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Introduction Student Symposium - Workmen's Compensation: A Pandect of the Texas Law: Introduction.

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INTRODUCTION

HENRY D. AKIN*

With the advent of the industrial era, public sentiment demanded that industry should take care of its own casualties. Experiments in Germany and England had not proved satisfactory so that with the turn of the century, the legislative bodies in the United States started feeling their way along in the dark in an effort to comply with such sentiment.

This was especially true in Texas where the vice-principal doctrine failed to alleviate completely the common law defense of negligence of fellow employees, and neither this doctrine nor anything else ruled out in any degree the defenses of either contributory negligence or assumed risk. Hence, the first Texas Workmen's Compensation Act was enacted in 1913, and as loopholes came to the surface, the Act has been added to and amended from time to time at various subsequent regular sessions of the Texas Legislature and by numerous court decisions. The present Act is embraced in Vernon's Annotated Texas Statutes, articles 8306-8309h.

The first such amendments and additions were passed in 1917 when the Act was remodeled for the particular purpose of meeting the claim then pending in the United States Supreme Court that the Texas Act was unconstitutional because it did not afford employees an opportunity to reject coverage under it.¹

Other examples of amendments and additions to the Act, including the far reaching additions and amendments by the Texas Legislature particularly during the past 5 years, are: increasing the maximum and minimum weekly benefits,² and the percentage of average weekly wages to be allowed;³ allowing lump sum settlements where incapacity in any degree results from a compensable injury;⁴ substituting 210 days for substantially the whole of the year in determining average weekly wages;⁵ adding and changing coverage of occupational diseases;⁶ changing the beneficiaries of death claims;⁷ granting unlimited medical services which may be selected by the claimant;⁸ allowing contemporaneous suits under the Workmen's Compensation Act and against

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1. *Middleton v. Texas Power & Light Co.*, 249 U.S. 152 (1918).

2. TEX. REV. CIV. STAT. ANN. art. 8306, § 29 (Supp. 1974).

3. *Id.* § 10.

4. *Id.* § 15.

5. TEX. REV. CIV. STAT. ANN. art. 8309, § 1 (1967) (definition of "average weekly wage.").

6. TEX. REV. CIV. STAT. ANN. art 8306, § 20 (Supp. 1974). Sections 25, 26, and 27 of article 8306 have been repealed. Tex Laws 1947, ch. 113, §§ 7-9, at 178-79.

7. *Id.* §§ 8, 8a.

8. *Id.* §§ 7, 7a.

negligent third parties resulting in change in the statute of limitations applicable to claims against third parties and changing the provisions for attorney's fees in third party suits,⁹ as well as in suits under the Workmen's Compensation Act;¹⁰ eliminating the necessity for an employer to have three employees in order to be eligible to carry workmen's compensation insurance, and adding ranch laborers;¹¹ fixing the manner of computing weekly benefits for partial incapacity resulting from a general injury;¹² providing for artificial appliances;¹³ enlarging the time for filing claims by providing that the time for filing the claim shall start to run when the employer files the report of injury instead of from the date of the injury;¹⁴ requiring the Industrial Accident Board to furnish claim forms;¹⁵ setting the rules for transportation and travel coverage;¹⁶ allowing reimbursement of the employer for advances made to an injured employee;¹⁷ eliminating possibility of recovery under the workmen's compensation law of more than one state for the same injury;¹⁸ authorizing the Board to postpone hearing a claim;¹⁹ providing elective coverage for partners, sole proprietors or corporate executive officers where specifically included, except for an officer of a state educational institution;²⁰ authorizing coverage of employees of Texas A & M University,²¹ of counties,²² of certain drainage districts,²³ of the University of Texas System,²⁴ of independent schools districts,²⁵ of municipalities,²⁶ of Texas Tech University,²⁷ of employees of the state,²⁸ and employees of political subdivisions of the state;²⁹ providing for prehearing officers;³⁰ and providing for deposit by each carrier with the Board of its proportionate share of the compensation awarded when there is a dispute with respect to which insurance company was liable.³¹

Even the Supreme Court of Texas felt constrained to do a little legislating by setting forth rules for determining the jurisdictional amount involved in

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9. TEX. REV. CIV. STAT. ANN. art. 8307, § 6a (Supp. 1974).
 10. TEX. REV. CIV. STAT. ANN. art. 8306, §§ 7c, 7d (Supp. 1974).
 11. *Id.* § 2.
 12. *Id.* § 17.
 13. *Id.* § 7e.
 14. *Id.* §§ 7a, 4a.
 15. *Id.* § 7b.
 16. TEX. REV. CIV. STAT. ANN. art. 8309, § 1b (1967).
 17. TEX. REV. CIV. STAT. ANN. art. 8309, § 4 (Supp. 1974).
 18. TEX. REV. CIV. STAT. ANN. art. 8306, § 19 (1967).
 19. TEX. REV. CIV. STAT. ANN. art. 8309a (Supp. 1974).
 20. TEX. REV. CIV. STAT. ANN. art. 8309, § 1a (Supp. 1974).
 21. TEX. REV. CIV. STAT. ANN. art. 8309b, §§ 2, 9 (1967).
 22. TEX. REV. CIV. STAT. ANN. art. 8309c, §§ 3, 6a (Supp. 1974).
 23. TEX. REV. CIV. STAT. ANN. art. 8309c-1, §§ 1, 2 (Supp. 1974).
 24. TEX. REV. CIV. STAT. ANN. art. 8309d, §§ 2, 7, 9 (Supp. 1974).
 25. TEX. REV. CIV. STAT. ANN. art. 8309e-1, § 1 (Supp. 1974).
 26. TEX. REV. CIV. STAT. ANN. art. 8309e-2, §§ 1-15 (Supp. 1974).
 27. TEX. REV. CIV. STAT. ANN. art. 8309f, §§ 2, 19 (Supp. 1974).
 28. TEX. REV. CIV. STAT. ANN. art. 8309g, §§ 1-16 (Supp. 1974).
 29. TEX. REV. CIV. STAT. ANN. art. 8309h, §§ 1-8 (Supp. 1974).
 30. TEX. REV. CIV. STAT. ANN. art. 8307, §§ 3, 10 (Supp. 1974).
 31. TEX. REV. CIV. STAT. ANN. art. 8307, § 5c (1967).