

No. 323

AN ACT

To re-enact and amend the title and the act, approved the second day of June, one thousand nine hundred fifteen (Pamphlet Laws, seven hundred and thirty-six), entitled "An act defining the liability of an employer to pay damages for injuries received by an employe in the course of employment; establishing an elective schedule of compensation; and providing procedure for the determination of liability and compensation thereunder," by changing, adding to, and increasing the schedules of compensation; prescribing and changing certain presumptions and rules of evidence; increasing the requirements to be met by employers desiring to be self-insurers; conferring certain powers and duties upon the Department of Labor and Industry; imposing additional duties and liabilities upon employers and insurance carriers, including the cost of administering the workmen's compensation system, including the rehabilitation of employes; providing for the payment of compensation for certain second injuries, and for the rehabilitation* of injured employes, and for the payment of reopened cases after a certain lapse of time by the Commonwealth, out of moneys required to be paid into the State Treasury by certain employers and insurance carriers in death cases, where there are no dependents; imposing new and changing certain existing penalties; and generally amending, clarifying, and changing the provisions of said act.

Title and act
of June 2, 1915
(P. L. 736),
amended.

Section 1. Be it enacted, &c., That the title and all the sections of the act, approved the second day of June, one thousand nine hundred fifteen (Pamphlet Laws, seven hundred thirty-six), entitled "An act defining the liability of an employer to pay damages for injuries received by an employe in the course of employment; establishing an elective schedule of compensation; and providing procedure for the determination of liability and compensation thereunder," are hereby re-enacted, amended or further amended, as the case may be, to read as follows:

AN ACT

Defining the liability of an employer to pay damages for injuries received by an employe in the course of employment; establishing an elective schedule of compensation; [and] providing procedure for the determination of liability and compensation thereunder; *and prescribing penalties.*

Be it enacted, &c., As follows:

Article I. Interpretation and [definition] *definitions.*

Article II. Defining the liability of an employer in an action at law for damages for personal injury to an employe, and abolishing in whole or in part certain defenses thereto.

Article III. Establishing a system of compensation by agreement; prescribing the method by which such agree-

* "rehabilitation" in the original.

ment shall be made and terminated; defining the injuries for which compensation is payable, the persons to whom it is payable, its amount, and the condition under which and the manner in which it is payable.

Article IV. Providing a procedure for the determination and settlement of claims for compensation.

Article V. General provisions.

ARTICLE I

Interpretation and [Definition] *Definitions*

Section [1. Be it enacted, &c.,] 101. That this act shall be called and cited as The Workmen's Compensation Act, [of one thousand nine hundred and fifteen] and shall apply to all accidents occurring within this Commonwealth, irrespective of the place where the contract of hiring was made, renewed, or extended, and shall not apply to any accident occurring outside of the Commonwealth, except to accidents occurring to [State] *Commonwealth* employes outside the Commonwealth while such employes are engaged in duly authorized business of the [State] *Commonwealth*, and except accidents occurring to [Pennsylvania] employes whose duties require them to go temporarily beyond the territorial limits of the Commonwealth, not over ninety days, when such employes are performing services for employers whose place of business is within the Commonwealth.

Section 102. 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.

Section 103. The term "employer," as used in this act, is declared to be synonymous with master, and to include natural persons, partnerships, joint-stock companies, corporations for profit, corporations not for profit, municipal corporations, the Commonwealth, and all governmental agencies created by it. *Whenever used in any clause prescribing and imposing a fine or imprisonment, or both, the term "employer," as applied to partnerships or joint-stock companies or corporations, shall mean the partners or the executive officers, or local managers thereof.*

Section 104. The term "employe," as used in this act is declared to be synonymous with servant, and includes—[all]

(a) *All natural persons, including minors, who perform services of any kind, except agriculture services or domestic services performed in a private home, for another for a valuable consideration, exclusive of persons whose employment is casual in character and not in the regular course of the business of the employer. [and exclusive of persons to whom articles or materials are*

given out to be made up, cleaned, washed, altered, ornamented, finished, or repaired, or adapted for sale, in the worker's own home, or on other premises not under the control or management of the employer.]

(b) *All members or employes of volunteer fire companies of the various cities, boroughs, incorporated towns, and townships who shall be, and are hereby, declared to be "employes" of such cities, boroughs, incorporated towns, and townships for all the purposes of this act, and shall be entitled to receive compensation under this act in case of injuries received in accidents occurring while actually engaged as firemen, or while going to or returning from any fire which the fire companies, of which they are members, shall have attended, or while performing any other duties of such companies.*

Section 105. The term "contractor," as used in article two, section two hundred and three, and article three, section three hundred and two (b), shall not include a contractor engaged in an independent business, other than that of supplying laborers or assistants, in which he serves persons other than the employer in whose service the accident occurs, but shall include a sub-contractor to whom a principal contractor has sublet any part of the work which such principal contractor has undertaken.

Section 106. The exercise and performance of the powers and duties of a local or other public authority shall, for the purposes of this act, be treated as the trade or business of the authority.

Section 107. The term ["Bureau"] "*Department,*" when used in this act, shall mean [the Bureau of Workmen's Compensation of] the Department of Labor and Industry *of this Commonwealth.*

The term "Board," when used in this act, shall mean The Workmen's Compensation Board [of the Bureau] *of this Commonwealth.*

Section 108. *For the purpose of this act, minors shall have the same power to contract, file claims for compensation and receive compensation as adult employes, subject, however, to the power of the board, in its discretion, at any time to require the appointment of a guardian to contract or to receive moneys thereunder or under an award for the benefit of any such minor. Any minor employed by his parent or parents shall have the right to file a claim for compensation under this act against such parent or parents in his own name and in his own right, and to enforce the payment of such compensation.*

ARTICLE II

Damages by Action at Law

Section 201. That in any action brought to recover damages for personal injury to an employe in the course

of his employment, or for death resulting from such injury, it shall not be a defense—

(a) That the injury was caused in whole or in part by the negligence of a fellow employe; or

(b) That the employe had assumed the risk of the injury; or

(c) That the injury was caused in any degree by the negligence of such employe, unless it be established that the injury was caused by such employe's intoxication or by his reckless indifference to danger. The burden of proving such intoxication or reckless indifference to danger shall be upon the defendant, and the question shall be one of fact to be determined by the jury.

Section 202. The employer shall be liable for the negligence of all employes, while acting within the scope of their employment, including engineers, chauffeurs, miners, mine-foremen, fire-bosses, mine superintendents, plumbers, officers of vessels; and all other employes licensed by the [State] *Commonwealth* or other governmental authority, if the employer be allowed by law the right of free selection of such employes from the class of persons thus licensed; and such employes shall be the agents and representatives of their employers, and their employers shall be responsible for the acts and neglects of such employes, as in the case of other agents and employes of their employers; and, notwithstanding the employment of such employes, the property in and about which they are employed, and the use and operation thereof, shall at all times be under the supervision, management and control of their employers.

Section 203. [An employer who permits the entry upon premises occupied by him or under his control of a laborer or an assistant hired by an employe or contractor, for the performance upon such premises of a part of the employer's regular business entrusted to such employe or contractor, shall be liable to such laborer or assistant in the same manner and to the same extent as to his own employe.] *An employer who permits a sub-contractor or employe to engage another, in whole or in part, in services furthering the employer's regular business entrusted to such employe or sub-contractor, shall be liable to the employe so engaged in the same manner and to the same extent as to his own employe, whether said injury occurred upon premises occupied or controlled by the employer or not, provided only that the injury occurred in the course of employment.*

Section 204. No agreement, composition, or release of damages made before the [happening] date of any accident, except the agreement defined in article three of this act, shall be valid or shall bar a claim for damages for the injury resulting therefrom; and any such agree-

ment, other than that defined in article three herein, is declared to be against the public policy of this Commonwealth. The receipt of benefits from any association, society, or fund shall not bar the recovery of damages by action at law, nor the recovery of compensation under article three hereof; and any release executed in consideration of such benefits shall be void.

ARTICLE III

Elective Compensation

Section 301. (a) When employer and employe shall by agreement, either express or implied, as hereinafter provided, accept the provisions of article three of this act, compensation for personal injury to, or for the death of, [such] *any* employe, by an accident, in the course of his employment, shall be [made] *paid* in all cases by the employer, without regard to negligence, according to the schedule contained in sections three hundred and six and three hundred and seven of this article; provided that no compensation shall be [made] *paid* when the injury or death [be] *is* intentionally self inflicted, but the burden of proof of such fact shall be upon the employer.

(b) *The right to receive compensation under this act shall not be affected by the fact that a minor is employed by his parent or parents, or is employed or is permitted to be employed in violation of the laws of this Commonwealth relating to the employment of minors, or that he obtained his employment by misrepresenting his age, or that any minor or other employe, on account of whose injury or death the benefits are claimed, was violating any law or rule or regulation of the business or industry or a positive order of the employer at the time of the injury, except that no minor or employe shall be entitled to receive compensation under this act who, at the time of injury, was engaged in the commission of a felony.*

(c) The terms "injury" and "personal injury," as used in this act, *except as used in article two*, shall be construed to mean only violence to the physical structure of the body, and such disease or infection as naturally results therefrom; and wherever death is mentioned as a cause for compensation under this act, it shall mean only death resulting from such violence and its resultant effects, and occurring within [three] *five* hundred weeks after the accident. The term "injury by an accident in the course of his employment," as used in this article, shall not include an injury caused by an act of a third person intended to injure the employe because of reasons personal to him, and not directed against him as an employe or because of his employment; but shall include all other injuries sustained while

the employe is [actually] engaged in the furtherance of the business or affairs of the employer, whether upon the employer's premises or elsewhere, and shall include all injuries caused by the condition of the premises or by the operation of the employer's business or affairs thereon, sustained by the employe, who, though not so engaged, is injured upon the premises occupied by or under the control of the employer, or upon which the employer's business or affairs are being carried on, the employe's presence thereon being required by the nature of his employment.

Section 302. (a) In every contract of hiring made after December thirty-first, one thousand nine hundred and fifteen, and in every contract of hiring renewed or extended by mutual consent, expressed or implied, after said date, it shall be conclusively presumed that the parties have accepted the provisions of article three of this act, and have agreed to be bound thereby, unless there be, at the time of the making, renewal, or extension of such contract, an express statement in writing, from either party to the other, that the provisions of article three of this act are not intended to apply, and unless a true copy of such written statement, accompanied by proof of service thereof upon the other party, setting forth under oath or affirmation the time, place, and manner of such service, be filed with the [Bureau] *department* within ten days after such service and before any accident has occurred. Every contract of hiring, oral, written, or implied from circumstances, now in operation, or made or implied on or before December thirty-first, one thousand nine hundred and fifteen, shall be conclusively presumed to continue subject to the provisions of article three hereof, unless either party shall, on or before said date, in writing, have notified the other party to such contract that the provisions of article three hereof are not intended to apply, and unless there shall be filed with the [Bureau] *department* a true copy of such notice, together with proof of service, within the time and in the manner hereinabove prescribed: Provided, however, That the provisions of this section shall not be so construed as to impair the obligation of any contract now in force. In the employment of minors, article three shall be presumed to apply, unless the said written notice be given by or to the parent or guardian of the minor. It shall not be lawful for any officer or agent of this Commonwealth, or for any county, city, borough, *town*, or township therein, or for any officer or agent thereof, or for any other governmental authority created by the laws of this Commonwealth, to give such notice of rejection of the provisions of this article, to any employe of the [State] *Commonwealth* or of such governmental agency.

(b) After December thirty-first, one thousand nine hundred and fifteen, an employer who permits the entry, upon premises occupied by him or under his control, of a laborer or an assistant hired by an employe or contractor, for the performance upon such premises of a part of the employer's regular business entrusted to that employe or contractor, shall be conclusively presumed to have agreed to pay to such laborer or assistant compensation in accordance with the provisions of article three, unless the employer shall post in a conspicuous place, upon the premises where the laborer's or assistant's work is done, a notice of his intention not to pay such compensation, and unless there be filed with the [Bureau] *department* within ten days thereafter and before any accident has occurred, a true copy of such notice, together with proof of the posting of the same, setting forth upon oath or affirmation the time, place, and manner of such posting; and after December thirty-first, one thousand nine hundred and fifteen, any such laborer or assistant who shall enter upon premises occupied by or under control of such employer, for the purpose of doing such work, shall be conclusively presumed to have agreed to accept the compensation provided in article three, in lieu of his right of action under article two, unless he shall have given notice in writing to the employer, at the time of entering upon such employer's premises for the purpose of doing his work, of his intention not to accept such compensation, and unless within ten days thereafter and before any accident has occurred there shall have been filed with the [Bureau] *department* a true copy of such notice, accompanied by proof of service thereof upon such employer, setting forth under oath or affirmation the time, place, and manner of such service. And in such cases, where article three binds such employer and such laborer or assistant, it shall not be in effect between the intermediate employer or contractor and such laborer or assistant, unless otherwise expressly agreed.

Section 303. Such agreement shall constitute an acceptance of all the provisions of article three of this act, and shall operate as a surrender by the parties thereto of their rights to any form or amount of compensation or damages for any injury or death occurring in the course of the employment, or to any method of determination thereof, other than as provided in article three of this act. Such agreement shall bind the employer and his personal representatives, and the employe, his or her wife or husband, widow or widower, next of kin, and other dependents.

Section 304. Any agreement between employer and employe for the operation or non-operation of the provisions of article three of this act may be terminated

prior to any accident, by either party, upon sixty days' notice to the other in writing, if a copy of such notice, with proof of service, be filed in the [Bureau] *department*, as provided in section three hundred and two of this article.

Section 305. Every employer liable under this act to pay compensation shall insure the payment of compensation in the State Workmen's Insurance Fund, or in any insurance company, or mutual association or company, authorized to insure such liability in this Commonwealth, unless such employer shall be exempted by the [Bureau] *department* from such insurance. An employer desiring to be exempt from insuring [the whole or any part of] his liability for compensation shall make application to the [Bureau] *department*, showing his financial ability to pay such compensation, whereupon the [Bureau] *department*, if satisfied of the applicant's financial ability, shall, [by written order make] upon the payment of a fee of twenty-five dollars (\$25.00), issue to the applicant a permit authorizing such exemption. Whenever an application for an exemption shall be filed by or on behalf of more than one employer, every such employer applicant shall be required to pay the fee prescribed by this section in order to obtain a permit. The department shall establish a period of twelve (12) calendar months, to begin and end at such times as the department shall prescribe, which shall be known as the annual exemption period. Unless previously revoked, all permits issued under this section shall expire and terminate on the last day of the annual exemption period for which they were issued. Permits issued under this act shall be renewed upon the filing of an application, and the payment of a renewal fee of twenty-five dollars (\$25.00). The [Bureau] *department* may, from time to time, require further statements of the financial ability of such employer, and, if at any time it should appear to the department that such employer [appear] is no longer able to pay compensation, shall revoke its [order] permit granting exemption, in which case the employer shall immediately subscribe to the State Workmen's Insurance Fund, or insure his liability in [a] any insurance company or mutual association or company, as aforesaid.

Every employer liable under this act to pay compensation, shall post and maintain, in a conspicuous place in and about his place of business, a notice that he has secured the payment of compensation to his employes and their dependents in accordance with the provisions of this section. Such notice shall be in such form as shall be prescribed by the department, and among other things shall set forth the name of the employer's insurance carrier, or that he has been exempted by the department from carrying insurance, as the case may be.

If any employer shall fail to comply with the provisions of this section with respect to posting and maintaining the notice required by this act, such employer shall, upon conviction thereof in a summary proceeding, be sentenced to pay a fine of twenty-five dollars (\$25.00) and costs of prosecution.

If any employer fails to comply with the provisions of this section *with respect to insuring or securing an exemption from insurance, or, in any applications filed under this section, shall furnish the department with a false or fraudulent statement of outstanding incurred liability for compensation or any other false or fraudulent statement, such employer, [shall be guilty of a misdemeanor and] upon conviction thereof in a summary proceeding, shall for every such failure or false or fraudulent statement, [shall] be sentenced to pay a fine of not less than one hundred dollars (\$100) nor more than [five] three hundred dollars [(\$500)] (\$300), and costs of prosecution, and upon failure to pay such fine and costs shall be sentenced to undergo [or] imprisonment for a period of not more than [six] three months. [or both, at the discretion of the court.] Every day's violation and every false or fraudulent statement shall constitute a separate offense. It shall be the duty of the [Bureau] department to enforce the provisions of this section; and it shall investigate all violations that are brought to its notice and shall institute prosecutions for violations thereof. [All fines recovered under the provisions of this section shall be paid by the clerk of the court to the Bureau and by it paid into the State Treasury.]*

In any proceeding against an employer under this section, a certificate of non-insurance issued by the official Workmen's Compensation Rating and Inspection Bureau, and a certificate of the department showing that the defendant has not been exempted from obtaining insurance under this section, shall be prima facie evidence of the facts therein stated.

For the purposes of this section, minor children working for their parents shall be conclusively presumed to be emancipated.

Section 306. The following schedule of compensation is hereby established for injuries resulting in total disability:

(a) For the first five hundred weeks after the seventh day of total disability, sixty-five per centum of the wages of the injured employe as defined in section three hundred and nine; but the compensation shall not be more than [fifteen] *eighteen* dollars per week nor less than [seven] *twelve* dollars per week: [and shall not exceed in the aggregate the sum of sixty-five hundred dollars: Provided, That, if at the time of injury the em-

ployee receives wages of less than seven dollars per week, then he shall receive the full amount of such wages per week as compensation] *Provided, That, if total disability shall continue for a period of four weeks or more, the employe also shall be entitled to receive compensation for the first seven days of total disability. Should total disability become permanent, then, in addition to the compensation provided for five hundred weeks, and beginning at the expiration of the five hundred weeks, the sum of thirty dollars per month shall be payable during such permanent total disability prior to death: Provided, however, That such monthly payments shall cease if the person receiving compensation accepts other public funds contributed to by the employer which equal or exceed the amount of compensation payments. Nothing in this clause shall require payment of compensation after disability shall cease. [Should partial disability be followed by total disability, the period of five hundred weeks mentioned in this clause of this section shall be reduced by the number of weeks during which compensation was paid for such partial disability.]*

(b) For disability partial in character (except the particular cases mentioned in clause (c), sixty-five per centum of the difference between the wages of the injured employe, as defined in section three hundred and nine, and the earning power of the employe thereafter; but such compensation shall not be more than [fifteen] *eighteen* dollars per week. This compensation shall be paid during the period of such [partial] disability, [not, however, beyond three hundred weeks after the seventh day of such partial disability] *but not for more than four hundred weeks. Such compensation shall begin upon the termination of total disability, if any total disability resulted from the injury, and upon the termination of compensation for permanent injuries compensable under section three hundred six (c), if the partial disability shall result from injuries other than the permanent injury compensated for under clause (c) of this section. If the partial disability shall continue for a period of four weeks or more, the employe shall also be entitled to receive compensation for the first seven days of partial disability. Should total disability be followed by partial disability, the period of [three] four hundred weeks mentioned in this clause shall be reduced by the number of weeks during which compensation was paid for total disability. In cases of partial disability, the actual earnings of an employe, after the date of injury, may, along with other evidence, be received as evidence of the extent of his earning power, but if such employe has no such earnings, the referee may, in the interest of justice, fix such earning power as*

shall be reasonable, having due regard to the character of his previous employment, and the nature of his injury and his partial disability.

(c) For all disability resulting from permanent injuries of the following classes, the compensation shall be exclusively as follows:

For the loss of a hand, sixty-five per centum of wages during [one hundred and seventy-five] *two hundred weeks.*

For the loss of an arm, sixty-five per centum of wages during [two hundred and fifteen] *two hundred and sixty-five weeks.*

For the loss of a foot, sixty-five per centum of wages during [one hundred and fifty] *one hundred and seventy-five weeks.*

For the loss of a leg, sixty-five per centum of wages during [two hundred and fifteen] *two hundred and fifty weeks.*

For the loss of an eye, [sixty-five per centum of wages during one hundred and twenty-five weeks] *or for the removal of a cataract from or lense of an eye, causing the loss of binocular vision, sixty-five per centum of wages during two hundred weeks.*

For the complete loss of hearing in one ear, sixty-five per centum of wages during forty weeks. For the loss of hearing in both ears, sixty-five per centum of wages during one hundred and fifty weeks.

For the loss of a thumb, sixty-five per centum of wages during [sixty] *seventy-five weeks.*

For the loss of a first finger, commonly called index finger, sixty-five per centum of wages during [thirty-five] *fifty weeks.*

For the loss of a second finger, sixty-five per centum of wages during [thirty] *forty weeks.*

For the loss of a third finger, sixty-five per centum of wages during twenty weeks.

For the loss of a fourth finger, commonly called little finger, sixty-five per centum of wages during fifteen weeks.

For the loss of a great toe, sixty-five per centum of wages during sixty weeks.

For the loss of a first toe, sixty-five per centum of wages during thirty-five weeks.

For the loss of a second toe, sixty-five per centum of wages during thirty weeks.

The loss of *less than* the first phalange of the *toe*, thumb, or of any finger, shall be considered equivalent to the loss of one-half of such *toe*, thumb or finger, and shall be compensated at the same rate as for the loss of a *toe*, thumb or finger, but for one-half of the period provided for the loss of a *toe*, thumb or finger: *Pro-*

vided, however, That the accident involves injury to part of the bone of the phalange.

The loss of [more than] one phalange *or more* of a toe, thumb or finger shall be considered equivalent to the loss of the entire toe, thumb or finger.

For the loss of any two or more such members, or the permanent loss of the use of the *finger, thumb, hand, arm, foot, leg, toe, or eye*, as hereinbefore provided, not constituting total disability, sixty-five per centum of wages during the aggregate of the periods specified for each.

The loss of the function of the distal joint shall be considered compensable for the period of one-half the number of weeks set forth for the loss of the toe or finger involved. The loss of the function of the proximal joint shall be considered to be the loss of the use of the toe or finger, and shall be compensable as set forth above for the loss of the toe or finger involved.

For serious and permanent disfigurement of the head, [or] face, *or neck* of such a character as to produce an unsightly appearance, and such as is not usually incident to the employment, sixty-five per centum of wages not to exceed [one hundred and fifty weeks] *two hundred weeks*. *If, by reason of disfigurement, an injured employe shall be unable to obtain any employment for which he is otherwise qualified, the board may order compensation to be paid in accordance with the provisions of clause (a) or clause (b) of this section.*

Unless the board shall otherwise determine, the loss of both hands or both arms or both feet or both legs or both eyes shall constitute *permanent* total disability, to be compensated according to the provisions of clause (a).

Amputation between the [elbow] *wrist* and the [wrist] *knuckles* shall be considered as the equivalent of the loss of a hand, and amputation between the [knee] *toes* and the ankle shall be considered as the equivalent of the loss of a foot. Amputation [at or] above the [elbow] *wrist* shall be considered as the loss of an arm, and amputation at or above the [knee] *ankle* shall be considered as the loss of a leg. Permanent loss of the use of a hand, arm, foot, leg, eye, *toe, finger or thumb for industrial purposes*, shall be considered as the equivalent of the loss of such hand, arm, foot, leg, eye, *toe, finger or thumb*.

This compensation shall not be more than [fifteen] *eighteen* dollars per week nor less than [seven] *twelve* dollars per week. [Provided, That, if at the time of injury the employe receives wages of less than seven dollars per week, then he shall receive the full amount of such wages per week as compensation.]

(d) No compensation shall be allowed for the first seven days after disability begins, except as [herein-

after] provided in [clause] *clauses (a), (b), and (e)* of this section.

(e) During the first [thirty days] *three months* after [disability begins] *the date of injury, and during such further period as the board may, in the manner herein-after provided, require in a particular case,* the employer shall furnish reasonable surgical, [and] medical, dental, and nursing services, hospital treatment, artificial appliances, medicines, and supplies, as and when needed, unless the employe refuses to allow them to be furnished by the employer: *Provided, That the injured employe, by petition to the board and notice to the employer, may be permitted by the board to consult a physician of his own choice at any time during his disability, the cost of such consultation to be paid by the employer in accordance with a schedule of charges to be prescribed and approved by the board. Any such request shall be acted upon promptly, either with or without a hearing, and shall have preference over any other matter or proceeding pending before the board or the referee. Upon application of an injured employe, the board may issue its order requiring the employer to furnish such further services, hospital treatment, medicines, artificial appliances or supplies during such further period, and in such additional amounts, after the three months' period, as the board may in the interest of justice deem advisable. The cost of such services (exclusive of the cost of hospital treatment and artificial appliances), medicines, and supplies, during the aforesaid three months' period, shall not exceed over [one hundred dollars (\$100)] two hundred dollars (\$200). If the employer shall, upon application made to him, refuse to furnish such services, hospital treatment, appliances, medicines, and supplies, the employe may procure same and shall receive from the employer the reasonable cost thereof. [within the above limitations. In addition to the above service, medicines, and supplies, hospital treatment, service, and supplies shall be furnished by the employer for the said period of thirty days. The cost for such hospital treatment, service, and supplies, shall not in any case exceed the prevailing charge in the hospital for like services to other individuals.] If the employe shall refuse [reasonable surgical, medical, and hospital] such services, hospital treatment, appliances, medicines, and supplies, tendered to him by his employer, he shall forfeit all rights to compensation for any injury or any increase in his incapacity shown to have resulted from such refusal: *Provided, however, That the employe need not submit to surgical treatment which, in the opinion of at least two qualified physicians, might jeopardize his life. The employer shall also furnish to the employe, or pay the cost of, transportation to and from the place**

where such services are rendered, and reimbursement for such costs assumed by the employe may be enforced as payments of compensation are enforced.

(f) [Should the employe die as a result of the injury, the period during which compensation shall be payable to his dependents, under section three hundred and seven, of this article, shall be reduced by the period during which compensation was paid to him in his lifetime, under this section of this article. No reduction shall be made for the amount which may have been paid, or contracted to be paid, for medical and hospital services and medicines, nor for the expenses of the last sickness and burial.] Should the employe die from some other cause than the injury, the liability for compensation shall cease.

[(g) Hernia shall be considered as a physical weakness or ailment, which ordinarily develops gradually, and shall not be compensable, unless conclusive proof is offered that the hernia was immediately precipitated by such sudden effort or severe strain that: first, the descent of the hernia immediately followed the cause; second, there was actual pain in the hernial region; third, the above manifestations were of such severity that the same were immediately noticed by the claimant and communicated to the employer, or a representative of the employer, within forty-eight hours after the occurrence of the accident.]

(g) If an employe receives an injury compensable under this act which of itself would not cause permanent total disability, but which combined with a previous major permanent injury does in fact cause permanent total disability, or if an employe, who has previously suffered a major permanent injury, receive an injury compensable under this act which of itself is a permanent injury, or which either causes permanent total disability or results in the death of such employe, compensation for such further permanent injury, total disability or death shall be paid out of the moneys existing to the credit of the second injury reserve account hereinafter created by this act in The State Workmen's Insurance Fund, as follows:

(1) In the case of further permanent injury not resulting in total disability either of itself or in combination with any prior major permanent injury, the amount provided by clause (c) of this section for the particular type of the later permanent injury.

(2) In the case of total disability resulting either from the later injury of itself, or from such injury combined with any prior major permanent injury, an amount equivalent to the difference between the compensation payable for any prior major permanent injury and the amount payable for total disability under clause (a) of this section.

(3) *In the case of death resulting from the later injury, or from a combination of any prior major permanent injury and the later injury, the amount payable under section three hundred seven of this act in cases of death.*

The employer of any such employe shall be responsible for compensating the injured employe for the second injuries and in the manner prescribed in this subsection, but shall be relieved from the payment of compensation to such employe to the extent such compensation is paid under this subsection out of the second injury reserve account of the State Workmen's Insurance Fund.

Such employer, in order to obtain the benefits of this subsection, shall file with the board a petition of agreed facts in the manner provided in section four hundred eleven of this act, and thereafter the procedure shall be the same as in other cases, except that the board may, in its discretion, act on such petition without a hearing.

For purposes of this subsection, a "major permanent injury" shall mean all permanent injuries set forth in clause (c) of section three hundred six, exclusive of loss of or loss of use of one or more fingers or toes not amounting to loss of or loss of use of hand or foot.

Section 307. In case of death, compensation shall be computed on the following basis, and distributed to the following persons:

1. If there be no widow nor widower entitled to compensation, compensation shall be paid to the guardian of the child or children, or, if there be no guardian to such other persons as may be designated by the board as hereinafter provided, as follows:

(a) If there be either one or two children, [thirty-three] *thirty* per centum of wages of deceased, but not in excess of [seven] *twelve* dollars [and fifty cents] per week.

(b) If there be three children, [forty-four] *forty-five* per centum of wages of deceased, but not in excess of [ten] *fourteen* dollars per week.

(c) If there be four children, [fifty-five] *sixty* per centum of wages of deceased, but not in excess of [twelve] *sixteen* dollars [and fifty cents] per week.

(d) If there be five or more children, [sixty-two and one-half] *sixty-five* per centum of wages of deceased, but not in excess of [fourteen] *eighteen* dollars per week.

[e) If there be six or more children, sixty-five per centum of wages of deceased, but not in excess of fifteen dollars per week.]

2. To the widow or widower, if there be no children, forty-four per centum of wages, but not in excess of [ten] *twelve* dollars per week.

3. To the widow or widower, if there be one child, [fifty-five] *fifty-nine* per centum of wages, but not in excess of [twelve and a half] *fifteen* dollars per week.

4. To the widow or widower, if there be two children, [sixty-two and one-half] *sixty-five* per centum of wages, but not in excess of [fourteen] *sixteen* dollars per week.

4½. To the widow or widower, if there be three or more children, sixty-five per centum of wages, but not in excess of [fifteen] *eighteen* dollars per week.

5. If there be neither widow, widower, nor children entitled to compensation, *or if the widow, widower or children are not receiving the maximum compensation payable under this act*, then to the father or mother, if dependent to any extent upon the employe at the time of the accident, twenty-five per centum of wages, but not in excess of [five] *ten* dollars per week: Provided, however, That in the case of a minor child who has been contributing to his parents, the dependency of said parents shall be *conclusively* presumed: And provided further, That if the father or mother was totally dependent upon the deceased employe at the time of the accident, the compensation payable to such father or mother shall be forty-five per centum of wages, but not in excess of [ten] *fifteen* dollars per week, *but the provisions of this paragraph in connection with other provisions of this section shall not be deemed to require the payment of compensation in excess of eighteen dollars per week in any one case.*

6. If there be neither widow, widower, children, nor dependent parent, entitled to compensation, [the following] *or if the widow, widower, children or dependent parent are not receiving the maximum compensation payable under this act*, then to the brothers and sisters *until the age of eighteen*, if actually dependent [to any extent] upon the decedent for support at the time of his death, fifteen per centum of wages for one brother or sister, and five per centum additional for each additional brother or sister, with a maximum of twenty-five per centum, such compensation to be paid to their guardian, or, if there be no guardian, to such other person as may be designated by the board, as hereinafter provided, *but the provisions of this paragraph in connection with other provisions of this section shall not be deemed to require the payment of compensation in excess of eighteen dollars per week in any one case.*

7. Whether or not there be dependents as aforesaid, the reasonable expense of burial, not exceeding [one hundred and fifty] *two hundred* dollars, which shall be paid by the employer or insurer directly to the undertaker (without deduction of any amounts theretofore paid for compensation or for medical expenses).

Compensation shall be payable under this section to

or on account of any child, brother, or sister, only if and while such child, brother, [and] or sister is under the age of [sixteen] *eighteen, unless such child, brother, or sister is dependent by reason of disability, in which case such compensation shall be paid to or on account of such child, brother, or sister until he or she reaches the age of twenty-one.* No compensation shall be payable under this section to a widow, unless she was living with her deceased husband at the time of his death, or was then actually dependent upon him for support. No compensation shall be payable under this section to a widower, unless he be incapable of self-support at the time of his wife's death and be at such time dependent upon her for support. The terms "child" and "children" shall include stepchildren and adopted children and children to whom he stood in loco parentis, if members of decedent's household at the time of his death, and shall include posthumous children. Should any dependent of a deceased employe die or remarry, or should the widower become capable of self-support, the right of such dependent or widower to compensation under this section shall cease: Provided, however, That upon remarriage of any widow, other than a nonresident alien widow, the compensation of such widow shall continue as hereinbefore provided for [one-third of the period during which compensation then remains payable to her] *two years from the date of such remarriage.* If the compensation payable under this section to any person shall, for any cause, cease, the compensation to the remaining persons entitled thereunder shall thereafter be the same as would have been payable to them had they been the only persons entitled to compensation at the time of the death of the deceased.

The wages upon which death compensation shall be based shall not in any case [be taken to exceed twenty-four dollars per week, nor] be less than [twelve] *eighteen dollars and fifty cents per week.*

[This compensation shall be paid during three hundred weeks, and, in the case of children entitled to compensation under this section, the compensation of each child shall continue after said period of three hundred weeks until such child reaches the age of sixteen, at the rate of seventeen and one-half per centum of wages, but not in excess of three dollars and seventy-five cents per week, if there be one child; twenty-seven and one-half per centum of wages, but not in excess of six dollars and twenty-five cents per week, if there be two children; thirty-eight and one-half per centum of wages, but not in excess of eight dollars and seventy-five cents per week, if there be three children; fifty per centum of wages, but not in excess of eleven dollars and twenty-five cents per week, if there be four children; fifty-five per centum of

wages, but not in excess of twelve dollars and fifty cents per week, if there be five children; and sixty per centum of wages, but not in excess of thirteen dollars and seventy-five cents per week, if there be six children or more.] *This compensation shall be paid during five hundred weeks, except that in the case of a widow, if she shall remain unmarried, compensation shall continue, after said period of five hundred weeks, at the rate of five dollars per week for life, and in the case of children entitled to compensation under this section, the compensation of each child shall continue, after said period of five hundred weeks, until such child reaches the age of eighteen, at the rate of twenty-five per centum of wages, but not in excess of five dollars per week, if there is one child; thirty-five per centum of wages, but not in excess of eight dollars per week, if there are two children; fifty per centum of wages, but not in excess of ten dollars per week, if there are three children; seventy-five per centum of wages, but not in excess of fifteen dollars per week, if there are four children or more.*

The board may, if the best interest of a child or children shall so require, at any time order and direct the compensation payable to a child or children, or to a widow or a widower on account of any child or children, to be paid to the guardian of such child or children, or, if there be no guardian, to such other person as the board, as hereinafter provided, may direct. If there be no guardian or committee of any minor, dependent, or insane employe, or dependent, on whose account compensation is payable, the amount payable on account of such minor, dependent, or insane employe, or dependent may be paid to any surviving parent, or to such other person as the board may order and direct, and the board may require any person, other than a guardian or committee, to whom it has directed compensation for a minor, dependent, or insane employe, or dependent to be paid, to render, as and when it shall so order, accounts of the receipts and disbursements of such person, and to file with it a satisfactory bond in a sum sufficient to secure the proper application of the moneys received by such person.

Section 308. Except as hereinafter provided, all compensation payable under this article shall be payable in periodical instalments, as the wages of the employe were payable before the accident.

All compensation payable under this article shall be made payable only to employes or their dependents or their guardians, or such other persons as may be designated by the board.

Any person, copartnership, association or corporation, who or which violates any of the provisions of this

section, shall, upon conviction thereof in a summary proceeding, be sentenced to pay for each violation a fine of not less than ten dollars (\$10.00) nor more than twenty-five dollars (\$25.00).

Section 309. Wherever in this article the term "wages" is used, it shall be construed to mean the money rate at which the service rendered is recompensed under the contract of hiring in force at the time of the accident, [and] *except that, if the injured employe was, at the time of the injury, a minor and his disability shall continue after he shall have reached the age of twenty-one years, his average weekly wage for the purpose of determining the compensation payable under this act, shall be determined on the basis of the earnings that such minor, if not disabled, probably would earn at the age of twenty-one (21) years. In determining such probable earnings, due consideration shall be given to the employe's aptitude, education, and experience fitting him for any employment, not only in the trade or business in which he was engaged at the time of the injury, but in any other trade or business. In determining such probable earnings, the referee and the board shall have the right to receive into evidence, as competent testimony, the earnings of other employes of similar aptitude, education, and experience engaged in a similar trade or business, and findings based upon such testimony shall be final. The term "wages" [shall not include gratuities received from the employer or others; nor shall it include amounts deducted by the employer under the contract of hiring for labor furnished or paid for by the employer, and necessary for the performance of such contract by the employe; but] shall include board and lodging received from the employer. Whenever the employe receives board and lodging as a part of his wages, the board shall be rated at fifty cents per day, and board together with lodging shall be rated at one dollar per day, for the purpose of computing wages. In seasonable occupations the employe's weekly wages shall be taken to be one-fiftieth of the total wages which he has earned from all occupations during the year immediately preceding the accident, unless it be shown that during such year, by reason of exceptional causes, such method of computation does not ascertain fairly the earnings of the employe; in which case the period for calculation shall be extended so far as to give a basis for the fair ascertainment of his average weekly earnings. In continuous employments, if immediately prior to the accident the rate of wages was fixed by the day or hour, or by the output of the employe, his weekly wages shall be taken to be five and one-half times his average earnings at such rate for a working day, and using as a basis of calculation his earnings during so much of the pre-*

ceding six months as he worked for the same employer: Provided, however, That if the employe regularly and habitually worked more than five and one-half days per week, the weekly wage shall be found by multiplying his average earnings for working day by six, six and one-half, or seven, according to the customary number of working days constituting an ordinary week in his occupation or trade. Where the employe is working under concurrent contracts with two or more employers, his wages from all employers shall be considered as if earned from the employer liable for compensation.

In cases where the employe has been in the employ of the employer less than one full week, and by reason of the shortness of time during which the employe has been in the employment of the employer or the nature or terms of the employment it is impracticable to ascertain the average weekly wages as hereinbefore provided, the average weekly amount which during the six months previous to the injury has been earned by other persons employed by the same employer under similar contracts of hiring, or, if there are no persons so employed, by other persons employed by other employers under similar contracts of hiring under similar conditions, shall be taken as the basis for the ascertainment of the weekly wages of such employe.

Section 310. Compensation under this article to alien dependent widows and children, not residents of the United States, shall be two-thirds of the amount provided in each case for residents; and the employer may, at any time, commute all future instalments of compensation payable to alien dependents, not residents of the United States, by paying to such alien dependents the then value thereof, calculated in accordance with the provisions of section three hundred and [sixteen] *fourteen* of this article. Alien widowers, parents, brothers, and sisters, not residents of the United States, shall not be entitled to any compensation.

Non-resident alien dependents may be officially represented by the Consular officers of the nation of which such alien or aliens may be citizens or subjects, and in such cases the Consular officers shall have the right to receive, for distribution to such non-resident alien dependents, all compensation awarded hereunder, and the receipt of such Consular officers shall be a full discharge of all sums paid to and received by them.

Section 311. Unless the employer shall have actual knowledge of the occurrence of the injury, or unless the employe or [some one] *someone* in his behalf, or some of the dependents or [some one] *someone* in their behalf, shall give notice thereof to the employer within [fourteen] *thirty* days after the accident, no compensation shall be due until such notice be given or knowledge ob-

tained; but if the employe or other beneficiary shall show that his delay in giving notice was due to his mistake or ignorance of fact or of law, or to his physical or mental inability, or to fraud, misrepresentation or deceit, or to any other reasonable cause or excuse, then compensation shall be allowed, unless the employer shall show that he did not know, and by reasonable diligence could not have learned, of the accident, and that he was prejudiced by the delay; in which case he shall be relieved to the extent of such prejudice. [and, unless such knowledge be obtained, or notice given, within ninety days after the occurrence of the injury, no compensation shall be allowed.]

Section 312. The notice referred to in section three hundred and eleven hereof shall be substantially in the following form:

To (name of employer).

You are hereby notified that an injury of the following character (.....) was suffered by (name of employe injured), who was in your employment at (place), while engaged as (kind of employment) on or about the (.....) day of (.....), Anno Domini (.....), and that compensation will be claimed therefor.

Date: Signed (.....).

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

Section 313. The notices referred to in section three hundred and two and section three hundred and eleven hereof may be served personally upon the employer, or upon the manager or superintendent in charge of the works or business in which the accident occurred, or by sending them through the registered mail to the employer at his or its last known residence or place of business, or, if the employer be a corporation either foreign or domestic, then upon the president, vice-president, secretary, or treasurer thereof. Knowledge of the occurrence of the injury on the part of any of said agents shall be the knowledge of the employer.

Section 314. At any time after an injury the employe, if so requested by his employer, must submit himself for examination, at some reasonable time and place, to a physician or physicians legally authorized to practice under the laws of such place, who shall be selected and paid by the employer. If the employe shall refuse, upon the request of the employer, to submit to the examination by the physician or physicians selected by the

employer, the board may, upon petition of the employer, order the employe to submit to an examination at a time and place set by it, and by the physician or physicians selected and paid by the employer, or by a physician or physicians designated by it and paid by the employer; and if the employe shall, without reasonable cause or excuse, disobey or disregard such order, he shall be deprived of his right to compensation under this article. The board may at any time after such first examination, upon petition of the employer, order the employe to submit himself to such further examinations as it shall deem reasonable and necessary, at such times and places and by such physicians as it may designate; and, in such case, the employer shall pay the fees and expenses of the examining physician or physicians, and the reasonable traveling expenses and loss of wages incurred by the employe in order to submit himself to such examination. The refusal or neglect, without reasonable cause or excuse, of the employe to submit to such examination ordered by the board, either before or after an agreement or award, shall deprive him of the right to compensation, under this article, during the continuance of such refusal or neglect, and the period of such neglect or refusal shall be deducted from the period during which compensation would otherwise be payable.

The employe shall be entitled to have a physician or physicians of his own selection, to be paid by him, participate in any examination requested by his employer or ordered by the board.

Section 315. In cases of personal injury all claims for compensation shall be forever barred, unless, within [one year] *two years* after the accident, the parties shall have agreed upon the compensation payable under this article; or unless, within [one year] *two years* after the accident, one of the parties shall have filed a petition as provided in article four hereof. In cases of death all claims for compensation shall be forever barred, unless, within [one year] *two years* after the *date of death*, the parties shall have agreed upon the compensation under this article; or unless, within [one year] *two years* after the *date of death*, one of the parties shall have filed a petition as provided in article four hereof. Where, however, payments of compensation have been made in any case, *or an employer has failed to report to the department the occurrence of an injury to his employe as required by law*, said limitations shall not take effect until the expiration of [one year] *two years* from the time of the making of the last payment, *or the filing of such report, as the case may be.*

Section 316. The compensation contemplated by this article may at any time be commuted by the board, at its then value when discounted at five per centum interest,

with annual rests, disregarding the probability of the beneficiary's death, upon application of either party, with due notice to the other, if it appear that such commutation will be for the best interest of the employe or the dependents of the deceased employe, and that it will avoid undue expense or undue hardship to either party, or that such employe or dependent has removed or is about to remove from the United States, or that the employer has sold or otherwise disposed of the whole or the greater part of his business or assets. Except as provided in section three hundred and ten hereof, and in this section, no commutation of compensation shall be made.

Any person, partnership, association or corporation who or which shall commute or attempt to commute any compensation, directly or indirectly, in violation of this act, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), or to undergo imprisonment for a period of not more than six (6) months, or both, in the discretion of the court. No person, partnership, association or corporation shall be entitled to receive credit for any moneys paid in violation of this section, and any such payment shall be considered as a gratuity.

Section 317. At any time after the approval of an agreement or after the entry of the award, a sum equal to all future instalments of compensation may (where death or the nature of the injury renders the amount of future payments certain), with the approval of the board, be paid by the employer to any savings bank, trust company, or life insurance company, in good standing and authorized to do business in this [State] *Commonwealth*, 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 the receipt of the trustee noted upon the prothonotary's docket, shall operate as a satisfaction of said award as to the employer. Payments from said fund shall be made by the trustee in the same amounts and at the same periods as are herein required of the employer, until said fund and interest shall be exhausted. In the appointment of the trustee preference shall be given in the discretion of the board, to the choice of the employe or the dependents of the deceased employe. Should, however, there remain any unexpended balance of any fund after the payment of all sums due under this act, such balance shall be repaid to the employer who made the original payment, or to his legal representatives.

Section 318. The right of compensation granted by this article of this act shall have the same preference (without limit of amount) against the assets of an employer, liable for such compensation, as is now or may hereafter be allowed by law for a claim for unpaid wages for labor: Provided, however, That no claim for compensation shall have priority over any judgment, mortgage, or conveyance of land recorded prior to the filing of the petition, award, or agreement as to compensation in the office of the prothonotary of the county in which the land is situated. Claims for payments due under this article of this act shall not be assignable, and (except as provided in section five hundred and one of article five hereof) shall be exempt from all claims of creditors, and from levy, execution, or attachment, which exemption may not be waived.

Section 319. Where a third person is liable to the employe or the dependents for the injury or death, the employer shall be subrogated to the right of the employe or the dependents against such third person, *less reasonable attorney's fees and other proper disbursements*, but only to the extent of the compensation payable under this article by the employer. Any recovery against such third person in excess of the compensation theretofore paid by the employer shall be paid forthwith to the employe or to the dependents, and shall be treated as an advance payment by the employer on account of any future instalments of compensation.

Section 320. (a) If the employe at the time of the accident is a minor, under the age of eighteen years, employed or permitted to work in violation of any provision of the laws of this Commonwealth relating to minors of such age, compensation, either in the case of injury or death of such employe, shall be double the amount that would be payable to such minor if legally employed. The amount by which such compensation shall exceed that provided for in case of legal employment may be referred to as "additional compensation."

(b) The employer and not the insurance carrier shall be liable for the additional compensation. Any provision in an insurance policy undertaking to relieve an employer from such liability shall be void.

(c) Where death or the nature of the injury renders the amount of future payments certain, the total amount of the additional compensation, subject to discount as in the case of commutation, shall be immediately due and payable. It shall be deposited, subject to the approval of the board, in any savings bank, trust company, or life insurance company in good standing and authorized to do business in this [State] *Commonwealth*.

Where the amount of the future payments of compensation is uncertain, the board shall, upon the ap-

proval of the agreement or the entry of an award, determine as nearly as may be the total amount of payment to be made, and the additional compensation so calculated shall, immediately upon such determination, become due and payable by the employer. The amount may be redetermined by the board and any increase shall then become due and payable, and any excess, which shall be shown to have been paid, shall be returned to the person paying the same. Upon determination of the amount due, it shall be deposited as above provided. Payments of compensation out of deposits shall be made to the employe or dependents as payments of other compensation are made: Provided, however, That the board may, in its discretion and upon inquiry as in cases of commutation, accelerate such payments.

(d) The provisions of the foregoing paragraph (c) shall not apply to employers who are exempted by the [bureau] *department* from the necessity of carrying insurance.

(e) Possession of an employment certificate, duly issued and transmitted to the employer in accordance with the provisions of the child labor law and receipt thereof duly acknowledged by him, shall be conclusive evidence to such employer of his legal right to employ the minor for whose employment such certificate has been issued.

(f) The possession of an age certificate, duly issued and transmitted to the employer by the school authorities of the school district in which a minor resides, shall be conclusive evidence to the employer of the minor's age as certified therein.

(g) If neither party has elected not to be bound by the provisions of article three of the act to which this act is an amendment, in the manner prescribed by section three hundred and two of said act, they shall be held to have agreed to be bound by the provisions of this act and to have waived any other right or remedy at law or in equity for the recovery of damages for injuries occurring under the circumstances herein described.

Section 321. In the case of an employe who dies as the result of an injury received in the course of his employment and who leaves no dependents entitled to receive in excess of fifteen hundred dollars (\$1500.00) compensation under this act, the employer or his insurance carrier, as the case may be, shall pay the sum of fifteen hundred dollars (\$1500.00) to the department, or the difference between the amount paid to such dependents and the sum of fifteen hundred dollars (\$1500.00). In order to enforce payment of such sum, the department shall have power to file with the board a claim for the same in like manner as any claim for compensation may be filed under this act.

(b) *One-fourth of the amount received in each case under this section by the department, but not, however, in excess of two hundred and fifty dollars (\$250.00), shall be paid by it into the Federal Rehabilitation Fund of the State Treasury, through the Department of Revenue, which amount shall be credited to a ledger account to be known as the industrial rehabilitation account. All moneys credited to the industrial rehabilitation account are hereby appropriated to the department for all expenses incurred by the department under the rehabilitation laws of this Commonwealth, for the rehabilitation of injured employes who are entitled to compensation under this act, and who are, as a result of their injuries, totally or partially incapacitated for remunerative* employment in the line of employment in which they were employed at the time of injury.*

(c) *The balance of any amount received by the department under this section shall be paid by it into the State Workmen's Insurance Fund of the State Treasury, through the Department of Revenue, which amount shall be credited to a ledger account to be known as the second injury reserve account. All amounts credited to the second injury reserve account are hereby appropriated to the department for the payment of the compensation provided in clause (g) of section three hundred and six of this act.*

Whenever, at the end of any fiscal year of the Commonwealth, after the year one thousand nine hundred and forty-five, the total amount credited to the second injury reserve account shall exceed a sum equivalent to three times the average annual incurred liability of the account to employes or their dependents during the three preceding fiscal years, the surplus amount shall, upon requisition of the department, be transferred to the Federal Rehabilitation Fund of the State Treasury, and credited to the industrial rehabilitation account in such fund. All amounts so transferred shall be available and are hereby appropriated to the department for the same purposes for which moneys credited to such account are appropriated by subsection (b) of this section.

ARTICLE IV

PROCEDURE

Section 401. The term "Referee," when used in this article, shall mean Workmen's Compensation Referee.

The term "Fund," when used in this article, shall mean the State Workmen's Insurance Fund of this Commonwealth.

The term "Employer," when used in this article, shall mean the employer as defined in article one of this act, or his duly authorized agent, or his insurer if such

* "renumerative" in the original.

insurer has assumed the employer's liability, or the fund of the employer be insured therein.

Section 402. All proceedings before the board or any referee, and all appeals to the board, shall be instituted by petition addressed to the board. All petitions shall be in writing and in the form prescribed by the board.

Section 403. All petitions, all copies of agreements for compensation, and all [other] papers requiring action by the board, shall be mailed or delivered to the [bureau] *department* at its principal office.

Section 404. The [bureau] *department* shall, immediately upon their receipt, properly file and docket all petitions, agreements for compensation, findings of fact by the board or any referee, awards or disallowances of compensation, or modifications thereof, and all other reports or papers filed with it under the provisions of this act or the rules and regulations of the board.

Section 405. Immediately upon receiving from the board or any referee [any approval or disapproval of any agreement for or] any award or disallowance of compensation, or any modification thereof, or any other decision, the [bureau] *department* shall serve a copy thereof on all parties in interest.

Section 406. All notices and copies to which any party shall be entitled under the provisions of this article shall be served by mail, or in such manner as the board shall direct. For the purposes of this article any notice or copy 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 notice or copy was not received, or that there was an unusual or unreasonable delay in its transmission through the mails. In any 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 [bureau] *department* [the secretary] and every referee shall keep a careful record of the date of mailing every notice and copy required by this act to be served on the parties in interest.

Section 407. On or after the [tenth] *seventh* day after any accident shall have occurred, the employer and employe or his dependents may agree upon the compensation payable to the employe or his dependents under this act; but any agreement made prior to the [tenth] *seventh* day after the accident shall have occurred, or permitting a commutation of payments contrary to the provisions of this act, or varying the amount to be paid or the period during which compensation shall be payable as provided in this act, shall be wholly null and void. It shall be unlawful for any employer to ac-

cept a receipt showing the payment of compensation when in fact no such payment has been made.

All agreements made in accordance with the provisions of this section shall be in writing, and signed by all parties in interest.

It shall be unlawful for any employer to procure, or to cause to be procured, the signature of any employe, or of the dependents of any employe, or of other persons in interest to any agreement or supplemental agreement which is not complete in every material respect, and any employer so doing shall, upon conviction thereof in a summary proceeding, be sentenced to pay a fine of one hundred dollars (\$100.00) for each offense.

All agreements for compensation and all supplemental agreements for the modification, suspension, reinstatement, or termination thereof, and all receipts executed by any injured employe of whatever age, or by any dependent to whom compensation is payable under section three hundred and seven, and who has attained the age of sixteen years, shall be valid and binding unless modified or set aside as hereinafter provided.

Section 408. All agreements for compensation may be modified, suspended, reinstated, or terminated at any time by a supplemental agreement approved by the [board] *department*, if the incapacity of an injured employe has increased, decreased, recurred, or temporarily or finally terminated, or if the status of any dependent has changed.

Section 409. Whenever an agreement or supplemental agreement shall be executed between an employer and an employe or his dependents as provided by this act, such agreement shall be executed in triplicate. Two copies thereof, signed by all parties in interest, shall be mailed or delivered to the [board] *department within thirty days after execution by the claimant*. It shall be the duty of the [board] *department* to examine the agreement to determine whether it conforms to the provisions of section four hundred and seven, to notify the parties thereto of its validity or invalidity, under the aforesaid section, within thirty days after the copies of the agreement have been mailed or delivered to it, and, if the agreement be approved, to send to the employe, together with such notification of its approval, a copy of the agreement: Provided, however, That any payment made in accordance with any agreement prior to the receipt of notice of invalidity shall discharge pro tanto the liability, under article three of this act, of the employer making such payments.

Whenever an agreement or a supplemental agreement is disapproved by the department, the employer shall pay to the employe compensation on the basis of such agreement to such extent as the agreement would, if

approved, require. Compensation on the basis of such agreement shall be paid until such time as the employer's liability for compensation is finally determined under the provisions of this act. Any payments made by an employer, in accordance with such agreement, shall discharge pro tanto his liability for such compensation as may be subsequently determined to be due the employe under the provisions of this act.

Any employer who shall fail to mail or deliver to the department two copies of any agreement or supplemental agreement within thirty days after such agreement or supplemental agreement is executed by the claimant, shall, upon conviction thereof in a summary proceeding, be sentenced to pay a fine of twenty-five dollars (\$25.00) for each such failure.

Section 410. If, after any accident, the employer and the employe or his dependent, concerned in any accident shall fail to agree upon the facts thereof and the compensation due under this act, the employe or his dependents, or the department for and on behalf of such employe or his dependents, whenever an agreement or supplemental agreement has been disapproved by the department or it shall otherwise deem it to be in the interests of justice to do so, may present a claim for compensation to the board. All allegations contained in the claim petition must be separately and specifically admitted or denied by the defendant. Claimant shall have a right, upon a petition to the referee and his order thereon, to inspect the premises where the claimant's alleged injury was received.

Whenever any claim for compensation is presented to the board, other than claims of nonresident alien dependants, and is finally adjudicated in favor of the claimant, the amounts of compensation actually due at the time the first payment is made after such adjudication shall bear interest at the rate of six per centum per annum, beginning fourteen days after the date of the accident, and such interest shall be payable to the same persons as the compensation is payable.

In case any claimant shall die before the final adjudication of his claim, the amount of compensation due such claimant to the date of death shall be paid to the dependents entitled to compensation, or, if there be no dependents, then to the estate of the decedent.

Section 411. Whenever the employer and the employe or his dependent shall, on or after the [tenth] seventh day after any accident, agree on the facts on which a claim for compensation depends, but shall fail to agree on the compensation payable thereunder, they may petition the board to determine the compensation payable. Such petition shall contain the agreed facts, and shall be signed by all parties in interest. The board

shall fix a time and place for hearing the petition, and shall notify all parties in interest. As soon as may be after such hearing, the board shall award or disallow compensation in accordance with the provisions of this act.

Section 412. If any party shall desire the commutation of future instalments of compensation, he shall present a petition therefor to the board.

Section 413. The board, or a referee designated by the board, may, at any time, review and modify or set aside an original or supplemental agreement, upon petition filed *by either party* with the board or in the course of the proceedings under any petition pending before such board or referee, if it be proved that such agreement [was procured by the fraud, coercion, or other improper conduct of a party, or was founded upon a mistake of law or of fact] *in any material respect is incorrect.*

The board, or referee designated by the board, may, at any time, modify, reinstate, suspend, or terminate an original or supplemental agreement or an award, upon petition filed by either party with such board, upon proof that the disability of an injured employe has increased, decreased, recurred, or has temporarily or finally ceased, or that the status of any dependent has changed. Such modification, reinstatement, suspension, or termination shall be made as of the date upon which it is shown that the disability of the injured employe has increased, decreased, recurred, or has temporarily or finally ceased, or upon which it is shown that the status of any dependent has changed: Provided, That, except in the case of eye injuries, an agreement or an award can only be reviewed, modified, or reinstated [during the time such agreement or award has to run, if for a definite period; and, except in the case of eye injuries, no agreement or award shall be reviewed, or modified, or reinstated unless] *if a petition is filed with the board within one year after the date of the last payment of compensation, with or without an agreement.*

The board or referee to whom any such petition has been assigned may subpoena witnesses, hear evidence, make findings of fact, and award or disallow compensation, in the same manner and with the same effect and subject to the same right of appeal, as if such petition were an original claim petition.

The filing of a petition to terminate or modify a compensation agreement or award as provided in this section shall operate as a supersedeas, and shall suspend the payment of compensation fixed in the agreement or by the award, [in whole or] to such extent as the facts alleged in the petition would, if proved, require, *except that the filing of a petition relative to a change in or*

termination of the disability of an injured person shall not act as a supersedeas, unless such petition contains an affidavit by a physician that he has examined the claimant, a percentage estimate of the extent of disability, and that the petitioner, in his opinion, is entitled to the relief prayed for in the petition. Payment must be made up to date of the filing of the petition to terminate, and in the case of a petition to modify, in accordance with the per centum of liability admitted in such petition. In any such action to terminate or modify, the burden of proof shall be upon the party filing such petition. No petition to terminate or modify an existing agreement or award shall be filed while said agreement or award is being adjudicated.

Section 414. Whenever a claim petition or other petition is presented to the board, the board shall, by general rules or special order, either direct it to be heard by *one or more members* of the board or assign it to a referee for hearing: Provided, however, That petitions presented under sections four hundred and eleven and four hundred and twelve shall be heard by *one or more members* of the board.

The [secretary] *department* shall serve upon each adverse party a copy of the petition, together with a notice that such petition will be heard by the board or the referee to whom it has been assigned (giving his name and address) as the case may be, and, if the petition shall have been assigned to a referee, shall mail the original petition to such referee, together with copies of the notices served upon the adverse parties.

Section 415. At any time before an award or disallowance of compensation or order has been made by a referee to whom a petition has been assigned, the board may order such petition heard before it *or one or more of its members* or may reassign it to any other referee. Unless the board shall otherwise order, the testimony taken before the original referee shall be considered as though taken before the board or substituted referee.

Section 416. Within ten days after a copy of any petition has been served upon any adverse party, he may file with the secretary *of the board* if the petition has been directed to be heard by the board, or with the referee if the petition has been assigned to a referee, an answer in the form prescribed by the board.

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 board or referee before whom the petition is heard from requiring, of its or his own motion, proof of such fact.

Section 417. As soon as may be after the twelfth day after notice that a petition has been directed to be heard by the board has been served upon the adverse parties thereof, the board shall fix a time and place for hearing the petition. If a petition be assigned to a referee, he shall, twelve days after notice that such petition has been assigned to him, has been served upon the adverse parties, fix a time and a place for hearing the petition. Such hearing shall not be less than five nor more than fourteen days after the mailing of notice thereof by the referee. The secretary of the board, if the petition has been directed to be heard by the board or by one or more of its members, or the referee to whom the petition has been assigned, shall serve upon all parties in interest a notice of the time and place of hearing, and shall serve upon the petitioner a copy of any answer of any adverse party.

Section 418. The board if a petition is directed to be heard by it or by one or more of its members, or the referee to whom a petition is assigned for hearing, may subpoena witnesses, order the production of books and other writings, and hear evidence 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 petition and answers and the evidence produced before it or him and the provisions of this act shall, in its or his judgment, require. The findings of fact made by the board in any petition heard by it or by one or more of its members or upon a hearing de novo shall be final, except as hereinafter provided, and the findings of fact made by a referee to whom a petition has been assigned or any question of fact has been referred under the provisions of section four hundred and nineteen shall be final, unless an appeal is taken as provided in this act, or unless the board shall, under the provisions of section four hundred and twenty-five of this article, grant a hearing de novo or a rehearing.

Section 419. The board may refer any question of fact arising under any petition, including a petition for commutation heard by it, to a referee to hear evidence and report to the board the testimony taken before him or such testimony and findings of fact thereon as the board may order. The board may refer any question of fact arising out of any petition assigned to a referee, to any other referee to hear evidence, and report the testimony so taken thereon to the original referee.

Section 420. The board or a 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 board, or referee with the consent of the board, [may] shall,

whenever it shall be deemed in the interest of justice to do so, appoint one or more impartial physicians or surgeons to examine the injuries of the plaintiff and report thereon, or he 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 board or by a referee shall be filed with the board or referee, as the case may be, and shall be a part of the record and open to inspection as such.

The board shall fix the compensation of such physicians, surgeons, and experts, which, when so fixed, [shall be paid out of the sums appropriated to the Department of Labor and Industry for the maintenance of the department, and shall be taxed as part of the costs of the proceedings to be repaid to such department by either party or both, as the board 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.] *shall be paid by the employer to the physician, surgeon, or expert. If any employer shall fail to pay such cost promptly, the physician, surgeon, or expert may proceed to collect the same in the manner provided in this act for the collection of awards of compensation.*

Section 421. All hearings before the board, *or one or more members thereof*, or before a referee shall be public.

Section 422. Neither the board *nor any of its members* nor any referee shall be bound by the technical rules of evidence in conducting any hearing or investigation, but all findings of fact shall be based only upon competent evidence.

If any party or witness resides outside of the Commonwealth, or through illness or other cause is unable to testify before the board or a referee, his or her testimony or deposition may be taken, within or without this Commonwealth, in such manner and in such form as the board may, by special order or general rule, prescribe. 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.

Section 423. Any party in interest may, within twenty days after notice of a referee's award or disallowance of compensation shall have been served upon him, take an appeal to the board on the ground: (1) that the award or disallowance of compensation is not in conformity with the terms of this act, or that the referee committed any other error of law; (2) that the findings of fact and award or disallowance of compensation was unwarranted by the evidence, or was procured by fraud, coercion, or other improper conduct of any party in in-

terest. The board may, upon cause shown, extend the time provided in this article for taking such appeal or for the filing of an answer or other pleading.

In any such appeal the board may disregard the findings of fact of the referee, and may examine the testimony taken before such referee, and if it deem proper may hear other evidence, and may substitute for the findings of the referee such findings of fact as the evidence taken before the referee and the board, as herein before provided, may, in the judgment of the board, require, and may make such disallowance or award of compensation or other order as the facts so found by it may require.

Section 424. Whenever an appeal shall be based upon an alleged error of law, it shall be the duty of the board to grant a hearing thereon. The board shall fix a time and place for such hearing, and shall serve notice thereof on all parties in interest.

As soon as may be after such hearing, the board shall either sustain or reverse the referee's award or disallowance of compensation, or make such modification thereof as it shall deem proper.

Section 425. Whenever an appeal shall be taken on the ground that the 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 board may, in its discretion, grant a hearing de novo before the board *or one or more of its members* or assign the petition for rehearing to any referee designated by it or sustain the referee's award or disallowance of compensation. If the board shall grant a hearing de novo, it shall fix a time and place for same, and shall notify all parties in interest.

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

Section 426. The board, upon petition of any party and upon cause shown, at any time before the court of common pleas of any county of this Commonwealth to [whom] *which* an appeal has been taken under the provisions of section four hundred and twenty-seven of this article shall have taken final action thereon, may grant a rehearing of any petition upon which the board *or referee* has made an award or disallowance of compensation or other order or ruling, or *upon which the board* has sustained or reversed any action of a referee. *The time for taking appeals shall be suspended pending the determination of the first petition for rehearing in those cases in which such petition is filed within twenty days from notice of decision of the Workmen's Compensation Board, but such rehearing shall not be granted more*

than [one year] *two years* after the board has made such award, disallowance, or other order or ruling, or has sustained or reversed any action of the referee. If the board shall grant a rehearing of any petition from [the board's] *its* action on which an appeal has been taken to and is pending in, the court of common pleas of any county of this Commonwealth under the provisions of section four hundred and twenty-seven of this article, the board shall file in such court a certified copy of its order granting such rehearing, and it shall thereupon be the duty of such court to cause the record of the case to be remitted to the board: Provided, however, That nothing contained in this section shall limit or restrict the right of the board, or a referee designated by the board, to review, modify, set aside, reinstate, suspend, or terminate, an original or supplemental agreement, or an award in accordance with the provisions of section four hundred thirteen of this article.

Section 427. Any party may appeal from any action of the board on matters of the law to the court of common pleas of the county in which the accident occurred or of the county in which the adverse party resides or has a permanent place of business, or, by agreement of the parties, to the court of common pleas of any other county of this Commonwealth. Such appeal must be brought within twenty days after notice of the action of the board has been served upon such party, unless any court of common pleas to which an appeal lies shall, upon cause shown, extend the time herein provided for taking the appeal. The party taking the appeal shall, at the time of taking the appeal, serve upon the adverse party a written notice thereof, setting forth the date of the appeal and the court in which the same is filed, and shall file, either with his notice of appeal, or within thirty days thereafter, such exceptions to the action of the board as he may desire to take, and shall specify the findings of fact, if any, of the board, or of the referee sustained by the board, which he alleges to be unsupported by competent evidence.

Upon filing of the notice of an appeal, the prothonotary of the court of common pleas to which the appeal has been taken shall issue a writ of certiorari, directed to the [Workmen's Compensation Board] *board*, commanding it, within ten days after service thereof, to certify to such court its entire record in the matter in which the appeal has been taken. The writ so issued shall be mailed by the prothonotary to the [Bureau] *department* at Harrisburg, together with a copy of the exceptions. The board shall, within ten days after such service, certify to such court its entire record in the matter in which the appeal has been taken, including the notes of testimony.

Any court before whom an appeal is pending from any action of the board may remit the record to the board for more specific findings of fact, if the findings of the board or referee are not, in its opinion, sufficient to enable it to decide the question of law raised by the appeal.

If the court of common pleas of any county of this Commonwealth shall affirm an award or order of the board or of a referee sustained by the board, fixing the compensation payable under this act, the court shall enter judgment for the total amount stated by the award or order to be payable, whether then due and accrued or payable in future instalments. If such court shall sustain the appellant's exceptions to a finding or findings of fact and reverse the action of the board founded thereon, the court shall remit the record to the board for further hearing and determination, in which the procedure shall be the same as that hereinbefore provided in this article in the case of a petition presented to the board, except that the board may order that any part of the testimony taken in the original proceedings may be considered as though taken in such further hearing.

The prothonotary of any court of common pleas to which an appeal has been taken from the board shall send to the board a certificate of the judgment of the court as soon as rendered, with a copy of any opinion which may be filed in the case, and, within five days, shall give notice of such judgment, and the date thereof, by registered mail to each attorney-at-law appearing in the case at the address given by the attorney in the pleadings, and, if no attorney-at-law has appeared, by registered mail to the party or parties not represented by counsel. At the end of the period hereinafter allowed for an appeal from the judgment of the court, the record of the board shall be remitted to it by the prothonotary unless an appeal shall have been taken *to the Superior Court as hereinafter provided*. If such appeal shall be taken, the record shall be remitted to the board by the prothonotary on its return from the appellate court.

Any party may appeal to the Superior Court from the judgment of the court of common pleas within thirty days after entry of said judgment, irrespective of the amount involved. Such appeal shall be taken and prosecuted in the same manner and form and with the same effect as is provided in other cases of appeal to the Superior Court, and the record so certified shall contain all that was before the court of common pleas. Any appeal from the action of the board to a court of common pleas, and from it to the Superior* Court shall take

* "Supreme" in the original.

precedence over all other civil actions. The judgment of the Superior Court shall be final, unless an appeal therefrom is allowed *by the Supreme Court* as in the case of other judgments of [that tribunal] *the Superior Court*.

Section 428. At any time after the approval of a compensation agreement or after an award or order has been made by the board or referee, the *department, the employe* or dependents entitled to compensation thereunder may file a certified copy of the agreement and the order of the board approving the same or of the award or order with the prothonotary of the court of common pleas of any county, and the prothonotary shall enter the total amount of compensation stated in the agreement, award or order to be payable to the employe or his dependents, whether then due and accrued or payable in future instalments, as a judgment against the employer or other party liable under such agreement or award. Such judgment shall be a lien against property of the employer or other party liable under such agreement or award, and execution may issue thereon forthwith.

Wherever, after an accident, any employe or his dependents shall have entered into a compensation agreement with his employer, or shall file a claim petition with the board, he may file a certified copy thereof with the prothonotary of the court of common pleas of any county. The prothonotary shall enter the amount stipulated in any such agreement or claimed in any such petition as judgment against the employer. If the agreement be approved by the [board] *department, or compensation awarded* as claimed in the petition, the amount of compensation stipulated in the agreement or claimed in the petition shall be a lien, as of the date when the agreement or petition was filed with the prothonotary. Pending the approval of the agreement or the award of compensation, no other lien which may be attached to the employer's property during such time shall gain priority over the lien of such agreement or award; but no execution shall issue on any compensation judgment before the approval of the agreement or the award of compensation on the said petition.

If the agreement be disapproved, or, after hearing, compensation shall be disallowed, the employer may file, with the prothonotary of any county in which the petition or agreement is on record as a judgment, a certified copy of the disapproval of the agreement or disallowance of compensation, and it shall be the duty of such prothonotary to strike off the judgment.

If the amount of compensation claimed be disallowed, but another amount awarded, the compensation judgment shall be a lien to the extent of the award, as of the date of filing the petition with the prothonotary, with

the same effect as to other liens and the same disability to issue execution thereon as if the compensation claimed had been allowed. In such cases the prothonotary shall make such modification of the record as shall be appropriate.

If the compensation payable under any agreement or award upon which judgment has been entered under the provisions of this section shall be modified, suspended, reinstated, or terminated by a supplemental agreement executed under the provisions of section four hundred and eight, or by an award or order made under the provisions of section four hundred and thirteen, any party to such judgment, at any time after such agreement has been approved by the [board] *department* or after the expiration of the time allowed for an appeal from the award or order, may file with the prothonotary of the court of common pleas of any county in which [such] *the* judgment is on record a certified copy of such supplemental agreement, award, or order and it shall thereupon be the duty of the prothonotary to modify, suspend, reinstate, or satisfy such judgment in accordance with the terms of such supplemental agreement, award, or order.

Execution may issue by first filing with the prothonotary an affidavit that there has been a default in payments of compensation due on any judgment for compensation, entered prior to the approval of the compensation agreement, or an award on petition, as soon as such agreement shall have been approved *by the department* or such award made as evidenced by the approval of the board of the award or by a certified copy thereof.

Execution shall in all cases be for the amount of compensation and interest thereon due and payable up to the date of the issuance of said execution, with costs, and further execution may issue from time to time as further compensation shall become due and payable until full amount of the judgment with costs shall have actually been paid.

Section 429. If any party against whom a compensation agreement, award, or other order fixing the compensation payable under this act has been filed of record in any county of this Commonwealth in accordance with the provisions of section four hundred and twenty-eight of this article, or against whom judgment has been entered by the *prothonotary of the* court of common pleas of any county on any award or order of the board or a referee, shall, at any time, present to the board receipts or copies thereof, certified by any referee, showing the payment of compensation as required by the agreement or award in full to the date of presentation to the referee, the board shall issue a certificate to such party,

in the form prescribed, stating the extent to which the judgment on the agreement or award has been reduced. Upon the presentation of such certificate to the prothonotary of the court of common pleas of any county in which such agreement or award has been filed of record as a judgment, or in which judgment on an award has been entered by *the prothonotary of the court of common pleas*, it shall be the prothonotary's duty to mark such judgment satisfied to the extent of the payments so certified, and, upon the presentation to such prothonotary of a certificate issued by the board under the provisions of section three hundred and seventeen of this act, it shall be the duty of the prothonotary to mark such judgment fully satisfied.

Section 430. The lien of any judgment entered upon any award shall not be divested by any appeal. If, however, the party appealing from the award shall file with the board a bond, in such amount and in such form as the rules and regulations of the board shall direct, the appeal shall, pending its decision, excuse the payment of so much of the compensation as is contested therein; but if the final decision on appeal shall sustain the award, it shall be the duty of the employer by whom such award is payable to make payments of compensation as from the date of the original award. If on appeal the award is sustained as to a part, it shall be the duty of the employer by whom such part is payable to make payments as from the date of the original award. In case the award is annulled on appeal, it shall be the duty of the prothonotary of any county in which such award has been entered as a judgment to mark it satisfied.

Section 431. The cost of the prothonotary for entering the amount of compensation as provided in this act, or making a modification of the record, or marking the judgment satisfied, shall be allowed, taxed, and collected as upon a confession of judgment on a judgment note.

Section 432. It shall be the duty of the prothonotary of each court of common pleas, and of the Supreme and Superior Court of the Commonwealth, to make a monthly report to the board of the disposition of all appeals taken to such court under the provisions of this article.

Section 433. A document on file in the [bureau] *department* or with the board or any referee, or part of the record of any proceedings taken under Articles III and IV of this act, shall be proved by a copy thereof, *certified by the department under the seal of the department, or certified by the chairman of the board and attested by the secretary of the board under seal of the board, as the case may be.*

Section 434. A final receipt, given by an employe or dependent entitled to compensation under a compensation agreement or award, reciting that the disability or dependency has terminated, shall be prima facie evidence of the termination of the employer's liability to pay compensation under such agreement or award: Provided, however, That the board, or a referee designated by the board, may, at any time *within six hundred weeks from the date of the injury*, set aside a final receipt, upon petition filed with the board, if it be proved that, [such receipt was procured by fraud, coercion, or other improper conduct of a party, or is founded upon mistake of law or of fact] *at the time of the execution of the receipt, the injured employe was not in fact able to return to work without loss of earning power, or that the employe had a condition which resulted from the accident, which condition existed at the time the compensation agreement was executed and which was not covered by such agreement, or that the employe had an existing disability at the time the final receipt was taken.*

Payments shall be made by the employer or insurance carrier on every agreement or award, other than for a definite period, until a final receipt has been filed with, and approved by, the department, or until a petition to terminate or modify has been filed under section four hundred and thirteen.

Section 435. *Any hospital, institution, physician, surgeon or other person who has furnished surgical, medical, dental or nursing services, hospital treatment, artificial appliances, medicines or supplies, for which the employer is made liable under the provisions of this act, shall be deemed a party in interest, and have standing, with consent of the claimant, before the board, or any referee designated by the board, and the courts of this Commonwealth, to present a claim for remuneration for such services, hospital treatment, artificial appliances, medicine and supplies, and have the same heard and determined, and shall be entitled to receive an award for such remunerations. Any such claimant shall be entitled to enforce any such award in the same manner as claimants of compensation are entitled to enforce awards of compensation.*

Section 436. *The board, or a referee designated by the board, or any court of this Commonwealth in granting an award of compensation to an injured employe or his dependents, or in affirming, or modifying and affirming such an award, or in reversing the disallowance of such an award, shall, in addition to such compensation, include in such an award or judgment expert's fees, if any, rendered in any such proceeding, payment of which may be enforced in the same manner*

as the payment of an award may be enforced under the provisions of this act.

Section 437. Any claimant may appear in person, or be represented by counsel learned in the law, or he may be represented by a member of his duly recognized union or labor organization. Such labor representative shall be selected by said union or labor organization and duly approved by the department to practice before any referee or the board.

ARTICLE V

GENERAL PROVISIONS

Section 501. No claim or agreement for legal services or disbursements in support of any demand made or suit brought under the provisions of article two of this act shall be an enforceable lien against the amount to be paid as damages, 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 common pleas court of the county in which the accident occurred.

No claim or agreement for legal services or disbursements in support of any claim for compensation, or in preparing any agreement for compensation, under article three of this act, shall be an enforceable lien against the amount to be paid as compensation, or be valid or binding in any other respect, unless the same be approved by the board. Any such claim or agreement shall be filed with the [bureau] department, which shall, as soon as may be, notify the person by whom the same was filed of the board's approval or disapproval thereof, as the case may be.

After the approval as herein required, if the employer be notified in writing of such claim or agreement for legal services and disbursements, the same shall be a lien against any amount thereafter to be paid as damages or compensation: Provided, however, That where the employe's compensation is payable by the employer in periodical instalments, the board shall fix, at the time of approval, the proportion of each instalment to be paid on account of legal services and disbursements.

Section 502. All of the expenses of the department, the board, and various workmen's compensation referees, incurred in connection with the administration and enforcement of this act, the act approved the eighteenth day of July, one thousand nine hundred nineteen (Pamphlet Laws, one thousand forty-five), entitled "An act providing for the establishment of a Bureau of Rehabilitation in the Department of Labor and Industry, and conferring upon the Commissioner of Labor and Industry the power to supervise and direct the render-

ing of certain physically handicapped persons fit to engage in remunerative occupations; providing for the appointment of a chief of the bureau, subordinate officers, and employes, and furnishing suitable accommodations; and making an appropriation," and until January first, one thousand nine hundred thirty-eight, the act re-enacted and amended by this act, and paid out of the General Fund of the State Treasury, shall be charged to and paid by way of reimbursement by all employers, or if they are insured by their insurance carriers, in such equitable amounts, at such times, and in such manner as the department shall, by general rule or regulation prescribe: Provided, That the amount charged against each employer or his insurance carrier shall be equivalent to that proportion of the total amount required to administer the acts as the average number of employes of the particular employer bears to the total number of employes covered by workmen's compensation.

The department shall give written notice to each employer or his insurance carrier, as the case may be, of the amount lawfully charged against him under the provisions of this section. Each employer or his insurance carrier shall pay the amount of such assessment to the department within thirty days after such notice. If payment is not made by such employer or his insurance carrier within such thirty-day period, the department, through the Department of Justice, may institute an appropriate action at law for the amount lawfully assessed against such employer or insurance carrier, together with any additional costs incurred by the department or the Department of Justice by virtue of such failure to pay.

The moneys in the State Workmen's Insurance Fund are hereby specifically appropriated for the purpose of paying assessments charged to it under this section.

All assessments and costs received, collected or recovered under this section shall be paid by the department into the General Fund of the State Treasury, through the Department of Revenue.

Section [502] 503. If any provision of this act shall be held by any court to be unconstitutional, such judgment shall not affect any other section or provision of this act. [except that articles two and three are hereby declared to be inseparable and as one legislative thought; and if either article be declared by such court void or inoperative in an essential part, so that the whole of such article must fall, the other article shall fall with it and not stand alone.]

Section 504. All fines and, except as otherwise provided in this act, all fees received, collected or recovered under the provisions of this act, shall be paid to the

department, and by it paid into the State Workmen's Insurance Fund to the credit of the second injury reserve account created in such fund by this act, and such fines and fees are hereby appropriated for the same purposes for which the moneys credited to such account are appropriated by this act.

Section [503] 505. Nothing in this act shall affect or impair any right of action which shall have accrued before this act shall take effect.

Section [504] 506. *The following acts are hereby specifically repealed:*

The act approved the third day of June, one thousand nine hundred fifteen (Pamphlet Laws, seven hundred seventy-seven), entitled "A supplement to an act, entitled 'The Workmen's Compensation Act of one thousand nine hundred and fifteen,' to exempt domestic servants and agricultural workers from the provisions thereof," and its amendments.

The act approved the fourteenth day of May, one thousand nine hundred twenty-five (Pamphlet Laws, seven hundred fourteen), entitled "A supplement to an act, approved the second day of June, one thousand nine hundred and fifteen (Pamphlet Laws, seven hundred thirty-six), entitled 'An act defining the liability of an employer to pay damages for injuries received by an employe in the course of employment; establishing an elective schedule of compensation; and providing procedure for the determination of liability and compensation thereunder,' providing for the payment of compensation to volunteer firemen or their dependents."

All other acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

[Section 505. This act shall not apply in the case of an accident occurring prior to the first day of January next succeeding its passage and approval.]

Section 507. *The provisions of this act shall become effective January first, one thousand nine hundred and thirty-eight, except the provisions of section five hundred two of this act, which shall become effective immediately upon the final enactment of this act, and shall be retroactive to June first, one thousand nine hundred thirty-seven.*

APPROVED—The 4th day of June, A. D. 1937.

GEORGE H. EARLE