

CAP. 31.

An Act to further amend Chapter 146 of "The Consolidated Statutes, 1903," being "The Workmen's Compensation for Injuries Act."

Passed 30th May, 1908.

Be it enacted by the Lieutenant-Governor and Legislative Assembly, as follows:

1. Section 2, Sub-section 3, of "The Workmen's Compensation for Injuries Act" is hereby repealed, and the following enacted in lieu thereof:—

(3). "Workmen" does not include a person whose employment is of a casual nature and otherwise than for the purpose of the employer's trade or business or a domestic or menial servant or a servant in husbandry, gardening or fruit growing or granite working or in lumbering or in driving, rafting or booming logs, or a person employed as a clerk in an office or in a wholesale or retail shop or store, or a person employed as a seaman or fisherman where the personal injury caused to any such servant or person has been occasioned by, or has arisen from, or in the usual course of his work or employment as a domestic or menial servant, or as a servant in husbandry, gardening or fruit growing or in granite working or in lumbering or in driving, rafting or booming logs, or as a clerk in an office or in a wholesale or retail shop or store, or as a seaman or fisherman; but save as aforesaid, means any railway servant, ship labourer, longshoreman, quarryman, miner, pond-man, and any person who being a labourer, servant, journeyman, artificer, handy craftsman or otherwise engaged in manual labour, whether under the age of twenty-one years or above that age, has entered into or works under a contract with an employer, whether the contract was made before or after the passing of this Act, and whether such contract is expressed or implied, oral or in writing, and is a contract of service or a contract personally to execute any work or labour.

Section 2 of said Act is further amended by adding thereto the following:

(5). "Dependents" means and includes only the workman's wife or husband, father, mother, grand-father, grand-mother, step-father, step-mother, son, daughter, grandson, grand-daughter, step-son, step-daughter, brother, sister, half-brother or half-sister.

2. Section 3 of said Act is hereby repealed, and the following enacted in lieu thereof:

"3. Where personal injury is caused to a workman:

(a). by reason of any defect in the condition or arrangement of the ways, works, machinery, gear, appliances, plant, scow, boat, vessel, building, or premises connected with, intended for or used in the business of the employer; or

(b). By reason of the negligence of the employer or any person in the service of the employer; or

(c). By reason of the act or omission of any person in the service of the employer, done or made, in obedience to the rules or by laws of the employer, or in obedience to particular instructions given by the employer, or by any person delegated with the authority of the employer in that behalf. The workman, or in case the injury results in death, the legal representatives of the workman, and any person entitled, in case of death, shall have the same right of compensation and remedies against the employer, as if the workman had not been a workman of, nor in the service of the employer, nor engaged in his work."

3. Section 4, Sub-section (1) of said Act, and Section 1 of Chapter 26 of Acts 7, Edward VII., are hereby repealed, and the following enacted in lieu thereof:

4. (1). Where any work is being carried on under any contract; and

(a). The person for whom the work or any part thereof is done, supplies any ways, works, machinery, gear, appliances, plant, scow, boat, vessel, building or premises used for the purpose of executing the work; and

(b). By reason of any defect in the condition or arrangement of such ways, works, machinery, gear, appliances, plant, scow, boat, vessel, building or premises, personal injury is caused to any workman employed by the contractor, or by any sub-contractor; the person for whom the work, or that part of the work is done, shall be liable to pay compensation for the injury as if the workman had been employed by him, and for that purpose be deemed to be the employer of the workman within the meaning of this Act; provided, always, that any such contractor or sub-contractor shall be liable to pay compensation for the injury as if this Section had not been enacted; and also, provided, that double compensation shall not be recoverable for the same injury.

4. Paragraphs (a) and (b) of Section 5 of said Act are hereby repealed and the following enacted in lieu thereof:

(a). Where personal injury is caused to such workman by reason of his own wilful act, with intent to cause personal injury, or by reason of his own neglect, or carelessness, or by reason of disobedience of rules, orders or by-laws of the employer, contractor, or sub-contractor; provided, always, that printed or type-written copies of such rules, orders, and by-laws have been posted and kept posted in a conspicuous position in the different places where the workmen carry on their work;

(b). Where personal injury is caused to such workman by reason of the malicious act or malicious neglect of a fellow workman with intent to cause personal injury.

Also to said Section 5 add the following, to be paragraph

(d):

("d"). Where the workman is injured or killed, through the negligence of a fellow workman who at the time where such negligent act was committed, was under the influence of intoxicating liquors, unless the workman so injured or killed, on becoming aware of the condition of his fellow workman and within a reasonable time thereafter, notified the foreman or any other person in charge of any work, that his fellow workman was under the influence of intoxicating liquors, as aforesaid.

5. Section 6 of said Act is hereby repealed and the following enacted in lieu thereof:

"6". The amount of compensation under this Act shall be (1) where death results from the injury;

(a). If the workman leaves any dependents, who at the time of his death reside in Canada and are partly or wholly dependent upon his earnings, a sum equal to his earnings in the employment of the same employer during the three years next preceding the injury, but not exceeding in any case Fifteen hundred dollars (\$1500.00); provided, that the amount of any weekly payments made under this Act shall be deducted from such sum, and if the period of the workman's employment by the said employer has been less than the said three years, then, the amount of his earnings during the said three years, shall be deemed to be one-hundred and fifty-six times his average weekly earnings, during the period of his actual employment under the said employer.

(b). If he leaves no dependents, the reasonable expenses of his medical attendance and burial, not exceeding Seventy-five dollars, (\$75.00).

(2). Where the total or partial incapacity for work results from the injury, a weekly payment during the incapacity, not exceeding fifty per cent. of his average weekly earnings during the previous twelve months, if he has been so long employed, but if not, then for any less period, during which he has been in the employment of the same employer, such weekly payment not to exceed Ten dollars, (\$10.00), provided, that

(a). If the incapacity lasts less than two weeks, no compensation shall be payable in respect to the first week; and

(b). If the incapacity lasts for more than one hundred weeks, compensation shall be payable in respect to the first one hundred weeks only; and

(c). Where a workman has given notice of an accident, he shall, if so required by the employer, submit himself for examination once in each week after such accident, by a duly qualified medical practitioner, provided and paid by the employer, and, if he refuses to submit himself to such examination, or in any way obstructs the same, he shall not be entitled to compensation, or to take any proceedings to recover compensation under this Act, during the time covered by such refusal or obstruction.

6. The provisions of Chapter 146 of "The Consolidated Statutes, 1903," being "The Workmen's Compensation for Injuries Act," and of Chapter 26 of the Acts of the Legislative Assembly, A. D., 1907 in amendment thereof, in so far as they are inconsistent herewith, are hereby repealed.

7. Section 7 of Chapter 146 Consolidated Statutes, 1903, is amended, as follows: Strike out the words "Twelve weeks and" in line 5 thereof, and substitute therefor the following: "Two weeks, except in case where reasonable excuse is furnished for failure to give such notice within said time, and such notice is given as soon thereafter as possible, and unless."

8. This Act shall come into force on and after the first day of November in the year nineteen hundred and eight.

IN THE KENT COUNTY COURT.

NOTICE is hereby given that upon the application of Richard O'Leary, I have directed all the Estate as well real as personal of Robert Legoofe of the Parish of Harcourt in the County of Kent and Province of New Brunswick, an absconding, concealed or absent debtor, to be seized, and unless he return and discharge his debts within three months after the publication hereof, such Estate will be sold for the payment thereof.

Dated the Twenty-eighth day of April, A. D., 1908.

W. W. WELLS,

Judge of the Kent County Court.

H. H. JAMES,

Solicitor for petitioning creditors.

14 ins.

IN THE WESTMORLAND COUNTY COURT.

NOTICE is hereby given, that upon the application of William H. Edgett I have directed all the estate, as well real as personal, of Howard A. Haley of Hopewell Hill in the County of Albert in the Province of New Brunswick, an absconding, concealed or absent debtor, to be seized and unless he returns and discharges his debts within three months after the date hereof such estate will be sold for the payment thereof.

Dated this 23rd day of April, A. D., 1908.

W. W. WELLS,

Judge Westmorland County Court.

13 ins.