

HOUSE No. 1828

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, April 29, 1937.

The committee on Labor and Industries, to whom were referred the petition (accompanied by bill, House, No. 1123) of Joseph Finnegan and Timothy J. Murphy for legislation to regulate actions brought against persons other than the insured in cases of employees injured in industrial accidents, and the petition (accompanied by bill, House, No. 1254) of Thomas F. Coyne relative to rights of injured employees and insurers in industrial accidents caused under circumstances creating legal liability in persons other than the insured, report the accompanying bill (House, No. 1828).

For the committee,

FREDERICK B. WILLIS.

Senator CURTIS dissenting.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Thirty-Seven.

An Act relative to the Recovery of Damages for Injuries to Employees of Persons Insured under the Workmen's Compensation Laws caused under Circumstances Creating a Legal Liability in Some Person Other than the Insured.

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 one hundred and fifty-two of the General
2 Laws is hereby amended by striking out section fifteen,
3 as appearing in the Tercentenary Edition, and insert-
4 ing in place thereof the following:—
5 *Section 15.* Where the injury for which compensa-
6 tion is payable was caused under circumstances
7 creating a legal liability in some person other than the
8 insured to pay damages in respect thereof, the em-
9 ployee may proceed at law against that person to re-
10 cover damages and against the insurer for compensa-
11 tion under this chapter. If the employee proceeds at
12 law against such other person, he shall notify the
13 insurer in writing of such action, and if compensation
14 be also paid under this chapter the insurer shall have
15 a lien on the amount recovered in such action at law
16 up to the amount of compensation paid by it and shall
17 also have a lien for any future payments by it of com-
18 pensation for the injury. If compensation be paid

19 under this chapter and the employee does not proceed
20 at law against such other person, the insurer may en-
21 force, in the name of the employee or in its own name
22 and for its own benefit, the liability of such other
23 person; and in case the insurer recovers a sum greater
24 than that paid by it to the employee, four fifths of the
25 excess shall be paid to the employee. If compensation
26 be paid under this chapter, no settlement by agree-
27 ment with such other person shall be made by the
28 employee or by the insurer in any action at law prose-
29 cuted by him or it hereunder without the approval of
30 the industrial accident board.

