

HOUSE No. 1251

By Mr. O'Dea of Lowell, petition of the Massachusetts Association of Plaintiffs Compensation Attorneys and James L. O'Dea, Jr., that injured workmen be entitled to workmen's compensation and be permitted to sue negligent third parties. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Fifty-Two.

AN ACT PROVIDING FOR PAYMENT OF WORKMEN'S COMPENSATION AND FOR SUIT AGAINST A NEGLIGENT THIRD PARTY WITHOUT NECESSITY OF ELECTION.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 152 of the General Laws is hereby amended
2 by striking out section 15 thereof and inserting in its
3 place the following:—
4 *Section 15.* Where the injury for which compensa-
5 tion is payable was caused under circumstances cre-
6 ating a legal liability in some person other than the in-
7 sured to pay damages in respect thereof, the employee
8 shall be entitled to the compensation and other bene-
9 fits provided under this chapter, and at the same time
10 the employee may pursue his remedy against such
11 third party. If, in any case where the employee has
12 claimed or received compensation, the employee does
13 not proceed to enforce such liability within a period of

14 nine months after said injury, the insurer may pro-
15 ceed to enforce, in the name of the employee or in its
16 own name and for its own benefit, the liability of such
17 other person. In either event, the sum recovered shall
18 be for the benefit of the insurer, unless such sum is
19 greater than that paid by it to the employee, in which
20 event the entire excess shall be retained by or paid to
21 the employee. For the purpose of this section, "ex-
22 cess" shall mean the amount by which the total sum
23 recovered exclusive of interest and costs, and less the
24 reasonable expenses of collection and attorney's fees
25 as hereafter provided, exceeds the compensation paid
26 under this chapter. The party bringing the action
27 shall be entitled to retain any costs recovered by him
28 and to deduct from the recovery the reasonable ex-
29 penses of collection, exclusive of attorney's fees. Any
30 interest received in such action shall be apportioned
31 between the insurer and the employee in proportion
32 to the amounts received by them, respectively, ex-
33 clusive of interest and costs. The expense of any at-
34 torney's fees shall be divided between the insurer and
35 the employee in proportion to the amounts received
36 by them under this section, exclusive of interest and
37 costs. Except in the case of a settlement by agree-
38 ment by the parties to, and during a trial of, such an
39 action at law, no settlement by agreement shall be
40 made with such other person without the approval of
41 the industrial accident board after an opportunity has
42 been offered both the insurer and the employee to be
43 heard on the merits of the settlement and on the
44 amount, if any, to which the insurer is entitled out of
45 such settlement by way of reimbursement, which
46 amount shall be determined by said board at the time
47 of such approval. In the case of a settlement by agree-

48 ment by the parties to and during a trial of such an
49 action at law, the justice presiding at the trial shall
50 have and exercise, relative to the approval of such
51 settlement by agreement and to the protection of the
52 rights and interests of the employee, all the powers
53 hereinbefore granted to the industrial accident board.

The first of these is the fact that the
 government has been successful in
 maintaining a high level of
 economic growth and stability
 since the war. This has been
 achieved through a combination
 of sound fiscal and monetary
 policy, and a strong and
 diversified industrial base.

The second factor is the fact that
 the government has been successful
 in maintaining a high level of
 social and political stability.
 This has been achieved through
 a combination of a strong
 and centralized government,
 and a high level of social
 and political cohesion.

The third factor is the fact that
 the government has been successful
 in maintaining a high level of
 international stability. This
 has been achieved through a
 combination of a strong and
 diversified industrial base,
 and a high level of social and
 political cohesion.

The fourth factor is the fact that
 the government has been successful
 in maintaining a high level of
 economic growth and stability.
 This has been achieved through
 a combination of sound fiscal
 and monetary policy, and a
 strong and diversified industrial
 base.

The fifth factor is the fact that
 the government has been successful
 in maintaining a high level of
 social and political stability.
 This has been achieved through
 a combination of a strong and
 centralized government, and a
 high level of social and political
 cohesion.