed to be heard by the Commission, or the commissioner or referee to whom the petition has been assigned, shall serve upon all parties in interest a notice of the time and place of hearing, at least five days prior to such hearing.

Sec. 47. Award by default. Upon failure of an adverse party in any case to serve and file an answer as provided by this act, the Commission, upon proof of service of the petition and failure to answer being made and filed with the Commission, shall forthwith make an award based upon the petition, if the facts stated therein are sufficient to support the same, of such compensation as the claimant is shown thereby to be entitled to; provided, that the Commission may require proof of any fact alleged in the petition and, in such case, the Commission shall promptly and summarily hear and determine the matter and promptly make its award. If the petition does not state facts sufficient to support an award, the Commission shall promptly notify the petitioner or his attorney of such fact in writing, and another petition may be filed as in the case of an original petition.

Sec. 48. Commission shall administer oaths and issue subpoenas.—The Industrial Commission by a member, or the commissioner or referee to whom a cause may be assigned by the Commission for hearing, shall administer oaths to all witnesses and upon its or his own motion or the written request of any interested party may issue subpoenas for the attendance of witnesses and the production of such books, papers, records and documents, material in the cause as shall be designated in such request or required by the Commission, commissioner or referee. Provided, that the applicants for subpoenas shall advance necessary service and witness fees, which shall be the same as the

service and witness fees provided by law for civil causes in the district court; the Industrial Commission shall pay for the attendance of all witnesses subpoenaed by it on its own motion. If any person refuses to comply with any order or subpoena issued by the commission, or by any commissioner or referee in a cause assigned to him by the Commission, or if any person refuses to permit an inspection of any place or premises or to produce any books, papers, records or documents, material in the cause or if any witness refuses to appear or testify regarding that which he may be lawfully interrogated, any judge of the district court in the county in which the cause is pending, on application of the Commission, or the commissioner or referee hearing the cause, shall compel obedience by attachment proceedings as for contempt as in the case of disobedience of a similar order or subpoena issued by such court.

Sec. 49. Commission to make award—Who may intervene.—

The Industrial Commission, if a petition is directed to be heard by it, or the commissioner or referee to whom a petition is assigned for hearing, shall hear all competent evidence produced and shall make, in writing and as soon as may be after the conclusion of the hearing, such findings of fact, conclusions of law, and award or disallowance of compensation or other order, as the pleadings and the evidence produced before it or him and the provisions of this act shall, in its or his judgment require. Any person having such an interest in any matter before the Commission, a Commissioner, or Referee that he may either gain or lose by any order or decision relating thereto, shall, upon written application to the Commission, Commissioner or Referee, setting forth the facts which show such interest, be permitted to intervene under such rules and regulations as the Commission may prescribe.

Sec. 50. Commission may appoint referee.—The Industrial Commission may refer any question of fact arising under any petition, including a petition for commutation of compensation, heard by it, to a commissioner or referee to hear evidence and report to the Commission the testimony taken before him or such testimony and findings of fact thereon as the Commission may order. The Commission may refer any question of fact arising under any petition assigned to a commissioner or referee, to another commissioner or referee to hear evidence, and report the testimony so taken thereon to the original commissioner or referee.

Sec. 51. Commission or referee may make investigation.—The Industrial Commission, commissioner, or referee, if it or he deem it necessary, may, of its or his own motion, either before, during, or after any hearing, make an investigation of the facts set forth in the petition or answer. The Commission, or a commissioner or referee with the consent of the Commis-

sion, may appoint one or more impartial physicians or surgeons to examine the injuries of the claimant and report thereon, and may employ the services of such other experts as shall appear necessary to ascertain the facts. The report of any physician, surgeon, or expert appointed by the Commission or by a commissioner or referee shall be filed with the Commission and shall be a part of the record and open to inspection as such.

The Commission shall fix the compensation of such physicians, surgeons, and experts, which, when so fixed, shall be paid out of the funds appropriated to the department of labor and industries for the maintenance of the department, and shall be taxed as a part of the costs of the proceedings to be repaid to such department by either party or both, or otherwise, as the Commission may direct. If any sum so taxed shall not be paid by the party directed to repay, the same may be collected as costs are now collectible.

Sec. 52. Hearings shall be public.—All hearings before the Commission, a commissioner or a referee shall be public.

Sec. 53. Commission not bound by rules of evidence.—The Commission, or a commissioner or a referee in making an investigation or conducting a hearing under this act shall not be bound by common law or statutory rules of evidence or by technical or formal rules of pleading or procedure, except as provided by this act; and shall make such investigation or inquiry or conduct such hearing in such manner as to ascertain the substantial rights of the parties. But all findings of fact shall be based only upon competent evidence.

Sec. 54. Depositions—Evidence.—Depositions may be taken as now provided by law for civil cases, except as otherwise ordered by the Commission, commissioner or referee. The records kept by a hospital of the medical or surgical treatment given to an employe in such hospital shall be admissible as evidence of the medical and surgical matters stated therein, but shall not be conclusive proof of such matters.

Sec. 55. Appeal—Expense—Transcript.—Any party in interest may, within ten days after notice of a commissioner's or a referee's award or disallowance of compensation, or other order involving the merits of the case shall have been served on him, take an appeal to the Industrial Commission on the ground: (1) That the award or disallowance of compensation, or other order appealed from is not in conformity with the terms of this act, or that the commissioner or referee committed any other error of law; (2) That the findings of fact and award or disallowance of compensation, or other order appealed from was unwarranted by the evidence, or was procured by fraud, coercion, or other improper conduct of any party in interest. The Commission may, upon cause shown, extend the time for taking such

appeal or for the filing of an answer or other pleading. Whenever a commissioner or referee shall receive notice from the Commission that an appeal has been filed with the Commission from his decision in any case, he shall immediately cause the testimony in that case to be typewritten and forward to the Commission a copy with the certificate of the official stenographer that it is complete and correct. The expense of making any such transcript shall be borne by the appealing party, unless otherwise ordered by the Commission.

On any such appeal the Commission may disregard the findings of fact of the commissioner or referee, and may examine the testimony taken before such commissioner or referee, and if it deem proper, may hear other evidence, and may substitute for the findings of the commissioner or referee such findings of fact as the evidence taken before the commissioner or referee and the Commission, as hereinbefore provided, may, in the judgment of the Commission, require, and may make such disallowance or award of compensation or other order as the facts so found by it may require. The Commission at its expense shall cause a complete record of its proceedings to be made and shall provide a stenographer to take the testimony and record of proceedings at the hearings before a Referee, Commissioner, or the Commission, and said stenographer shall furnish a transcript of such testimony or proceedings to any person requesting it upon payment to him of a reasonable charge therefor to be fixed by the Commission.

Sec. 56. Appeal based on error.—Whenever an appeal to the Commission shall be based upon an alleged error of law, it shall be its duty to grant a hearing thereon. The Commission shall fix a time and place for such hearing, and shall give at least five days' notice thereof in writing to all parties in interest. As soon as may be after any such hearing, the Commission shall either sustain or reverse the commissioner or referee's award or disallowance of compensation, or other order appealed from or make such modification thereof as it shall deem proper.

Sec. 57. Appeal based on fraud or insufficiency of evidence.—Whenever an appeal shall be taken to the Commission on the ground that the commissioner or referee's award or disallowance of compensation was unwarranted by the evidence, or because of fraud, coercion, or other improper conduct by any party in interest, the Commission may, in its discretion, grant a hearing de novo before the Commission or assign the petition for rehearing to any commissioner or referee designated by it or sustain the commissioner or referee's award or disallowance of compensation. If the Commission shall grant a hearing de novo, it shall fix a time and place for same, and shall give at least five days' notice in writing to all parties in interest. As soon as may

be after any hearing de novo by the Commission, it shall in writing state its findings of fact, and award or disallow compensation in accordance with the provisions of this act.

Sec. 58. Proceeding in case of default in payment of compensation.—On at least thirty days' default in the payment of compensation due under any award made under part 2 of this act, the employe or dependents entitled to such compensation may file a certified copy of such award with the clerk of the district court of any county in the state, and may, on five days' notice in writing to the adverse parties, apply to such court for judgment. Thereupon the court shall cause judgment to be entered for the amount of the award in accordance with the terms and conditions thereof; and such judgment shall have the same force and effect, and may be vacated, set aside or satisfied as other judgments of the same court, provided that no judgment shall be entered on an award while an appeal is pending. There shall be but one fee of 25c charged by said clerk for services in each case under this section and said fee shall cover all services performed by him.

Sec. 59. New hearing when.—At any time after an award has been made and before the same has been reduced to judgment or an appeal to the Supreme Court taken therefrom, the Commission may for cause upon application of either party, and not less than five days' notice in writing to all interested parties, set the award aside and grant a new hearing and thereon determine the matter on its merits and make such findings of fact, conclusions of law, and award or disallowance of compensation or other order, as the pleadings and the evidence produced before it and the provisions of this act shall in its judgment require.

Sec. 60. Appeal to supreme court—Grounds—Fees.—Any party in interest may, within thirty days after the service of notice on him of any award or disallowance of compensation or order involving the merits of the case or any part thereof made by the commission, take an appeal to the supreme court on any of the following grounds: (1) That the award or disallowance of compensation, or other order appealed from, is not in conformity with the terms of the act, or that the Commission committed any other error of law; (2) that the findings of fact and award or disallowance of compensation, or other order appealed from, was unwarranted by the evidence. The Supreme Court may, upon cause shown, extend the time provided in this section for taking such appeal or for filing any paper required to be filed in such court. To render an appeal effective the appellant shall, within thirty days after notice of such final award or disallowance, or other order, file with the Industrial Commission a notice of appeal, stating that a review is to be had in the Supreme Court of the proceedings of the Commission, on which such final award or disallowance of

compensation is based, together with a bond with such surety or sureties, and in such amount as the Commission or a commissioner shall direct and approve, conditioned to pay the cost of such appeal. The appellant shall, also, pay to the secretary of the Industrial Commission \$10.00 to be paid, in turn, by such secretary to the clerk of the Supreme Court as the filing fee provided by chapter 177 of Laws 1915. On the filing of such notice of appeal and bond and the payment of the amount aforesaid, the secretary of the Commission shall immediately transmit to such clerk the filing fee aforesaid, together with a certified copy of the notice and bond. The receipt by the clerk of such fee and the filing of such certified copy of the notice of appeal shall vest the Supreme Court with jurisdiction of the appeal. Within thirty days from receipt of the amount aforesaid and filing with the commission of the notice of appeal and bond, the secretary shall transmit to the clerk of the Supreme Court a true and complete transcript of the proceedings of the Commission in the cause appealed, or such parts thereof as may be necessary to enable the Supreme Court properly to review the questions presented to it. Such transcript shall be certified to by the secretary under the seal of the Commission, and the appellant shall pay to the secretary the reasonable expense of preparing the transcript. On filing of the appeal in the Supreme Court, it shall be heard and disposed of in accordance with the laws and rules of the court governing civil appeals. The Supreme Court may adopt such rules not inconsistent with the provisions of this act as may be deemed necessary or convenient for the impartial and speedy disposition of appeals.

Sec. 61. Power of court.—The Supreme Court, on any appeal taken under the preceding section, may reverse, affirm, or modify the award or order of disallowance appealed from, and enter such judgment as may be just and proper; and where necessary may remand the cause to the Industrial Commission for a new hearing or for further proceedings, with such directions as the court may deem proper.

Sec. 62. Appeal shall stay proceedings.—An appeal taken under the preceding provisions of this act shall stay all proceedings for the enforcement or collection of the award appealed from, or any part thereof, until the final disposition of the cause in the Supreme Court or before the Industrial Commission when the cause is remanded for a new hearing or further proceedings.

Sec. 63. Attorney general to appear for commission.—On all such appeals the Attorney General shall unless otherwise directed by the Commission appear as attorney for the Industrial Commission, and he shall prepare and present to the Supreme Court such papers, briefs and arguments as he shall deem proper and necessary to a fair presentation of the questions in-

volved, in support of the award or order of disallowance appealed from.

Sec. 64. Costs—Attorneys fees.—No costs shall be awarded against either party in hearings before the Commission, commissioner or referee, except as specially provided by this act, but in the discretion of the Industrial Commission, commissioner, or referee conducting a hearing, or in the discretion of the commission in an appeal to it, the prevailing party may be awarded reimbursement for actual and necessary disbursements, to be taxed and allowed by the Commission, commissioner or referee on five days' notice in writing to the adverse party. The Commission in affirming or modifying and affirming or reversing a disallowance and allowing an award may include in such award reasonable attorney's fees incident to appeal. On appeals to the Supreme Court, costs and disbursements shall be taxed the same as on other civil appeals. Provided, that if upon such review by the Supreme Court any award in favor of the injured employe or his dependents is affirmed or modified and affirmed or if disallowance is reversed the court may allow reasonable attorney's fees incident to the appeal, which shall be included as a part of the judgment order of the Supreme Court.

Sec. 65. Definitions.—"Daily Wage" as used in this act shall mean the daily wage of the employe in the employment in which he was engaged at the time of the injury, and if at the time of the injury the employe is working on part time for the day, his daily wage shall be arrived at by dividing the amount received or to be received by him for such part time service for the day by the number of hours or such part time service and multiplying the result by the number of hours of the normal working day for the employment involved.

Sec. 66. Definitions, continued.—Throughout this Act the following words and phrases as used therein shall be considered to have the following meaning respectively, unless the context shall clearly indicate a different meaning in the connection used:

(a) The word "compensation" has been used both in parts 1 and 2 of this act to indicate the money benefits to be paid on account of injury or death. Strictly speaking, the benefit which an employe may receive by action at law under part 1 of this act is damages, and this is indicated in section 1. To avoid confusion, the word "compensation" has been used in both parts of the act, but it should be understood that under part 1 the compensation by way of damages is determined by an action at law.

(b) "Child" or "children" shall include posthumous children and all other children entitled by law to inherit as children of the deceased, also stepchildren who were members of the family

of the deceased at the time of his injury and dependent upon him for support.

(c) The terms "husband" and "widower" are used interchangeably and have the same meaning in this act.

(d) The term "employer" as used herein, shall mean every person not excluded by section 8, who employs another to perform a service for hire and to whom the "employer" directly pays wages, and shall include any person or corporation, co-partnership or association or group thereof, and shall include state, county, village, borough, town, city, school district and other public employers.

(e) The term "physician" shall include "surgeon," and in either case shall mean one authorized by law to practice his profession within one of the United States and in good standing in his profession at the time.

(f) The term "workman" shall include the plural and all ages and both sexes.

(g) The terms "employe" and "workman" are used interchangeably and have the same meaning throughout this act and shall be construed to mean:

(1) Every person in the service of the state, or any county, city, town, village, borough or school district therein, under any appointment or contract of hire, expressed or implied, oral or written, but shall not include any official of the state or of any county, city, town, village, borough or school district therein, who shall have been elected or appointed for a regular term of office or to complete the unexpired portion of any regular term; provided, however, that sheriffs, deputy sheriffs, constables, marshals, policemen and firemen shall be deemed employes within the meaning of this section; provided further that where in any city operating under a Home Rule Charter, a mode and manner of compensation is provided by said charter which is different from that provided by this act, and the amount of compensation provided by said charter would, if taken thereunder, exceed the amount the employe is entitled to under this act for the same period, he shall, in addition to his compensation under this act, receive under said charter an amount equal to the excess in compensation provided by said charter over what he is entitled to by this act; if the amount of compensation provided by said charter would, if taken thereunder, be equal to or less than the amount of compensation the employe is entitled to under this act for the same period, he shall take only under this act; provided further, that any peace officer other than a sheriff, deputy sheriff, marshal or policeman shall be considered an employe while engaged in the enforcement of peace or in and about the pursuit and capture of any person charged with or suspected of crime.

(2) Every person not excluded by Section 8, in service of another under any contract of hire, expressed or implied, oral or writ-

ten, including aliens and also including minors who are legally permitted to work under the laws of the state, who, for the purpose of making election of remedy under this act, shall be construed the same, and have the same power of contracting and electing as adult employes.

(h) The word "accident" as used in the phrases "personal injuries due to accident" or "injuries or death caused by accident" in this act shall, unless a different meaning is clearly indicated by the context, be construed to mean an unexpected or unforeseen event, happening suddenly and violently, with or without human fault, and producing at the time injury to the physical structure of the body.

(i) "Member" as an anatomy term in this act, shall include eye and ear, as well as leg, foot, toe, hand, finger, thumb and arm.

(j) Without otherwise affecting either the meaning or interpretation of the abridged clause "personal injuries arising out of and in the course of employment." It is hereby declared:

Not to cover workmen except while engaged in, on, or about the premises where their services are being performed, or where their service requires their presence as a part of such service at the time of the injury, and during the hours of service as such workmen, and shall not include an injury caused by the act of a third person or fellow employe intended to injure the employe because of reasons personal to him, and not directed against him as an employe, or because of his employment.

(k) Wherever in this act the singular is used, the plural shall be included; where the masculine gender is used, the feminine and neuter shall be included.

(1) "Industrial Commission" and "Commission" as used in this act, means the Industrial Commission of Minnesota; and "Commissioner" means a member of that commission.

Sec. 67. Occupational diseases—How regarded—Compensation for—Definitions of.—(1) The disablement of an employe resulting from an occupational disease described in subsection (9) of this section, except where specifically otherwise provided, shall be treated as the happening of an accident within the meaning of Part 2 of this act and the procedure and practice provided in such Part 2 shall apply to all proceedings under this section, except where specifically otherwise provided herein. Whenever used in this section, "disability" means the state of being disabled from earning full wages at the work at which the employe was last employed, and "disablement" means the act of becoming so disabled.

(2) If an employe is disabled or dies and his disability or death is caused by one of the diseases mentioned in subsection (9) of this section, and the disease is due to the nature of the corresponding employment as described in such subsection in which such employe was engaged and was contracted therein, he or his dependents shall be entitled to compensation for his death or for the duration of his

disability according to the provisions of Part 2 of this act, except as otherwise provided in this section; provided, however, that if it shall be determined that such employe is able to earn wages at another occupation which shall be neither unhealthful nor injurious, and such wages do not equal his full wages prior to the date of his disablement, the compensation payable shall be a percentage of full compensation proportionate to the reduction in his earning capacity.

(3) Neither the employe nor his dependents shall be entitled to compensation for disability or death resulting from disease unless the disease is due to the nature of his employment and contracted therein within the twelve months previous to the date of disablement, whether under one or more employers.

(4) If an employe at the time of his employment, wilfully and falsely represents in writing that he has not previously suffered from the disease which is the cause of disability or death, no compensation shall be payable.

(5) The total compensation due shall be recoverable from the employer who last employed the employe in the employment to the nature of which the disease was due and in which it was contracted. If, however, such disease was contracted while such employe was in the employment of a prior employer, the employer who is made liable for the total compensation as provided by this subsection, may appeal to the commission for an apportionment of such compensation among the several employers who since the contraction of such disease shall have employed such employe in the employment to the nature of which the disease was due. Such apportionment shall be proportioned to the time such employe was employed in the service of such employers, and shall be determined only after a hearing, notice of the time and place of which shall have been given to every employer alleged to be liable for any portion of such compensation. If the commission find that any portion of such compensation is payable by an employer prior to the employer who is made liable to the total compensation as provided by this subsection, it shall make an award accordingly in favor of the last employer, and such award may be enforced in the same manner as an award for compensation.

(6) The employer to whom notice of death or disability is to be given, or against whom claim is to be made by the employer shall be the employer who last employed the employe during the said twelve months in the employment to the nature of which the disease was due and in which it was contracted, and such notice and claim shall be deemed seasonable as against prior employers.

(7) The employe or his dependents, if so requested, shall furnish the last employer or the commission with such information as to the names and addresses of all his other employers during the said twelve months, as he or they may possess; and if such information is not furnished, or is not sufficient to enable such last employer to take proceedings against a prior employer under subsection (5) of

this section, unless it be established that the disease actually was contracted while the employe was in his employment, such last employer shall not be liable to pay compensation, or, if such information is not furnished or is not sufficient to enable such last employer to take proceedings against other employers under subsection (5) such last employer shall be liable only for such part of the total compensation as under the particular circumstances the commission may deem just; but a false statement in the information furnished as aforesaid shall not impair the employe's rights unless the last employer is prejudiced thereby.

(8) If the employe, at or immediately before the date of disablement, was employed in any process mentioned in the second column of the schedule of diseases in subsection (9) of this section, and his disease is the disease in the first column of such schedule set opposite the description of the process, the disease presumptively shall be deemed to have been due to the nature of that employment.

(9) For the purposes of this act only the diseases enumerated in column one, following, shall be deemed to be occupational diseases:

Column 1.

Description of diseases.

1. Anthrax,
2. Lead poisoning or its sequelae.
3. Mercury poisoning or its sequelae.
4. Phosphorous poisoning or its sequelae.
5. Arsenic poisoning or its sequelae.
6. Poisoning by wood alcohol.
7. Poisoning by nitro and amido-derivatives of benzene (dinitro-benzol, anilin, and others), or its sequelae.
8. Poisoning by carbon bisulphide or its sequelae.
9. Poisoning by nitrous fumes or its sequelae.

Description of process.

1. Handling of wool, hair, bristles, hides or skins.
2. Any process involving the use of lead or its preparations or compounds.
3. Any process involving the use of mercury or its preparations or compounds.
4. Any process involving the use of phosphorous or its preparations or compounds.
5. Any process involving the use of arsenic or its preparations or compounds.
6. Any process involving the use of wood alcohol or any preparation containing wood alcohol.
7. Any process involving the use of a nitro or amido-derivative of benzene or its preparations or compounds.
8. Any process involving the use of carbon bisulphide or its preparations or compounds.
9. Any process in which nitrous fumes are evolved.

10. Poisoning by nickel carbonyl or its sequelae.

11. Dope poisoning (poisoning by tetrachlor-methane or any substance used as or in conjunction with a solvent for acetate of cellulose or its sequelae).

12. Poisoning by gonioma kamassi (African boxwood) or its sequelae.

13. Chrome ulceration or its sequelae.

14. Epitheliomatous cancer or ulceration of the skin or of the corneal surface of the eye, due to tar, pitch, bitumen, mineral oil or paraffin, or any compound, product or residue of any of these substances.

15. Glanders.

16. Compressed air illness or its sequelae.

17. Ankylostomiasis.

18. Miner's nystagmus.

19. Subcutaneous cellulitis of the hand (beat hand).

20. Subcutaneous cellulitis over the patella (Miner's beat knee).

21. Acute bursitis over the elbow (miner's beat elbow).

22. Inflammation of the synovial lining of the wrist joint and tendon sheaths.

23. Cataract in glassworkers.

10. Any process in which nickel carbonyl gas is evolved.

11. Any process involving the use of any substance used as or in conjunction with a solvent for acetate of cellulose.

12. Any process in the manufacture of articles from gonioma kamassi (African boxwood).

13. Any process involving the use of chromic acid or bichromate of ammonium potassium, or sodium or their preparations.

14. Handling or use of tar, pitch, bitumen, mineral oil, or paraffin or any compound, product or residue of any of these substances.

15. Care or handling of any equine animal or the carcass of any such animal.

16. Any process carried on in compressed air.

17. Mining.

18. Mining.

19. Mining.

20. Mining.

21. Mining.

22. Mining.

23. Processes in the manufacture of glass involving exposure to the glare of molten glass.

(10) Nothing in this section shall affect the rights of an employe to recover compensation in respect to a disease to which this section does not apply if the disease is an accidental personal injury within the meaning of the other provisions of Part 2 of this act.

(11) The provisions of this section shall not apply to disability or death resulting from a disease contracted prior to the date on which this act takes effect.

Sec. 68. Not retroactive.—All rights and liabilities arising on account of accidents or injuries occurring prior to the taking effect of this act shall be governed by the then existing law.

Sec. 69. Invalidity of part not to affect all.—In case for any reason any paragraph or any provision of this act shall be questioned in any court of last resort, and shall be held by such court to be unconstitutional or invalid, the same shall not be held to affect any other paragraph or provision of this act, except that parts 1 and 2 are hereby declared to be inseparable, and if either part be declared void or inoperative in an essential part, so that the whole of such part must fail, the other part shall fall with it and not stand alone. Except as otherwise expressly provided, Part 1 of this act shall not apply in cases where part 2 becomes operative in accordance with the provisions thereof, but shall apply in all other cases, and in such cases shall be in extension or modification of the common law.

Sec. 70. Laws repealed.—Chapter 467, General Laws Minnesota for 1913, and all acts amendatory thereof, and all acts and parts of acts inconsistent with this act are hereby repealed; provided, however, that this act shall not be deemed to repeal charter 359, Laws of Minnesota for 1919, insofar as the same applies to employers not under part 2 of this act.

Sec. 71. Effective June 1, 1921.—This act shall take effect and be in force from and after the first day of June, 1921.

Approved March 15, 1921.

CHAPTER 83—H. F. No. 598.

An act creating the division of boiler inspection in the department of labor and industries, transferring to such division the offices and incumbents thereof of chief boiler inspector and deputy chief boiler inspector and district boiler inspectors and subordinate employes, and terminating the board of boiler inspection.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Division of boiler inspection established.—On and after the first day of June, 1921, there shall be a division in the Department of Labor and Industries to be known as the "Division of Boiler Inspection." The chief of such division shall be known as the "Chief of the Division of Boiler Inspection" and he shall have an assistant to be known as the "Deputy Chief of the Division of Boiler Inspection." There shall also be in such division a District Boiler Inspector for each Boiler Inspection District then provided for by law.

Sec. 2. Powers and duties.—On and after the first day of June, 1921, the powers and duties then by law vested in and imposed on the Board of Boiler Inspectors, the District Boiler Inspec-