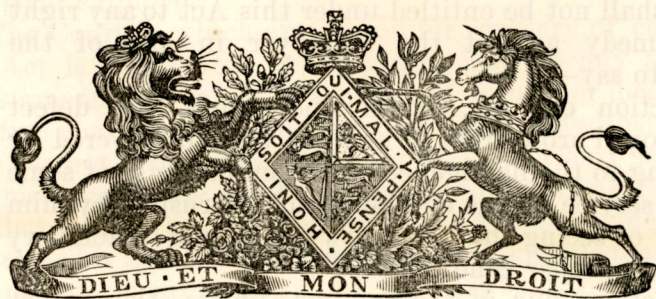


*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

*Legislative Assembly Chamber,  
Sydney, 18 May, 1886.*

*F. W. WEBB,  
Acting Clerk of Legislative Assembly.*

New South Wales.



ANNO QUADRAGESIMO NONO

VICTORIÆ REGINÆ.

\*\*\*\*\*

No. .

An Act to extend and regulate the Liability of Employers to make Compensation for Personal Injuries suffered by Workmen in their service.

BE it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows :—

- 5

1.

Where after the commencement of this Act personal injury

is caused to a workman—
- 10

(I)

By reason of any defect in the state or condition of the ways works machinery or plant connected with or used in the business of the employer or
- 15

(II)

By reason of the negligence of any person in the service of the employer who has any superintendence entrusted to him whilst in the exercise of such superintendence or
- (III)

By reason of the negligence of any person in the service of the employer to whose orders or directions the workman at the time of the injury was bound to conform and did conform where such injury resulted from his having so conformed or
- 101—

(IV)



*Employers Liability.*

(iv) 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 any person delegated with the authority of the employer in that behalf or

(v) By reason of the negligence of any person in the service of the employer who has the charge or control of any signal-points engine or train upon a rail or tramway the workman or in case the injury results in death the legal personal representatives of the workman and any persons entitled in case of death shall have the same right of compensation and remedies against the employer and may recover from the employer compensation by way of damages as for a tort committed by such employer as if the workman had not been a workman of nor in the service of the employer nor engaged in his work.

2. A workman shall not be entitled under this Act to any right of compensation or remedy against the employer in any of the following cases that is to say—

(i) Under sub-section one of section one unless the defect therein mentioned arose from or had not been discovered or remedied owing to the negligence of the employer or of some person in the service of the employer and entrusted by him with the duty of seeing that the ways works and machinery or plant were in proper condition.

(ii) Under sub-section four of section one unless the injury resulted from some impropriety or defect in the rules by-laws or instructions therein mentioned.

(iii) In any case where the workman knew of the defect or negligence which caused his injury and failed within a reasonable time to give or cause to be given information thereof to the employer or some person entrusted with any duties of superintendence in or over that department in which the defect or negligence existed whether such superintendent be ordinarily engaged in manual labour or not unless the injured person should himself perform duties of superintendence in which case such person must have given notice to the employer or to a person entrusted with any superintendence over himself unless the employer or such superior already knew of the said defect or negligence.

3. An action for the recovery under this Act of compensation for an injury shall not be maintainable unless notice that injury has been sustained is given within twelve weeks and the action is commenced within twelve months from the occurrence of the accident causing the injury or in case of death within twelve months from the time of death. Provided always that the want of such notice shall be no bar to the maintenance of such action if a Judge shall be of opinion that there was reasonable excuse for such want of notice.

4. There shall be deducted from any compensation awarded to any workman or representatives of a workman or persons claiming by under or through a workman in respect of any cause of action arising under this Act any penalty or part of a penalty which may have been paid in pursuance of any other Act of Parliament to such workman representatives or persons in respect of the same cause of action and where an action has been brought under this Act by any workman or the representatives of any workman or any persons claiming by under or through such workman for compensation in respect of any cause of action arising under this Act and payment has not previously been made of any penalty or part of a penalty under any other Act of Parliament

Exceptions to amendment of law.

Limit of time for recovery of compensation.

Money payable under penalty to be deducted from compensation under Act.



*Employers Liability.*

Parliament in respect of the same cause of action such workman representatives or persons shall not be entitled thereafter to receive any penalty or part of a penalty under any other Act of Parliament in respect of the same cause of action.

5 5. All the provisions of this Act shall have effect and be enforced by every Court in every case notwithstanding any contract or agreement excluding all or any of the provisions of this Act or otherwise interfering with the operations thereof. Provided that in determining in any case the amount of compensation payable under 10 this Act by an employer the Court shall take into consideration the value of any payment or contribution made by such employer to or for the injured person in respect of his injury and also the value of any payment or contribution made by such employer to any insurance or compensation fund to the extent to which any person who would 15 otherwise be entitled to compensation under this Act has actually received compensation out of such payment or contribution at the expense of such employer.

6. The Court in which any action for recovery of compensation under this Act is commenced or is pending may at any stage of the 20 proceedings amend any defect in a notice of injury or death or direct that the action shall proceed and be maintainable notwithstanding that such notice has not been given duly or at all if the Court having regard to the circumstances of the case thinks just so to direct and if it appears to the Court that within the time limited by the Act for giving such notice 25 the employer or his agent or representative had knowledge or notice of the occurrence of the accident and of the fact that the workman was injured thereby or that there was reasonable excuse for such defect or omission.

7. Notice in respect of an injury under this Act shall give the 30 name and address of the person injured and shall state in ordinary language the cause of the injury and the date at which it was sustained and shall be served on the employer or if there is more than one employer upon one of such employers. The notice may be served by delivering the same to or at the residence or place of business of 35 the person on whom it is to be served. The notice may also be served by post by a registered letter addressed to the person on whom it is to be served at his last known place of residence or place of business and if served by post shall be deemed to have been served at the time when a letter containing the same would be delivered in the ordinary course of 40 post and in proving the service of such notice it shall be sufficient to prove that the notice was properly addressed and registered. Where the employer is a body of persons corporate or unincorporate the notice shall be served by delivering the same at or by sending it by post in a registered letter addressed to the office or if there be more than one office any 45 one of the offices of such body. A notice under this section shall not be deemed invalid by reason of any defect or inaccuracy therein unless the Judge who tries the action arising from the injury mentioned in the notice shall be of opinion that the defendant in the action is prejudiced in his defence by such defect or inaccuracy and 50 that the defect or inaccuracy was for the purpose of misleading.

8. For the purposes of this Act unless the context otherwise 55 requires the expression "person who has superintendence entrusted to him" means a person whose sole or principal duty is that of superintendence and who is not ordinarily engaged in manual labour. The expression "employer" includes a body of persons corporate or unincorporate or corporation sole. The expression "workman" means a railway servant and any other person who being a labourer servant in husbandry journeyman artificer handicraftsman miner or otherwise employed whether under the age of twenty-one years or above that age

Act to be enforced notwithstanding agreements to the contrary.

Defective notices may be amended.

Mode of serving notice of injury.

Definitions.



*Employers Liability.*

age has entered into or works under a contract with an employer whether the contract be made before or after the passing of this Act be express or implied oral or in writing and be a contract of service or a contract personally to execute any work or labour and shall include seamen persons employed on ships and domestic servants.

9. This Act shall come into operation at the end of this present Session of Parliament which date is in this Act referred to as the commencement of this Act. Commencement of Act.

10. This Act may be cited as the "Employers' Liability Act 1886."

Sydney: Thomas Richards, Government Printer.—1886.

[3d.]

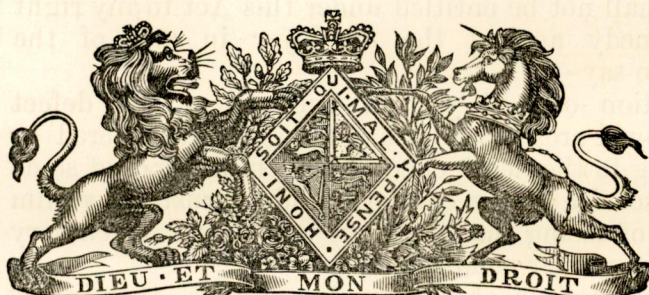


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## New South Wales.



ANNO QUADRAGESIMO NONO

## VICTORIÆ REGINÆ.

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No. .

An Act to extend and regulate the Liability of Employers to make Compensation for Personal Injuries suffered by Workmen in their service.

**B**E it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows :—

5      1. Where after the commencement of this Act personal injury Amendment of Law.  
is caused to a workman—

- (I) By reason of any defect in the state or condition of the ways works machinery or plant connected with or used in the business of the employer or
- 10      (II) By reason of the negligence of any person in the service of the employer who has any superintendence entrusted to him whilst in the exercise of such superintendence or
- 15      (III) By reason of the negligence of any person in the service of the employer to whose orders or directions the workman at the time of the injury was bound to conform and did conform where such injury resulted from his having so conformed or

101—

(IV)



*Employers Liability.*

- (iv) 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 any person delegated with the authority of the employer in that behalf or
- (v) By reason of the negligence of any person in the service of the employer who has the charge or control of any signal-points engine or train upon a rail or tramway the workman or in case the injury results in death the legal personal representatives of the workman and any persons entitled in case of death shall have the same right of compensation and remedies against the employer and may recover from the employer compensation by way of damages as for a tort committed by such employer as if the workman had not been a workman of nor in the service of the employer nor engaged in his work.

2. A workman shall not be entitled under this Act to any right of compensation or remedy against the employer in any of the following cases that is to say—

- (I) Under sub-section one of section one unless the defect therein mentioned arose from or had not been discovered or remedied owing to the negligence of the employer or of some person in the service of the employer and entrusted by him with the duty of seeing that the ways works and machinery or plant were in proper condition.
- (II) Under sub-section four of section one unless the injury resulted from some impropriety or defect in the rules by-laws or instructions therein mentioned.
- (III) In any case where the workman knew of the defect or negligence which caused his injury and failed within a reasonable time to give or cause to be given information thereof to the employer or some person entrusted with any duties of superintendence in or over that department in which the defect or negligence existed whether such superintendent be ordinarily engaged in manual labour or not unless the injured person should himself perform duties of superintendence in which case such person must have given notice to the employer or to a person entrusted with any superintendence over himself unless the employer or ~~such superior~~ already knew of the said defect or negligence.

3. An action for the recovery under this Act of compensation for an injury shall not be maintainable unless notice that injury has been sustained is given within twelve weeks and the action is commenced within twelve months from the occurrence of the accident causing the injury or in case of death within twelve months from the time of death. Provided always that the want of such notice shall be no bar to the maintenance of such action if a Judge shall be of opinion that there was reasonable excuse for such want of notice.

4. There shall be deducted from any compensation awarded to any workman or representatives of a workman or persons claiming by under or through a workman in respect of any cause of action arising under this Act any penalty or part of a penalty which may have been paid in pursuance of any other Act of Parliament to such workman representatives or persons in respect of the same cause of action and where an action has been brought under this Act by any workman or the representatives of any workman or any persons claiming by under or through such workman for compensation in respect of any cause of action arising under this Act and payment has not previously been made of any penalty or part of a penalty under any other Act of Parliament

Exceptions to  
amendment of law.

Limit of time for  
recovery of compen-  
sation.

Money payable under  
penalty to be  
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pensation under Act.

*injured  
person entrusted*



*Employers Liability.*

Parliament in respect of the same cause of action such workman representatives or persons shall not be entitled thereafter to receive any penalty or part of a penalty under any other Act of Parliament in respect of the same cause of action.

5 5. All the provisions of this Act shall have effect and be enforced by every Court in every case notwithstanding any contract or agreement excluding all or any of the provisions of this Act or otherwise interfering with the operations thereof. Provided that in determining in any case the amount of compensation payable under  
10 this Act by an employer the Court shall take into consideration the value of any payment or contribution made by such employer to or for the injured person in respect of his injury and also the value of any payment or contribution made by such employer to any insurance or compensation fund to the extent to which any person who would  
15 otherwise be entitled to compensation under this Act has actually received compensation out of such payment or contribution at the expense of such employer.

Act to be enforced notwithstanding agreements to the contrary.

20 6. The Court in which any action for recovery of compensation under this Act is commenced or is pending may at any stage of the proceedings amend any defect in a notice of injury or death or direct that the action shall proceed and be maintainable notwithstanding that such notice has not been given duly or at all if the Court having regard to the circumstances of the case thinks just so to direct and if it appears to  
25 the Court that within the time limited by the Act for giving such notice the employer or his agent or representative had knowledge or notice of the occurrence of the accident and of the fact that the workman was injured thereby or that there was reasonable excuse for such defect or omission.

Defective notices may be amended.

30 7. Notice in respect of an injury under this Act shall give the name and address of the person injured and shall state in ordinary language the cause of the injury and the date at which it was sustained and shall be served on the employer or if there is more than one employer upon one of such employers. The notice may be served by delivering the same to or at the residence or place of business of  
35 the person on whom it is to be served. The notice may also be served by post by a registered letter addressed to the person on whom it is to be served at his last known place of residence or place of business and if served by post shall be deemed to have been served at the time when a letter containing the same would be delivered in the ordinary course of  
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45 one of the offices of such body. A notice under this section shall not be deemed invalid by reason of any defect or inaccuracy therein unless the Judge who tries the action arising from the injury mentioned in the notice shall be of opinion that the defendant in the action is prejudiced in his defence by such defect or inaccuracy and  
50 that the defect or inaccuracy was for the purpose of misleading.

Mode of serving notice of injury.

8. For the purposes of this Act unless the context otherwise requires the expression "person who has superintendence entrusted to him" means a person whose sole or principal duty is that of superintendence and who is not ordinarily engaged in manual labour. The  
55 expression "employer" includes a body of persons corporate or unincorporate or corporation sole. The expression "workman" means a railway servant and any other person who being a labourer servant in husbandry journeyman artificer handicraftsman miner or otherwise employed whether under the age of twenty-one years or above that age

Definitions.



*Employers Liability.*

age has entered into or works under a contract with an employer whether the contract be made before or after the passing of this Act be express or implied oral or in writing and be a contract of service or a contract personally to execute any work or labour and shall include seamen persons employed on ships and domestic servants.

9. This Act shall come into operation at the end of this present Session of Parliament which date is in this Act referred to as the commencement of this Act. Commencement of Act.

10. This Act may be cited as the "Employers' Liability Act 1886." Short title.

[3d.]

Sydney: Thomas Richards, Government Printer.—1886.

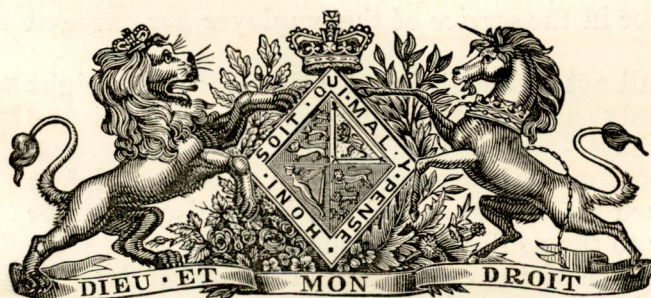


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## New South Wales.



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An Act to extend and regulate the Liability of Employers to make Compensation for Personal Injuries suffered by Workmen in their service.

*(As amended in Committee of the Whole.)*

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5 1. Where after the commencement of this Act personal injury Amendment of Law.  
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business of the employer or
- 10 (II) By reason of the negligence of any person in the service of  
the employer who has any superintendence entrusted to him  
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- (III) By reason of the negligence of any person in the service of  
the employer to whose orders or directions the workman at  
15 the time of the injury was bound to conform and did conform  
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- 101— (IV)

NOTE.—The words to be omitted are ruled through; those to be inserted are printed in black letter.



*Employers Liability.*

- (iv) 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 any person delegated with the authority of the employer in that behalf or
- (v) By reason of the negligence of any person in the service of the employer who has the charge or control of any signal-points engine or train upon a rail or tramway—
- the workman or in case the injury results in death the legal personal representatives of the workman and any persons entitled in case of death shall have the same right of compensation and remedies against the employer and may recover from the employer compensation by way of damages as for a tort committed by such employer as if the workman had not been a workman of nor in the service of the employer nor engaged in his work.

2. A workman shall not be entitled under this Act to any right of compensation or remedy against the employer in any of the following cases that is to say—

- (I) Under sub-section one of section one unless the defect therein mentioned arose from or had not been discovered or remedied owing to the negligence of the employer or of some person in the service of the employer and entrusted by him with the duty of seeing that the ways works and machinery or plant were in proper condition.
- (II) Under sub-section four of section one unless the injury resulted from some impropriety or defect in the rules by-laws or instructions therein mentioned.
- (III) In any case where the workman knew of the defect or negligence which caused his injury and failed within a reasonable time to give or cause to be given information thereof to the employer or some person entrusted with any duties of superintendence in or over that department in which the defect or negligence existed whether such superintendent be ordinarily engaged in manual labour or not unless the injured person should himself perform duties of superintendence in which case such injured person must have given notice to the employer or to a person entrusted with any superintendence over himself unless the employer or such superior person so entrusted already knew of the said defect or negligence.

3. The amount of compensation recoverable under this Act shall not exceed such sum as may be found to be equivalent to the estimated earnings during the three years preceding the injury of a person in the same grade employed during those in the like employment and in the district in which the workman is employed at the time of the injury.

4. An action for the recovery under this Act of compensation for an injury shall not be maintainable unless notice that injury has been sustained is given within twelve six weeks and the action is commenced within twelve six months from the occurrence of the accident causing the injury or in case of death within twelve months from the time of death. Provided always that the want of such notice shall be no bar to the maintenance of such action if a Judge shall be of opinion that there was reasonable excuse for such want of notice. Provided that any such action may be brought by leave of a Judge after the time in either case limited and notwithstanding the omission altogether of notice or any defect therein if he certifies that there was reasonable excuse for the delay defect or omission.

5. There shall be deducted from any compensation awarded to any workman or representatives of a workman or persons claiming by under

Exceptions to amendment of law.

Limit of sum recoverable as compensation.

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Money payable under penalty to be deducted from compensation under Act.



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under or through a workman in respect of any cause of action arising under this Act any penalty or part of a penalty which may have been paid in pursuance of any other Act of Parliament to such workman representatives or persons in respect of the same cause of action and  
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 20 value of any payment or contribution made by such employer to or for **credit for**  
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*Employers Liability.*

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9. 10. This Act shall come into operation at the end of this present <sup>Commencement of</sup> Session of Parliament which date is in this Act referred to as the <sup>Act.</sup> commencement of this Act.

10- 11. This Act may be cited as the "Employers' Liability Act <sup>Short title.</sup> 1886."

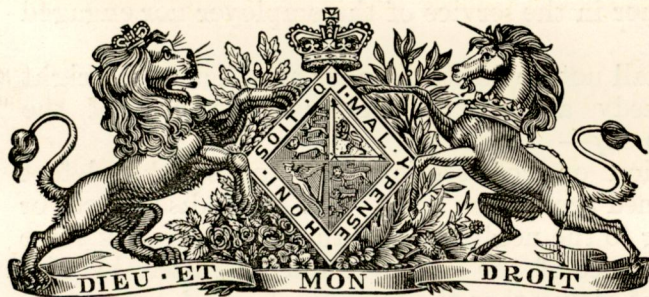


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2. A workman shall not be entitled under this Act to any right of compensation or remedy against the employer in any of the following cases that is to say—

Exceptions to amendment of law.

- (i) Under sub-section one of section one unless the defect therein mentioned arose from or had not been discovered or remedied owing to the negligence of the employer or of some person in the service of the employer and entrusted by him with the duty of seeing that the ways works and machinery or plant were in proper condition.
- (ii) Under sub-section four of section one unless the injury resulted from some impropriety or defect in the rules by-laws or instructions therein mentioned.
- (iii) In any case where the workman knew of the defect or negligence which caused his injury and failed within a reasonable time to give or cause to be given information thereof to the employer or some person entrusted with any duties of superintendence in or over that department in which the defect or negligence existed whether such superintendent be ordinarily engaged in manual labour or not unless the injured person should himself perform duties of superintendence in which case such injured person must have given notice to the employer or to a person entrusted with any superintendence over himself unless the employer or such superior person so entrusted already knew of the said defect or negligence.

3. The amount of compensation recoverable under this Act shall not exceed such sum as may be found to be equivalent to the estimated earnings during the three years preceding the injury of a person in the same grade employed during those in the like employment and in the district in which the workman is employed at the time of the injury.

Limit of sum recoverable as compensation.

4. An action for the recovery under this Act of compensation for an injury shall not be maintainable unless notice that injury has been sustained is given within ~~twelve~~ six weeks and the action is commenced within ~~twelve~~ six months from the occurrence of the accident causing the injury or in case of death within twelve months from the time of death. Provided always that the want of such notice shall be no bar to the maintenance of such action if a Judge shall be of opinion that there was reasonable excuse for such want of notice. Provided that any such action may be brought by leave of a Judge after the time in either case limited and notwithstanding the omission altogether of notice or any defect therein if he certifies that there was reasonable excuse for the delay defect or omission.

Limit of time for recovery of compensation.

5. There shall be deducted from any compensation awarded to any workman or representatives of a workman or persons claiming by under

Money payable under penalty to be deducted from compensation under Act.



*Employers Liability.*

under or through a workman in respect of any cause of action arising under this Act any penalty or part of a penalty which may have been paid in pursuance of any other Act of Parliament to such workman representatives or persons in respect of the same cause of action and  
 5 where an action has been brought under this Act by any workman or the representatives of any workman or any persons claiming by under or through such workman for compensation in respect of any cause of action arising under this Act and payment has not previously been made of any penalty or part of a penalty under any other Act of  
 10 Parliament in respect of the same cause of action such workman representatives or persons shall not be entitled thereafter to receive any penalty or part of a penalty under any other Act of Parliament in respect of the same cause of action.

~~5. 6. All the provisions of this Act shall have effect and be~~ Act to be enforced notwithstanding agreements to the contrary.  
 15 enforced by every Court in every case notwithstanding any contract or agreement excluding all or any of the provisions of this Act or otherwise interfering with the operations thereof ~~Provided that~~  
 In determining in any case the amount of compensation payable under **Employer**  
 this Act by an employer the Court shall take into consideration the **entitled to credit for insurance**  
 20 value of any payment or contribution made by such employer to or for **effected by him.** the injured person in respect of his injury and also the value of any payment or contribution made by such employer to any insurance or compensation fund to the extent to which any person who would otherwise be entitled to compensation under this Act has actually  
 25 received compensation out of such payment or contribution at the expense of such employer.

~~6. 7. The Court in which any action for recovery of compensation~~ Defective notices may be amended.  
 under this Act is commenced or is pending may at any stage of the proceedings amend any defect in a notice of injury or death or direct  
 30 that the action shall proceed and be maintainable notwithstanding that such notice has not been given duly or at all if the Court having regard to the circumstances of the case thinks just so to direct and if it appears to the Court that within the time limited by the Act for giving such notice the employer or his agent or representative had knowledge or notice of  
 35 the occurrence of the accident and of the fact that the workman was injured thereby or that there was reasonable excuse for such defect or omission.

~~7. 8. Notice in respect of an injury under this Act shall give the~~ Mode of serving notice of injury.  
 name and address of the person injured and shall state in ordinary  
 40 language the cause of the injury and the date at which it was sustained and shall be served on the employer or if there is more than one employer upon one of such employers The notice may be served by delivering the same to or at the residence or place of business of the person on whom it is to be served The notice may also be served  
 45 by post by a registered letter addressed to the person on whom it is to be served at his last known place of residence or place of business and if served by post shall be deemed to have been served at the time when a letter containing the same would be delivered in the ordinary course of post and in proving the service of such notice it shall be sufficient to  
 50 prove that the notice was properly addressed and registered Where the employer is a body of persons corporate or unincorporate the notice shall be served by delivering the same at or by sending it by post in a registered letter addressed to the office or if there be more than one office any one of the offices of such body A notice under this section shall not  
 55 be deemed invalid by reason of any defect or inaccuracy therein unless the Judge who tries the action arising from the injury mentioned in the notice shall be of opinion that the defendant in the action is prejudiced in his defence by such defect or inaccuracy ~~and that the defect or inaccuracy was for the purpose of misleading.~~



*Employers Liability.*

8. 9. For the purposes of this Act unless the context otherwise Definitions.  
 requires the expression "person who has superintendence entrusted to  
 him" means a person whose sole or principal duty is that of superin-  
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 5 expression "employer" includes a body of persons corporate or unin-  
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 husbandry journeyman artificer handicraftsman miner or otherwise  
 employed engaged in manual labour whether under the age of twenty-  
 10 one years or above that age has entered into or works under a contract  
 with an employer whether the contract be made before or after the  
 passing of this Act be express or implied oral or in writing and be a  
 contract of service or a contract personally to execute any work or  
 labour ~~and shall include seamen persons employed on ships and domestic~~  
 15 ~~servants.~~

9. 10. This Act shall come into operation at the end of this present Commencement of  
 Session of Parliament which date is in this Act referred to as the Act.  
 commencement of this Act.

10. 11. This Act may be cited as the "Employers' Liability Act Short title.  
 1886."



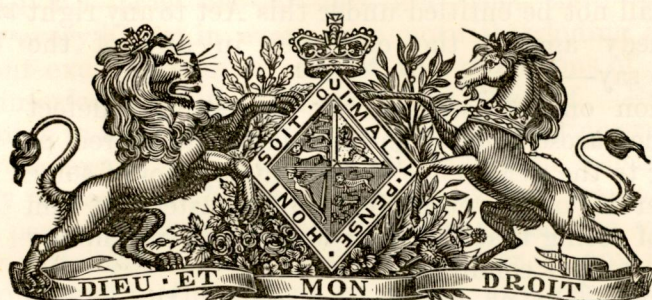
*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

*Legislative Assembly Chamber,* } *F. W. WEBB,*  
*Sydney, 18 May, 1886.* } *Acting Clerk of Legislative Assembly.*

*The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.*

*Legislative Council Chamber,* } *Clerk of the Parliaments.*  
*Sydney, July, 1886.* }

## New South Wales.



ANNO QUINQUAGESIMO

## VICTORIÆ REGINÆ.

\*\*\*\*\*

No.

An Act to extend and regulate the Liability of Employers to make Compensation for Personal Injuries suffered by Workmen in their service.

**B**E it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows:—

5 1. Where after the commencement of this Act personal injury Amendment of law.  
is caused to a workman—

- (I) By reason of any defect in the state or condition of the ways  
works machinery or plant connected with or used in the  
business of the employer or  
10 (II) By reason of the negligence of any person in the service of  
the employer who has any superintendence entrusted to him  
whilst in the exercise of such superintendence or  
(III) By reason of the negligence of any person in the service of  
the employer to whose orders or directions the workman at  
15 the time of the injury was bound to conform and did conform  
where such injury resulted from his having so conformed or  
101— (IV)

NOTE.—The words to be omitted are ruled through; those to be inserted are printed in black letter.



*Employers Liability.*

(iv) 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 any person delegated with the authority of the employer in that behalf or

(v) By reason of the negligence of any person in the service of the employer who has the charge or control of any signal-points engine or train upon a rail or tramway—

the workman or in case the injury results in death the legal personal representatives of the workman and any persons entitled in case of death shall have the same right of compensation and remedies against the employer and may recover from the employer compensation by way of damages as for a tort committed by such employer as if the workman had not been a workman of nor in the service of the employer nor engaged in his work.

2. A workman shall not be entitled under this Act to any right of compensation or remedy against the employer in any of the following cases that is to say—

Exceptions to amendment of law.

(I) Under sub-section one of section one unless the defect therein mentioned arose from or had not been discovered or remedied owing to the negligence of the employer or of some person in the service of the employer and entrusted by him with the duty of seeing that the ways works and machinery or plant were in proper condition.

(II) Under sub-section four of section one unless the injury resulted from some impropriety or defect in the rules by-laws or instructions therein mentioned.

(III) In any case where the workman knew of the defect or negligence which caused his injury and failed within a reasonable time to give or cause to be given information thereof to the employer or some person entrusted with any duties of superintendence in or over that department in which the defect or negligence existed whether such superintendent be ordinarily engaged in manual labour or not unless the injured person should himself perform duties of superintendence in which case such injured person must have given notice to the employer or to a person entrusted with any superintendence over himself unless the employer or such superior person so entrusted already knew of the said defect or negligence.

3. The amount of compensation recoverable under this Act shall not exceed such sum as may be found to be equivalent to the estimated earnings during the three years preceding the injury of a person in the same grade employed during those years in the like employment and in the district in which the workman is employed at the time of the injury.

Limit of sum recoverable as compensation.

3. 4. An action for the recovery under this Act of compensation for an injury shall not be maintainable unless notice that injury has been sustained is given within twelve six weeks and the action is commenced within twelve six months from the occurrence of the accident causing the injury or in case of death within twelve months from the time of death. Provided always that the want of such notice shall be no bar to the maintenance of such action if a Judge shall be of opinion that there was reasonable excuse for such want of notice. Provided always that the want of such notice shall be no bar to the maintenance of such action if upon motion made for leave to proceed notwithstanding no such notice has been given a Judge shall be of opinion that there was reasonable excuse for such want of notice and where the action is intended to be brought in any District Court the Judge thereof shall for the purpose of this proviso have all the powers of a Judge of the Supreme Court.

Limit of time for recovery of compensation.



*Employers Liability.*

4. 5. There shall be deducted from any compensation awarded to any workman or representatives of a workman or persons claiming by under or through a workman in respect of any cause of action arising under this Act any penalty or part of a penalty which may have been  
 5 paid in pursuance of any other Act of Parliament to such workman representatives or persons in respect of the same cause of action and where an action has been brought under this Act by any workman or the representatives of any workman or any persons claiming by under or through such workman for compensation in respect of any cause of  
 10 action arising under this Act and payment has not previously been made of any penalty or part of a penalty under any other Act of Parliament in respect of the same cause of action such workman representatives or persons shall not be entitled thereafter to receive any penalty or part of a penalty under any other Act of Parliament  
 15 in respect of the same cause of action.

Money payable under penalty to be deducted from compensation under Act.

~~5. 6. All the provisions of this Act shall have effect and be enforced by every Court in every case notwithstanding any contract or agreement excluding all or any of the provisions of this Act or otherwise interfering with the operations thereof. Provided that~~  
 20 In determining in any case the amount of compensation payable under this Act by an employer the Court shall take into consideration the value of any payment or contribution made by such employer to or for the injured person in respect of his injury and also the value of any payment or contribution made by such employer to any insurance or  
 25 compensation fund to the extent to which any person who would otherwise be entitled to compensation under this Act has actually received compensation out of such payment or contribution at the expense of such employer **insurance or compensation to which such person shall have become entitled by virtue of any payment or arrange-**  
 30 **ment made by such employer.**

Act to be enforced notwithstanding agreements to the contrary.

Employer entitled to credit for insurance effected by him.

6. 7. The Court in which any action for recovery of compensation under this Act is commenced or is pending may at any stage of the proceedings amend any defect in a notice of injury or death or direct that the action shall proceed and be maintainable notwithstanding that  
 35 such notice has not been given duly ~~or at all~~ if the Court having regard to the circumstances of the case thinks just so to direct and if it appears to the Court that within the time limited by the Act for giving such notice the employer or his agent or representative had knowledge or notice of the occurrence of the accident and of the fact that the workman was  
 40 injured thereby or that there was reasonable excuse for such defect or omission.

Defective notices may be amended.

7. 8. Notice in respect of an injury under this Act shall give the name and address of the person injured and shall state in ordinary language the cause of the injury and the date at which it was  
 45 sustained and shall be served on the employer or if there is more than one employer upon one of such employers. The notice may be served by delivering the same to or at the residence or place of business of the person on whom it is to be served. The notice may also be served by post by a registered letter addressed to the person on whom it is to  
 50 be served at his last known place of residence or place of business and if served by post shall be deemed to have been served at the time when a letter containing the same would be delivered in the ordinary course of post and in proving the service of such notice it shall be sufficient to prove that the notice was properly addressed and registered. Where the  
 55 employer is a body of persons corporate or unincorporate the notice shall be served by delivering the same at or by sending it by post in a registered letter addressed to the office or if there be more than one office any one of the offices of such body. A notice under this section shall not  
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Mode of serving notice of injury.



*Employers Liability.*

be deemed invalid by reason of any defect or inaccuracy therein unless the Judge who tries the action arising from the injury mentioned in the notice shall be of opinion that the defendant in the action is prejudiced in his defence by such defect or inaccuracy and  
 5 ~~that the defect or inaccuracy was for the purpose of misleading.~~

8. 9. For the purposes of this Act unless the context otherwise Definitions.  
 requires the expression "person who has superintendence entrusted to him" means a person whose sole or principal duty is that of superintendence and who is not ordinarily engaged in manual labour The  
 10 expression "employer" includes a body of persons corporate or unincorporate or corporation sole The expression "workman" means a railway servant and any other person who being a labourer servant in husbandry journeyman artificer handicraftsman miner or otherwise  
 15 employed 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 be made before or after the passing of this Act be express or implied oral or in writing and be a contract of service or a contract personally to execute any work or labour and shall include seamen persons employed on ships and domestic  
 20 servants.

9. 10. This Act shall come into operation at the end of this present Commencement of  
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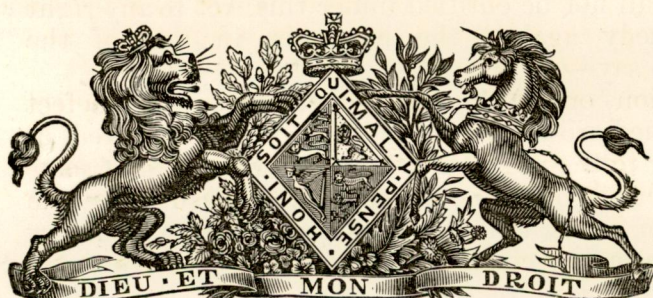
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*Legislative Assembly Chamber,* } *F. W. WEBB,*  
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- (I) By reason of any defect in the state or condition of the ways works machinery or plant connected with or used in the business of the employer or
- 10 (II) By reason of the negligence of any person in the service of the employer who has any superintendence entrusted to him whilst in the exercise of such superintendence or
- (III) By reason of the negligence of any person in the service of the employer to whose orders or directions the workman at the time of the injury was bound to conform and did conform where such injury resulted from his having so conformed or
- 15 101— (IV)

NOTE.—The words to be omitted are ruled through; those to be inserted are printed in black letter.



*Employers Liability.*

(IV) 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 any person delegated with the authority of the employer in that behalf or

(v) By reason of the negligence of any person in the service of the employer who has the charge or control of any signal-points engine or train upon a rail or tramway—

the workman or in case the injury results in death the legal personal representatives of the workman and any persons entitled in case of death shall have the same right of compensation and remedies against the employer and may recover from the employer compensation by way of damages as for a tort committed by such employer as if the workman had not been a workman of nor in the service of the employer nor engaged in his work.

2. A workman shall not be entitled under this Act to any right of compensation or remedy against the employer in any of the following cases that is to say—

Exceptions to amendment of law.

(I) Under sub-section one of section one unless the defect therein mentioned arose from or had not been discovered or remedied owing to the negligence of the employer or of some person in the service of the employer and entrusted by him with the duty of seeing that the ways works and machinery or plant were in proper condition.

(II) Under sub-section four of section one unless the injury resulted from some impropriety or defect in the rules by-laws or instructions therein mentioned.

(III) In any case where the workman knew of the defect or negligence which caused his injury and failed within a reasonable time to give or cause to be given information thereof to the employer or some person entrusted with any duties of superintendence in or over that department in which the defect or negligence existed whether such superintendent be ordinarily engaged in manual labour or not unless the injured person should himself perform duties of superintendence in which case such injured person must have given notice to the employer or to a person entrusted with any superintendence over himself unless the employer or such superior person so entrusted already knew of the said defect or negligence.

3. The amount of compensation recoverable under this Act shall not exceed such sum as may be found to be equivalent to the estimated earnings during the three years preceding the injury of a person in the same grade employed during those years in the like employment and in the district in which the workman is employed at the time of the injury.

Limit of sum recoverable as compensation.

4. An action for the recovery under this Act of compensation for an injury shall not be maintainable unless notice that injury has been sustained is given within twelve six weeks and the action is commenced within twelve six months from the occurrence of the accident causing the injury or in case of death within twelve months from the time of death. Provided always that the want of such notice shall be no bar to the maintenance of such action if a Judge shall be of opinion that there was reasonable excuse for such want of notice. Provided always that the want of such notice shall be no bar to the maintenance of such action if upon motion made for leave to proceed notwithstanding no such notice has been given a Judge shall be of opinion that there was reasonable excuse for such want of notice and where the action is intended to be brought in any District Court the Judge thereof shall for the purpose of this proviso have all the powers of a Judge of the Supreme Court.

Limit of time for recovery of compensation.



*Employers Liability.*

4. 5. There shall be deducted from any compensation awarded to any workman or representatives of a workman or persons claiming by under or through a workman in respect of any cause of action arising under this Act any penalty or part of a penalty which may have been  
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*Employers Liability.*

- (iv) 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 any person delegated with the authority of the employer in that behalf or
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2. A workman shall not be entitled under this Act to any right of compensation or remedy against the employer in any of the following cases that is to say—

- (i) Under sub-section one of section one unless the defect therein mentioned arose from or had not been discovered or remedied owing to the negligence of the employer or of some person in the service of the employer and entrusted by him with the duty of seeing that the ways works and machinery or plant were in proper condition.
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3. The amount of compensation recoverable under this Act shall not exceed such sum as may be found to be equivalent to the estimated earnings during the three years preceding the injury of a person in the same grade employed during those in the like employment and in the district in which the workman is employed at the time of the injury.

3. 4. An action for the recovery under this Act of compensation for an injury shall not be maintainable unless notice that injury has been sustained is given within ~~twelve~~ six weeks and the action is commenced within ~~twelve~~ six months from the occurrence of the accident causing the injury or in case of death within twelve months from the time of death. Provided always that the want of such notice shall be no bar to the maintenance of such action if a Judge shall be of opinion that there was reasonable excuse for such want of notice. Provided always that the want of such notice shall be no bar to the maintenance of such action if upon motion made for leave to proceed notwithstanding no such notice has been given a Judge shall be of opinion that there was reasonable excuse for such want of notice and for the purpose of this proviso a District Court Judge shall have all the powers of a Judge of the Supreme Court where the action is intended to be brought in the District Court.

Exceptions to amendment of law.

Limit of sum recoverable as compensation.

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*Employers Liability.*

- 4- 5. There shall be deducted from any compensation awarded to any workman or representatives of a workman or persons claiming by under or through a workman in respect of any cause of action arising under this Act any penalty or part of a penalty which may have been paid in pursuance of any other Act of Parliament to such workman representatives or persons in respect of the same cause of action and where an action has been brought under this Act by any workman or the representatives of any workman or any persons claiming by under or through such workman for compensation in respect of any cause of action arising under this Act and payment has not previously been made of any penalty or part of a penalty under any other Act of Parliament in respect of the same cause of action such workman representatives or persons shall not be entitled thereafter to receive any penalty or part of a penalty under any other Act of Parliament in respect of the same cause of action.
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- 20 In determining in any case the amount of compensation payable under this Act by an employer the Court shall take into consideration the value of any payment or contribution made by such employer to or for the injured person in respect of his injury and also the value of any payment or contribution made by such employer to any insurance or compensation fund to the extent to which any person who would otherwise be entitled to compensation under this Act has actually received compensation out of such payment or contribution at the expense of such employer.
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- 40 7- 8. Notice in respect of an injury under this Act shall give the name and address of the person injured and shall state in ordinary language the cause of the injury and the date at which it was sustained and shall be served on the employer or if there is more than one employer upon one of such employers The notice may be served by delivering the same to or at the residence or place of business of the person on whom it is to be served The notice may also be served by post by a registered letter addressed to the person on whom it is to be served at his last known place of residence or place of business and if served by post shall be deemed to have been served at the time when a letter containing the same would be delivered in the ordinary course of post and in proving the service of such notice it shall be sufficient to prove that the notice was properly addressed and registered Where the employer is a body of persons corporate or unincorporate the notice shall be served by delivering the same at or by sending it by post in a registered letter addressed to the office or if there be more than one office any one of the offices of such body A notice under this section shall not be deemed invalid by reason of any defect or inaccuracy therein unless the Judge who tries the action arising from the injury mentioned
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- Employer entitled to credit for insurance effected by him.
- Defective notices may be amended.
- Mode of serving notice of injury.



*Employers Liability.*

mentioned in the notice shall be of opinion that the defendant in the action is prejudiced in his defence by such defect or inaccuracy ~~and that the defect or inaccuracy was for the purpose of misleading.~~

8. 9. For the purposes of this Act unless the context otherwise <sup>Definitions.</sup> requires the expression "person who has superintendence entrusted to him" means a person whose sole or principal duty is that of superintendence and who is not ordinarily engaged in manual labour The expression "employer" includes a body of persons corporate or unincorporate or corporation sole The expression "workman" means a railway servant and any other person who being a labourer servant in husbandry journeyman artificer handicraftsman miner or otherwise employed **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 be made before or after the passing of this Act be express or implied oral or in writing and be a contract of service or a contract personally to execute any work or labour ~~and shall include seamen persons employed on ships and domestic servants.~~

9. 10. This Act shall come into operation at the end of this present <sup>Commencement of Act.</sup> Session of Parliament which date is in this Act referred to as the commencement of this Act.

10. 11. This Act may be cited as the "Employers' Liability Act <sup>Short title.</sup> 1886."

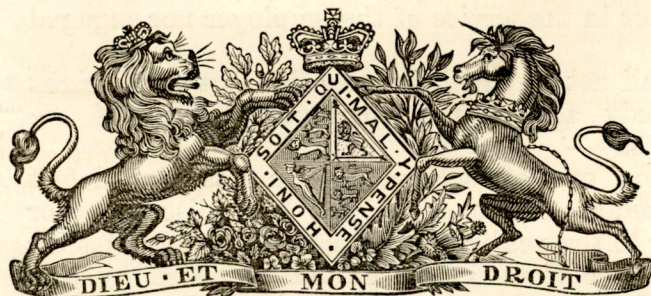


*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

*Legislative Assembly Chamber,  
Sydney, 18 May, 1886. }*

*F. W. WEBB,  
Acting Clerk of Legislative Assembly.*

## New South Wales.



ANNO QUINQUAGESIMO

## VICTORIÆ REGINÆ.

\*\*\*\*\*

No. .

An Act to extend and regulate the Liability of Employers to make Compensation for Personal Injuries suffered by Workmen in their service.

*(As amended in Committee of the Whole.)*

**B**E it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows:—

5 1. Where after the commencement of this Act personal injury Amendment of Law.  
is caused to a workman—

- (I) By reason of any defect in the state or condition of the ways works machinery or plant connected with or used in the business of the employer or
- 10 (II) By reason of the negligence of any person in the service of the employer who has any superintendence entrusted to him whilst in the exercise of such superintendence or
- (III) By reason of the negligence of any person in the service of the employer to whose orders or directions the workman at
- 15 the time of the injury was bound to conform and did conform where such injury resulted from his having so conformed or

101—

(IV)

NOTE.—The words to be omitted are ruled through; those to be inserted are printed in black letter.



*Employers Liability.*

(iv) 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 any person delegated with the authority of the employer in that behalf or

(v) By reason of the negligence of any person in the service of the employer who has the charge or control of any signal-points engine or train upon a rail or tramway—

the workman or in case the injury results in death the legal personal representatives of the workman and any persons entitled in case of death shall have the same right of compensation and remedies against the employer and may recover from the employer compensation by way of damages as for a tort committed by such employer as if the workman had not been a workman of nor in the service of the employer nor engaged in his work.

2. A workman shall not be entitled under this Act to any right of compensation or remedy against the employer in any of the following cases that is to say—

(I) Under sub-section one of section one unless the defect therein mentioned arose from or had not been discovered or remedied owing to the negligence of the employer or of some person in the service of the employer and entrusted by him with the duty of seeing that the ways works and machinery or plant were in proper condition.

(II) Under sub-section four of section one unless the injury resulted from some impropriety or defect in the rules by-laws or instructions therein mentioned.

(III) In any case where the workman knew of the defect or negligence which caused his injury and failed within a reasonable time to give or cause to be given information thereof to the employer or some person entrusted with any duties of superintendence in or over that department in which the defect or negligence existed whether such superintendent be ordinarily engaged in manual labour or not unless the injured person should himself perform duties of superintendence in which case such injured person must have given notice to the employer or to a person entrusted with any superintendence over himself unless the employer or such superior person so entrusted already knew of the said defect or negligence.

3. The amount of compensation recoverable under this Act shall not exceed such sum as may be found to be equivalent to the estimated earnings during the three years preceding the injury of a person in the same grade employed during those in the like employment and in the district in which the workman is employed at the time of the injury.

4. An action for the recovery under this Act of compensation for an injury shall not be maintainable unless notice that injury has been sustained is given within twelve six weeks and the action is commenced within twelve six months from the occurrence of the accident causing the injury or in case of death within twelve months from the time of death. Provided always that the want of such notice shall be no bar to the maintenance of such action if a Judge shall be of opinion that there was reasonable excuse for such want of notice. Provided that any such action may be brought by leave of a Judge after the time in either case limited and notwithstanding the omission altogether of notice or any defect therein if he certifies that there was reasonable excuse for the delay defect or omission.

5. There shall be deducted from any compensation awarded to any workman or representatives of a workman or persons claiming by under

Exceptions to amendment of law.

Limit of sum recoverable as compensation.

Limit of time for recovery of compensation.

Money payable under penalty to be deducted from compensation under Act.



*Employers Liability.*

under or through a workman in respect of any cause of action arising under this Act any penalty or part of a penalty which may have been paid in pursuance of any other Act of Parliament to such workman representatives or persons in respect of the same cause of action and  
 5 where an action has been brought under this Act by any workman or the representatives of any workman or any persons claiming by under or through such workman for compensation in respect of any cause of action arising under this Act and payment has not previously been made of any penalty or part of a penalty under any other Act of  
 10 Parliament in respect of the same cause of action such workman representatives or persons shall not be entitled thereafter to receive any penalty or part of a penalty under any other Act of Parliament in respect of the same cause of action.

~~5. 6. All the provisions of this Act shall have effect and be~~ Act to be enforced notwithstanding agreements to the contrary.  
 15 enforced by every Court in every case notwithstanding any contract or agreement excluding all or any of the provisions of this Act or otherwise interfering with the operations thereof ~~Provided that~~  
 In determining in any case the amount of compensation payable under **Employer**  
 this Act by an employer the Court shall take into consideration the **entitled to**  
 20 value of any payment or contribution made by such employer to or for **credit for**  
 the injured person in respect of his injury and also the value of any **insurance**  
 payment or contribution made by such employer to any insurance or **effected by him.**  
 compensation fund to the extent to which any person who would  
 otherwise be entitled to compensation under this Act has actually  
 25 received compensation out of such payment or contribution at the expense of such employer.

~~6. 7.~~ The Court in which any action for recovery of compensation under this Act is commenced or is pending may at any stage of the proceedings amend any defect in a notice of injury or death or direct  
 30 that the action shall proceed and be maintainable notwithstanding that such notice has not been given duly or at all if the Court having regard to the circumstances of the case thinks just so to direct and if it appears to the Court that within the time limited by the Act for giving such notice the employer or his agent or representative had knowledge or notice of  
 35 the occurrence of the accident and of the fact that the workman was injured thereby or that there was reasonable excuse for such defect or omission.

~~7. 8.~~ Notice in respect of an injury under this Act shall give the name and address of the person injured and shall state in ordinary  
 40 language the cause of the injury and the date at which it was sustained and shall be served on the employer or if there is more than one employer upon one of such employers The notice may be served by delivering the same to or at the residence or place of business of the person on whom it is to be served The notice may also be served  
 45 by post by a registered letter addressed to the person on whom it is to be served at his last known place of residence or place of business and if served by post shall be deemed to have been served at the time when a letter containing the same would be delivered in the ordinary course of post and in proving the service of such notice it shall be sufficient to  
 50 prove that the notice was properly addressed and registered Where the employer is a body of persons corporate or unincorporate the notice shall be served by delivering the same at or by sending it by post in a registered letter addressed to the office or if there be more than one office any one of the offices of such body A notice under this section shall not  
 55 be deemed invalid by reason of any defect or inaccuracy therein unless the Judge who tries the action arising from the injury mentioned in the notice shall be of opinion that the defendant in the action is prejudiced in his defence by such defect or inaccuracy ~~and that the defect or inaccuracy was for the purpose of misleading.~~



*Employers Liability.*

8. 9. For the purposes of this Act unless the context otherwise Definitions.  
 requires the expression "person who has superintendence entrusted to  
 him" means a person whose sole or principal duty is that of superin-  
 tendence and who is not ordinarily engaged in manual labour The  
 5 expression "employer" includes a body of persons corporate or unin-  
 corporate or corporation sole The expression "workman" means a  
 railway servant and any other person who being a labourer servant in  
 husbandry journeyman artificer handicraftsman miner or otherwise  
 employed engaged in manual labour whether under the age of twenty-  
 10 one years or above that age has entered into or works under a contract  
 with an employer whether the contract be made before or after the  
 passing of this Act be express or implied oral or in writing and be a  
 contract of service or a contract personally to execute any work or  
 labour and shall include seamen persons employed on ships and domestic  
 15 servants.

9. 10. This Act shall come into operation at the end of this present Commencement of  
 Session of Parliament which date is in this Act referred to as the Act.  
 commencement of this Act.

10. 11. This Act may be cited as the "Employers' Liability Act Short title.  
 1886."



## EMPLOYERS LIABILITY BILL.

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### *SCHEDULE of Amendments referred to in Message of 22nd July, 1886.*

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- Page 2, clause 1, line 12. *Omit* "and may recover from the employer compensation by  
"way of damages as for a tort committed by such employer"
- Page 2, clause 2, line 36. *After* "such" *insert* "injured"
- Page 2, clause 2, lines 38 and 39. *Omit* "such superior" *insert* "person so entrusted"
- Page 2, clause 2. *After* clause 2 *insert* new clause 3.
- Page 2, clause 3, 4, line 49. *Omit* "twelve" *insert* "six"
- Page 2, clause 3, 4, line 50. *Omit* "twelve" *insert* "six"
- Page 2, clause 3, 4, line 51. *After* "time of death" *omit* Proviso *insert* new Proviso.
- Page 3, clause 5, 6, lines 16 to 19. *Omit* "All the provisions of this Act shall have effect  
"and be enforced by every Court in every case notwithstanding any contract or  
"agreement excluding all or any of the provisions of this Act or otherwise  
"interfering with the operations thereof Provided that"
- Page 3, clause 5, 6, line 23. *After* "any" *omit* remainder of clause *insert* "insurance or  
"compensation to which such person shall have become entitled by  
"virtue of any payment or arrangement made by such employer"
- Page 3, clause 6, 7, line 35. *Omit* "or at all"
- Page 3, clause 6, 7, line 36. *After* "direct" *omit* remainder of clause.
- Page 4, clause 7, 8, line 4. *After* "inaccuracy" *omit* remainder of clause.
- Page 4, clause 8, 9, line 14. *Omit* "employed" *insert* "engaged in manual labour"
- Page 4, clause 8, 9, line 19. *After* "labour" *omit* remainder of clause.
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*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

*Legislative Assembly Chamber,  
Sydney, 18 May, 1886. }*

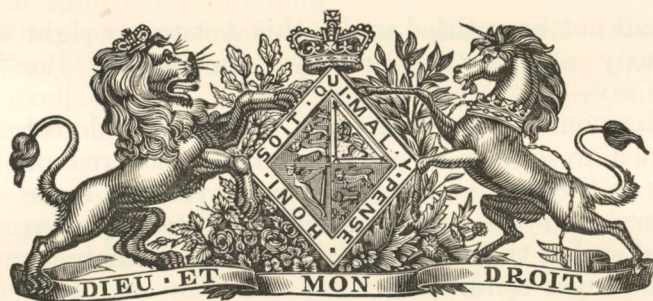
*F. W. WEBB,  
Acting Clerk of Legislative Assembly.*

*The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.*

*Legislative Council Chamber,  
Sydney, 22nd July, 1886. }*

*JOHN J. CALVERT,  
Clerk of the Parliaments.*

## New South Wales.



ANNO QUINQUAGESIMO

## VICTORIÆ REGINÆ.

\*\*\*\*\*

No.

An Act to extend and regulate the Liability of Employers to make Compensation for Personal Injuries suffered by Workmen in their service.

**B**E it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows :—

5        1. Where after the commencement of this Act personal injury Amendment of law.  
is caused to a workman—

- (I) By reason of any defect in the state or condition of the ways  
works machinery or plant connected with or used in the  
business of the employer or
- 10        (II) By reason of the negligence of any person in the service of  
the employer who has any superintendence entrusted to him  
whilst in the exercise of such superintendence or
- (III) By reason of the negligence of any person in the service of  
the employer to whose orders or directions the workman at  
15        the time of the injury was bound to conform and did conform  
where such injury resulted from his having so conformed or
- 101— (IV)

NOTE.—The words to be omitted are ruled through ; those to be inserted are printed in black letter.



*Employers Liability.*

- (IV) 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 any person delegated with the authority of the employer in that behalf or
- (v) By reason of the negligence of any person in the service of the employer who has the charge or control of any signal-points engine or train upon a rail or tramway—
- the workman or in case the injury results in death the legal personal representatives of the workman and any persons entitled in case of death shall have the same right of compensation and remedies against the employer and may recover from the employer compensation by way of damages as for a tort committed by such employer as if the workman had not been a workman of nor in the service of the employer nor engaged in his work.

2. A workman shall not be entitled under this Act to any right of compensation or remedy against the employer in any of the following cases that is to say—

Exceptions to amendment of law.

- (I) Under sub-section one of section one unless the defect therein mentioned arose from or had not been discovered or remedied owing to the negligence of the employer or of some person in the service of the employer and entrusted by him with the duty of seeing that the ways works and machinery or plant were in proper condition.
- (II) Under sub-section four of section one unless the injury resulted from some impropriety or defect in the rules by-laws or instructions therein mentioned.
- (III) In any case where the workman knew of the defect or negligence which caused his injury and failed within a reasonable time to give or cause to be given information thereof to the employer or some person entrusted with any duties of superintendence in or over that department in which the defect or negligence existed whether such superintendent be ordinarily engaged in manual labour or not unless the injured person should himself perform duties of superintendence in which case such injured person must have given notice to the employer or to a person entrusted with any superintendence over himself unless the employer or such superior person so entrusted already knew of the said defect or negligence.

3. The amount of compensation recoverable under this Act shall not exceed such sum as may be found to be equivalent to the estimated earnings during the three years preceding the injury of a person in the same grade employed during those years in the like employment and in the district in which the workman is employed at the time of the injury.

Limit of sum recoverable as compensation.

4. An action for the recovery under this Act of compensation for an injury shall not be maintainable unless notice that injury has been sustained is given within twelve ~~twelve~~ six weeks and the action is commenced within twelve ~~twelve~~ six months from the occurrence of the accident causing the injury or in case of death within twelve months from the time of death. Provided always that the want of such notice shall be no bar to the maintenance of such action if a Judge shall be of opinion that there was reasonable excuse for such want of notice. Provided always that the want of such notice shall be no bar to the maintenance of such action if upon motion made for leave to proceed notwithstanding no such notice has been given a Judge shall be of opinion that there was reasonable excuse for such want of notice and where the action is intended to be brought in any District Court the Judge thereof shall for the purpose of this proviso have all the powers of a Judge of the Supreme Court.

Limit of time for recovery of compensation.



*Employers Liability.*

4. 5. There shall be deducted from any compensation awarded to any workman or representatives of a workman or persons claiming by under or through a workman in respect of any cause of action arising under this Act any penalty or part of a penalty which may have been  
 5 paid in pursuance of any other Act of Parliament to such workman representatives or persons in respect of the same cause of action and where an action has been brought under this Act by any workman or the representatives of any workman or any persons claiming by under or through such workman for compensation in respect of any cause of  
 10 action arising under this Act and payment has not previously been made of any penalty or part of a penalty under any other Act of Parliament in respect of the same cause of action such workman representatives or persons shall not be entitled thereafter to receive any penalty or part of a penalty under any other Act of Parliament  
 15 in respect of the same cause of action.

Money payable under penalty to be deducted from compensation under Act.

~~5. 6. All the provisions of this Act shall have effect and be enforced by every Court in every case notwithstanding any contract or agreement excluding all or any of the provisions of this Act or otherwise interfering with the operations thereof. Provided that~~  
 20 In determining in any case the amount of compensation payable under this Act by an employer the Court shall take into consideration the value of any payment or contribution made by such employer to or for the injured person in respect of his injury and also the value of any payment or contribution made by such employer to any insurance or  
 25 compensation fund to the extent to which any person who would otherwise be entitled to compensation under this Act has actually received compensation out of such payment or contribution at the expense of such employer insurance or compensation to which such person shall have become entitled by virtue of any payment or arrange-  
 30 ment made by such employer.

Act to be enforced notwithstanding agreements to the contrary.

Employer entitled to credit for insurance effected by him.

6. 7. The Court in which any action for recovery of compensation under this Act is commenced or is pending may at any stage of the proceedings amend any defect in a notice of injury or death or direct that the action shall proceed and be maintainable notwithstanding that  
 35 such notice has not been given duly or at all if the Court having regard to the circumstances of the case thinks just so to direct and if it appears to the Court that within the time limited by the Act for giving such notice the employer or his agent or representative had knowledge or notice of the occurrence of the accident and of the fact that the workman was  
 40 injured thereby or that there was reasonable excuse for such defect or omission.

Defective notices may be amended.

7. 8. Notice in respect of an injury under this Act shall give the name and address of the person injured and shall state in ordinary language the cause of the injury and the date at which it was  
 45 sustained and shall be served on the employer or if there is more than one employer upon one of such employers. The notice may be served by delivering the same to or at the residence or place of business of the person on whom it is to be served. The notice may also be served by post by a registered letter addressed to the person on whom it is to  
 50 be served at his last known place of residence or place of business and if served by post shall be deemed to have been served at the time when a letter containing the same would be delivered in the ordinary course of post and in proving the service of such notice it shall be sufficient to prove that the notice was properly addressed and registered. Where the  
 55 employer is a body of persons corporate or unincorporate the notice shall be served by delivering the same at or by sending it by post in a registered letter addressed to the office or if there be more than one office any one of the offices of such body. A notice under this section shall not  
 be

Mode of serving notice of injury.



*Employers Liability.*

be deemed invalid by reason of any defect or inaccuracy therein unless the Judge who tries the action arising from the injury mentioned in the notice shall be of opinion that the defendant in the action is prejudiced in his defence by such defect or inaccuracy and  
 5 ~~that the defect or inaccuracy was for the purpose of misleading.~~

8. 9. For the purposes of this Act unless the context otherwise Definitions.  
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 10 expression "employer" includes a body of persons corporate or unincorporate or corporation sole The expression "workman" means a railway servant and any other person who being a labourer servant in husbandry journeyman artificer handicraftsman miner or otherwise  
 15 employed 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 be made before or after the passing of this Act be express or implied oral or in writing and be a contract of service or a contract personally to execute any work or labour and shall include seamen persons employed on ships and domestic  
 20 servants.

9. 10. This Act shall come into operation at the end of this present Commencement of  
 Session of Parliament which date is in this Act referred to as the Act.  
 commencement of this Act.

10. 11. This Act may be cited as the "Employers' Liability Act Short title.  
 1886."



## EMPLOYERS LIABILITY BILL.

---

### *SCHEDULE of Amendments referred to in Message of 22nd July, 1886.*

---

- Page 2, clause 1, line 12. *Omit* "and may recover from the employer compensation by  
"way of damages as for a tort committed by such employer"
- Page 2, clause 2, line 36. *After* "such" *insert* "injured"
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- Page 2, clause 2. *After* clause 2 *insert* new clause 3.
- Page 2, clause 3, line 49. *Omit* "twelve" *insert* "six"
- Page 2, clause 3, line 50. *Omit* "twelve" *insert* "six"
- Page 2, clause 3, line 51. *After* "time of death" *omit* Proviso *insert* new Proviso.
- Page 3, clause 5, lines 16 to 19. *Omit* "All the provisions of this Act shall have effect  
"and be enforced by every Court in every case notwithstanding any contract or  
"agreement excluding all or any of the provisions of this Act or otherwise  
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- Page 3, clause 5, line 23. *After* "any" *omit* remainder of clause *insert* "insurance or  
"compensation to which such person shall have become entitled by  
"virtue of any payment or arrangement made by such employer"
- Page 3, clause 6, line 35. *Omit* "or at all"
- Page 3, clause 6, line 36. *After* "direct" *omit* remainder of clause.
- Page 4, clause 7, line 4. *After* "inaccuracy" *omit* remainder of clause.
- Page 4, clause 8, line 14. *Omit* "employed" *insert* "engaged in manual labour"
- Page 4, clause 8, line 19. *After* "labour" *omit* remainder of clause.
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NEW YORK 17, N. Y.



*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

*Legislative Assembly Chamber,* } *F. W. WEBB,*  
*Sydney, 18 May, 1886. }* *Acting Clerk of Legislative Assembly.*

*The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.*

*Legislative Council Chamber,* } *JOHN J. CALVERT,*  
*Sydney, 22nd July, 1886. }* *Clerk of the Parliaments.*

## New South Wales.



ANNO QUINQUAGESIMO

## VICTORIÆ REGINÆ.

\*\*\*\*\*

No.

An Act to extend and regulate the Liability of Employers to make Compensation for Personal Injuries suffered by Workmen in their service.

**B**E it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows :—

5       1. Where after the commencement of this Act personal injury Amendment of law.  
is caused to a workman—

- (I) By reason of any defect in the state or condition of the ways works machinery or plant connected with or used in the business of the employer or
- 10       (II) By reason of the negligence of any person in the service of the employer who has any superintendence entrusted to him whilst in the exercise of such superintendence or
- 15       (III) By reason of the negligence of any person in the service of the employer to whose orders or directions the workman at the time of the injury was bound to conform and did conform where such injury resulted from his having so conformed or

101—

(IV)

NOTE.—The words to be omitted are ruled through ; those to be inserted are printed in black letter.



*Employers Liability.*

- (IV) 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 any person delegated with the authority of the employer in that behalf or
- (v) By reason of the negligence of any person in the service of the employer who has the charge or control of any signal-points engine or train upon a rail or tramway—
- the workman or in case the injury results in death the legal personal representatives of the workman and any persons entitled in case of death shall have the same right of compensation and remedies against the employer and may recover from the employer compensation by way of damages as for a tort committed by such employer as if the workman had not been a workman of nor in the service of the employer nor engaged in his work.

2. A workman shall not be entitled under this Act to any right of compensation or remedy against the employer in any of the following cases that is to say—

Exceptions to  
amendment of law.

- (I) Under sub-section one of section one unless the defect therein mentioned arose from or had not been discovered or remedied owing to the negligence of the employer or of some person in the service of the employer and entrusted by him with the duty of seeing that the ways works and machinery or plant were in proper condition.
- (II) Under sub-section four of section one unless the injury resulted from some impropriety or defect in the rules by-laws or instructions therein mentioned.
- (III) In any case where the workman knew of the defect or negligence which caused his injury and failed within a reasonable time to give or cause to be given information thereof to the employer or some person entrusted with any duties of superintendence in or over that department in which the defect or negligence existed whether such superintendent be ordinarily engaged in manual labour or not unless the injured person should himself perform duties of superintendence in which case such injured person must have given notice to the employer or to a person entrusted with any superintendence over himself unless the employer or such superior person so entrusted already knew of the said defect or negligence.

3. The amount of compensation recoverable under this Act shall not exceed such sum as may be found to be equivalent to the estimated earnings during the three years preceding the injury of a person in the same grade employed during those years in the like employment and in the district in which the workman is employed at the time of the injury.

Limit of sum  
recoverable as  
compensation.

4. An action for the recovery under this Act of compensation for an injury shall not be maintainable unless notice that injury has been sustained is given within ~~twelve~~ six weeks and the action is commenced within ~~twelve~~ six months from the occurrence of the accident causing the injury or in case of death within twelve months from the time of death. Provided always that the want of such notice shall be no bar to the maintenance of such action if a Judge shall be of opinion that there was reasonable excuse for such want of notice. Provided always that the want of such notice shall be no bar to the maintenance of such action if upon motion made for leave to proceed notwithstanding no such notice has been given a Judge shall be of opinion that there was reasonable excuse for such want of notice and where the action is intended to be brought in any District Court the Judge thereof shall for the purpose of this proviso have all the powers of a Judge of the Supreme Court.

Limit of time for  
recovery of compen-  
sation.

4.



*Employers Liability.*

4. 5. There shall be deducted from any compensation awarded to any workman or representatives of a workman or persons claiming by under or through a workman in respect of any cause of action arising under this Act any penalty or part of a penalty which may have been paid in pursuance of any other Act of Parliament to such workman representatives or persons in respect of the same cause of action and where an action has been brought under this Act by any workman or the representatives of any workman or any persons claiming by under or through such workman for compensation in respect of any cause of action arising under this Act and payment has not previously been made of any penalty or part of a penalty under any other Act of Parliament in respect of the same cause of action such workman representatives or persons shall not be entitled thereafter to receive any penalty or part of a penalty under any other Act of Parliament in respect of the same cause of action.

Money payable under penalty to be deducted from compensation under Act.

5. 6. ~~All the provisions of this Act shall have effect and be enforced by every Court in every case notwithstanding any contract or agreement excluding all or any of the provisions of this Act or otherwise interfering with the operations thereof~~ ~~Provided that~~ In determining in any case the amount of compensation payable under this Act by an employer the Court shall take into consideration the value of any payment or contribution made by such employer to or for the injured person in respect of his injury and also the value of any payment or contribution made by such employer to any insurance or compensation fund to the extent to which any person who would otherwise be entitled to compensation under this Act has actually received compensation out of such payment or contribution at the expense of such employer **insurance or compensation to which such person shall have become entitled by virtue of any payment or arrangement made by such employer.**

Act to be enforced notwithstanding agreements to the contrary.

Employer entitled to credit for insurance effected by him.

6. 7. The Court in which any action for recovery of compensation under this Act is commenced or is pending may at any stage of the proceedings amend any defect in a notice of injury or death or direct that the action shall proceed and be maintainable notwithstanding that such notice has not been given duly ~~or at all~~ if the Court having regard to the circumstances of the case thinks just so to direct and if it appears to the Court that within the time limited by the Act for giving such notice the employer or his agent or representative had knowledge or notice of the occurrence of the accident and of the fact that the workman was injured thereby or that there was reasonable excuse for such defect or omission.

Defective notices may be amended.

7. 8. Notice in respect of an injury under this Act shall give the name and address of the person injured and shall state in ordinary language the cause of the injury and the date at which it was sustained and shall be served on the employer or if there is more than one employer upon one of such employers The notice may be served by delivering the same to or at the residence or place of business of the person on whom it is to be served The notice may also be served by post by a registered letter addressed to the person on whom it is to be served at his last known place of residence or place of business and if served by post shall be deemed to have been served at the time when a letter containing the same would be delivered in the ordinary course of post and in proving the service of such notice it shall be sufficient to prove that the notice was properly addressed and registered Where the employer is a body of persons corporate or unincorporate the notice shall be served by delivering the same at or by sending it by post in a registered letter addressed to the office or if there be more than one office any one of the offices of such body A notice under this section shall not be

Mode of serving notice of injury.



*Employers Liability.*

be deemed invalid by reason of any defect or inaccuracy therein unless the Judge who tries the action arising from the injury mentioned in the notice shall be of opinion that the defendant in the action is prejudiced in his defence by such defect or inaccuracy and  
 5 ~~that the defect or inaccuracy was for the purpose of misleading.~~

8. 9. For the purposes of this Act unless the context otherwise Definitions.  
 requires the expression "person who has superintendence entrusted to him" means a person whose sole or principal duty is that of superintendence and who is not ordinarily engaged in manual labour The  
 10 expression "employer" includes a body of persons corporate or unincorporate or corporation sole The expression "workman" means a railway servant and any other person who being a labourer servant in husbandry journeyman artificer handicraftsman miner or otherwise  
 15 employed **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 be made before or after the passing of this Act be express or implied oral or in writing and be a contract of service or a contract personally to execute any work or labour and shall include seamen persons employed on ships and domestic  
 20 servants.

9. 10. This Act shall come into operation at the end of this present Commencement of  
 Session of Parliament which date is in this Act referred to as the Act.  
 commencement of this Act.

10. 11. This Act may be cited as the "Employers' Liability Act Short title.  
 1886."

Sydney Thomas Richards, Government Printer.—1886.

[3d.]

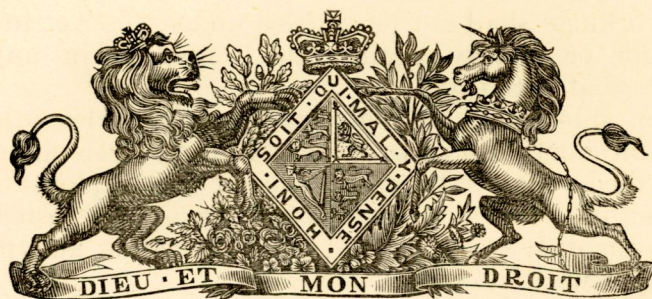


*I Certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.*

*Legislative Assembly Chamber,  
Sydney, 13 August, 1886. }*

*F. W. WEBB,  
Acting Clerk of Legislative Assembly.*

## New South Wales.



ANNO QUINQUAGESIMO

## VICTORIÆ REGINÆ.

\*\*\*\*\*

### No. VIII.

An Act to extend and regulate the Liability of Employers to make Compensation for Personal Injuries suffered by Workmen in their service. [Assented to, 27th August, 1886.]

**B**E it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows:—

1. Where after the commencement of this Act personal injury Amendment of law. is caused to a workman—

- (I) By reason of any defect in the state or condition of the ways works machinery or plant connected with or used in the business of the employer or
- (II) By reason of the negligence of any person in the service of the employer who has any superintendence entrusted to him whilst in the exercise of such superintendence or
- (III) By reason of the negligence of any person in the service of the employer to whose orders or directions the workman at the time of the injury was bound to conform and did conform where such injury resulted from his having so conformed or
- (IV) 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 any person delegated with the authority of the employer in that behalf or
- (v) By reason of the negligence of any person in the service of the employer who has the charge or control of any signal-points engine or train upon a rail or tramway—

the workman or in case the injury results in death the legal personal representatives of the workman and any persons entitled in case of death

*I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.*

*T. M. SLATTERY,  
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*Employers Liability.*

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.

Exceptions to  
amendment of law.

2. A workman shall not be entitled under this Act to any right of compensation or remedy against the employer in any of the following cases that is to say—

- (I) Under sub-section one of section one unless the defect therein mentioned arose from or had not been discovered or remedied owing to the negligence of the employer or of some person in the service of the employer and entrusted by him with the duty of seeing that the ways works and machinery or plant were in proper condition.
- (II) Under sub-section four of section one unless the injury resulted from some impropriety or defect in the rules by-laws or instructions therein mentioned.
- (III) In any case where the workman knew of the defect or negligence which caused his injury and failed within a reasonable time to give or cause to be given information thereof to the employer or some person entrusted with any duties of superintendence in or over that department in which the defect or negligence existed whether such superintendent be ordinarily engaged in manual labour or not unless the injured person should himself perform duties of superintendence in which case such injured person must have given notice to the employer or to a person entrusted with any superintendence over himself unless the employer or person so entrusted already knew of the said defect or negligence.

Limit of sum  
recoverable as  
compensation.

3. The amount of compensation recoverable under this Act shall not exceed such sum as may be found to be equivalent to the estimated earnings during the three years preceding the injury of a person in the same grade employed during those years in the like employment and in the district in which the workman is employed at the time of the injury.

Limit of time for  
recovery of compen-  
sation.

4. An action for the recovery under this Act of compensation for an injury shall not be maintainable unless notice that injury has been sustained is given within six weeks and the action is commenced within six months from the occurrence of the accident causing the injury or in case of death within twelve months from the time of death. Provided always that the want of such notice shall be no bar to the maintenance of such action if upon motion made for leave to proceed notwithstanding no such notice has been given a Judge shall be of opinion that there was reasonable excuse for such want of notice and where the action is intended to be brought in any District Court the Judge thereof shall for the purpose of this proviso have all the powers of a Judge of the Supreme Court.

Money payable under  
penalty to be  
deducted from com-  
pensation under Act.

5. There shall be deducted from any compensation awarded to any workman or representatives of a workman or persons claiming by under or through a workman in respect of any cause of action arising under this Act any penalty or part of a penalty which may have been paid in pursuance of any other Act of Parliament to such workman representatives or persons in respect of the same cause of action and where an action has been brought under this Act by any workman or the representatives of any workman or any persons claiming by under or through such workman for compensation in respect of any cause of action arising under this Act and payment has not previously been made of any penalty or part of a penalty under any other Act of Parliament in respect of the same cause of action such workman representatives or persons shall not be entitled thereafter to receive any penalty or part of a penalty under any other Act of Parliament in respect of the same cause of action.



*Employers Liability.*

6. In determining in any case the amount of compensation payable under this Act by an employer the Court shall take into consideration the value of any payment or contribution made by such employer to or for the injured person in respect of his injury and also the value of any insurance or compensation to which such person shall have become entitled by virtue of any payment or arrangement made by such employer.

Employer entitled to credit for insurance effected by him.

7. The Court in which any action for recovery of compensation under this Act is commenced or is pending may at any stage of the proceedings amend any defect in a notice of injury or death or direct that the action shall proceed and be maintainable notwithstanding that such notice has not been given duly if the Court having regard to the circumstances of the case thinks just so to direct.

Defective notices may be amended.

8. Notice in respect of an injury under this Act shall give the name and address of the person injured and shall state in ordinary language the cause of the injury and the date at which it was sustained and shall be served on the employer or if there is more than one employer upon one of such employers. The notice may be served by delivering the same to or at the residence or place of business of the person on whom it is to be served. The notice may also be served by post by a registered letter addressed to the person on whom it is to be served at his last known place of residence or place of business and if served by post shall be deemed to have been served at the time when a letter containing the same would be delivered in the ordinary course of post and in proving the service of such notice it shall be sufficient to prove that the notice was properly addressed and registered. Where the employer is a body of persons corporate or unincorporate the notice shall be served by delivering the same at or by sending it by post in a registered letter addressed to the office or if there be more than one office any one of the offices of such body. A notice under this section shall not be deemed invalid by reason of any defect or inaccuracy therein unless the Judge who tries the action arising from the injury mentioned in the notice shall be of opinion that the defendant in the action is prejudiced in his defence by such defect or inaccuracy.

Mode of serving notice of injury.

9. For the purposes of this Act unless the context otherwise requires the expression "person who has superintendence entrusted to him" means a person whose sole or principal duty is that of superintendence and who is not ordinarily engaged in manual labour. The expression "employer" includes a body of persons corporate or unincorporate or corporation sole. The expression "workman" means a railway servant and any other person who being a labourer servant in husbandry journeyman artificer handicraftsman miner 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 be made before or after the passing of this Act be express or implied oral or in writing and be a contract of service or a contract personally to execute any work or labour.

Definitions.

10. This Act shall come into operation at the end of this present Session of Parliament which date is in this Act referred to as the commencement of this Act.

Commencement of Act.

11. This Act may be cited as the "Employers' Liability Act 1886."

Short title.

*In the name and on the behalf of Her Majesty I assent to this Act.*

CARRINGTON.

*Government House,  
27th August, 1886.*





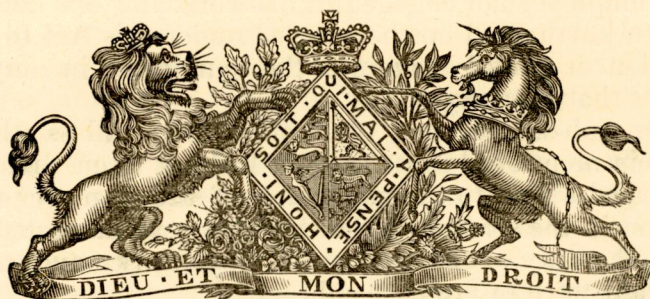


*I Certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.*

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## New South Wales.



ANNO QUINQUAGESIMO

## VICTORIÆ REGINÆ.

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1. Where after the commencement of this Act personal injury Amendment of law. is caused to a workman—

- (I) By reason of any defect in the state or condition of the ways works machinery or plant connected with or used in the business of the employer or
- (II) By reason of the negligence of any person in the service of the employer who has any superintendence entrusted to him whilst in the exercise of such superintendence or
- (III) By reason of the negligence of any person in the service of the employer to whose orders or directions the workman at the time of the injury was bound to conform and did conform where such injury resulted from his having so conformed or
- (IV) 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 any person delegated with the authority of the employer in that behalf or
- (v) By reason of the negligence of any person in the service of the employer who has the charge or control of any signal-points engine or train upon a rail or tramway—

the workman or in case the injury results in death the legal personal representatives of the workman and any persons entitled in case of death

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*Employers Liability.*

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.

Exceptions to  
amendment of law.

2. A workman shall not be entitled under this Act to any right of compensation or remedy against the employer in any of the following cases that is to say—

- (I) Under sub-section one of section one unless the defect therein mentioned arose from or had not been discovered or remedied owing to the negligence of the employer or of some person in the service of the employer and entrusted by him with the duty of seeing that the ways works and machinery or plant were in proper condition.
- (II) Under sub-section four of section one unless the injury resulted from some impropriety or defect in the rules by-laws or instructions therein mentioned.
- (III) In any case where the workman knew of the defect or negligence which caused his injury and failed within a reasonable time to give or cause to be given information thereof to the employer or some person entrusted with any duties of superintendence in or over that department in which the defect or negligence existed whether such superintendent be ordinarily engaged in manual labour or not unless the injured person should himself perform duties of superintendence in which case such injured person must have given notice to the employer or to a person entrusted with any superintendence over himself unless the employer or person so entrusted already knew of the said defect or negligence.

Limit of sum  
recoverable as  
compensation.

3. The amount of compensation recoverable under this Act shall not exceed such sum as may be found to be equivalent to the estimated earnings during the three years preceding the injury of a person in the same grade employed during those years in the like employment and in the district in which the workman is employed at the time of the injury.

Limit of time for  
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4. An action for the recovery under this Act of compensation for an injury shall not be maintainable unless notice that injury has been sustained is given within six weeks and the action is commenced within six months from the occurrence of the accident causing the injury or in case of death within twelve months from the time of death. Provided always that the want of such notice shall be no bar to the maintenance of such action if upon motion made for leave to proceed notwithstanding no such notice has been given a Judge shall be of opinion that there was reasonable excuse for such want of notice and where the action is intended to be brought in any District Court the Judge thereof shall for the purpose of this proviso have all the powers of a Judge of the Supreme Court.

Money payable under  
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5. There shall be deducted from any compensation awarded to any workman or representatives of a workman or persons claiming by under or through a workman in respect of any cause of action arising under this Act any penalty or part of a penalty which may have been paid in pursuance of any other Act of Parliament to such workman representatives or persons in respect of the same cause of action and where an action has been brought under this Act by any workman or the representatives of any workman or any persons claiming by under or through such workman for compensation in respect of any cause of action arising under this Act and payment has not previously been made of any penalty or part of a penalty under any other Act of Parliament in respect of the same cause of action such workman representatives or persons shall not be entitled thereafter to receive any penalty or part of a penalty under any other Act of Parliament in respect of the same cause of action.



*Employers Liability.*

6. In determining in any case the amount of compensation payable under this Act by an employer the Court shall take into consideration the value of any payment or contribution made by such employer to or for the injured person in respect of his injury and also the value of any insurance or compensation to which such person shall have become entitled by virtue of any payment or arrangement made by such employer.

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7. The Court in which any action for recovery of compensation under this Act is commenced or is pending may at any stage of the proceedings amend any defect in a notice of injury or death or direct that the action shall proceed and be maintainable notwithstanding that such notice has not been given duly if the Court having regard to the circumstances of the case thinks just so to direct.

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8. Notice in respect of an injury under this Act shall give the name and address of the person injured and shall state in ordinary language the cause of the injury and the date at which it was sustained and shall be served on the employer or if there is more than one employer upon one of such employers. The notice may be served by delivering the same to or at the residence or place of business of the person on whom it is to be served. The notice may also be served by post by a registered letter addressed to the person on whom it is to be served at his last known place of residence or place of business and if served by post shall be deemed to have been served at the time when a letter containing the same would be delivered in the ordinary course of post and in proving the service of such notice it shall be sufficient to prove that the notice was properly addressed and registered. Where the employer is a body of persons corporate or unincorporate the notice shall be served by delivering the same at or by sending it by post in a registered letter addressed to the office or if there be more than one office any one of the offices of such body. A notice under this section shall not be deemed invalid by reason of any defect or inaccuracy therein unless the Judge who tries the action arising from the injury mentioned in the notice shall be of opinion that the defendant in the action is prejudiced in his defence by such defect or inaccuracy.

Mode of serving notice of injury.

9. For the purposes of this Act unless the context otherwise requires the expression "person who has superintendence entrusted to him" means a person whose sole or principal duty is that of superintendence and who is not ordinarily engaged in manual labour. The expression "employer" includes a body of persons corporate or unincorporate or corporation sole. The expression "workman" means a railway servant and any other person who being a labourer servant in husbandry journeyman artificer handicraftsman miner 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 be made before or after the passing of this Act be express or implied oral or in writing and be a contract of service or a contract personally to execute any work or labour.

Definitions.

10. This Act shall come into operation at the end of this present Session of Parliament which date is in this Act referred to as the commencement of this Act.

Commencement of Act.

11. This Act may be cited as the "Employers' Liability Act 1886."

Short title.

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CARRINGTON.

*Government House,  
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IN THE MATTER OF THE ESTATE OF THE LATE JOHN DOUGLAS, ESQ. DECEASED.

THE PETITIONER, JOHN DOUGLAS, ESQ. DECEASED, PETITIONER.

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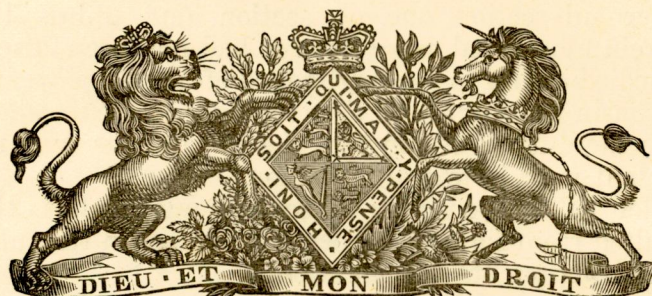
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# New South Wales.



ANNO QUINQUAGESIMO

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*Employers Liability.*

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Mode of serving notice of injury.

9. For the purposes of this Act unless the context otherwise requires the expression "person who has superintendence entrusted to him" means a person whose sole or principal duty is that of superintendence and who is not ordinarily engaged in manual labour. The expression "employer" includes a body of persons corporate or unincorporate or corporation sole. The expression "workman" means a railway servant and any other person who being a labourer servant in husbandry journeyman artificer handicraftsman miner 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 be made before or after the passing of this Act be express or implied oral or in writing and be a contract of service or a contract personally to execute any work or labour.

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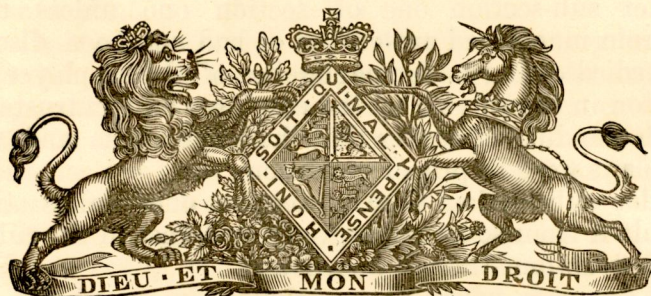
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1. Where after the commencement of this Act personal injury Amendment of law. is caused to a workman—

- (I) By reason of any defect in the state or condition of the ways works machinery or plant connected with or used in the business of the employer or
- (II) By reason of the negligence of any person in the service of the employer who has any superintendence entrusted to him whilst in the exercise of such superintendence or
- (III) By reason of the negligence of any person in the service of the employer to whose orders or directions the workman at the time of the injury was bound to conform and did conform where such injury resulted from his having so conformed or
- (IV) 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 any person delegated with the authority of the employer in that behalf or
- (V) By reason of the negligence of any person in the service of the employer who has the charge or control of any signal-points engine or train upon a rail or tramway—

the workman or in case the injury results in death the legal personal representatives of the workman and any persons entitled in case of death



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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.

Exceptions to  
amendment of law.

2. A workman shall not be entitled under this Act to any right of compensation or remedy against the employer in any of the following cases that is to say—

(I) Under sub-section one of section one unless the defect therein mentioned arose from or had not been discovered or remedied owing to the negligence of the employer or of some person in the service of the employer and entrusted by him with the duty of seeing that the ways works and machinery or plant were in proper condition.

(II) Under sub-section four of section one unless the injury resulted from some impropriety or defect in the rules by-laws or instructions therein mentioned.

(III) In any case where the workman knew of the defect or negligence which caused his injury and failed within a reasonable time to give or cause to be given information thereof to the employer or some person entrusted with any duties of superintendence in or over that department in which the defect or negligence existed whether such superintendent be ordinarily engaged in manual labour or not unless the injured person should himself perform duties of superintendence in which case such injured person must have given notice to the employer or to a person entrusted with any superintendence over himself unless the employer or person so entrusted already knew of the said defect or negligence.

Limit of sum  
recoverable as  
compensation.

3. The amount of compensation recoverable under this Act shall not exceed such sum as may be found to be equivalent to the estimated earnings during the three years preceding the injury of a person in the same grade employed during those years in the like employment and in the district in which the workman is employed at the time of the injury.

Limit of time for  
recovery of compen-  
sation.

4. An action for the recovery under this Act of compensation for an injury shall not be maintainable unless notice that injury has been sustained is given within six weeks and the action is commenced within six months from the occurrence of the accident causing the injury or in case of death within twelve months from the time of death. Provided always that the want of such notice shall be no bar to the maintenance of such action if upon motion made for leave to proceed notwithstanding no such notice has been given a Judge shall be of opinion that there was reasonable excuse for such want of notice and where the action is intended to be brought in any District Court the Judge thereof shall for the purpose of this proviso have all the powers of a Judge of the Supreme Court.

Money payable under  
penalty to be  
deducted from com-  
pensation under Act.

5. There shall be deducted from any compensation awarded to any workman or representatives of a workman or persons claiming by under or through a workman in respect of any cause of action arising under this Act any penalty or part of a penalty which may have been paid in pursuance of any other Act of Parliament to such workman representatives or persons in respect of the same cause of action and where an action has been brought under this Act by any workman or the representatives of any workman or any persons claiming by under or through such workman for compensation in respect of any cause of action arising under this Act and payment has not previously been made of any penalty or part of a penalty under any other Act of Parliament in respect of the same cause of action such workman representatives or persons shall not be entitled thereafter to receive any penalty or part of a penalty under any other Act of Parliament in respect of the same cause of action.



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6. In determining in any case the amount of compensation payable under this Act by an employer the Court shall take into consideration the value of any payment or contribution made by such employer to or for the injured person in respect of his injury and also the value of any insurance or compensation to which such person shall have become entitled by virtue of any payment or arrangement made by such employer. Employer entitled to credit for insurance effected by him.

7. The Court in which any action for recovery of compensation under this Act is commenced or is pending may at any stage of the proceedings amend any defect in a notice of injury or death or direct that the action shall proceed and be maintainable notwithstanding that such notice has not been given duly if the Court having regard to the circumstances of the case thinks just so to direct. Defective notices may be amended.

8. Notice in respect of an injury under this Act shall give the name and address of the person injured and shall state in ordinary language the cause of the injury and the date at which it was sustained and shall be served on the employer or if there is more than one employer upon one of such employers. The notice may be served by delivering the same to or at the residence or place of business of the person on whom it is to be served. The notice may also be served by post by a registered letter addressed to the person on whom it is to be served at his last known place of residence or place of business and if served by post shall be deemed to have been served at the time when a letter containing the same would be delivered in the ordinary course of post and in proving the service of such notice it shall be sufficient to prove that the notice was properly addressed and registered. Where the employer is a body of persons corporate or unincorporate the notice shall be served by delivering the same at or by sending it by post in a registered letter addressed to the office or if there be more than one office any one of the offices of such body. A notice under this section shall not be deemed invalid by reason of any defect or inaccuracy therein unless the Judge who tries the action arising from the injury mentioned in the notice shall be of opinion that the defendant in the action is prejudiced in his defence by such defect or inaccuracy. Mode of serving notice of injury.

9. For the purposes of this Act unless the context otherwise requires the expression "person who has superintendence entrusted to him" means a person whose sole or principal duty is that of superintendence and who is not ordinarily engaged in manual labour. The expression "employer" includes a body of persons corporate or unincorporate or corporation sole. The expression "workman" means a railway servant and any other person who being a labourer servant in husbandry journeyman artificer handicraftsman miner 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 be made before or after the passing of this Act be express or implied oral or in writing and be a contract of service or a contract personally to execute any work or labour. Definitions.

10. This Act shall come into operation at the end of this present Session of Parliament which date is in this Act referred to as the commencement of this Act. Commencement of Act.

11. This Act may be cited as the "Employers' Liability Act 1886." Short title.



1. The first part of the paper is devoted to a general discussion of the problem of the origin of life. It is shown that the problem is one of the most important and interesting in the history of science.

2. The second part of the paper is devoted to a discussion of the various theories of the origin of life. It is shown that the most plausible theory is that of spontaneous generation.

3. The third part of the paper is devoted to a discussion of the evidence in favor of spontaneous generation. It is shown that the evidence is very strong and conclusive.

4. The fourth part of the paper is devoted to a discussion of the objections to spontaneous generation. It is shown that the objections are not valid.

5. The fifth part of the paper is devoted to a discussion of the implications of the theory of spontaneous generation. It is shown that the theory has important implications for the study of the history of life.

6. The sixth part of the paper is devoted to a discussion of the conclusions of the paper. It is shown that the theory of spontaneous generation is the most plausible theory of the origin of life.