

shall deem necessary or expedient. *Provided*, however, that all such deposits shall be returned by the Treasurer to any and all unsuccessful bidders at any public sale, within three days after the bonds have been awarded to the successful bidder or bidders, or the sale is for any reason declared off.

Said advertisement for the public sale of said bonds shall state that the delivery of the bonds and payments therefor, may be made in either the cities of Nashville, Tennessee, New York City, or Chicago, Ill., at the purchaser's option. Said advertisement of the public sale of said bonds shall require unconditional bids upon blank forms to be approved by the Governor, without interlineation or erasure, and may state that the successful bidder or bidders will be furnished the approving legal opinion of such attorneys as may be selected by the Funding Board.

SEC. 10. *Be it further enacted*, That the title to any property acquired under the provisions of this Act, except as otherwise directed herein, shall be taken in the name of the State of Tennessee. Should said Commission interchange or transpose the location of said parks and buildings as heretofore provided, the title to land upon which any building herein provided for shall be taken in the name of the State of Tennessee, and title to the property on which parks are located shall be taken in the name of the City of Nashville, or such Board or Commission as may be designated by such City.

SEC. 11. *Be it further enacted*, That this Act take effect from and after its passage, the public welfare requiring it.

Passed April 14, 1919.

ANDREW L. TODD,
Speaker of the Senate.

SETH M. WALKER,
Speaker of the House of Representatives.

Approved April 15, 1919.

A. H. ROBERTS,
Governor.

Bonds—ad-
vertisement
of, sale of.

CHAPTER 123.

SENATE BILL No. 1000.

(By Mr. Todd.)

AN ACT to provide an elective system of workmen's compensation for industrial accidents; to prescribe the manner of election and the rights and liabilities of employers, employes, and third parties; to define and regulate the liability of employers to employes for injuries sustained by such employes in the course of their employment resulting in disability or death; to provide medical and surgical care for such injured employes; to provide compensation for injured employes; or in case of death, for the dependents of such employes; to make claims payable hereunder preferred claims, and to make all sums paid as compensation under this Act exempt from the claims of creditors; to provide methods for insuring and securing the payment of such compensation; to make minors sui juris for certain purposes; to prescribe a method for the execution of this Act and for the determination of liability of employers to employes for compensation, and to regulate the procedure in such cases; to provide revenue for the administration of this Act; to provide for and regulate the business of insurance companies writing workmen's compensation insurance under this Act, and to impose fees upon such insurance companies and upon employers and employes who are subject to this Act; to provide penalties for violations of this Act; and to make appropriations out of the revenue of the State for the purpose of executing and administering this Act.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That this Act shall be known as the "Workmen's Compensation Act."

SEC. 2. *Be it further enacted*, That in this Act, unless the context otherwise requires:

(a) "Employer" shall include any individual, firm, association or corporation, or the receiver, or trustee of the same, or the legal representatives of a deceased employer, using the services of not less than ten persons for pay. If the employer is insured it shall include his insurer, unless otherwise herein provided.

(b) "Employe" shall include every person, including a minor, in the service of an employer, as "employer" is defined in paragraph (a) above, under any contract of hire, apprenticeship, written or

implied. Any reference herein to an employe who has been injured shall, when the employe is dead, also include his legal representatives, dependents and other persons to whom compensation may be payable under this Act.

Average weekly wages.

(c) "Average weekly wages" shall mean the earnings of the injured employe in the employment in which he was working at the time of the injury during the period of fifty-two weeks immediately preceding the date of the injury divided by fifty-two; but if the injured employe lost more than seven days during such period when he did not work, although not in the same week, then the earnings for the remainder of such fifty-two weeks shall be divided by the number of weeks remaining after the time so lost has been deducted. Where the employment prior to the injury extended over a period of less than fifty-two weeks, the method of dividing the earnings during that period by the number of weeks and parts thereof during which the employe earned wages shall be followed; *Provided*, results just and fair to both parties will thereby be obtained. Where by reason of the shortness of the time during which the employe has been in the employment of his employer, it is impracticable to compute the average weekly wages as above defined, regard shall be had to the average weekly amount which during the first fifty-two weeks prior to the injury or death was being earned by a person in the same grade, employed at the same work by the same employer, and if there is no such person so employed, by a person in the same grade employed in the same class of employment in the same district. Wherever allowances of any character made to an employe in lieu of wages are specified as part of the wage contract, they shall be deemed a part of his earnings.

Injury.

(d) "Injury" and "personal injury" shall mean only injury by accident arising out of and in the course of employment, and shall not include a disease in any form except as it shall naturally result from the injury.

SEC. 3. *Be it further enacted*, That from and after the taking effect of this Act, every employer and every employe, except as herein stated, shall be presumed to have accepted the provisions of this Act, respectively to pay and accept compensation for personal injury or death by accident arising out of and in the course of the employment, and shall be bound thereby, unless he shall have given prior to any accident resulting in injury or death, notice to the contrary in the manner herein provided.

Acceptance of Act.

SEC. 4. *Be it further enacted*, That either an employer or employe who has excepted himself by proper notice from the operation of this Act may at any time waive such exemption and thereby accept the provisions of this Act by giving notice as herein provided.

The notice of exemption and the notice of acceptance heretofore referred to shall be given thirty days prior to any accident resulting in injury or death, provided, that if any injury or death occurs less than thirty days after the date of employment, notice of such exemption or acceptance given at the time of employment shall be sufficient notice thereof.

Exemption—notice of.

The notice of election not to accept the provisions of this Act shall be as follows:

(a) The employer shall post and keep posted in his shop or place of business a written or printed notice of his election not to be bound by the provisions of this Act and shall file a duplicate thereof with the Bureau of Workshop and Factory Inspection of the State of Tennessee.

Notice not to accept to be posted.

(b) The employe shall give written or printed notice to the employer of his election not to be bound by the provisions of this Act and file a duplicate, with proof of service on the employer attached thereto, together with an affidavit of the employe that the action of the employe in rejecting the provisions of this Act was not advised, counselled or encouraged by the employer or by any one acting for the employer, with the Bureau of Workshop and Factory Inspection of the State of Tennessee.

Employe to give notice of not accepting.

shall deem necessary or expedient. *Provided*, however, that all such deposits shall be returned by the Treasurer to any and all unsuccessful bidders at any public sale, within three days after the bonds have been awarded to the successful bidder or bidders, or the sale is for any reason declared off.

Bonds—ad-
vertisement
of, sale of.

Said advertisement for the public sale of said bonds shall state that the delivery of the bonds and payments therefor, may be made in either the cities of Nashville, Tennessee, New York City, or Chicago, Ill., at the purchaser's option. Said advertisement of the public sale of said bonds shall require unconditional bids upon blank forms to be approved by the Governor, without interlineation or erasure, and may state that the successful bidder or bidders will be furnished the approving legal opinion of such attorneys as may be selected by the Funding Board.

SEC. 10. *Be it further enacted*, That the title to any property acquired under the provisions of this Act, except as otherwise directed herein, shall be taken in the name of the State of Tennessee. Should said Commission interchange or transpose the location of said parks and buildings as heretofore provided, the title to land upon which any building herein provided for shall be taken in the name of the State of Tennessee, and title to the property on which parks are located shall be taken in the name of the City of Nashville, or such Board or Commission as may be designated by such City.

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CHAPTER 123.

SENATE BILL No. 1000.

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AN ACT to provide an elective system of workmen's compensation for industrial accidents; to prescribe the manner of election and the rights and liabilities of employers, employees, and third parties; to define and regulate the liability of employers to employees for injuries sustained by such employees in the course of their employment resulting in disability or death; to provide medical and surgical care for such injured employees; to provide compensation for injured employees; or in case of death, for the dependents of such employees; to make claims payable hereunder preferred claims, and to make all sums paid as compensation under this Act exempt from the claims of creditors; to provide methods for insuring and securing the payment of such compensation; to make minors sui juris for certain purposes; to prescribe a method for the execution of this Act and for the determination of liability of employers to employees for compensation, and to regulate the procedure in such cases; to provide revenue for the administration of this Act; to provide for and regulate the business of insurance companies writing workmen's compensation insurance under this Act, and to impose fees upon such insurance companies and upon employers and employees who are subject to this Act; to provide penalties for violations of this Act; and to make appropriations out of the revenue of the State for the purpose of executing and administering this Act.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That this Act shall be known as the "Workmen's Compensation Act."

SEC. 2. *Be it further enacted*, That in this Act, unless the context otherwise requires:

(a) "Employer" shall include any individual, firm, association or corporation, or the receiver, or trustee of the same, or the legal representatives of a deceased employer, using the services of not less than ten persons for pay. If the employer is insured it shall include his insurer, unless otherwise herein provided.

(b) "Employee" shall include every person, including a minor, in the service of an employer, as Employee. "employer" is defined in paragraph (a) above, under any contract of hire, apprenticeship, written or

SEC. 5. *Be it further enacted*, That nothing in this Act contained shall be construed as amending or repealing any statute or municipal ordinance relating to associations or funds for the relief, pensioning, retirement or other benefit of any employes of such municipal employer, or of the widows, children or dependents of such employes, or as in any manner interfering with the same as now or hereafter established.

SEC. 6. *Be it further enacted*, That this Act shall not apply to:

Exemptions.

(a) Any common carrier doing an interstate business while engaged in interstate commerce.

(b) Any person whose employment at the time of injury is casual, that is, one who is not employed in the usual course of trade, business, profession or occupation of the employer.

(c) Domestic servants and employers thereof; nor to farm or agricultural laborers and employers thereof.

(d) In cases where less than ten person are regularly employed; *Provided*, however, that in such cases the employer may accept the provisions of this Act by filing written notice thereof with the State Factory Inspector at least thirty days before the happening of any accident or death, and may at any time withdraw the acceptance by giving like notice of withdrawal.

(e) To the State of Tennessee, counties thereof and municipal corporations; *Provided*, however, that the State, any county or municipal corporation may accept the provisions of this Act by filing written notice thereof with the State Factory Inspector at least thirty days before the happening of any accident or death and may at any time withdraw the acceptance by giving like notice of the withdrawal.

This Act shall not apply to employers engaged in the operation of coal mines nor to the employes thereof, except, that any employer engaged in the operation of a coal mine or mines, may accept the provisions of this Act by filing written notice there-

of with the State Factory Inspector at least thirty (30) days before the happening of any accident or death and may at any time withdraw the acceptance by giving like notice of withdrawal.

SEC. 7. *Be it further enacted*, That whenever payment of compensation is made to a widow or widower for her or his use, or for her or his use and the use of a child or children, the written receipt thereof by such widow or widower shall acquit the employer.

Compensation, receipt for.

Whenever payment is made to any person eighteen (18) years of age or over, the written receipt of such person shall acquit the employer.

Whenever payment is made to a person under the age of eighteen (18) years, or to a dependent child as defined in Sub-section 2 of Section 30 over the age of eighteen (18) years, the same shall be paid to a duly and regularly appointed guardian or trustee of such child, and the receipt of such guardian or trustee shall acquit the employer and shall be in lieu of any claim of the parents of such child or minor for loss of services.

Payment to guardian or trustee.

SEC. 8. *Be it further enacted*, That the rights and remedies herein granted to an employe subject to this Act on account of personal injury or death by accident shall exclude all other rights and remedies of such employe, his personal representative, dependents or next of kin, at common law or otherwise, on account of such injury or death.

Rights granted.

SEC. 9. *Be it further enacted*, That nothing in this Act shall be construed to relieve any employer or employe from penalty for failure or neglect to perform any statutory duty.

SEC. 10. *Be it further enacted*, That no compensation shall be allowed for an injury or death due to the employe's wilful misconduct or intentional self-inflicted injury, or due to intoxication, or wilful failure or refusal to use a safety appliance or perform a duty required by law. If the employer defends on the ground that the injury arose in any or all of the above stated ways, the burden of proof shall be on the employer to establish such defense.

Compensation not allowed, when.

SEC. 11. *Be it further enacted*, That every employer who elects not to operate under this Act as herein provided shall not, in any suit brought against him by an employe, who has elected to operate under the provisions of this Act, to recover damages for personal injury or death arising from accident, be permitted to defend such suit upon any of the following grounds, namely:

Employer's defense in suit.

- (a) That the employe was negligent.
- (b) That the injury was caused by the negligence of a fellow-servant or fellow employe.
- (c) That the employe had assumed the risk of the injury.

Suit by employe.

SEC. 12. *Be it further enacted*, That every employe who elects not to operate under the provisions of this Act, in any action to recover damages for personal injury or death by accident brought against an employer who has elected to operate under this Act, shall proceed as at common law, and the employer in such suit may avail himself of all common law defenses.

SEC. 13. *Be it further enacted*, That when both employer and employe elect not to operate under this Act, the liability of the employer for injury or death from accident shall be the same as at common law, and the employer may avail himself of all common law defenses in actions brought by such employe to recover damages for personal injury or death due to accident.

SEC. 14. *Be it further enacted*, That whenever an injury for which compensation is payable under this Act shall have been sustained under circumstances creating in some other person than the employer a legal liability to pay damages in respect thereto, the injured employe may at his option either claim compensation or proceed at law against such other person to recover damages, or proceed against both the employer and such other person, but he shall not be entitled to collect from both; and if compensation is awarded under this Act the employer having paid the compensation or having become liable therefor,

may collect, in his own name or in the name of the injured employe in a suit brought for the purpose, from the other person in whom legal liability for damages exists, the indemnity paid or payable to the injured employe.

SEC. 15. *Be it further enacted*, That a principal, intermediate or subcontractor shall be liable for compensation to any employe injured while in the employ of any of his subcontractors and engaged upon the subject matter of the contract to the same extent as the immediate employer.

Subcontractors.

Any principal, intermediate or subcontractor who shall pay compensation under the foregoing provisions may recover the amount paid, from any person who, independently of this Section, would have been liable to pay compensation to the injured employe, or from any intermediate contractor.

Every claim for compensation under this section shall be in the first instance presented to and instituted against the immediate employer, but such proceedings shall not constitute a waiver of the employe's rights to recover compensation under this Act from the principal or intermediate contractor, provided that the collection of full compensation from one employer shall bar recovery by the employe against any others, nor shall he collect from all a total compensation in excess of the amount for which any of said contractors is liable.

This section shall apply only in cases where the injury occurred on, in or about the premises on which the principal contractor has undertaken to execute work or which are otherwise under his control or management.

Place of accident.

SEC. 16. *Be it further enacted*, That no contract or agreement, written or implied, nor rule, regulation or other device, shall in any manner operate to relieve any employer in whole or in part of any obligation created by this Act except as herein provided.

SEC. 17. *Be it further enacted*, That all rights of compensation granted by this Act shall have the

Rights of compensation.

same preference or priority for the whole thereof against the assets of the employer as is allowed by law for any unpaid wages for labor; *Provided*, however, that such compensation shall not prejudice or be superior to the rights and interests of third persons in and to such assets if such rights and interests are secured by registered mortgagor in any form or manner which is valid as to general creditors of the employer.

Compensation,
exempt from
creditors.

SEC. 18. *Be it further enacted*, That no claim for compensation under this Act shall be assignable, and all compensation and claims therefor shall be exempt from claims of creditors.

SEC. 19. *Be it further enacted*, That when an accident happens while the employe is elsewhere than in this State, which would entitle him or his dependents to compensation had it happened in this State, the employe or his dependents shall be entitled to compensation under this Act if the contract of employment was made in this State, unless otherwise expressly provided by said contract.

SEC. 20. *Be it further enacted*, If an employe has previously sustained a permanent injury elsewhere than in the employment in which he sustains a subsequent permanent injury, he shall be entitled to compensation only for the disability that would have resulted from the latter accident if the earlier injury had not existed, and such earlier injury shall not be considered in estimating the compensation on the basis of either a total or partial disability, to which the employe may be entitled under this Act.

Not retroactive.

SEC. 21. *Be it further enacted*, That this Act shall have no retroactive effect, and shall not apply to actions for accidental injury or death occurring prior to the passage of this Act, but claims for damages with respect thereto shall be redressed by the law as it stood prior to the enactment of this statute.

SEC. 22. *Be it further enacted*, That every injured employe or his representative shall, immediately upon the occurrence of an injury or as soon there-

after as is reasonable or practicable, give or cause to be given to the employer written notice of the injury, and the employe shall not be entitled to physician's fees nor to any compensation which may have accrued under the provisions of this Act from the date of the accident to the giving of such notice, unless it can be shown that the employer had actual knowledge of the accident; and no compensation shall be payable under the provisions of this Act unless such written notice is given the employer within thirty days after the occurrence of the accident, unless reasonable excuse for failure to give such notice is made to the satisfaction of the tribunal to which the claim for compensation may be presented.

Notice of ac-
cident.

SEC. 23. *Be it further enacted*, That the notice required to be given of the occurrence of an accident to the employer shall state in plain and simple language the name and address of the employe, the time, place and nature and cause of the accident resulting in injury or death, and shall be signed by the claimant or by some person in his behalf, or by any one or more of the claimant's dependents if the accident resulted in death to the employe. But no defect or inaccuracy in the notice shall be a bar to compensation unless the employer can show to the satisfaction of the tribunal in which the matter is pending that he was prejudiced by the failure to give the proper notice and then only to the extent of such prejudice.

The notice shall be given personally to the employer or to his agent or agents having charge of the business in working at which the injury was sustained by the employe.

SEC. 24. *Be it further enacted*, That the right to compensation under this Act shall be forever barred unless within one year after the accident resulting in injury or death occurred the notice required by Section 23 is given the employer and a claim for compensation under the provisions of this Act is filed with the tribunal having jurisdiction to hear and determine the matter.

Right of com-
pensation
barred,
when.

Medical and
surgical
treatment.

SEC. 25. *Be it further enacted*, That during the thirty days after the notice required by Section 23 of this Act to be given the employer or his agent, the employer shall furnish free of charge to the injured employe such medical and surgical treatment, medicine, medical and surgical supplies, crutches and apparatus as may be reasonably required, and the injured employe shall accept the same; and at the option of the employer he may furnish the same free of charge to the injured employe for such length of time after the expiration of the thirty days as the employer may elect, and the employe shall accept the same. *Provided, however*, that the total liability of the employer under this section shall not exceed one hundred dollars, and, *provided further*, that the pecuniary liability of the employer for such services rendered the employe shall be limited to such charges as prevail for similar treatment in the community where the injured employe resides. All cases of dispute as to the value of such services shall be determined by the tribunal having jurisdiction of the claim of the injured employe for compensation.

Compensation
in case of
death.

In case death results from the injury, the employer shall, in addition to the medical service, etc., referred to above, pay the burial expenses of the deceased employe, not exceeding one hundred dollars. If the deceased employe leaves no dependents entitled to claim compensation under the provisions of this Act, the employer shall not be further liable to any one for compensation on account of the accident except for the medical service and burial expense herein provided for.

Subject to ex-
amination.

The injured employe must submit himself to the examination by the employer's physician at all reasonable times if requested to do so by the employer, but the employe shall have the right to have his own physician present at such examination, in which case the employe shall be liable to such physician for his services. The employer shall pay for the services of the physician making the examination at the instance of the employer. And in case of dispute as

to the injury, the court may, at the instance of either party or on its own motion, appoint a neutral physician of good standing and ability to make an examination of the injured person and report his findings to the court, the expense of which examination shall be borne equally by the parties. If the injured employe refuses to comply with any reasonable request for examination, or refuses to accept the medical service which the employer is required to furnish under the provisions of this Act, his right to compensation shall be suspended and no compensation shall be due and payable while he continues such refusal.

Refusal to be
examined.

In all death claims where the cause of death is obscure or is disputed, any interested party may require an autopsy, the cost of which to be borne by the party demanding the same.

Any physician whose services are furnished or paid for by the employer and who treats or makes or is present at any examination of an injured employe may be required to testify as to any knowledge acquired by him in the course of such treatment or examination as same relates to the injury or disability arising therefrom.

If in an emergency or on account of the employer's failure or refusal to provide the medical care and service required by this Act, the injured employe or his dependents may provide the same, and the cost thereof, not exceeding one hundred dollars, shall be borne by the employer; *provided*, that the pecuniary liability of such employer shall be limited to the charges for such service as prevail in the community where the services are rendered. All cases of dispute as to the value of such services shall be determined by the tribunal having jurisdiction of the matter of compensation to the employe.

When special
physician is
called.

SEC. 26. *Be it further enacted*, That no compensation shall be allowed for the first fourteen days of disability resulting from the injury except the benefits provided for in Section 25 of this Act, but if disability extends beyond that period, compensation

No compensa-
tion for first
14 days.

shall commence with the fifteenth day after the injury. In the event, however, the disability from the injury exists for a period as much as six weeks, then compensation shall be allowed beginning with the first day after the injury.

Right of settlement.

SEC. 27. *Be it further enacted*, That the interested parties shall have the right to settle all matters of compensation between themselves, but all settlements, before the same are binding on either party, shall be approved by the judge of the Circuit Court of the county where the claim for compensation under this Act is entitled to be made. Upon such settlement being approved, judgment shall be rendered thereon by the court and duly entered by the clerk. The costs of the proceeding, which shall not exceed two (\$2) dollars, shall be borne by the employer.

SEC. 28. *Be it further enacted*, That the following is the schedule of compensation to be allowed employees under the provisions of this Act:

Temporary total disability.

(a) For injury producing temporary total disability fifty per centum of the average weekly wages as defined in this Act, subject to a maximum compensation of \$11.00 per week and a minimum of \$5.00 per week; *provided*, that if the employee receives \$5.00 or more per week then he shall receive as compensation not less than \$5.00 per week; if he receives \$5.00 or less per week, then the full amount of his weekly wages. This compensation shall be paid during the period of the disability of employee, but, however, not to exceed three hundred weeks. The compensation shall be paid at intervals when the wage was payable, as nearly as may be.

Temporary partial disability.

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

same maximum and minimum as stated in subdivision (a) of this section.

(c) For the permanent partial disability, the compensation shall be based upon the extent of such disability. In cases included by the following schedule, the compensation shall be that named in the schedule, to-wit:

For the loss of a thumb, fifty per centum of the average weekly wages during sixty (60) weeks. ^{Thumb.}

For the loss of a first finger, commonly called in-First finger.
dex finger, fifty per centum of average weekly wages during thirty-five (35) weeks.

For the loss of a second finger, fifty per centum of average weekly wages during thirty (30) weeks. ^{Second finger.}

For the loss of a third finger, fifty per centum of average weekly wages during twenty (20) weeks. ^{Third finger.}

For the loss of a fourth finger, commonly called little finger, fifty per centum of average weekly wages during fifteen (15) weeks. ^{Fourth finger.}

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

The loss of substantially more than one phalange shall be considered as the loss of the entire finger or thumb; *provided, however*, that in no case shall the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand. ^{More than one phalange.}

For the loss of the great toe, fifty per centum of average weekly wages during thirty (30) weeks. ^{Great toe.}

For the loss of one of the toes other than the great toe, fifty per centum of the average weekly wages during ten (10) weeks. ^{Other toes.}

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

More than one phalange.	The loss of substantially more than one phalange shall be considered as the loss of the entire toe.
Hand.	For the loss of a hand, fifty per centum of average weekly wages during one hundred and fifty (150) weeks.
Arm.	For the loss of an arm, fifty per centum of the average weekly wages during two hundred (200) weeks.
Foot.	For the loss of a foot, fifty per centum of average weekly wages during one hundred and twenty-five (125) weeks.
Leg.	For the loss of a leg, fifty per centum of the average weekly wages during one hundred and seventy-five (175) weeks.
Eye.	For the loss of an eye, fifty per centum of average weekly wages during one hundred (100) weeks.
Hearing.	For the complete permanent loss of hearing in both ears, fifty per centum of average weekly wages during one hundred and fifty (150) weeks.
Eye and leg.	For the loss of an eye and a leg, fifty per centum of average weekly wages during three hundred and fifty (350) weeks.
Eye and arm.	For the loss of an eye and an arm, fifty per centum of average weekly wages during three hundred and fifty (350) weeks.
Eye and hand.	For the loss of an eye and a hand, fifty per centum of average weekly wages during three hundred and twenty-five (325) weeks.
Eye and foot.	For the loss of an eye and a foot, fifty per centum of average weekly wages during three hundred (300) weeks.
Two arms.	For the loss of two arms, other than at the shoulder, fifty per centum of average weekly wages during four hundred (400) weeks.
Two hands.	For the loss of two hands, fifty per centum of average weekly wages during four hundred (400) weeks.
Two legs.	For the loss of two legs, fifty per centum of average weekly wages during four hundred (400) weeks.
Two feet.	For the loss of two feet, fifty per centum of average weekly wages during four hundred (400) weeks.

For the loss of one arm and the other hand, fifty per centum of the average weekly wages during four hundred weeks (400) weeks. One arm and other hand.

For the loss of one hand and one foot, fifty per centum of the average weekly wages during four hundred (400) weeks. One hand and one foot.

For the loss of one leg and one hand, fifty per centum of the average weekly wages during four hundred (400) weeks. One leg and one hand.

For the loss of one arm and one foot, fifty per centum of the average weekly wages during four hundred (400) weeks. One arm and one foot.

For the loss of one arm and one leg, fifty per centum of the average weekly wages during four hundred (400) weeks. One arm and one leg.

Where an employe sustains concurrent injuries resulting in concurrent disabilities, he shall receive compensation only for the injury which produced the longest period of disability, but this Section shall not affect liability for the concurrent loss of more than one member, for which members' compensations are provided in the specific schedule and in subsection (e) below. In all cases the permanent and total loss of the use of a member shall be considered as equivalent to the loss of that member, but in such cases the compensation in and by said schedule provided shall be in lieu of all other compensation.

In cases of permanent partial disability due to injury to a member resulting in less than total loss of use of such member not otherwise compensated in this schedule, compensation shall be paid at the prescribed rate during that part of the time specified in the schedule for the total loss or total loss of use of the respective member, which the extent of injury to the member bears to its total loss. If an injured employe refuses employment suitable to his capacity, offered to or procured for him, he shall not be entitled to any compensation at any time during the continuance of such refusal, unless at any time in the opinion of the Judge or Chairman of the Court Permanent partial disability in certain cases.

of the county of his residence such refusal is justifiable. All compensations provided in clause (c) of this section for loss of members, or loss of use of members, are subject to the same limitations as to maximum and minimum as are stated in clause (a).

In all other cases of permanent partial disability not above enumerated, the compensation shall be fifty per centum of the difference between the wage of the workman at the time of the injury and the wage he is able to earn in his partially disabled condition, subject to a maximum of eleven (\$11) dollars per week. Compensation shall continue during disability, not, however, beyond three hundred (300) weeks.

Permanent
total dis-
ability.

(d) For permanent total disability as defined in subsection (e) below, fifty per centum of the wages received at the time of the injury, subject to a maximum compensation of eleven dollars (\$11) per week and a minimum compensation of five (\$5.00) dollars per week, unless the wages of the employee are less than \$5.00 per week, in which latter case he shall receive the full amount of his weekly wages as compensation. This compensation shall be paid during such permanent total disability, not exceeding five hundred and fifty (550) weeks, but in all such cases drawing more compensation than five (\$5.00) dollars per week, the payments after the first four hundred (400) weeks shall be reduced to five (\$5.00) dollars per week for the remainder of the five hundred and fifty (550) weeks, while the permanent total disability continues, payments to be made at the intervals when the wage was payable, as nearly as may be. The total amount of compensation payable under this subsection shall not exceed five thousand (\$5,000.00) dollars in any case. *Provided, however,* that in case an employee who is permanently and totally disabled becomes an inmate of a public institution, then no compensation shall be payable unless he has wholly dependent on him for support a person or persons named in subsections (1), (2) and (3) of Section 30 of this Act (whose

dependency shall be determined as if the employee were deceased), and in which case the compensation provided for in this subsection shall be paid for the benefit of said persons so dependent, during dependency, in such institution.

(e) The total and permanent loss of the sight of both eyes, or the loss of both arms at the shoulder, or complete and permanent paralysis, or total and permanent loss of mental faculties, or any other injury which totally incapacitates the employee from working at an occupation which brings him an income, shall constitute total disability.

Total and per-
manent loss
of sight,
both eyes.

(f) In case a workman sustains an injury due to accident arising out of and in the course of his employment, and during the period of disability caused thereby death results proximately therefrom, all payments previously made as compensation for such injury shall be deducted from the compensation, if any, due on account of death.

Deductions in
case of
death.

SEC. 29. *Be it further enacted,* In case any employee for whose injury or death compensation is payable under this Act shall at the time of injury be employed and paid jointly by two or more employers subject to this Act, such employers shall contribute to payment of such compensation in a proportion of their several wage liability to such employee. If one or more, but not all, of such employers should be subject to this Act and otherwise subject to liability for compensation hereunder, then the liability of such of them as are so subject shall be to pay the proportion of the entire compensation which their portion of the wage liability bears to the wages of the employee; *provided, however,* that nothing in this section shall prevent any agreement between the different employers between themselves as to the distribution of the ultimate burden of such compensation.

Two employ-
ers, compen-
sation, how
paid by.

SEC. 30. *Be it further enacted,* That for the purposes of this Act, the following described persons shall be conclusively presumed to be wholly dependent:

Dependents.

- Wife. (1) A wife, unless it be shown that she was voluntarily living apart from her husband at the time of his injury and minor children under the age of sixteen years.
- Children. (2) Children between sixteen and eighteen years of age, or those over eighteen, if physically or mentally incapacitated from earning, shall, prima facie, be considered dependent.
- Husband, mother, father, grandmother, grandfather, sister, brother, mother-in-law, father-in-law. (3) Wife, child, husband, mother, father, grandmother, grandfather, sister, brother, mother-in-law, father-in-law who were wholly supported by the deceased workman at the time of his death and for a reasonable period of time immediately prior thereto shall be considered his actual dependents, and payment of compensation shall be made to them in the order named.
- Partial dependents. (3a) Any member of a class named in subdivision (3) who regularly derived part of his support from the wages of the deceased workman at the time of his death and for a reasonable period of time immediately prior thereto shall be considered his partial dependent, and payment of compensation shall be made to such dependents in the order named.
- Death cases. (4) In death cases, compensation payable to dependents shall be computed on the following basis, and shall be paid to the persons entitled thereto, without administration:
- Widow. (5) If the deceased employe leave a widow and no dependent child, there shall be paid to the widow thirty per centum of the average weekly wages of deceased.
- Widow and child. (6) If the deceased employe leave a widow and one dependent child, there shall be paid to the widow for the benefit of herself and such child, forty per centum of the average weekly wages of deceased.
- Widow and children. (7) If the deceased employe leave a widow and two or more dependent children, there shall be paid to the widow for the benefit of herself and such children, fifty per centum of the average weekly wages of deceased.

(8) In all cases where compensation is payable to a widow for the benefit of herself and dependent child or children, the court shall have power to determine in its discretion what portion of the compensation shall be applied for the benefit of any such child or children, and may order the same paid to a guardian.

(9) For the purpose of this Act, the dependents of a widow or widower of a deceased employe and dependent children shall terminate with remarriage of the widow, excepting a child physically or mentally incapacitated from earning, and the dependence of such a child shall terminate with the age of eighteen. ^{Termination with remarriage.}

(10) If the deceased employe leave a dependent orphan, there shall be paid thirty per centum of the monthly wages of deceased with ten per centum additional for each additional orphan, with a maximum of fifty per centum of such wages. ^{Dependent orphan.}

(11) If the deceased employe leave a dependent husband and no dependent child, there shall be paid to the husband twenty per centum of the average weekly wages of deceased. ^{Dependent husband.}

(12) If the deceased employe leave no widow or child or husband entitled to any payment hereunder, but should leave a parent or parents, either or both of whom are wholly dependent on the deceased, there shall be paid, if only one parent, twenty-five per centum of the average weekly wages of the deceased to such parent, and if both parents, thirty-five per centum of the average weekly wages of the deceased to such parents. ^{Other dependents.}

(13) If the deceased leave no widow or dependent child or husband or parent entitled to any payment hereunder, but leaves a grandparent, brother, sister, mother-in-law, or father-in-law wholly dependent upon him for support, there shall be paid to such dependent, if but one, twenty per centum of the average weekly wages of the deceased, or if more than one, twenty-five per centum of the average ^{Grandparent, brother, sister.}

weekly wages of the deceased, divided between them or among them share and share alike.

Compensation to dependents to cease upon death or marriage.

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

Partial dependents.

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

Compensation in case of death.

(16) The compensation payable in case of death to persons wholly dependent shall be subject to a maximum compensation of eleven (\$11.00) dollars per week and a minimum of five (\$5.00) per week, *provided*, that if at the time of the injury the employe receives wages of less than five (\$5.00) dollars per week, the compensation shall be the full amount of such wages per week. The compensation payable to partial dependents shall be subject to a maximum of eleven (\$11.00) dollars per week, and a minimum of five (\$5.00) dollars per week; *provided*, that if the income loss of said partial dependents by such death is less than five (\$5.00) dollars per week, then the dependents shall receive the full amount of their income loss. This compensation shall be paid during dependency not exceeding four hundred (400) weeks, payments to be made at the intervals when the wage was payable as nearly as may be.

Orphans and other children.

(17) In computing and paying compensation to orphans or other children, in all cases, only those under eighteen years of age, or those over eighteen years of age who are physically or mentally incapacitated from earning, shall be included, the former to receive compensation only during the time they are under eighteen, the latter only for the time they are so incapacitated, within the period of four hundred (400) weeks.

(18) Actual dependents shall be entitled to take compensation in the order named in subsection (3) above, until fifty per centum of the monthly wages of the deceased during the time specified in this Act shall have been exhausted, but the total compensation to be paid to all actual dependents of a deceased employe shall not exceed in the aggregate eleven (\$11.00) dollars per week.

SEC. 31. *Be it further enacted*, That the time within which the following acts shall be performed under this Act shall be limited to the following periods respectively:

(1) Actions or proceedings by an injured employe to determine or recover compensation, one (1) year after the occurrence of the injury. Limit of time of actions or proceedings.

(2) Actions or proceedings by dependents to determine or recover compensation, one year after the date of notice in writing given by the employer to the Bureau of Workshop and Factory Inspection of the State, stating his willingness to pay compensation when it is shown that the death is one for which compensation is payable. In case the deceased was a native of a foreign country and leaves no known dependent or dependents within the United States, it shall be the duty of the Bureau of Workshop and Factory Inspection to give written notice forthwith of said death to the consul or other representative of said foreign country residing within the State. Proceedings of dependents.

(3) Proceedings to obtain judgment in case of default of employer for thirty (30) days to pay any compensation due under any settlement or determination, one (1) year after such default. To obtain judgment.

(4) In case of physical or mental incapacity, other than minority, of the injured person or his dependents to perform or cause to be performed any act required within the time in this Section specified, the period of limitation in any such case shall be extended for one year from the date when such incapacity ceases. Physical or mental incapacity to cause action.

Dispute or failure to agree upon compensation. **SEC. 32.** *Be it further enacted,* That in case of a dispute over or failure to agree upon compensation under this Act between the employer and employe or the dependents of the employe, either party may submit the entire matter for determination to the Judge or Chairman of the County Court in which the accident occurred, and such judge or chairman is hereby vested with jurisdiction to hear and determine the issues and render judgment and enforce the same in the same manner as courts of record render and enforce judgment. The County Judge or Chairman shall have the power to subpoena witnesses, administer oaths and punish witnesses for contempt and in short, he shall have such powers in conducting hearings under this Act as are possessed by the judges of the Circuit Courts of the State of Tennessee as courts of general jurisdiction. Officers serving process, subpoenas and other papers shall have the same fees now provided by law for such officers in the magistrates' courts.

Witnesses.

Petition setting out facts. **Summons.** The party invoking the power of said court shall file a petition setting out the facts on which the claim is based under this Act. Upon said petition being filed the clerk of the county court shall issue and cause to be served on the defendant named in said petition a summons accompanied by a certified copy of the petition, commanding the defendant to appear and make defense to said petition before the Judge or Chairman of said County Court. Said summons shall be served on the defendant as in other civil cases at least ten days before the time the matter is to be heard. The County Judge or Chairman shall set claims for hearing not more than fifteen days after the filing of the petition unless for good cause shown. The defendant shall file an answer to said petition on or against the day specified in the summons, unless the court grants further time in which to answer on good cause shown by affidavit. Should the defendant fail to answer the petition within the time prescribed, a judgment pro confesso will be entered against him and the cause proceeded

Evidence. with ex parte. The judge or chairman trying the case shall hear the evidence offered by either or both parties and render judgment. Either party dissatisfied with the judgment of the judge or chairman may appeal as in other civil cases to the next term of the Circuit Court of the county where the cause will be heard by the Circuit Judge de novo. The cause shall be heard by the Circuit Judge without a jury and as other non-jury civil cases are heard in the Circuit Court. Neither party shall have the right to demand a jury. It shall be the duty of the County Judge or Chairman of the County Court in carrying out the provisions of this Act to keep a docket of all claims presented to him for settlement or adjudication and he shall cause to be entered on a separate minute book a final record of his findings and conclusions in litigated cases as well as of orders, compromises or settlements made by him. For acting in each of such cases which is contested or litigated the County Judge or Chairman of the County Court shall receive a fee of \$5.00, which shall be taxed as a part of the costs of the case against the unsuccessful party. For entering all orders, settlements or compromises of claims which are not controverted or litigated the County Judge or Chairman of the County Court shall receive as compensation a fee of two (\$2.00) dollars, which shall be taxed equally against both parties. In the event of failure of either party to appear within ten days, excluding holidays and Sundays, the judgment of a County Judge or Chairman shall be final. The party filing the petition may, at his option, instead of filing the same before the County Judge or Chairman, file the same as an original petition in either the Circuit, Criminal, or Chancery Court of the county in which petitioner resides or in which the alleged accident happens, in which event summons shall be issued by the clerk of the court in which the proceeding is instituted, and shall be returned before said court within the time provided for proceedings before a County Judge or County Chairman. The issue shall be made

Docket to be kept.

Fees of Judge or Chairman.

May file petition in Circuit, Criminal or Chancery Court.

in the same manner and the presiding Judge shall proceed to hear the case as provided in case of appeal from the County Judge or Chairman. Whenever any matter is brought before the County Judge or chairman or before any judge as provided herein, the said County Judge or Chairman or any judge, may, if he so desires, visit the scene of the accident and examine the surroundings.

Any party to the proceedings in the Circuit, Criminal or Chancery Court may, if dissatisfied or aggrieved by the judgment or decree of that court, pray an appeal in the nature of a writ of error to the Supreme Court of Tennessee, where the cause shall be heard and determined in accordance with the practice governing other appeals in the nature of a writ of error in civil causes.

SEC. 33. *Be it further enacted*, That the fees of attorneys and physicians and charges of hospitals for services to employes under this Act shall be subject to the approval of the County Judge or Chairman of the County Court or other court before which the matter is pending, and *provided*, that no attorney's fees to be charged employes shall be in excess of twenty (20) per cent of the amount of the recovery or award to be paid by the party employing the attorney.

SEC. 34. *Be it further enacted*, That in case a deceased employe for whose injury or death compensation is payable under the provisions of this Act leaves surviving him an alien dependent or dependents residing outside of the United States, the Circuit Court, instead of the Judge or Chairman of the County Court, shall hear and determine the matter and order payment of any compensation due from the employer to be made to the duly accredited consular officer of the country of which the beneficiaries are citizens, if there is such consular officer residing in this State, and if not, to the designated representative of such consular officer residing within this State, and such consular officer or his representative shall be fully authorized and empowered by this

May appeal to Supreme Court.

Fees of Attorneys, physicians and others.

Alien Dependent.

Act to settle all claims for compensation and receive for distribution to the persons entitled thereto such compensation. The distribution of said funds in such case shall be only made on the order of the Circuit Court. If required so to do by the Court, such consular officer or his representative shall execute a good and sufficient bond to be approved by the Court, conditioned upon the faithful accounting of the moneys so received by him, and before such bond is discharged a verified statement of receipts and disbursements of said moneys shall be made and filed in said Circuit Court.

Such consular officer or his representative shall, before receiving the first payment of such compensation, and at reasonable times thereafter, upon the request of the employer, furnish to the employer a sworn statement containing a list of the dependents with the name, age, residence, extent of dependency and relation to the deceased of each dependent.

SEC. 35. *Be it further enacted*, That copies of all settlements and releases shall be filed by the employer with the Bureau of Workshop and Factory Inspection within ten (10) days after such settlements are made, and shall become part of the permanent records of that department.

Copy of settlements filed with Bureau of Workshop and Factory Inspection.

SEC. 36. *Be it further enacted*, That the amounts of compensation payable periodically hereunder may be commuted to one or more lump sum payments. These may be commuted only with the consent of the Circuit Court. In making such commutation the lump sum payment shall, in the aggregate, amount to a sum equal to the present value of all future installments of compensation calculated on a six per cent basis. No settlement or compromise shall be made except on the terms herein provided.

SEC. 37. *Be it further enacted*, That all settlements of compensation by agreement of the parties and all awards of compensation made by the court, where the amount paid or to be paid in settlement or by award does not exceed the compensation for six

Final settlement.

months' disability, shall be final and not subject to readjustment.

SEC. 38. *Be it further enacted*, That all amounts paid by employer and received by the employe or his dependents, by lump sum payment, shall be final, but the amount of any award payable periodically for more than six (6) months may be modified as follows:

Modification of settlement.

(a) At any time by agreement of the parties and approved by the Court.

(b) If the parties cannot agree, then at any time after six (6) months from the date of the award an application may be made to the courts by either party on the ground of increase or decrease of incapacity due solely to the injury. In such cases the same procedure shall be followed as in Section 32 in case of disputed claim for compensation.

Compensation may be deposited in trust.

SEC. 39. *Be it further enacted*, That any time after the amount of any award has been agreed upon by the parties, or found and ordered by the Court, a sum equal to the present value of all future installments of compensation calculated on a six per cent basis, may (where death or the nature of the injury renders the amount of future payments certain), by leave of court, be paid by the employer to any savings bank or trust company of this State to be apportioned and designated by the court, and such sum, together with all interest thereon, shall 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 receipts in duplicate of the Trustee, one of which shall be filed with the Bureau of Workshop and Factory Inspection, and the other filed with the clerk of the Circuit Court, shall operate at 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 time 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 court, to the choice of the injured employe or the dependent of the deceased employe, as the case may be.

SEC. 40. *Be it further enacted*, That every person, partnership, association, or organization, or corporation, whether organized under the laws of this or any other State or country which has or may hereafter comply with the laws of the State of Tennessee, and is authorized to write accident or indemnity insurance in the State of Tennessee, shall be authorized and empowered to write Workmen's Compensation Insurance under the terms and provisions of this Act and likewise every reciprocal or mutual insurance association or corporation shall have the like privilege, and shall be subject to the same tax on premiums now imposed by law on casualty or indemnity insurance underwriters.

Companies empowered to write insurance.

Every insurance corporation or mutual corporation or reciprocal exchange, authorized to transact business in this State, which insures employers against liability for compensation under the provisions of this Act, shall file with the Insurance Commissioner its classification of risks and premiums relating thereto, and any subsequent proposed classification of risks and premiums together with basic rates and schedules if a system of schedule rating be in use, none of which shall take effect until the Insurance Commissioner shall have approved the same as adequate. The Insurance Commissioner may withdraw his approval of any premium rate or schedule made by any such insurance corporation, mutual corporation or reciprocal exchange, if, in his judgment, such premium rate or schedule is inadequate to provide the necessary reserves.

To file classification of risks and premiums.

SEC. 41. *Be it further enacted*, That every employer under and affected by this Act (1) shall insure and keep insured his liability hereunder in some person or persons, association, organization or corporation authorized to transact the business of

Employers must keep insured his liability. or File satisfactory financial statement with Insurance Commissioner.

Workmen's Compensation Insurance in this State, or (2) shall furnish to the Insurance Commissioner of the State of Tennessee satisfactory proof of his financial ability to pay all claims that may arise against him under this Act and guarantee the payment of the same in the amount and manner and when due as provided for in this Act. If the employer elects to pursue the latter course, the Insurance Commissioner of the State of Tennessee may in his discretion require the deposit of an acceptable security or indemnity bond to secure the payment of compensation liability as may be incurred under this Act. Said bond shall be conditioned to run directly for the benefit of the employees subject to this Act and may be enforced by them directly in an action in their name. This Act shall not apply to policies of insurance against loss from explosion of boilers or flywheels or other similar single catastrophe hazards.

Employer to
file evidence
of compli-
ance.

Every employer accepting the provisions of this Act shall within thirty (30) days after this Act takes effect, file with the Insurance Commissioner of the State of Tennessee and annually thereafter, or as often as may be necessary under the ruling of said Insurance Commissioner, evidence of his compliance with the provisions of this Act relating to insurance or indemnity to employees. Until these provisions are complied with, the employer shall from the date this Act becomes effective, be liable to an employee either for compensation under this Act or at law in the same manner as if the employer had refused to accept the provisions of this Act, and in any suit brought by the employee against the employer the defense of contributory negligence, the fellow servants' rule, and assumption of the risk by the employee shall not be open to or set up by the employer in any common law court in which such suit may be brought. Claim of compensation in such cases under this Act shall be deemed a waiver of the right to proceed at law, and institution of an action at law shall be deemed a waiver of all claims

to compensation hereunder. No agreement by any employee to pay any portion of the insurance premium paid by his employer shall be valid, and any employer who deducts any portion of such premium from the wages or salary of any employee entitled to the benefits of this Act shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$100 for each offense.

SEC. 42. *Be it further enacted*, That every employer accepting the provisions of this Act shall, within thirty (30) days after this Act takes effect, file with the Insurance Commissioner of the State of Tennessee on a form prescribed by the Commissioner, and thereafter annually or as often as the Commissioner in his discretion deems necessary, evidence of his compliance with the provisions of Section 41 of this Act. If any such employer refuses or willfully neglects to comply with these provisions, he shall be punished by a fine of not less than \$10 nor more than \$100, and after such conviction shall be subject to a fine of not less than \$1 nor more than \$10 for each day of such refusal or neglect and until he shall comply with said provisions, and also such employer so refusing or neglecting to comply with said provisions during the continuance of such refusal or neglect shall be liable to an injured employee either for compensation as provided in this Act to be recovered in an action brought in a court of competent jurisdiction for that purpose or for damages to be recovered as if this Act had not been passed, as such employee may elect; and in case suit for damages is brought instead of a suit to recover compensation under the provisions of this Act, the employer, when sued, shall not be allowed to set up as defense to the action that the employee was guilty of contributory negligence, or that the injury was occasioned by the negligence of a fellow servant of the employer, or that the employee had assumed the risk of the injury. Claim of compensation made under this Act shall be deemed a waiver of the right to sue for damages, and the institution of a suit for

Failure to file
report, pen-
alty for.

damages shall be deemed a waiver of a right to claim compensation under this Act.

Certificate of
Commissioner.

SEC. 43. *Be it further enacted*, That whenever an employer has complied with the provision of this Act relating to insurance the Insurance Commissioner of the State of Tennessee shall issue to such employer a certificate which shall remain in force for a period to be fixed by the Insurance Commissioner, but the Insurance Commissioner may, upon thirty (30) days' notice and a hearing to the employer, revoke the certificate upon satisfactory evidence for such revocation having been presented. At any time after such revocation the Insurance Commissioner may grant a new certificate to the employer upon his petition.

SEC. 44. *Be it further enacted*, That all policies insuring the payment of compensation under this Act must contain a clause to the effect that as between the employer and the insurer, the notice of or knowledge of the occurrence of the injury on the part of the insured shall be deemed notice or knowledge, as the case may be, on the part of the insurer, that jurisdiction of the insured for the purpose of this Act shall be jurisdiction of the insurer, and that the insurer shall in all things be bound by and subject to the awards, orders, judgments or decrees rendered against such insured, whether a formal party to the proceedings or not.

Insurance
policy provisions.

SEC. 45. *Be it further enacted*, That no policy of insurance against liability arising under this Act shall be issued unless it contains an express agreement of the insurer that it will promptly pay to the person entitled to same all benefits conferred by this Act, and all installments of the compensation that may be awarded or agreed upon, and that this obligation shall not be affected by any default of the insured for the injury or by any default in the giving of any notice required by such policy or otherwise. Such agreement shall be construed to be a direct promise by the insurer to the person entitled to compensation under this Act, and may be enforced di-

rectly by such person in his name, and the failure, if any, of the insured to comply with any provisions of the policy regarding notice of injury and such matters shall not be a defense in a suit on the policy by the insured employe or his dependents or representatives, unless it can be shown that such insured employe or his representatives or dependents aided and abetted in seeking to mislead or defraud the insurer.

SEC. 46. *Be it further enacted*, That there is hereby conferred upon the Insurance Commissioner of the State of Tennessee the power to enforce the provisions of this Act which relate to the assurance of payments of the awards thereunder. The Insurance Commissioner shall have the power, subject to the approval of the Governor, to employ such clerical assistance as he may deem necessary and fix the compensation of the person or persons so employed. He may make rules and regulations not inconsistent with this Act for the purpose of discharging his duties under the provisions of this Act. He may provide forms for the use of employers and such other literature as may be necessary and shall furnish free of charge to any employe or employer such literature and blank forms as he may deem requisite to facilitate or promote the efficient administration of this Act.

Power of In-
surance Com-
missioner.

SEC. 47. *Be it further enacted*, That the rule of common law requiring strict construction of statutes in derogation of common law shall not be applicable to the provisions of this Act, but the same is hereby declared to be a remedial Act which shall be given an equitable construction by the courts to the end that the objects and purposes of this Act may be realized and attained.

SEC. 48. *Be it further enacted*, That if any Section or provisions of this Act shall be decided or declared by the courts to be unconstitutional and invalid the same shall not affect the validity of this Act as a

whole or any part or section thereof other than the part or section so decided to be unconstitutional and invalid, as the remaining sections or portions of the Act would have been passed by the General Assembly of Tennessee if the unconstitutional section or sections of the Act had been elided by the General Assembly of the State of Tennessee before the passage of the Act.

SEC. 49. *Be it further enacted*, That for the purpose of defraying the expenses of enforcing this Act and putting the same in operation, the sum of ten thousand (\$10,000) dollars, or so much thereof as may be necessary, is hereby appropriated out of the revenues of the State of Tennessee not otherwise appropriated. Such sum or so much thereof as may be necessary for clerical assistance to the Insurance Commissioner of the State of Tennessee, literature, blank forms, necessary traveling expenses of said Commissioner in the administration of this Act or of his clerical assistants shall be first approved by the Governor of the State of Tennessee.

SEC. 50. *Be it further enacted*, That all laws or parts of laws in conflict with the provisions of this Act be and the same are hereby repealed to the extent of such inconsistency, but the provisions of this Act shall not be construed or held to affect any litigation pending at the time this Act goes into effect.

SEC. 51. *Be it further enacted*, That this Act, except as to the duties and powers of the Insurance Commissioner of the State as provided in Section 49, shall become effective on July 1, 1919, and such provisions hereof as relate to the power and duties of the Insurance Commissioner of the State requiring said Commissioner to prepare blank forms, literature and such other steps by him deemed necessary as provided in Section 49 shall be effective from

and after the passage of this Act, the public welfare requiring it.

Passed April 12, 1919.

ANDREW L. TODD,
Speaker of the Senate.

SETH M. WALKER,
Speaker of the House of Representatives.

Approved April 15, 1919.

A. H. ROBERTS,
Governor.

CHAPTER NO. 124.

SENATE BILL No. 171.

(By Mr. Rice of Shelby.)

AN ACT providing a punishment for any person personally transporting, in quantities of three gallons or more intoxicating liquors into this State, or between points within this State; and providing for additional compensation for officers making arrests upon the conviction of such violators.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That any person who shall personally transport into this State or from one point to another within this State, intoxicating liquors in quantities of three gallons or more in violation of law shall be deemed guilty of a felony and upon conviction, shall be imprisoned in the State Penitentiary not less than one year and one day nor more than two years, and fined not less than \$250.00 or more than \$500.00.

SEC. 2. *Be it further enacted*, That any civil officer, arresting and prosecuting to conviction any person guilty of any of the offenses enumerated in this Act shall be entitled to the sum of fifty (\$50.00) dollars to be taxed in the bill of costs.

SEC. 3. *Be it further enacted*, That all laws and parts of laws in conflict with this Act are hereby repealed.